

ACER MANUAL



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I. Introduction

The **Agency for the Cooperation of Energy Regulators (ACER)** is a European Union body, established with the adoption of **Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009¹** ([Annex 1](#)) and has a central role in the liberalisation of the EU's electricity and natural gas markets. The Agency is based in Ljubljana, Slovenia.

The purpose of the Agency is to assist the National Regulatory Authorities (NRAs) in exercising, at Community level, the regulatory tasks that they performed in the Member States and, where necessary, to coordinate their actions. In this respect the Agency shall in particular:

- (a) complement and coordinate the work of National Regulatory Authorities;
- (b) participate in the creation of European network rules;
- (c) take, under certain conditions, binding individual decisions on terms and conditions for access and operational security for cross border infrastructure;
- (d) give advice on electricity and natural gas related issues to the European institutions;
- (e) monitor the internal markets in electricity and natural gas and report on its findings.

The Agency formally assumed its role and responsibilities on 3 March 2011, as part of the entry into force of the Third Legislative Package on Energy. Significant preparatory work has been carried out by the European Regulators' Group for Electricity and Gas (EREG), which supported the Agency to successfully assume its role and tasks at full speed.

The range and nature of tasks assigned to the Agency have been further extended at the end of 2011 with the adoption of **Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency - REMIT** ([Annex 2](#)). REMIT introduced a sector-specific framework for the monitoring of wholesale energy markets, with the objective of detecting and deterring market manipulation. In this framework, the Agency is responsible for analysing wholesale markets and other relevant data to identify possible instances of market abuse and, after an initial assessment, notify the concerned NRA(s) when there is a ground to believe that abusive behaviour has actually occurred. An important task, as market integrity and transparency are essential for well-functioning energy markets and for promoting the confidence of market participants and final consumers; complex, because it deals with complex traded products and markets; delicate, because monitoring should be conducted in a vigilant manner, without however unduly interfering with the working of energy markets.

¹ Annex 1 - Regulation (EC) No 713/2009

The current Manual aims to follow and present all developments with regards to ACER's existence and operations over the time. It shall be the comprehensive guidebook for all staff members joining the Agency, allowing them for an easy integration, improved access to documents and information, but shall also represent the institutional memory and the knowledge accumulated over time.

To ensure the accuracy of information, the Manual shall be revised at least annually and updated when necessary.

1. LEGAL BASE AND OVERVIEW OF TASKS

The tasks assigned to ACER by Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 713/2009, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009 could be grouped in few major fields. A summary of those is provided below:

1.1. Tasks regarding ENTSOs

2. Provide opinion on draft statutes, list of members and draft rules of procedure of ENTSOs
3. Monitor execution of tasks of ENTSOs
4. Provide opinion to ENTSOs on network codes, draft annual work programme, draft Community-wide network development plan (NDP) and other relevant documents (e.g. annual summer and winter supply outlooks)
5. Provide opinion to NRAs on consistency of 10y-network development plan with Community-wide NDP
6. Provide opinion/recommendations to ENTSO-E, ENTSOG, EP, Council and EC, where draft annual work programme or draft Community-wide NDP do not contribute to internal energy market objectives/principles
7. Participate in development of network codes
8. Submit non-binding framework guideline to EC, consultation on framework guidelines; if necessary, review non-binding framework guideline and re-submit it to EC
9. Provide opinion to ENTSO-E or ENTSOG on network code
10. If necessary, submit network code to EC and recommend that it be adopted
11. Prepare and submit draft network code to EC
12. Propose amendments of network codes
13. Provide duly reasoned opinion to EC, where ENTSO-E or ENTSOG has failed to implement network code
14. Monitor and analyse implementation of network codes and Guidelines, report to EC
15. Monitor progress as regards implementation of projects to create new interconnector capacity
16. Monitor implementation of Community-wide NDPs
17. Investigate reasons for inconsistencies and make recommendations to TSOs, NRAs or other competent bodies
18. Monitor regional cooperation of TSOs; take due account of outcome when formulating its opinions, recommendations and decisions
19. Approve compliance programmes of joint undertakings.

1.2. Tasks regarding NRAs

20. Adopt individual decisions on technical issues as provided for in 3rd Package legislation
21. Recommendations for sharing good practices
22. Provide framework for NRAs' cooperation. Promote cooperation between NRAs and regulatory

- authorities at regional and EC level. Make recommendations on binding rules for cooperation to EC
23. Provide opinion on whether a decision complies with Guidelines or other relevant provisions
 24. Recommendations on technical rules
 25. Inform EC or MS concerned where NRA does not comply with opinion of Agency
 26. Deliver opinion when NRA encounters, in a specific case, difficulties with application of Guidelines

1.3. Tasks regarding terms and conditions for access to and operational security of cross-border infrastructure

27. Decisions on cross-border infrastructure

1.4. Other tasks

28. Exemption decisions for new interconnectors; fees
29. Provide opinion on decisions of NRAs on certification;
Possibly: additional powers (non-decision-making)
30. Respond to consultation on guidelines
31. Secretarial services to Board of Regulators
32. Secretarial services to Administrative Board

1.5. Consultations and transparency

33. Consult with market participants, TSOs, consumers, end-users, competition authorities
34. Give to the public and interested parties objective, reliable and easily accessible information
35. Make public agenda, background documents and minutes of meetings of AB, BoR and BoA

1.6. Monitoring and reporting on the electricity and natural gas sectors

36. Monitor internal markets in electricity and natural gas
37. Make public annual report on results of monitoring

Furthermore, the Agency may, upon a request of the European Parliament, the Council or the Commission, or on its own initiative, provide opinions or recommendations on any of the issues relating to the purpose for which it has been established (Article 5, Regulation (EC) No 713/2009).

Finally, with the adoption of REMIT, the Agency has been called to implement tasks in the areas of **wholesale energy monitoring and coordination of investigations** by national authorities on instances of suspected insider trading and market manipulation. This involves:

- monitoring trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation;
- collecting data on wholesale energy trading, both for physical delivery and for financial settlements, including on derivatives products;

- at least annually submitting a report to the Commission on its activities under REMIT, highlighting flaws in market rules, standards, and procedures which could facilitate insider trading and market manipulation or undermine the internal market;
- establishing mechanisms to share information and data it receives with NRAs, the competent financial authorities and competition authorities of MSs;
- providing recommendations as to the records of transactions, including orders to trade, which it considers are necessary to effectively and efficiently monitor wholesale energy markets; and
- ensuring that NRAs carry out their tasks under REMIT in a coordinated way.

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2. ACER'S MISSION

ACER's **mission** is **to assist National Regulatory Authorities in exercising, at Community level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their actions.** It is further translated into separate mission statements of each of ACER departments.

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3. WORK PROGRAMME

The work programme is the comprehensive road map and the key operational reference point for all activities of ACER during the year.

The work programme is translated, at the beginning and during the course of each year, into individual tasks assigned to the respective departments and individual staff members within the framework of their job descriptions. Each specific task defines goals, deliverables and key performance indicators adapted to the specific nature of the field. **ACER Annual Work Programme for 2013** is annexed to the present Manual as [Annex 3](#).

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4. PRIORITIES

The range and nature of tasks already assigned to ACER pose a challenge to the Agency, taking into account its limited human and financial resources. In this context, the priorities set for ACER are in line with the new target date of completing the Internal Energy Market (IEM) by 2014, as defined by the European Council on 4 February 2011, with the joint Commission/ACER/ENTSOs three-year plan and with the resources available to the Agency (own resources and support by NRAs). The priorities for 2012 and 2013 are defined as follows:

- Framework Guidelines for Network Codes in the areas defined by the Commission, which will be given the highest priority, as they are in the critical path for the completion of the IEM;
- Opinions on the compliance of Network Codes with the corresponding Framework Guidelines;

- Opinions and recommendations on the 10-year network development plans, as greater cross-border capacity is key for a true IEM;
- Decisions on cross-border congestion management or third party access (TPA) exemptions, upon the joint request of all the concerned NRAs or when these fail to reach an agreement.

Furthermore, following an initial proposal and a public consultation, the Commission has set the additional areas and activities as priorities for 2013. These are outlined in the Agency's Annual Work Programme for 2013.

The Agency will also work intensively on the implementation of REMIT; it is expected that the monitoring framework envisaged therein will have to be fully operational by the beginning of 2014. Monitoring of the IEM and tasks related to the ITC Regulation will also be priorities in 2013.

In cases of unexpected events in the energy sector, priorities might be adjusted by the Agency, as well as activities, not envisaged in its work programme, might be undertaken.

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5. ORGANISATION, ADMINISTRATION AND FUNCTIONING

ACER has been officially launched on the 3rd March 2011 and has grown rapidly over time. The internal organisation of the Agency was adapted repeatedly during this period. An overview is presented below.

5.1. ACER Bodies

The Agency comprises several bodies:

- (1) ACER Director;
- (2) Board of Regulators;
- (3) Administrative Board;
- (4) Board of Appeal.

(1) The Agency is managed by its **Director**.

Mr Alberto Pototschnig was appointed the first Director and took up his duties on 16 September 2010. His term of office is five years.

The Director's tasks include:

- The Director is responsible for representing the Agency and is in charge of its management.
- The Director prepares the work of the Administrative Board. The Director adopts and publishes the opinions, recommendations and decisions that have received a favourable opinion of the Board of Regulators.
- He is responsible for implementing the annual work programme of the Agency under the guidance of the Board of Regulators and under the administrative control of the Administrative Board.
- He takes the necessary measures, notably as regards adopting internal administrative instructions and publishing notices, to ensure the functioning of the Agency.
- Each year the Director prepares a draft work programme of the Agency for the following year, and submits it to the Board of Regulators, to the European Parliament and to the Commission by 30 June of that year.
- The Director draws up a preliminary draft budget of the Agency and implements the budget of the Agency.
- Each year the Director prepares a draft annual report with an independent section on the regulatory activities of the Agency and a section on financial and administrative matters.

(2) **The Board of Regulators (BoR)** consists of senior representatives of the National Regulatory Authorities (NRA) and one non-voting representative of the Commission. Each NRA also appoints an alternate representative in the event the main one is indisposed.

The BoR plays a key role within the Agency. It decides on the regulatory policy of ACER, has a substantial influence on the decisions, opinions and recommendations of the Agency, and provides opinion to the Director. In addition, the Board of Regulators, within its field of competence, shall provide guidance to the Director in the execution of his tasks and the Director shall act in accordance with this guidance. The central role of the BoR within the Agency is underlined by the condition that the appointment of the Director and the adoption of ACER's Work Programme need to be approved by the BoR.

The Board's **Rules of Procedure** ([Annex 4](#)) define its decision making structure and the specific rules under which it functions.

- (3) **The Administrative Board (AB)** is charged with the governance of ACER. It plays a central role in establishing the budget, including adoption of the financial rules applicable to the Agency. Apart from its budgetary powers, the AB has to ensure that ACER carries out its mission and performs the tasks assigned to it in accordance with its founding Regulation².

The Administrative Board also adopts the Annual Work Programme of the Agency for the coming year. However, the establishment of the Work Programme requires not only the consultation of the Commission, but also the approval of the Board of Regulators, as specified above.

The **Rules of Procedure** of ACER's Administrative Board are attached hereto as [Annex 5](#).

- (4) **The Board of Appeal (BoA)** is comprised of six members and six alternates selected among current or former senior staff of the National Regulatory Authorities, competition authorities or other national or Community institutions with relevant experience in the energy sector. The members of the BoA are formally appointed by the Administrative Board, on a proposal from the Commission, following a public call for expression of interest, and after consultation of the Board of Regulators. Their term of office is five years, renewable without limitation.

The Board of Appeal adopted its own **Rules of Procedure**, attached hereto as [Annex 6](#).

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5.2. ACER Working Groups

Working Groups (WG) and Task Forces have been established in order to support the Agency in the planning, implementation and decision-making in key areas of operation. Detailed rules on the establishment and functioning of the Working Groups have been adopted in order to ensure conformity with existing rules and provisions on confidentiality and integrity, and to legally align the provisions governing the Working Groups and Task Forces with those governing the functioning of the Agency ([Annex 7](#)).

The rules define provisions on the purpose, establishment, objectives, composition and membership, the functioning and reporting procedures of the WG, and the involvement of stakeholders. They govern

² Regulation (EC) No 713/2009

also the provisions on intellectual property rights, and define the legal obligations of participants and members of the Working Groups and Task Forces on non-disclosure of confidential or sensitive information, obtained in the course of their work.

Furthermore, specific **Implementation teams** might be established with the Agency's structure, in order to provide expertise and necessary guidance in key areas, as well as to support the implementation of major activities and thus facilitate their successful delivery.

In February 2012, a **Legal Advisory Team** ([Annex 8](#)) has been established, comprising senior legal officials from NRAs, working both as a body, but also individually, with the objective to provide expert support on specific legal matters to the Agency's Legal Advisor, act and advise in the interest of the Agency and in conformity with its mission and regulatory tasks.

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5.3. Human resources and internal organisation

In the course of 2012 a new Market Monitoring Department, responsible for the implementation of the tasks vested to the Agency under REMIT, has been established with a decision of the Director ([Annex 9](#)). Thus, the current organisational structure of ACER (2012) comprises the Office of the Director and four departments, each directed by a Head of Department:

- Director's office
- Administration Department
- Electricity Department
- Gas Department
- Market Monitoring Department.

The organisational structure of ACER includes senior, middle management and non-management positions. The roles and responsibilities of **middle management staff**, eligibility and recruitment to a management position, the role of the post holders assigned to a management position and the minimum skills and capabilities they need to demonstrate in order to perform their duties effectively, have been described in Administrative Board Decision No 24/2011 ([Annex 10](#)).

Furthermore, considering the key role of management and in order to ensure continuity, management posts might be temporary occupied by staff in the same function group, originally assigned in a post with non-management duties. The conditions and applicable procedures have been detailed in a **Decision on the rules for temporary occupation of management posts** ([Annex 11](#)), adopted by the Administrative Board with Decision No 07/2012.

5.4. Job Descriptions

Tasks and responsibilities of all staff members, according to their job role and assignment to one of the Agency's departments, are described in detail in job descriptions which are developed by the HR for the post in question prior to recruitment and need the approval of the Director. After recruitment, job descriptions may be adapted according to the development of the organisation and in agreement with the staff member concerned.

Job descriptions are maintained by HR and filed within the personal files of each staff member.

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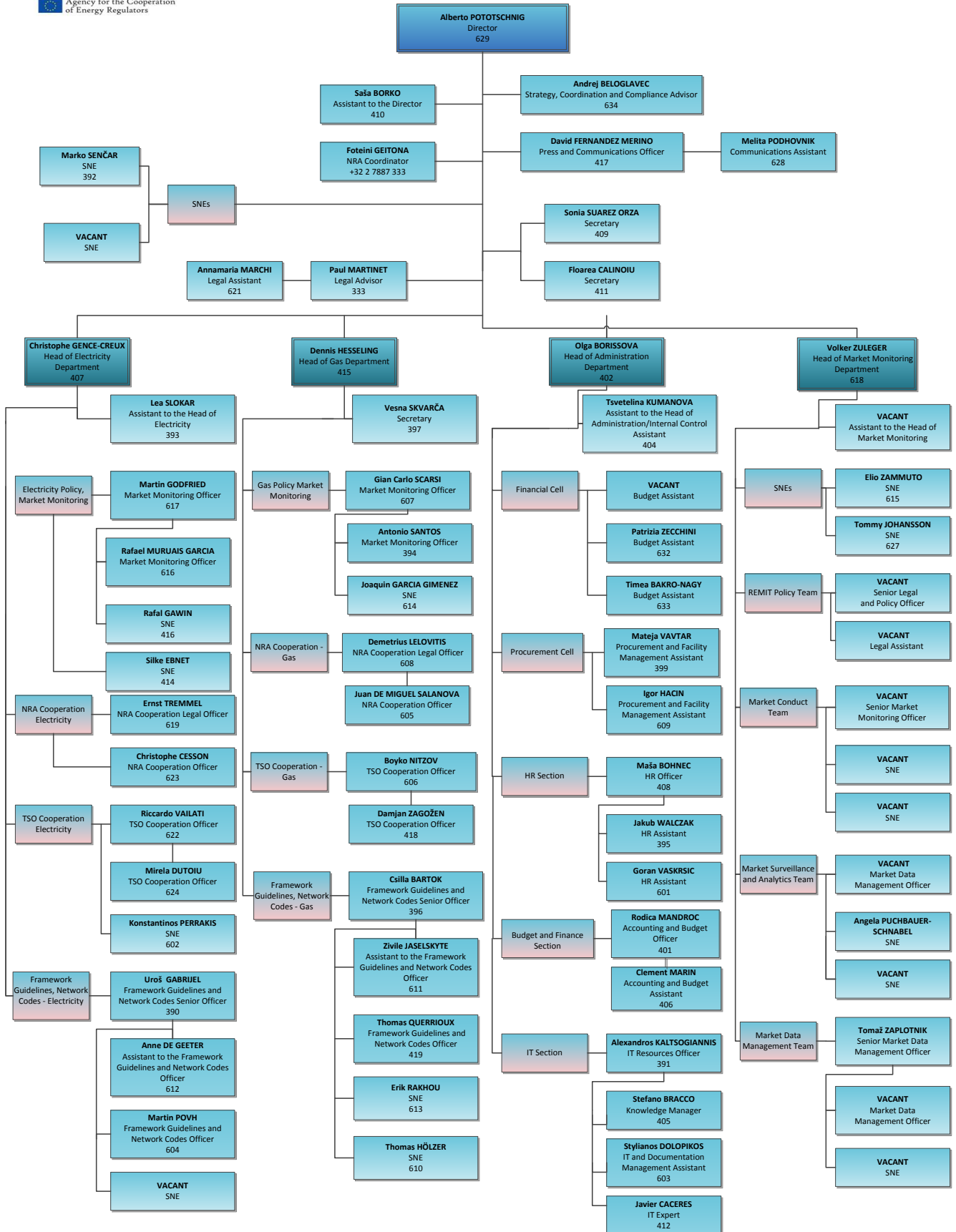
5.5. Organisational Chart and Organisation Overview

The organisational structure, as described under 5.3., is reflected in the Organisational Chart seen below. It provides a detailed overview of all staff according to their attribution. The organisational structure is further reflected in the **ACER Organisation Overview (Annex 12)**. The Organisational Chart and the Organisation Overview are updated regularly by the HR Section according to staff development over time.

The ACER organisation is defined by the **Multi-annual Staff Policy Plan**, which includes the approved establishment plan and an estimate of the revenues and expenditure of the Agency. The plan is revised each year and transmitted to the Commission for approval. The approved plans are adopted by the Administrative Board and made available on ACER Intranet and on the web-page (www.acer.europa.eu).

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ORGANISATIONAL CHART



5.6. ACER premises

The Agency's seat is in Ljubljana, Slovenia. The **Seat Agreement between the Government of the Republic of Slovenia and the Agency for the Cooperation of Energy Regulators (Annex 13)**, was signed in Ljubljana on 26 November 2010. The Agreement was ratified by the Slovenian Parliament on 20 December 2010 (number 003-02-11/2010-20) and entered into force on 10 January 2011. According to the agreement, the Agency started operating in **temporary premises (Address: Trg republike 3, 1000 Ljubljana, Slovenia)**, provided by the Government, on 1 February 2011.

In the course of its activities the Agency will select its final premises in Ljubljana, taking into account any expansion of its staff following the assignment of additional tasks and functions.

In June 2011, ACER also opened a **liaison office in Brussels** with one staff member. The office is hosted in premises made available by CEER, as a contribution in kind to the working of the Agency. The IT and information resources, however, are shared with the liaison office, which makes it an indispensable part of Agency's structure.

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5.7. Privileges and immunities

The Protocol on the Privileges and Immunities of the European Union (Annex 14) governs the status of the European Institutions and their staff in relation to the Member States. Thus, the protocol applies in full to the Agency and its staff.

The relations between the Agency and its host state, as well as particular rules and privileges applicable to ACER staff in Slovenia, are governed by the Seat Agreement between the Slovenian Government and the Agency for the Cooperation of Energy Regulators.

Director's Office, in cooperation with Administration, coordinates all Protocol matters concerning staff. The Director handles all Protocol matters that concern ACER as an institution.

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6. ACER STAFF AND STAFF POLICY

6.1. Application of the Staff Regulations

According to Article 28 (1) of Regulation (EC) 713/2009, the **Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities** ([Annex 15](#)) apply to the Staff of the Agency.

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6.2. Principle

The Staff Regulations of Officials of the European Communities (SR), the Conditions of Employment of other Servants of the European Communities (CEOS) and the rules adopted jointly by the institutions of the European Communities for the purposes of the application of those Staff Regulations and conditions of Employment apply to the Agency and its staff.

Furthermore, ACER develops and adopts its own implementing rules after consulting its Staff Committee and in agreement with the Commission according to Article 110 of the Staff Regulations.

The current Manual shall constantly provide up to date information on all rules and procedures adopted by the Administrative Board with regards to the implementation of the Staff Regulations, and thus applicable to its staff.

The implementation of the SR and the CEOS within ACER are ensured by the Director representing the Agency as the Appointing Authority. The day-to-day implementation of the SR and CEOS is further facilitated and ensured by the Administration Department and HR section.

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6.3. Rules applicable to ACER and its staff

The Agency has adopted a number of rules, covering the implementation of the Staff Regulations, which apply to ACER and its staff by analogy ([Annex 16 - Decision AB No 09/2011 on the adoption of Implementing Rules to the Staff Regulations](#)):

1. Commission decision on general implementing provisions for Article 4 of Annex VIII to the Staff Regulations concerning the taking into account, for purposes of calculating pension rights, of periods of activity previously completed by staff before they resume active employment.

2. Commission decision on general implementing provisions for Articles 11 and 12 of Annex VIII to the Staff Regulations on transferring pension rights.

3. Commission decision on general implementing provisions for Article 26 of Annex XIII to the Staff Regulations on transferring pension rights – transitional provisions.

4. Commission decision on general implementing provisions for Article 22 (4) of Annex XIII to the Staff Regulations.

5. Commission decision on general implementing provisions on granting the household allowance by special decision.

6. Commission decision on general implementing provisions concerning persons to be treated as dependent children.

7. Commission decision on general implementing provisions for giving effect to Article 7(3) of Annex VII to the Staff Regulations on determining the place of origin.

8. Commission decision on general implementing provisions for giving effect to Articles 67 and 68 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII thereto.

9. Commission decision on general implementing provisions for the grant of education allowance (Article 3 of Annex VII to the Staff Regulations).

10. Commission decision on general provisions giving effect to Article 8 of Annex VII to the Staff Regulations.

11. Commission decision on the general provisions for implementing Article 42a of the Staff Regulations concerning parental leave.

12. Commission decision on Article 42b of the Staff Regulations concerning family leave.

13. Commission decision on transitional measures required by the revision of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

14. Commission decision implementing Article 1d (4) of the Staff Regulations.

15. Commission decision introducing implementing provisions on absences as a result of sickness or accident.

16. Commission decision on general implementing provisions adopting the Guide to missions for officials and other servants of the European Commission.

17. Commission decision on introducing implementing provisions on leave.

18. Commission decision measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Communities.

19. Commission Decision on Article 55a and Annex IV a of the Staff Regulations concerning part-time work.

All of the above rules have been made available and are kept up-to-date under the [HR Section](#) on ACER Intranet.

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6.4. Recruitment

ACER recruits its staff in line with the provisions of the Staff Regulations and the Conditions of Employment of Other Servants and the applicable implementing rules.

Detailed **Guidelines on the recruitment procedures and the work of the Selection Committees** ([Annex 17](#)) have been adopted by the Agency in order to ensure transparency and that the principles of independence, impartiality and equal treatment of candidates are enshrined in all selection procedures.

The Guidelines define the practical arrangements and applicable procedures from the opening of the selection procedure, through the appointment, the role and the work of the Selection Committee members, the procedures for carrying out written tests and interviews, to the assessment, selection and recruitment of candidates.

According to the Agency's establishment plan, the majority of its staff is temporary agents on long-term employment. The involvement of ACER staff is further reflected in its Multi-annual Staff Policy Plan, whereas the applicable procedures for engagement of staff are described below.

6.4.1. Recruitment procedure for temporary agents (TA)

6.4.1.1. Temporary agents on long-term employment can be recruited by ACER through one of the following procedures:

- (1) Selection procedure carried out by the Agency, or
- (2) Selection procedure organised by the European Communities Personnel Selection Office (EPSO)
- (3) Through the Interagency job market.

Most of ACER staff is recruited by selection procedures, carried out by ACER. The procedure in those cases is summarised below.

6.4.1.2. Vacancy notices are published on the Agency webpage (www.acer.europa.eu) and on the EPSO webpage (www.epso.europa.eu). Each vacancy notice describes the post offered and defines the eligibility and selection criteria candidates must fulfil to be eligible for the post. Additional information on the possible duration of employment, grade, as well as the main steps of the selection procedure, is provided.

6.4.1.3. The Agency requires, at the application stage, detailed curriculum vitae together with a motivation letter from all candidates. A deadline for submission of applications is fixed in the vacancy notice.

6.4.1.4. Invitations to the interview are sent to the pre-selected candidates by e-mail and written confirmation on availability of the candidate is requested.

6.4.1.5. Candidates invited for an interview undergo a written test before being interviewed by an appointed Selection Committee.

6.4.1.6. After a successful selection procedure, the selected candidate is informed about the intended nomination and required to undergo a medical examination. Upon confirmation of the candidate's medical aptitude and once all required documents (education and professional experience documents, documents confirming the nationality, criminal record and other documents) are received by HR, a contract of employment is signed by the Director, which finalises the procedure.

Further details on the recruitment procedure, including provisions on the recruitments carried out by EPSO or through the interagency job market, are laid down in Administrative Board Decision No 10/2011 on the adoption of **general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER** ([Annex 18](#)).

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6.4.2. Recruitment procedure for contract agents (CA)

6.4.2.1. Contract agents are recruited by ACER through one of the following procedures:

(1) Selection procedure carried out by the Agency, or

(2) Selection procedure organised by the European Communities Personnel Selection Office (EPSO) by using the established EPSO reserve lists.

6.4.2.2. In case the procedure is carried out by the Agency, a vacancy notice is published on its Internet page (www.acer.europa.eu) and on the EPSO webpage (www.epso.europa.eu). The publication describes the post offered and defines the eligibility and selection criteria candidates must fulfil to be eligible for the post. Additional information on the possible duration of employment, function group, as well as the main steps of the selection procedure, is presented.

6.4.2.3. The Agency requires, at the application stage, detailed curriculum vitae together with a motivation letter from all candidates. A deadline for submission of applications is fixed in the vacancy notice.

6.4.2.4. Invitations to the interview are sent to the pre-selected candidates by e-mail and written confirmation on availability of the candidate is requested.

6.4.2.5. Candidates invited for an interview undergo a written test before being interviewed by an appointed Selection Committee.

6.4.2.6. After a successful selection procedure, the selected candidate is informed about the intended nomination and required to undergo a medical examination. Upon confirmation of the candidate's medical aptitude and once all required documents (education and professional experience documents, documents confirming the nationality, no criminal record and other documents related to the candidate's family situation) are received by HR, a contract of employment is signed by the Director, which finalises the procedure.

Further details of the recruitment procedure are laid down in Administrative Board Decision No 11/2011 on the adoption of **general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER** ([Annex 19](#)).

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6.4.3. Reimbursement of costs of candidates for job positions at ACER

Financial contribution is granted towards travel and subsistence expenses for persons invited for an interview as part of a selection procedure, and/or to a medical examination. Director Decision 2012-025 ([Annex 20](#)) defines the specific rules that apply with regards to the reimbursement of expenses. A summary of those rules is provided below.

6.4.3.1. Travel expenses

Travel expenses are not reimbursed where the distance between the place of residence/place of current employment and the place of the test and/or interview or of the medical examination specified in the letter of invitation is 150 km or less.

Where the distance between the place of residence/place of current employment and the place specified in the letter of invitation exceeds 150 km, the basis for the calculation of reimbursement shall be the shortest and most economical standard return route by rail, second-class rail fare. Specific rules apply for the reimbursement of the cost of a sleeper and couchette, and travel by ship.

Where means of transport other than those specified above are used (e.g. travel by car), reimbursement is based on an allowance per kilometre calculated according to the shortest and most economical standard route, according to the defined rates.

Where the distance by rail between the place of residence/place of current employment and the place specified in the letter of invitation exceeds 400 km or where the route includes a sea-crossing, candidates are entitled to travel by air. Reimbursement is based on the most economical air fare on presentation of the original ticket and the boarding passes. Further definition of the most economical air and the rules, when a private detour or extensions apply, are specified.

Where this place of residence/place of current employment is outside the European territory of the Member States, travel expenses are reimbursed up to a maximum threshold of 1000 EUR, unless a prior specific permission of the Authorising Officer is requested and given.

6.4.3.2. Subsistence expenses

A daily subsistence allowance of 25 EUR is granted where the distance between the place of residence/place of current employment and the place specified in the letter of invitation is more than 50 km. It is paid only for the day on which the interview or medical examination is held.

An accommodation allowance of 100 EUR per night is granted where the distance between the place of residence/place of current employment and the place specified in the candidate's invitation is more than 150 km. This allowance is granted in cases where the candidate has to stay one or more nights because of incompatibility of the flight times, and is paid on the basis of a hotel invoice.

However, if the candidate receives accommodation allowance for one or more nights, he/she is not entitled to a daily allowance. The total amount of accommodation allowance granted to a candidate may not exceed 400 EUR.

6.4.4. Rules on the secondment of national experts to the Agency

6.4.4.1. Seconded national experts (SNEs) are national or international civil servants coming from a national, regional or local public administration or an International Governmental Organisation (IGO), working temporarily for the Agency under the rules applicable to such experts.

6.4.4.2. SNEs have a dual role: to bring to the Agency their experience of the issues they are used to dealing with where they normally work and to take back to their home administration the knowledge of the Agency issues which they acquire during their secondment.

Their task is to assist the Agency officers, carrying out the duties assigned to them under the Work Programme. They may not carry out official acts that commit the Agency vis-à-vis third parties. When their activities are defined, areas where there may be a conflict with the interests of the Agency and/or Community shall be avoided.

6.4.4.3. The initial period of secondment of national experts may not be less than six months and more than two years, renewed up to a total period of four years.

6.4.4.4. SNEs are not recruited by the Agency; they do not become a staff member of the Agency but remain employed and paid by their initial employer who seconds them to the Agency. To compensate them for the additional costs they face through having to live temporarily abroad, SNEs are entitled to daily subsistence allowance and monthly subsistence allowance.

Furthermore, there are a number of measures to facilitate the integration of SNEs into the working environment of the Agency, such as training opportunities, possibility to go on missions, attend conferences, etc. The terms and conditions for participation in trainings, covered by ACER, are defined in Decision AB No 06/2012 on Staff Training (see p. 6.7. Staff Training, below).

6.4.4.5. National experts are to work in the field defined in their working agreements. There should be no conflict of interest between the work assigned to them and the work they perform for the national authority to which they belong.

6.4.4.6. National experts have the same obligations as other Agency staff - they must, in the course of their work, act solely in the interest of the Agency. Under no circumstances are they to enter into financial commitments on behalf of the Agency, nor are they to be allowed to negotiate on relevant matters.

Further details of the **rules on secondment of national experts** are detailed in Administrative Board Decision No 02/2011 ([Annex 21](#)).

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6.5. Entering into service – requirements and entitlements

Staff members, joining ACER, are subject to specific requirements and enjoy various entitlements as from the day of entry into service. A brief overview of both categories is presented below.

6.5.1. Administrative procedures and requirements applicable to staff

6.5.1.1. **Entry into service** – Before arriving and on the first day of taking up duties staff members are guided through the applicable administrative procedures by an HR representative, in order to collect and process all necessary documents with regards to the establishment of the individual's rights and allowances. Set of documents needs to be presented, including:

- Signed and dated Confidential declaration (as provided by HR)
- Legal entity file (LEF)
- Bank account file (BAF) - signed and stamped by the bank with which the account is hold.
- Job description and contract of employment.
- Other information and forms, determining individual staff allowances and entitlements. Instructions on the forms and other requested documents are provided by HR.

6.5.1.2. Each staff member is introduced to his/her working place and receives the necessary IT tools and infrastructure to be able to implement his/her everyday duties. A **computer access account and specific password** is created for each staff member to allow for his identification and to safeguard the information. For security reasons, the password expires every 60 days and needs to be changed. Further information with regards to ACER IT environment and support to the staff members is ensured by the ACER IT Helpdesk and in the **Welcome pack for the newcomers** ([Annex 22](#)).

6.5.1.3. **Probationary period** – all staff members are subject to a probationary period. For temporary agents the probationary period is 6 months, for contract agents in function groups II, III and IV it is 9 months and for contract agents in function group I the probationary period is 6 months, provided that they have a contract of at least 1 year. At the latest one month before the expiry of the probationary period, a report on the ability of the probationer to perform the duties and his/her efficiency and conduct in the service is prepared. This report is communicated to the probationer, who shall have the right to submit his comments in writing within a specified period. Upon successfully passing the probationary period, the contract of the staff member is confirmed and he/she is officially established. Further information on the applicable procedure and treatment of specific cases is available in the Staff Regulations and ACER implementing rules on engagement and use of temporary agents and engagement and use of contract staff.

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6.5.2. Staff allowances and entitlements

6.5.2.1. Salaries³

Staff members' pay is made up of the following elements and respective deductions:

1. **Basic salary** - according to the category, at which the staff member has been appointed, as announced in the job vacancy, the applicable grade, step and correction coefficient, depending on the country of employment.
2. **Various allowances:** family allowances, expatriation allowances, etc. Information on the different allowances is provided below.

The following deductions apply:

1. Social security contributions (% of basic salary)

- Pension (11.6%)
- Health insurance (1.70%)
- Accident cover (0.10%)
- Unemployment insurance - for temporary and contract staff only - (0.81%)

2. Income tax:

- Tax levied progressively at a rate of between 8% and 45% of the taxable portion of the salary.

Pay is weighted by applying a correction coefficient based on the cost of living in the country of employment. The various components of the pay are adjusted every year.

6.5.2.2. Entitlements for staff members

Staff members are entitled to various allowances depending on their country of origin, family situation, etc. Entitlements may vary based on the personal circumstances and are defined case by case.

Various allowances that staff members may be entitled to include:

- **Reimbursement of travel expenses** on entry into service – based on the presentation of original supporting documents.
- **Installation allowance** - the installation allowance is paid to established temporary/contract staff who provide proof that they had to change their place of residence to meet the requirements of Article 20 of the Staff Regulations. The installation allowance is equivalent to:
 - two months' basic salary for staff entitled to the household allowance;
 - one month's basic salary for staff who are not entitled to the household allowance.

³ Values as of 2012.

- **Expatriation allowance** - the expatriation allowance equals to 16% of the total amount of the basic salary plus household allowance and the dependent child allowance. The minimum amount of the expatriation allowance is laid down in Article 69 of the Staff Regulations. Expatriation allowance is paid to staff members:
 - who are not and have never been nationals of the EU country in which they are employed, and
 - who during the five years ending six months before they entered into service did not habitually reside or carry on their main occupation within the territory of that EU country. For the purposes of this provision, circumstances arising from work done for another state or for an international organisation are not taken into account;
 - who are or have been nationals of the EU country where they are employed but who during the 10 years ending at the date of their entering the service habitually resided outside the territory of that EU country for reasons other than the performance of duties in the service of a state or of an international organisation.
- **Daily subsistence allowance** - a daily subsistence allowance may be paid to staff members who furnish evidence that a change in their place of residence is required in order to comply with Article 20 of the Staff Regulations. The allowance is intended to offset the costs and inconvenience caused by the need to move or take up temporary residence at the place of employment while retaining, on an equally temporary basis, a residence at the place of recruitment or previous employment.

The daily subsistence allowance is granted for the following periods:

- in the case of temporary/contract staff engaged for a period of not less than one year who are not entitled to the household allowance: 120 days;
- in the case of temporary/contract staff engaged for a period of not less than one year who are entitled to the household allowance: 180 days or for the length of their probationary period plus 1 month;
- in the case of temporary/contract staff engaged for a fixed period of less than one year: the duration of their contract, up to a maximum of one year.

Scale of daily subsistence allowances (value as of 2012):

- Staff entitled to the household allowance: €39,17 per day
- Staff not entitled to the household allowance: €31,58 per day

- **Family allowances** - staff members may be entitled to various family allowances:

1.1. Household allowance - The household allowance is granted to:

1. Staff members who are married;

2. Staff members who are widowed, divorced, legally separated or unmarried and have one or more dependent children within the meaning of Article 2(2) and (3) of Annex VII to the Staff Regulations;
3. Staff members who are registered as stable non-marital partners.

The household allowance is set at a basic amount of €170,52 plus 2% of the basic salary.

1.2. Allowance for a dependent child or person treated as such - the dependent child allowance is granted automatically to staff members with dependent children under the age of 18. For children between 18 and 26, who are receiving educational or vocational training, the staff member needs to provide the required supporting evidence. Staff members are entitled to a flat amount of €372,61 (value as of 2012) per month and per dependent child.

1.3. Education allowances

1.3.1. Education allowance A (pre-school allowance) is granted to the staff member for each dependent child who is less than five years old and is not yet in regular full-time attendance at a primary school (until the child reaches the age of eight).

1.3.2. Education allowance B is granted for each dependent child who is at least five years old and in regular full-time attendance at a primary or secondary school that charges fees (registration and attendance fees) or at an establishment of higher education.

- **Other allowances:** birth grant, tax abatement for a dependent child or person treated as such, sickness insurance and medical reimbursements, etc.
- **VAT exemption**

All staff members, who are not of Slovene nationality or do not have permanent residency status in Slovenia, are entitled at the time of first taking up their post in the Agency to VAT exemption for purchasing of personal and household effects for a period of one year starting from the date of their appointment at the Agency. Different provisions apply for diplomatic staff (Director and Heads of Departments) with regards to VAT exemptions as per the **Diplomatic Protocol of the Republic of Slovenia (Annex 23)**.

The VAT exemption certificates to be completed by staff eligible for VAT exemptions are provided by *Jakub Walczak, HR Assistant*.

- **Issue and use of a special credit card**

In 2012 the Agency joined a Commission framework contract, providing the possibility to use the services offered by BCC Corporate SA. Under this contract staff members are entitled to receive a special credit card for the principal purpose to cover their mission expenses. The credit card may also be used for private purposes, provided that it does not prejudice its principal purpose. The issuance, follow-up and cancellation of the credit cards are under the responsibility of the Accounting Officer of ACER, who is the contact point for both BCC Corporate SA and ACER staff. Staff

members, when applying for such a card, shall read **ACER Credit Card Policy (Annex 24)** on the specific rules and procedures for the issue and use of the credit cards.

- **Induction training for newcomers** – a detailed overview of the different entitlements described above, as well as eligibility and administrative procedures, are presented to newcomers at the induction training available. Any further information can be received from the HR Section of ACER.

Detailed information and regular updates can also be followed under the HR section of the ACER Intranet: <http://intranet> and at: http://myintracomm.ec.testa.eu/hr_admin/EN/Pages/index.aspx.

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6.6. Schooling of Staff members' children

In February 2011 the Administrative Board of ACER adopted its Decision No 01/2011 on the **support granted to ACER staff members in respect to kindergarten and school fees (Annex 25)**.

As a result of this measure, children of temporary and contract staff members of ACER with a contract of at least one year of duration shall have access to the financial support granted in line with the provisions of the Decision and the Staff Regulations.

Furthermore, in the absence of a European School in Ljubljana and according to Article 4 (3) of the Administrative Board Decision No 01/2011, the Director has adopted a decision for exceeding the maximum financial support payable under the provisions of the Staff Regulations up to a specific threshold. The decision is revised annually and defines the eligibility and general applicable rules for the implementation of this social measure. The specific rules under this measure may be found in Director Decision 2012-026 on the **financial support granted to staff members in respect to kindergarten and school fees (Annex 26)**.

Additional information on **kindergartens and international schools in Ljubljana** could be found in the **Welcome pack for newcomers**.

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6.7. Staff Training

In line with the principles formulated by the European Commission in its Communication of 21 November 2001 on lifelong learning, ACER pursues a pro-active policy on staff training. The ACER internal rules and procedure have been adopted with a decision of the Administrative Board AB No 06/2012 on **Staff Training (Annex 27)**.

According to the decision, learning at ACER will be supported to ensure the systematic development of knowledge, understanding and skills of its staff and to encourage development of professional and personal potentials. ACER assumes the need to provide its staff with the necessary training and development opportunities, in order to strengthen their knowledge and skills and thus contribute to the better achievement of the Agency's objectives as well.

The Agency aims at meeting all properly identified training needs without undue delay and in line with the resources available. Where limited resources do not allow all identified training needs to be met within a given timeframe, priorities are assigned as follows:

1. First priority is given to the needs in the strategic interest of ACER, as identified by senior management, the Annual Work Programme and the HR section.
2. Second priority is accorded to the needs which are primarily at the level of the respective Departments.
3. Third priority is given to training activities stemming primarily from personal interests in the wider organisational context.

The internal decision describes in detail the procedure staff members have to follow for application and approval of trainings to be supported by ACER. The [Training request form](#) to be used for the formal approval of a particular training is attached as an annex to the decision.

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6.8. Going on a mission

Staff members might be asked to perform missions out of the Agency's seat in Ljubljana and in the interest of the service. This includes attendance of meetings, events, participation in working groups, attendance of trainings, etc., considered they are performed after the prior approval of the staff member's hierarchical supervisor.

Missions of ACER staff members are managed through the on-line **Mission management tool**, accessible through: <http://s-ws64-acerhr>. The procedure and practical guidelines on the use of the tool for submitting a Mission order and claiming the incurred costs is detailed in the **Missions Management End User Manual**, attached to it.

General applicable provisions: Staff members have to allow at least 5 working days prior to the mission for submitting their mission orders. Mission Orders have to contain full details of the planned mission (place, purpose and programme of the mission, itinerary, means of transport used, the expected costs) and shall be supported with the relevant documents, in order to allow for an informed decision of the Authorising Officer on the compliance with ACER applicable rules.

For all missions, that receive the prior authorisation of the Authorising Officer, staff members are entitled **to reimbursement of the relevant costs**, incurred solely for carrying out the mission in the most effective way (travel, accommodation, daily subsistence, etc.). For further information on the reimbursement of mission related costs and the applicable rules, please consult sections [10.6.7.](#) and [10.6.8.](#) of this Manual for additional instructions.

Any exceptional arrangements, detours or changes to an approved mission are subject to the prior authorisation of the Authorising Officer. Detours and/or changes for private reasons and any excess costs are to be covered by the staff member himself.

All provisions of the [Guide to missions for officials and other servants of the European Commission \(Annex 28\)](#) apply as a rule.

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6.9. Appraisal, promotion and reclassification

6.9.1. Performance appraisal

The ability, efficiency and conduct in the service of each staff member are subject to a periodical report made at least once every two years in accordance with Article 43 of the Staff Regulations.

ACER launched its first appraisal procedure in 2012, modelled on the procedure adopted by the European Commission. The purpose of the annual exercise is to assess the work that has been carried out and the results obtained by each staff member over a specific period, and on the basis of this appraisal, to encourage staff to develop their potential and consider further career prospects.

The internal rules and applicable procedures for the performance appraisal of staff at ACER are detailed in Administrative Board Decision AB No 25/2011 establishing the **Policy and procedure for the performance appraisal of staff (Annex 29)**.

In compliance with the Staff Regulations and in line with the requirements of the decision, a **Joint Appraisal and Reclassification Committee (JARC)** is been established and its members and alternates nominated each year with the start of the Annual Performance Appraisal exercise. This decision as adopted by the Director is communicated to all staff. During the appraisal exercise, and in the event of disagreement with the decision of the Countersigning officer or Reporting officer, the staff member under appraisal may file an appeal with the JARC.

This procedure applies for all staff employed by the Agency, except for the Director. The Director is evaluated according to the procedure defined in Administrative Board Decision No 26/2011 ([Annex 30](#)).

In 2012 ACER introduced the **HR Performance Appraisal Module** to serve as the main tool for carrying out performance appraisal of staff. The tool is accessible through the following link: <http://s-ws64-acerhr>:

[Performance Appraisal Exercise for Year 2011](#) ▾

[Performance Appraisal Exercise Manual](#)

[Initiate my Performance Appraisal Exercise](#)

Detailed rules and **Manual on the use of the system** (available at the tool) have been made available to further assist staff through the process.

Performance Appraisal Guidelines (Annex 31) have been further developed, defining the scope of the exercise; the timeline; the appraisal actors, roles and responsibilities; self-assessment; evaluation criteria and assessment levels; guidelines for setting performance objectives, etc.

6.9.2. Promotion and reclassification

The Agency's policy on the **promotion and reclassification of staff** is based on the relevant implementing rules of the European Commission and aims to establish a close link between the actual reclassification and performance, merit and individual aptitude. By reclassification it is meant upgrading from the grade held to the next higher grade within the function group. Reclassification is mainly based on the results of the annual performance evaluation, on the use of other languages and, where appropriate, on the level of responsibilities. In order to be eligible for reclassification, staff must have a minimum of 2 years seniority in their grade.

The Administrative Board adopted 2 decisions which detail the specific rules applicable for reclassification:

- Decision AB No 11/2012 establishing the **policy and procedure for the reclassification of temporary agents** ([Annex 32](#)), and
- Decision AB No 12/2012 establishing the **policy and procedure for the reclassification of contract agents** ([Annex 33](#)).

As a rule, long-term temporary agents for assistant positions can be reclassified up to the grade of AST11 and administrative positions can be reclassified up to grade AD14 in line with the Decision establishing the policy and procedure for the reclassification of temporary agents.

The list of temporary agents and contract agents, proposed for reclassification, is drawn up by the Management Committee. Reclassification is decided then by the Authority Habilitated to Conclude Contracts (AHCC), based on the proposal from the Management Committee.

Further information on the performance appraisal and reclassification procedures at ACER could be obtained by the HR section.

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6.10. Identification and management of sensitive functions

Considering the importance of identification and management of sensitive functions within the Agency's job roles, the Agency has developed and adopted its **Policy and procedure for management of sensitive functions** ([Annex 34](#)).

Sensitive functions are those where there is a risk that the jobholders deliberately use their decision-making power or influence with a view to gain personal advantage (financial or non-financial). In this respect, the policy aims to establish the procedures for identification, risk assessment and management of sensitive functions within the Agency in order to prevent irregularities, fraud and corruption.

Based on the criteria set in the policy the Agency has made a preliminary assessment of positions holding sensitive functions. An inventory of these positions has been prepared and attached as an annex to it. Sensitive functions are also being identified within the Agency's job descriptions framework (identified for every single position and added to the related job description) to ensure that every jobholder responsible for those functions is aware of the level of sensitivity.

The positions holding sensitive functions will be monitored in order for appropriate mitigating measures to be introduced, where necessary. The rest of the functions/positions will also be revised regularly when major changes in responsibilities occur.

Sensitive functions within the Agency will be re-assessed at least every five years. They will also be revised any time a major change in the Agency's structure and responsibilities occurs.

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6.11. Teleworking

Teleworking is defined as a method of organising and carrying out work using information technology which allows staff members to carry out their duties outside ACER premises.

ACER has recognised teleworking as a part of a modernising trend in organisations, focused on result-based management and objective-driven performance, which allows greater flexibility for work organisation by making use of new information technology. Thus, the Agency has adopted relevant internal rules and provisions in order to provide this opportunity to its staff.

The rules allow staff to telework for a **maximum of 45 working days per year**, and for a **maximum of 10 teleworking days in a row**. This arrangement may be used when concentration or focus is needed for a specific one-off task or project, in case of specific personal or family problems, or in cases where a member of staff has temporarily lost his or her mobility but is still able to work. It is the hierarchical supervisor's responsibility, in agreement with the relevant Head of Department, to decide whether it is in the interest of the service to allow teleworking and to determine how many members of staff in each area of activity may telework at a given time without adversely affecting the service.

Staff that that would like to telework shall submit a teleworking request through a form, found in [HR quick links](#).

My HR Quick Links

[Submit a new Leave Request](#)

[Submit a new Teleworking Request](#)

[Submit a new Change of ACER Holidays Request](#)

[View my Entitlements / Leave Request Balance](#)

Staff teleworking shall make arrangements with IT for remote VPN access in order to be able to perform their tasks from home. However, teleworking does not apply to staff working at home after office hours.

Detailed rules and provisions have been adopted by the ACER Administrative Board with Decision AB No 21/2012 on the implementation of **teleworking** ([Annex 35](#)).

6.12. Traineeship at the Agency

In order to be able to further attract highly qualified, competent and strongly motivated applicants and therefore further promote the role and the knowledge of the Agency among a large public, the Agency has set up a **Traineeship Programme (Annex 36)**, allowing trainees to acquire technical and operational experience by means of contact made in the course of their everyday work in the Agency and to further put into practice the technical knowledge they have acquired during their studies or professional careers.

With this traineeship programme the Agency aims to create a pool of people with first-hand experience trained in the European Union and the Agency specific procedures, who will be better prepared to collaborate with the Agency in the future.

The traineeship at the Agency is addressed to university graduates and encompasses two training periods per year:

- from 1 February to 30 June;
- from 1 September to 31 January of the following year.

Within these two periods, the traineeship may last a minimum of three and a maximum of five months. As an exception, the traineeship might be extended for one month to a maximum period of six months.

The eligibility criteria, the procedure for submission and evaluation of applications and engagement of trainees, their rights and duties are detailed in the rules governing the traineeship programme, adopted in 2012 with Director Decision 2012-37.

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6.13. Staff Committee

The Administrative Board decided by its Decision No 27/2011 as of 22 September 2011 to set up a **Staff Committee at ACER (Annex 37)**. The Staff Committee shall represent the interests of the staff vis-à-vis the Agency and shall provide a channel for the expression of opinion by staff.

The members of the Staff Committee are chosen among the eligible Agency staff by elections, organised by the Agency. The Election Committee members, responsible for the organisation of the elections, setting the rules for elections, publishing notices on the date, time and place of the elections, as well as for publishing a call for candidates to stand for the elections of the Staff Committee, are appointed by the Director for each election to be held.

The first elections for Staff Committee Members have been held on the **19th January 2012**. Based on the results, the first Staff Committee of ACER has been established in 2012. Staff may approach the Staff Committee members directly or via the functional mailbox: [**StaffCommittee@acer.europa.eu**](mailto:StaffCommittee@acer.europa.eu).

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7. WORKING ENVIRONMENT, CONDITIONS AND SERVICES

7.1. Working hours

Basic principles

According to the Staff Regulations (Articles 55, 55a, 55b, 56, 56a, 56b) applicable to the EU institutions and bodies, the regular working hours in all services shall be at least 37½ hours/week and 7½ hours/day.

The daily working hours are divided into **core working hours** and **flexible working hours**. The core working hours mean the time of the day when every staff member is obliged to be present in the office. Exceptions would be holidays, missions, meetings, events, professional training and leave. Flexible working hours mean the time during which the members of the staff are free to choose their time of arrival or departure to or from the office and their lunch break.

ACER working hours

The standard working time is **37½ hours per week**, spread over 5 working days. Thus, the standard working time is **7½ hours for a day and 3¾ hours for a half-day**.

To ensure continuity of service, an adequate presence of staff and a minimum standby duty in every department should be ensured for the standard working hours from 09:00 to 12:00 and from 13:00 to 17:00 from Monday to Friday.

Core working hours, during which all ACER staff must be present in the office, are from **9:30 (10:30 on Mondays) to 12:00** and from **14:00 to 16:00 (15:00 on Fridays)**.

Flexible working hours run from **7:00 to 9:30 (10:30 on Mondays)**, from **12:00 to 14:00** and **from 16:00 (15:00 on Fridays) to 20:00**. Departments may impose restrictions on this choice in order to ensure an adequate presence of staff during the standard working hours.

The duration of the working day may not exceed 10 hours and a lunch break of not less than 30 minutes must be taken when working time is more than 5 hours.

Management

The organisation of working hours within the different departments is managed under the control of the Heads of Departments, as they are responsible for the smooth working of their departments. Managers must ensure that flexibility is used in a way which takes into account the interest of both the department and the members of staff.

The principle, applicable for all ACER staff, has been laid down in Director Decision 2011-025 on **ACER working hours** ([Annex 38](#)).

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7.2. Official holidays

Each year the Agency issues a list of public holidays for the following calendar year. In line with the Commission Decision C(2004) 1597, the total number of public holidays is between 17 days (minimum) and 19 days (maximum).

The ACER public holidays for 2013 are summarised in the following table:

DATE	NO. OF DAYS	DAY	DESCRIPTION
01.01.2013	1	Tuesday	New Year's Day
02.01.2013	1	Wednesday	The day following New Year's Day
28.03.2013 – 01.04.2013	3	Thursday – Monday	Easter
01.05.2013	1	Wednesday	Labour Day
09.05.2013	1	Thursday	Europe Day and Accession Day
10.05.2013	1	Friday	The day following Accession Day
20.05.2013	1	Monday	Whit Monday
15.08.2013	1	Thursday	Assumption Day
16.08.2013	1	Friday	The day following Assumption Day
31.10.2013	1	Thursday	Reformation Day
01.11.2013	1	Friday	All Saints' Day
24.12.2013 – 31.12.2013	6	Tuesday – Tuesday	End-of-year period

ACER staff may choose to work on 4 days which are considered as ACER holidays. The procedure is laid down in Director Decision 2012-033 on **ACER Holidays for 2013** ([Annex 39](#)) and is performed via the HR Leave Management Tool.

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7.3. Leave

7.3.1. Sick leave

With regards to the sick leave arrangements ACER applies the **Commission decision introducing implementing provisions on absences as a result of sickness or accident** ([Annex 40](#)).

Main applicable principle:

Staff Regulations stipulate that staff members are obliged to present a **medical certificate** to the ACER Leave Administrator (HR Section) in the event of an absence due to sickness exceeding 3 calendar days. Furthermore, **staff members are always expected to call the respective Department assistant before 09h30 on the first day of sick leave**, in order to inform about their absence. HR Section and the hierarchical supervisor shall also be informed about the absence. If a staff member is sick before or after a week-end, all the calendar days are taken into account (i.e. absent on Friday equals to 3 days of absence no medical certificate is required; absent on Friday and Monday equal to 4 days of absence a medical certificate is required).

HR section contacts:

- ***Ms Maša BOHNEC – HR Officer – Direct phone: 00386 82053 408***
- ***Mr Jakub WALCZAK – HR Assistant – Direct phone: 00386 82053 395***

If, over a period of 12 months, a staff member is absent for a consecutive period of up to three calendar days because of sickness more than 12 days, a medical certificate has to be presented for any further absence because of sickness.

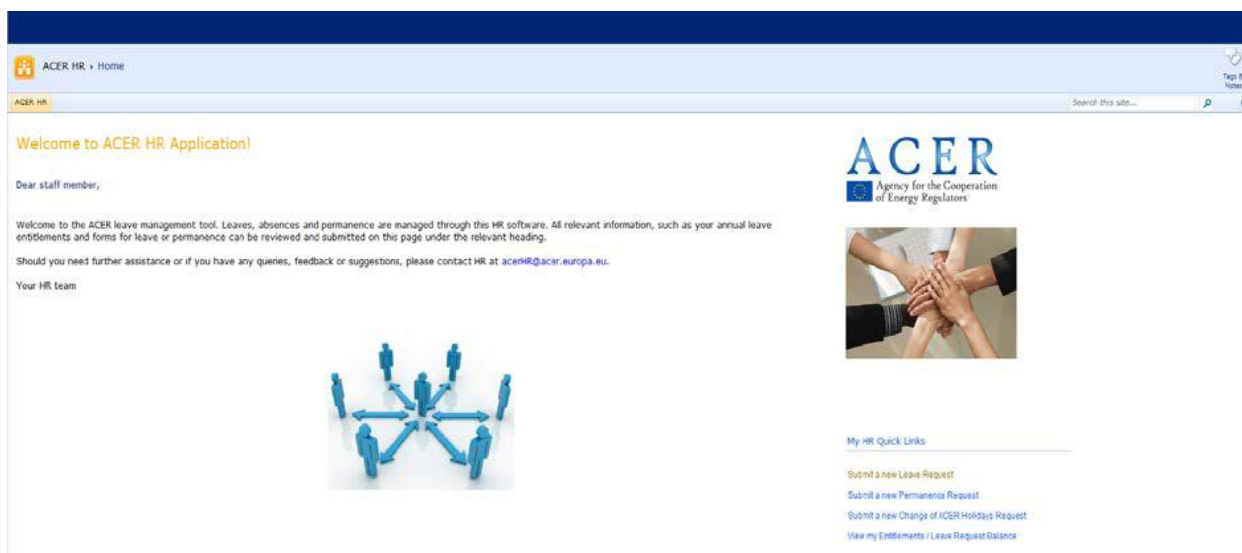
An absence on health grounds without a medical certificate may not immediately precede or follow a period of annual or special leave if the total absence, including the annual or special leave, exceeds three calendar days. The absence will in such cases be regarded as unjustified.

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7.3.2. Annual leave and special leave

ACER applies the **Commission decision introducing implementing provisions on leave (Annex 41)**. Annual leave entitlements are calculated for each staff member individually according to the provisions of Director Decision 2010-005 ([Annex 42](#)) and entered into the **ACER HR Leave Management tool**.

Annual leave and special leave requests, permanence requests or change of the ACER public holidays shall be introduced in the **HR Leave Management tool** for approval. The tool is accessible through the following link: <http://s-ws64-acerhr>.



The Leave Management tool provides up to date information on the staff member individual entitlements and balance of annual leave days.

Detailed instructions on submitting leave requests and on the use and functionality of the tool have been provided in the **Leave Management System Staff Member Manual**, attached to it.

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7.4. Office premises, internal procedures and administrative services

7.4.1. Temporary office premises, mailing address and contact details

Since February 2011 the ACER headquarters are located in Ljubljana, Slovenia. The mailing address and contacts of the temporary ACER offices are:

Agency for the Cooperation of Energy Regulators (ACER)

Trg Republike 3

1000 Ljubljana

Slovenia

Tel.: +386 (0) 82053 400 (Reception)

E-mail: info@acer.europa.eu

Web-site: <http://www.acer.europa.eu>

In case of emergency:

Kras Maier (Building Manager)

Mobile: +386 (0) 41 661 544

7.4.2. Premises security and tasks of the Security Officer

The ACER premises are protected by guards at the main entrance. Access to the ACER offices is possible only with an access card, granted to staff members and registered visitors. External visitors shall be accompanied to and from the offices by a staff member. Staff members are given the card on the first day of taking up duties and are requested to wear their access card at all times whilst in the premises.

Furthermore, in 2012, [Mr Stefano BRACCO \(ext. 405\)](#) has been appointed the Agency's [Security officer \(Annex 43\)](#) in order to coordinate, facilitate and act as a focal point on all security-related matters within the Agency. His main role shall be to develop and update the policies and procedures on security and ensure their proper implementation within the Agency, take ad hoc safety and/or security measures to prevent harm or damages to staff, premises and data/information, develop, maintain and monitor the physical security and fire safety plan and promote health and safety at work; provide an emergency response capability within the Agency's premises and assist with incidents management when necessary, etc.

7.4.3. Offices allocation

Offices are allocated by the Director or the Head of Department responsible for the staff member in question within the office premises of ACER. Any allocations and changes have to be initially discussed with and notified to:

- the Procurement and Facility Management Assistant – in order to ensure there is space available and that the specific request could be accommodated, as well as to be able to keep an overview plan of the use of space;
- IT team - to ensure the necessary IT infrastructure is in place; and
- HR – to update the information in the general contact list/address book.

7.4.4. Office supplies

Office supplies are purchased centrally under the responsibility of Administration Department and kept in the central stock room in the TR3 basement. All staff members could supply themselves with the necessary office consumables, out of the available types and numbers of stock. Department assistants could keep a limited stock at hand for the immediate needs in their departments.

Any special request or needs for specific office supplies shall be communicated to the Administration department. Such requests shall be dealt with upon availability of budget and according to the applicable procedure.

Office supplies shall be purchased, managed and used with a view to efficiency and cost saving.

7.4.5. Booking of meeting rooms

There are 2 internal meeting rooms for about 15 up to 20 persons on each of the first and second floor of ACER premises. The meeting room on the 2nd floor could be divided in two rooms with a sliding partition. Both meeting rooms are intended for use by all departments of the Agency.

Staff shall always seek to accommodate meetings and events at the Agency's premises, whenever possible. In principle meeting rooms are reserved on a first-come-first-serve basis. In case a later booking is held to deserve priority, a solution shall be found between staff or the Heads of the departments involved. It is therefore important that rooms are booked in advance as early as possible to avoid conflicting meeting and event arrangements.

Meeting rooms shall be booked in the **Outlook calendars (Annex 44)**, presenting an overview of the rooms' availability. Special needs with regards to equipment, needed for the events, shall be communicated well in advance to IT, especially the use of video-conferencing equipment, in order to be accommodated. Additional needs for equipment – laptops, LCD projectors, additional Internet ports, etc. – shall be carefully considered.

If bigger meeting rooms within ACER premises are required, ACER currently has an agreement, under which additional meeting rooms could be rented out of the available rooms offered by its current lessor. The department in charge for the organisation of the event shall in this case inform Administration by filling and submitting an **Internal Form (Annex 45)** as soon as possible. Such request shall be communicated in due time in order to be accommodated, depending on the resources available, but at the latest 2 weeks prior to the event. **Contact person: Mr Igor Hacin, Administrative Assistant.**

If bigger rooms, outside of ACER premises are required, the appropriate procurement procedures, as described under p.13 of this Manual shall be followed.

7.4.6. Catering for events

Requests for catering for events, organised by the Agency at its premises and/or within the same building, shall be submitted using the same **Internal Form** as above (**Annex 45**).

Information on the date and name of the event, the venue, the number of participants and the exact timing of coffee breaks and lunch shall be provided. The location of the coffee breaks and lunches shall be specified.

Additional guidelines and instructions are provided in the form. **Contact person** with regards to both Purchase orders for conference rooms booking and catering: **Mr Igor Hacin, Administrative Assistant.**

If catering for events, taking place outside of ACER premises, is required, the appropriate procurement procedures, as described under Chapter 11 of this Manual shall be followed.

7.4.7. Smoking

Smoking is prohibited in all internal parts of the ACER premises.

Smoking is only allowed on the terraces and balconies of the building provided that non-smokers are not unduly disturbed and that cigarette stubs are properly disposed in ashtrays or otherwise.

Smoking in front of the building is tolerated but discouraged.

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7.5. Information Communication Technology (ICT)

The ICT systems of ACER are provided for supporting business operation, communication and processes. Those include software, hardware, printers and scanners, use of Internet and e-mail, use of wireless network, fixed and mobile telephony, etc. All these systems have a common general usage **ICT Policy** and have been provided to staff in order to facilitate carrying out the operational business and tasks of the Agency. All staff members are required to sign **Individual Declaration**, as provided by the IT section, confirming the understanding of the ACER ICT Policy general rules.

Every effort is made to ensure the integrity of these systems. Users shall be responsible for applying all actions, recommended by ACER, to ensure the physical and logical security of their computing environment, including workstations, portable computers, network equipment, and other supported equipment such as printers, scanners, etc.

ACER does not assume responsibility for private data or other information lost or erroneously disclosed to other parties. Staff shall not use the ICT resources of ACER (send via e-mail or fax, view via the web, store) concerning content considered personal or private.

In this respect all ACER staff should refrain from disseminating e-mail messages that are of a non-official character to a wide or even indiscriminate number of addressees or request the addressee(s) to distribute the message widely. This limitation applies regardless of the content of such messages (e.g. entertainment, charity, political campaigns or commercial ads etc.) and is intended to safeguard server capacity and maintain the proper functioning of the service.

With respect to both the utilisation of the email system and of the internet server, every member of ACER staff must at all times carry out his duties and conduct himself "solely with the interests of the communities in mind" (Article 11 (1) of the Staff Regulations) and "refrain from any action or behaviour which might reflect adversely upon his position" (Article 12 of the Staff Regulations). These obligations are designed, primarily, to ensure that staff of the Agency, in their conduct, present a dignified image which is in keeping with the particularly correct and respectable behaviour one is entitled to expect from ACER staff.

While all ACER staff enjoys the freedom of expression, staff is reminded that the e-mail system of the Agency may not be used, whether intentionally or by negligence, contrary to the interest of the EU, in particular, in any way that might be interpreted as insulting, disruptive or offensive by any other person, company or organisation. Such abuse may lead to an administrative investigation and even to disciplinary action.

The limitations on the freedom of expression determined by the interest of the service apply regardless of the number of addressees and irrespective of whether such a message is sent to internal or external actors. Comments, remarks or expressions of an insulting, disruptive or offensive content may neither be made directly to the person concerned nor vis-à-vis a third person as such statements are not justified by virtue of the freedom of expression provided for in Article 17a (1) of the Staff Regulations.

As the servers of the Agency are used by staff both directly from office premises and via remote access from other places, attention is drawn to the fact that normally emails or other messages that are sent

through the server of the Agency will indicate the sender's email address with the acer.europa.eu suffix and thereby establish a link to the Agency.

All applicable rules with regards to ACER ICT environment are laid down in **Director Decision 2011-015 on the ACER Information Communication Technology (ICT) Policy** ([Annex 46](#)).

Use of Internet

The use of the ACER ICT equipment, in particular the email server and internet access, is in principle restricted to official use. However, incidental personal use is permitted as long as such utilisation is not contrary to the interests of the Agency and remains within reasonable limits.

With respect to the utilisation of the internet, attention is drawn to the fact that the ACER server may not be used where offensive, racist, discriminatory, sexually explicit, obscene, or other equally inappropriate websites are accessed or where other personal use exceeds reasonable limits. Such abuse may likewise lead to an administrative investigation and to disciplinary action. In this respect, the Agency, moreover, reserves its right to block access to certain websites or categories of websites.

ACER IT Helpdesk

The **ACER IT Helpdesk** serves as the first point of contact for IT support to end users. It provides support regarding ACER information systems (also troubleshooting, etc.), access to ACER local systems, email, network and requests, LAN, WAN and file servers, support to PCs and peripherals, backup, storage services and web-hosting on the Intranet and Internet.

The **ACER IT Helpdesk** is the single point of contact also for the following services:

- Request for new workplace (PC for new staff arrivals)
- Request for new peripherals (Printers, scanners)
- Request for new Software installation
- Removal of obsolete Hardware and Software
- Move of existing Hardware (PCs and peripherals).
- Requests for enabling special security permissions on file folders or files

Contact the ACER IT Helpdesk at: support@acer.europa.eu

ACER Information Communication Technology (ICT) Steering Committee

In order to ensure that the overall IT strategy and the development of the Agency's IT infrastructure are aligned with its business needs, the Director has established an **ICT Steering Committee** ([Annex 47](#)). The role of the Committee shall be to ensure that the ICT strategy supports in an efficient way the Agency's activities and business needs and support the achievement of objectives.

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7.6. Mobile phones and mobile computers (PCs)

Staff members may be equipped, permanently or on an ad hoc basis, with mobile equipment such as mobile phones and computers, where use of such equipment can facilitate or are deemed necessary for the operation of ACER and the delivery of its core tasks.

IT staff is responsible to manage the mobile equipment of ACER. Any request, submitted by a staff member with regards to the use of additional software or provision of mobile equipment, shall be requested using the **ACER IT Request Form** ([Annex 48](#)).

Staff members shall use the equipment with a view to maintain the interests of the Agency. They shall notify the Agency immediately of any loss or alteration of equipment they have received.

Staff members shall also be personally responsible for any damage or loss of the equipment, due to negligence, and might be requested to reimburse the Agency up to the cost of the damage caused in such cases.

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7.7. Postal services

7.7.1. Slovenian post office services

ACER currently has an agreement for postal services with the Slovenia Post Office (Posta Slovenije d.d.). As a rule, all outgoing mail has to be sent out through the local post office services.

Post shall be delivered to the Administration Department and is dispatched on a daily basis, or as necessary. All *registered* and *priority* letters shall be marked as such in order to be proceeded accordingly.

7.7.2. Diplomatic pouch

Official mail addressed to the Commission services could be delivered through the diplomatic pouch of the EC Representation in Slovenia. For that purpose, all mail shall be dropped at the designated area in the Administration Office by the end of the day each Wednesday in order to be sent out to the Commission services within the current week.

All letters shall have the full recipient and sender details. Letters not intended for the EU Institutions shall be sent out by regular post.

7.7.3. Emergency deliveries

Any exceptional cases and use of other delivery companies (incl. private couriers) need to be communicated and authorised by the hierarchical supervisor in advance.

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7.8. Administrative Translations and Publications

All translation services, required for the functioning of the Agency, shall be provided by the Translation Centre for the Bodies of the European Union (CdT). These services include translation, editing, modification, revision, amendment of documents, terminology lists creation and standardisation, and are provided on the basis of a Service Level Agreement (SLA).

The SLA defines the specific arrangements, applicable fees and deadlines, which change each calendar year and vary depending on the service to be requested, the volume of work to be performed, the type of request (standard or urgent), the document format, etc.

Thus, any identified needs shall be communicated to Administration well in advance (and typically with the annual translation forecast) for planning and budgetary reasons.

Instructions on submitting translation requests:

1. Fill in the **Requests Form** ([Annex 49](#)) and send it to Administration in due time.
2. Attach the document to be submitted for translation/modification, etc. The submitted documents should have received the prior approval of the Director/Head of Department. The approval shall be attached to the request.
3. The document will be analysed by the Administration department and you will receive confirmation on its submission or request for further information, if needed.
4. Submitted documents are to be sent to the CdT asap, on the same day, unless there is missing information or due to budgetary constraints.

Contact person for further information on translation requests and procedures: Tsvetelina Kumanova, Assistant to the Head of Administration.

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7.9. Parking and public transportation

ACER rents limited number of reserved parking places at the underground parking lot of TR3. Staff members, who would like to make use of those parking places, have to send a request to the Administration Department. All requests are dealt with no delay considering the availability of parking places.

As of 2012 ACER has made available to staff, who do not make use of the reserved parking lots, a **local bus transport cards (Urbana card)** valid for public city bus lines in Ljubljana. Requests on the issue and use of cards are dealt with by the Administration Department.

Contact person: Ms Mateja Vavtar, Facility and Procurement Management Assistant.

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7.10. Vehicle registration in Slovenia

ACER staff members have the possibility to register their car with the Slovenian local authorities. The procedure for importing a car to Slovenia for staff members who are VAT exempt is described in full detail and may be consulted at the [Welcome pack for newcomers](#).

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7.11. Other useful information

ACER has made available the [Welcome pack](#) for new staff members, to assist with their integration into the new working and living environment. Further information on the following aspects could be found in the document:

- Settling and living in Ljubljana
- Housing, accommodation and household
- Working possibilities for spouses – contacts of local headhunting companies
- Public services – healthcare, hospitals, banking, re-location
- Local transportation and airports
- Cultural life and activities
- Other useful information – transportation, airport information.

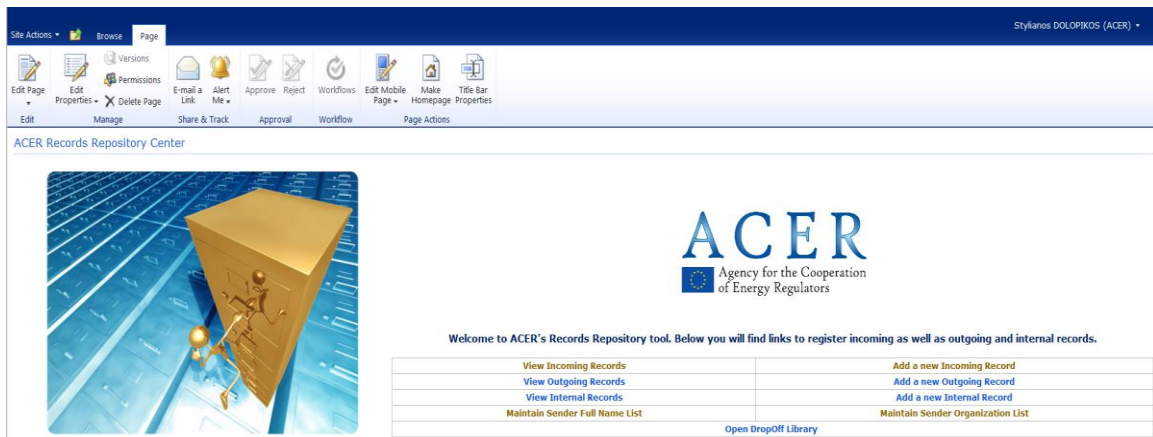
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8. MANAGEMENT OF THE AGENCY DOCUMENTS

8.1. Records Repository Tool

The **Records Repository Tool** is the central automated tool established for the registry of documents and mail, received and dispatched by the Agency, which are complete and constitute administrative or legal evidence of decisions, situations, intentions or events linked to its activities.

The Records Repository Tool could be accessed via the [ACER HR site](#), and then by clicking the respective tab named “Records Repository”.



The Records Repository Tool proposes links to all the basic functions – registration of incoming, outgoing and internal records, management of recipients’ lists, etc.

Its central repository database enables the safekeeping and facilitates the efficient management of the Agency’s documents. The practical use of the tool is further explained in a detailed [User Guide](#), attached to the system tool.

8.2. Criteria for documents registration

All documents, regardless of the medium (including paper, e-mails, faxes, etc.), that are drawn up as effective administrative or legal evidence of decisions, situations, intentions or events linked to the activities of the Agency and that:

- (a) are received or drawn up by the Agency’s departments in the course of their activities; *and/or*
- (b) require action, follow-up or a reply from the Agency or involve the responsibility of the Agency; *and/or*
- (c) contain important Agency-related information;

shall be duly registered in the Records Repository Tool. Documents which do not fulfil the conditions set out above do not have to be registered but may be registered if deemed useful for the purpose of the good functioning of the Agency.

8.3. Mail handling and distribution

Incoming mail is received and registered centrally in the **Records Repository Tool** by the Administration Department and dispatched to the competent Department for follow-up and archival.

Outgoing mail is registered in the same and unique database to which all departments have access. Outgoing mail is signed by the Director or the Heads of Departments in their fields of competence. **All departments shall keep a copy of outgoing mail issued at the level of their respective levels.** Relevant secretariats shall take care that mail, when signed, is sent out with diligence, as well as copies have been kept for information and reference at the document files at the respective Department.

Management of deadlines is done by the Director's office in close co-operation with the competent department's secretariats.

All applicable rules with regards to the registration of all incoming, outgoing and internal documents and communication, as well as the applicable requirements and deadlines for written reply, are to be defined in a single Policy and Procedures for Records and Document Management in the course of 2013.

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8.4. Document preparation and identification

All documents shall be drafted using the templates made available on ACER Intranet. In addition, any outgoing document shall be printed on the approved letter headed paper.

When documents are drafted by staff members, following a request or at their own initiative, they should bear the identification reference (reference number) from the beginning:

- o Reference of the filing index (ACER);
- o Initial of the responsible for the dossier/Initials of the author;
- o The current year in which the draft is being prepared;
- o The consecutive number under which the item is being registered.

This applies to all outgoing official communication that is subject to registration. Complete instructions on the naming conventions have been provided to responsible staff.

8.5. Filing

ACER maintains a policy of de-centralised filing of official documents, while preserving a copy of all incoming, outgoing and internal communication and mail centrally in order to ensure effectiveness and security of the documents.

Each unit is responsible for the administration of documents under its competence. Filing is done by all department assistants or staff themselves. In general, filing shall be arranged by functional areas, and

shall always aim to ensure that documents are kept safe, that access is limited only to the concerned parties and that documents are easy to retrieve and follow, when needed.

In all cases, however, financial documents shall be filed with Finance and personnel files – with HR.

8.6. Safekeeping of contracts

Originals of contracts, except for contracts of employment, shall be duly registered and forwarded to Finance for safekeeping. Copies may be kept by the respective departments concerned.

Contracts of employment are as a rule managed and preserved by the HR section.

8.7. Overview - who does what?

SUBJECT/AREA	ACTIVITY/ITEM	RESPONSIBLE	SUPPORT FUNCTION
MAIL	Registering and scanning of incoming mail	Administration	Departments' Assistants
	Registration and scanning of invoices	Administration	Financial initiators/ Operational Verifiers
	Internal distribution of mail	Administration	Departments' Assistants
	Signature of outgoing mail	Director/Heads of Departments	Assistants (registration)
	Registration of outgoing mail	Departments' Assistants/Authors	Departments' Assistants
	Registration of outgoing and incoming e-mails	Authors/Recipients at ACER/ Departments' Assistants	Departments' Assistants/Administration
	Management of deadlines ⁴	Director's Office	Responsible staff
INTERNAL DOCUMENTS	Registration	Authors/ Departments' Assistants	Departments' Assistants
	Decisions of the Boards and Director Decisions	Director's Office	Departments' Assistants

⁴ As a rule 14 calendar days from the day of receipt.

FILING	Originals – incoming mail	Departments' Assistants	Administration
	Financial files	Finance	Financial Agents
	Personnel files	HR	Staff members
	E-mails	Recipients/Authors/Senders/Departments' Assistants	Departments' Assistants
RESTRICTED ACCESS TO DOCUMENTS	Classification of documents	LISO, Legal Advisor	Director/Heads of Departments
	Data Protection issues and Notifications	Data Protection Officer and deputy Data Protection Officer	Controllers
PUBLIC ACCESS TO DOCUMENTS	Implementation of the regulation and rules	Document Access Coordinator	Departments' staff
	Setting up and updating the register	Document Access Coordinator	Departments' staff

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9. PERSONAL DATA AND DATA PROTECTION

9.1. What is personal data and what is a personal data processing operation

Personal data shall mean any information relating to an identified or identifiable natural person ('data subject'). An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her physical, physiological, mental, economic, cultural or social identity.

Personal data processing operation/s can be any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultations, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

9.2. Legal basis

As any other European body, the Agency for the Cooperation of Energy Regulators is subject to specific legal obligations concerning the protection of personal data and the processing thereof. More specifically, all personal data shall be processed by ACER in accordance with the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

In line with Article 5(a) of Regulation 45/2001, the personal data processing operations at ACER are necessary for the performance of tasks carried out in the public interest on the basis of Regulation (EC) N 713/2009 of the European Parliament and of the Council of 13 July 2009, or other legal instruments adopted on the basis thereof, as well as for the legitimate exercise of official authority vested in the Agency or in a third party to whom the data are disclosed.

General implementing provisions of the Agency have been adopted with Director Decision No 2011-027 of 19 December 2011 on the **Implementing Rules concerning the Data Protection Officer** ([Annex 50](#)).

The Agency's Legal Advisor, Mr Paul Martinet, has been appointed as **Data Protection Officer (DPO)** in accordance with Article 24 of Regulation (EC) No 45/2001, effective as of 20 December 2011 for a period of three years, which can be renewed.

In order to assist the DPO in carrying out his duties, and to ensure continuity of the function, Ms. Annamaria Marchi, Legal Assistant, has been appointed as **Deputy Data Protection Officer (DDPO)**.

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10. BUDGET IMPLEMENTATION

10.1. ACER Financial Regulation and Implementing Rules

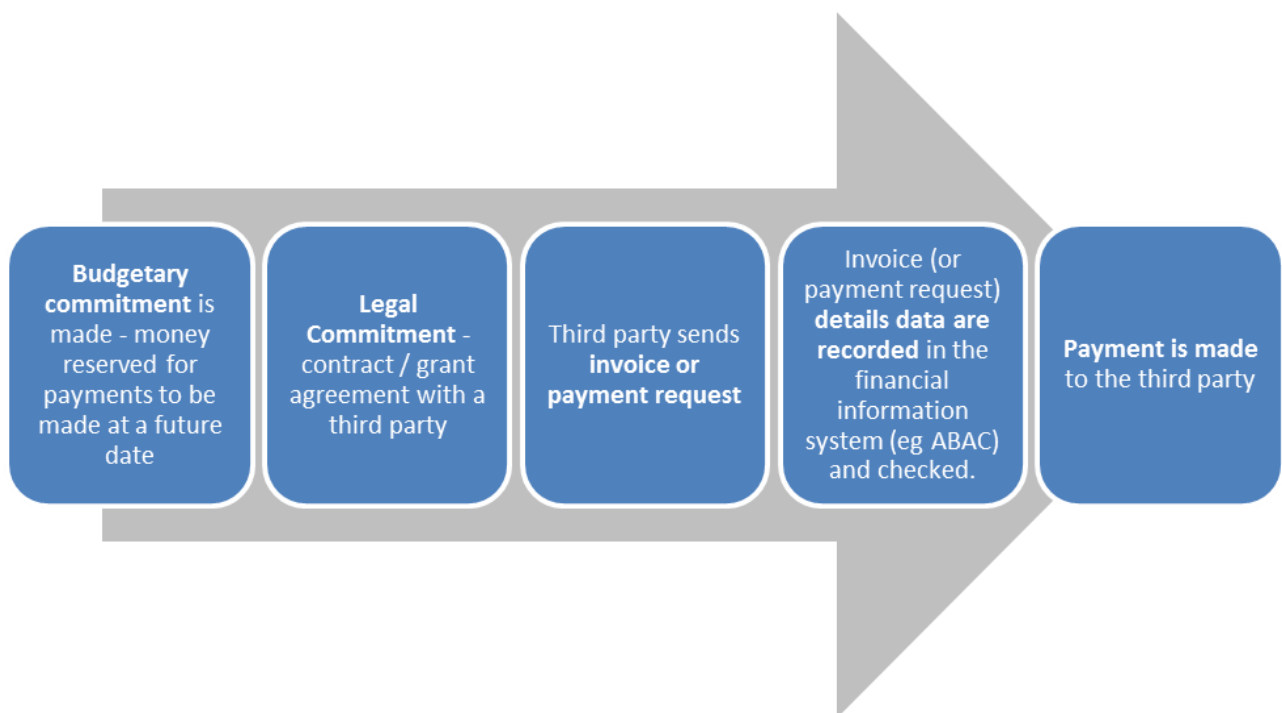
The **Financial Regulation** ([Annex 51](#)) of the Agency has been adopted by the Administrative Board with Decision No 17/2011 as of 22 September 2011. The detailed **Rules for the Implementation of the Financial Regulation** ([Annex 52](#)) have been adopted with Administrative Board Decision No 19/2012 as of 5 September 2012. These two base decisions govern the implementation of the budget and all financial operations of the Agency.

The **Accounting and Budget Officer at ACER**, Mrs Rodica Mandroc, has been appointed with a Decision AB No 23/2011 of the Administrative Board ([Annex 53](#)) as of 22 September 2011, in compliance with the requirements of Article 43 of ACER Financial Regulation.

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10.2. Budget Implementation

Budget implementation at ACER follows the cycle seen below:



Thus, in case the Agency is planning to sign a contract or just have a supplier, this decision has to commence by putting in place the appropriate budgetary and legal commitments.

10.2.1. Commitments

As soon as a contract is awarded or a decision to make a purchase is taken, budgetary and legal commitments have to be put in place to complete the decision.

- **Budgetary commitment**

With the budgetary commitment a specific amount is earmarked on the appropriate budget line (i.e. money reserved on the budget for payments to be made at a future date). This operation takes place in the financial information system (e.g. ABAC⁵) and is validated by the Authorising Officer.

There are 3 types of budgetary commitments, which apply to different situations:

- Individual commitment – used when the contractor/beneficiary is known and the amount of the commitment is clearly determined.
- Global commitment – used for the reservation of funds for a group of organisations/persons before knowing the exact amounts (after the financing decision, but before the award decision).
- Provisional commitment – meant at covering administrative expenses whose beneficiaries/or amount are not yet clearly determined.

The respective **Commitment Form** to be used to raise a commitment is attached hereto as [Annex 54](#).

- **Legal commitment**

Once a budget commitment is raised, the next step is signing the **legal commitment** with the contractor/the beneficiary. It takes the form of a contract, a purchase order or a grant agreement (in the case of grants).

10.2.2. Payments

A payment is the logical conclusion of a commitment, the act releasing the Agency from its obligations towards its creditors. It usually involves settlement of an invoice or a payment request sent by a third party. The normal sequence of procedures is as follows:

1. **Budgetary commitment** is made - money reserved for payments to be made at a future date.
2. **Legal Commitment** - contract/grant agreement entered into with a third party.
3. **The goods/work/services** are delivered in good time and quality and accepted.
4. Third party sends **invoice or payment request**.
5. Invoice (or payment request) **details data are inputted** in ABAC and checked.
6. **Payment is made** to the third party.

A payment consumes payment appropriations and reduces the outstanding balance of the relevant commitment with the corresponding amount. Numerous checks have to be carried out (availability of appropriations, amount of outstanding commitment) before the various transactions can be updated in the Agency's accounts.

⁵ The Agency's accounting system in which financial transactions are executed.

Payments are created in the financial information system (ABAC). Here are the steps to follow:

1. The first stage is **entering details of the invoice** into the system.
2. The second stage is the **payment request** creation and validation by the financial Initiating Agent.
3. The third stage involves the creation, still in ABAC, of a **payment order** comprising preferably just one (or several) payment requests. The payment order must pass through the various stages of the workflow.
4. The final stage is the **payment run** or physical payment which is made via the SWIFT system.

There are also a number of **actors in processing payments**: the Initiating agent, Verifying agent, Authorising Officer, Accountant, etc. Their role and responsibilities in the financial circuit are explained below.

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10.3. Financial circuit model

The adopted **Guidelines on Financial Circuits and Segregation of Duties at ACER (Annex 55)** set out the rules for implementing the financial circuits and segregation of duties at ACER in order to comply with the Internal Control Standards. It also provides detailed description of the tasks of the different actors, involved in financial management, as briefly presented below.

The Agency has a centralised financial circuit model with model variants for different type of transactions. Their use in ABAC is as follows:

Operation	Financial circuit description	Model ID
Commitments	Commitments below €1,000 to be raised by the Financial Initiator, verified/authorised by the Authorising Officer/the Authorising Officer by delegation/sub-delegation.	6
	Commitments above €1,000 to be raised by the Financial Initiator, verified by the Financial Verifier and approved by the Authorising Officer/the Authorising Officer by delegation/sub-delegation.	5
Invoices	Received invoices to be encoded in the financial system	20000
Payment Requests	Payment Requests to be raised and finalised by the Financial Initiator.	15
Payment Orders	Financial Initiator to create payment orders that that shall then be verified by the Financial Verifier and authorised by the Authorising Officer/the Authorising Officer by delegation/subdelegation according to the established limits.	5

Bank Transfers	Execution of payment orders from the bank account will be operated via SWIFT by the Accounting and Budget Officer. In the absence of the Accounting and Budget Officer, the Accounting and Budget Assistant will process the payment orders under the same conditions.	N/A
Forecast of Revenue	Forecasts of revenue created by the Financial Initiator will be verified/approved by the Authorising Officer by delegation/sub-delegation.	6
Recovery Order	Financial Initiator to raise recovery orders (from the forecast of revenue if any in place), Authorising Officer/Authorising Officer by delegation/sub-delegation to verify and authorise.	6
Credit Operations	Financial Initiator will create credit operations that will be approved by the Authorising Officer/Authorising Officer by delegation/sub-delegation	80101
Third parties (bank account and legal entities file)	Financial Initiator to request validation of legal entities and bank account record from the validation team in Brussels.	12

These models ensure the application of **the ‘four-eye’ principle** as part of the sound financial management for the implementation of the Agency budget.

10.3.1. ACER Financial cell

A financial cell has been established within ACER administrative structure, tasked with the performance of financial transactions in the ABAC system. The cell became fully operational as of 1 July 2012 and aimed at establishing a central financial body to facilitate and accumulate the Agency’s financial knowledge in order to ensure improved financial management, efficient financial transactions and effective compliance with the applicable rules.

As a result of the change in the financial circuits, financial transactions and their processing have been fully centralised within the new financial cell. It took over the processing in ABAC of all completed files, including commitments, mission claims, reimbursements of costs, invoice payments, recovery orders and regularisations.

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10.4. Financial actors and roles

The Authorising Officer is the overall responsible for the nomination of financial agents who receive rights for access to the ABAC system, with view to ensure continuity of the operations of ACER. The names and tasks of all actors (financial/operational initiating agents, financial/operational verification

agents, Authorising Officers by delegation) as well as their rights in the ABAC system are subject to a charter signed by the Director.

10.4.1. Authorising Officer and Authorising Officers by delegation

The Authorising Officer is the Director. He is the overall responsible for the budget management and implementation. The Director may delegate his powers as Authorising Officer according to Article 34 of the ACER Financial Regulation.

10.4.1.1. Authorising Officers by delegation

In order to ensure continuity in the financial implementation tasks in the absence of the Director, the following Authorising Officers by (sub-)delegation have been appointed:

1. **Authorising Officer by Delegation (AOD)** - Mrs Olga BORISSOVA, Head of Administration Department
2. **Authorising Officer by Delegation (AOD)** – Mr Andrej BELOGLAVEC, Strategy, Coordination and Compliance Advisor, Director’s Office
3. **Authorising Officer by sub-delegation (AOSD)** - Mr Christophe GENCE-CREUX, Head of Electricity Department

The Authorising Officer by delegation (AOD) and the Authorising Officers by sub-delegation (AOSD) shall act only in the field and up to the maximum amount they received explicit delegation for. In case of their absence and when the validation of operations is urgent, the Director is the only Authorising Officer who can replace the Authorising Officers by delegation.

In case of absence of the Director, an ad hoc delegation can be issued by him, mentioning the fields and the periods of replacement.

10.4.1.2. Responsibility of the Authorising Officers by delegation

The specific tasks of the Authorising Officers are mentioned in articles 38 to 42 of the Financial Regulation (FR), and their responsibilities in articles 45 to 47. The duties are exercised in accordance with the principle of sound financial management (Article 25 and 25a of the FR).

All Authorising Officers sign a declaration on non-conflicts of interest. This is to ensure that they do not validate operations where they are beneficiaries.

Authorising Officers shall also take the necessary actions for performance of their mission. To this end they shall make the necessary budget commitments. They should also put in place procedures and systems for:

- evaluating risks deriving from the management environment and the nature of the operations;
- establishing management and internal control systems complying with the internal control standards;

- avoiding a concentration of budget implementation at the end of the year, as being incompatible with sound financial management and effective control;
- satisfying the obligations concerning reporting and transparency;
- checking whether the objectives set have been achieved;
- checking whether the expected outcomes have been produced (evaluation of the effectiveness of measures) and whether the implemented arrangements were appropriate (evaluation of efficiency).

Authorising Officers are also responsible for the follow-up actions required by the Court of Auditors and the Internal Auditor with a view to ensure sound implementation of the budget of the Agency.

10.4.1.3. Liability of Authorising Officers

The liability of Authorising Officers is governed by the provisions of the Staff Regulations applicable to officials and other staff.

In accordance with Article 22 of the Staff Regulations, an Authorising Officer may be required to make good, in whole or in part, any damage suffered by the Communities as a result of serious misconduct on his part. Further delegation of powers by Authorising Officers to Authorising Officers by delegation does not affect the liability of the former, who remain responsible for the powers they have delegated.

The Authorising Officer may be held liable in the event of serious negligence, in particular where the wrong doing was made possible by inadequacies in the internal control systems devised and put in place under his responsibility.

An Authorising Officer by delegation who, in the performance of his duties, is called upon to decide on a matter in the handling or outcome of which he has a personal interest shall inform the Director of the Agency.

10.4.2. Budget Line Managers

The budget line manager is responsible for the implementation of the budget allocated under the budget line(s) for which he/she has been appointed as manager. The preparation of an operation as part of the budget implementation process and performed by the budget line managers shall include all steps from the start-up of the spending operation to the monitoring of its execution until termination.

10.4.3. Operational Verifiers

The operational verifier is responsible for the mandatory ex-ante verification of each operation which is assigned to him/her for verification by the relevant budget line manager. The operational verifier verifies if the operation is legal, regular and in due respect to the principle of sound financial management and shall ensure that all tasks have been carried out correctly in conformity with the requirements of the Agency's Financial Regulation.

10.4.4. Financial Initiators

Financial initiators record all transactions into ABAC after performing the necessary financial checks: including checking for the existence of the operational certification, the appropriate budget line, the

selection of the appropriate type of transaction with the adequate financial data, examination of the beneficiary, the invoice, recognition of VAT, etc.

After the record in ABAC, the file is then handed to the financial verifier for the next step of processing.

10.4.5. Financial Verifiers

The financial verifiers shall perform all the necessary checks to ensure the correctness of the initiated transaction. These checks shall include, but are not limited to: consistency with the applicable procedure, correct application of the principle of sound financial management, the correct registration of the transaction in ABAC, supporting documents to the file, etc.

After the financial verification is completed and confirmed, the dossier is handed over to the respective Authorising Officer/Authorising Officer by delegation.

10.4.6. Accounting Officer

In accordance with Article 43 of the Agency's Financial Regulation – the Accounting Officer is responsible for the proper implementation of payments, collection of revenue and recovery of the amounts to be established as being receivable. The Accounting Officer may also delegate certain tasks to subordinate staff.

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10.5. Ex-post controls

In the absence of an internal audit function, an ex-post control procedure, performed by the Accounting and Budget Assistant on a monthly basis, has been introduced in order to ensure close control of the transactions, signed by the Authorising Officers, and that systems and checks in place are working as intended. The procedure is also intended to highlight weaknesses or areas for improvement and propose actions to be taken.

Findings and recommendations are reported to the Director and followed up for implementation by the Head of Administration.

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10.6. Reimbursement of expenses

10.6.1. Reimbursements to Staff members

- **Staff members travelling on a mission**

Staff members travelling on a mission are entitled to reimbursement of their mission-related costs (travel, accommodation, subsistence costs, etc.), considered that the mission has received prior approval of the hierarchical supervisor and the Authorising Officer, and that the mission costs do not exceed the amount approved in the mission order.

ACER applies the Commission Decision of 18.11.2008 on the general implementing provisions adopting the **Guide to missions for officials and other servants of the European Commission** with regards to

reimbursements. Mission claims are managed through ACER Mission management tool (see section 6.8. for details).

- **ACER-related administrative, operational and representation expenses**

All costs, incurred by staff members in relation to their immediate tasks and for the needs of the Agency, are to be reimbursed, based that they have been incurred solely in the interest of the service and that all applicable procurement and financial rules have been respected.

The applicable **Rules for reimbursement of representation expenses** ([Annex 56](#)) are clearly defined in Director Decision 2011-008.

In order for costs to be considered eligible for reimbursement, the following shall take place before any costs are incurred on behalf of ACER:

- 1 The staff member shall obtain prior authorisation by the Head of Department; in case of the Director's Office prior authorisation by the Director is required. In case of business lunches/dinners, the number of persons working for ACER has to be less than 50% of the total number. The Director's authorization is needed in case the number of persons from ACER exceeds that of the other persons invited.
- 2 The staff member shall obtain a written confirmation of budget availability by Mateja Vavtar in her capacity as the Budget Line Manager.
- 3 As a final step, the reimbursement form, supported by all authorisations and supporting documents, shall be filled in and present to the financial cell for processing. Due to the nature of this budget line each reimbursement form needs to include information on the names of the participants and the institutions they represent. In cases where the supplier sends the invoice directly to ACER (there is no reimbursement request) the invoice needs to be accompanied by a note to the file which needs to include the names of the participants and the institutions they represent.

Costs are reimbursed to staff members on the basis of duly filled in reimbursement request forms, depending on the type of the costs incurred:

- **Request for reimbursement of expenses** ([Annex 56.1.](#))
- **Request for reimbursement of representation expenses** ([Annex 56.2.](#)),

and presentation of original supporting documents, attached to the forms.

10.6.2. Reimbursement of Members of the Administrative Board (AB)

ACER Administrative Board Members are reimbursed for their expenses, incurred with regards to their participation in the regular AB Meetings.

Reimbursement covers mission expenditure for travel, accommodation and subsistence from the place of origin to the venue of the meeting.

Reimbursement is based on Article 16 - **Reimbursement of expenses - of the Rules of Procedure of the Administrative Board** ([Annex 6](#)).

10.6.3. Reimbursement of Members of the Board of Regulators (BoR)

Members of the ACER Board of Regulators are reimbursed for their travel expenses, incurred with regards to their participation in the regular Board Meetings.

The reimbursement of travel expenses covers the costs incurred by the representatives of the National Regulatory Authorities (NRA) from their usual place of employment (place of origin) to the venue of the ACER Board of Regulators (BoR) meetings.

Detailed rules, administrative procedures and documentation required have been adopted and revised with Decision AB No 06/2013 adopting **Rules on reimbursement of travel expenses to Board of Regulators Members** ([Annex 57](#)). The rules do not apply to the representative of the Commission and to representatives of the NRAs of third countries that may be invited to participate to the Board of Regulators' meetings.

10.6.4. Reimbursement of Members of the Board of Appeal (BoA)

Members of the ACER Board of Appeal are reimbursed for their travel expenses, incurred with regards to their participation in meetings in the performance of their duties.

The specific rules, administrative procedures and documentation required have been adopted with Decision AB No 29/2011 detailing the **Rules on reimbursement of travel and other expenses incurred by members and alternates of the BoA** ([Annex 58](#)).

Unless covered by other means, travel and subsistence expenses incurred by the Board members in connection their meetings are paid by the Agency.

10.6.5. Reimbursements of expenses to people from outside the Agency, invited to attend meetings in an expert capacity

Experts who participate in working groups organised by the Agency, and do not belong to the Agency's staff, might also be reimburse for their travel expenses by the Agency.

The detailed rules, administrative procedures and documentation required for reimbursement of the relevant expenses have been adopted with Decision AB No 04/2010 ([Annex 59](#)).

10.6.6. Reimbursement of expenses to other experts

Experts who have been invited in an expert capacity to provide a specific professional opinion at a meeting, working group or by a personal invitation, and do not belong to the Agency's staff, shall be entitled to have their expenses met by the Agency, when explicitly indicated in the invitation issued by the Agency.

The detailed rules, administrative procedures and documentation for **reimbursement of expenses** have been adopted by the Director with Director Decision 2012-035 ([Annex 60](#)).

10.6.7. Submission of boarding passes

In its Decision 2011-006 on the **submission of boarding passes** ([Annex 61](#)) the Director of ACER has approved that the submission of boarding passes is not required any more for the reimbursement of mission expenses of ACER staff and seconded national experts provided that all information necessary to process the reimbursement is available in other supporting documents. The rule applies for reimbursements of travel expenses of the Boards of the Agency, as well as for travel expenses of people from outside the Agency invited to attend meetings in an expert capacity, if the same requirements are in place.

10.6.8. Rules governing authorised exceptions for missions

In order to facilitate the mission management processes and procedures, the Director has adopted the provisions, covering authorised exceptions regarding:

- use of taxi when on mission;
- parking and Internet expenses;
- participation in external events;
- departure and return location of the mission;
- duration of the mission.

The specific provisions, governing the above **authorised exceptions** ([Annex 62](#)), are detailed in Director Decision 2012-007.

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10.7. Budget transfers

The Financial Regulation defines strict rules for the transfer of credits between the budget titles, in conformity with the principle of sound financial management. Decisions for transfers are taken only by the Director on proposal and after consultation with the departments concerned.

The Director as Authorising Officer shall ensure sound management of the appropriations and shall maintain the number of transfers to the very strict necessary ones. A detailed motivated explanation on the need to make a transfer shall be presented with each request for a transfer. This explanation is mentioned in the annual financial statement of the Agency to be addressed to the Administrative Board and the Court of Auditors.

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10.8. Assets management

Assets are defined as resources controlled by ACER as a result of past events and from which future economic benefits are expected to flow to the Agency. Assets that no longer meet these conditions shall be removed from ACER's property register.

Thus, the Agency has adopted relevant provisions in order to safeguard the property, included in its balance sheet, as well as to define the necessary steps to be taken in identifying, recognising, measuring and disposing these assets.

The asset management includes the identification of items of inventory that shall be recorded in ACER's assets register as well as disposal of surplus assets.

The asset disposal principles and process are detailed in the **ACER Inventory Policy** ([Annex 63](#)).

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10.9. Cooperation with auditors

The Authorising Officers shall act with a view to maintain excellence in the relations with the Commission Internal Audit Service (IAS) and the Court of Auditors. They shall ensure that strict and complete documentation on the budget implementation and all financial transactions is safely maintained and stored, in order to be made available to the Court of Auditors upon request.

The Authorising Officers shall take care that files and records are permanently updated and shall make them available on request of the IAS and the Court of Auditors.

10.10. Internal control and verification

10.10.1. Function of internal control and verification

Having regards to the provisions of the ACER Financial Regulation and in particular Article 38 (4), procedures for internal control and verification of financial operations have been established in the Agency. Their objective is to assist the Authorising Officer and Authorising Officers by delegation in their duties by providing assurance in financial management and internal control.

To that end, the Administrative Board has adopted its Decision AB No 10/2012 (and repealing Decision AB No 08/2011) on **the Internal Control Standards of the Agency** ([Annex 64](#)). Based on the decision, a detailed [Internal Control Standards Action Plan](#) has been developed and is being implemented in order to ensure compliance of with the 16 Internal Control Standards.

10.10.2. Tasks of internal control and verification

The main tasks of the internal control and verification function shall include, but not be limited to:

- ensuring that management and internal control systems and procedures for the implementation of the budget are applied in accordance with the provisions of the ACER Financial Regulation;
- monitoring of procurement and contract procedures in accordance with title V of the ACER Financial Regulation.

All staff members involved in internal control and verification shall constantly develop and maintain the necessary professional skills and respect the professional standards applicable to the EU institutions and bodies. They shall be entitled to training organised by the Agency to support their professional development and keeping their skills and knowledge up-to-date.

10.10.3. Internal control and verification methods and tools

The following tools have been adopted and put in place for the purposes of ex-ante control and verification of the conformity of all financial transactions implemented by ACER:

1. Detailed **check-lists** for all financial transactions and at the level all of financial actors. All financial actors are thus obliged to use the check lists when initiating, verifying or approving a financial transaction. Check-lists are attached as Annexes to the **Guidelines on Financial Circuits and segregation of duties** ([Annex 56](#))
2. **User Handbook for Invoices and Payments** ([Annex 65](#))
3. **ABAC Commitments User Handbook** ([Annex 66](#))

The ACER Budget and Accounting Officer also applies the rules and procedures set out in the Commission Manual 'ABAC Accounting (SAP) for Agency Accounting Officers'.

The Authorising Officer receives regular **ex-post verification and control reports** on the budget implementation, with a view to facilitate and ensure sound financial management.

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11. PUBLIC PROCUREMENT

Public procurement within the European Union is governed by Directive 2004/18/EC, while the legal basis for Commission procurement is laid down in the Financial Regulation (FR)⁶ and in its Implementing Rules (IR).

The Agency for the Cooperation of Energy Regulators as a European Union body established in 2010 possesses its own legal personality. As such, it is subject to the provisions of the Financial Regulation applicable to the general budget of the European Union, the ACER Financial Regulation and the relevant directives regulating the award of public contracts.

Public procurement at ACER is carried out within the Administration Department. While the basic principles, the types of procedures and the applicable internal rules are briefly explained below, further information and instruction might be consulted at any point with Administration.

Contact person: Ms Mateja Vavtar, Procurement and Facility Management Assistant

11.1. Basic principles

Public procurement means the purchasing of works, supplies and services by public bodies at either national or Union level. Contracts are awarded in order to obtain the supply of movable or immovable assets, the execution of works or the provision of services to enable the administrative set up and functioning of ACER. These include for example: contracts for IT equipment, office furniture, information and communication materials, training courses, publications and surveys, access to databases, organisation of conferences and events, etc.

The principles governing the conclusion of these contracts are those referred to in Title V, Article 74 of the ACER Financial Regulation, established in accordance with the provisions for procurement laid down in the EC Financial Regulation (FR) applicable to the general budget of the European Communities.

These principles, together with the relevant provisions of the ACER Implementing Rules (IR), form the procurement system and procedures followed to award contracts.

11.2. Forms of procurement – which procedure shall I follow?

All contracts at ACER are awarded following a specific **procurement procedure**: an open or restricted procedure, call for expression of interest (CEI), low-value procedure, exceptional negotiated procedure or competitive dialogue.

The aim of the **procurement procedure** is to enhance competition with the ultimate goal of obtaining best value for the money while respecting the basic principles of transparency and equal treatment.

The choice of procedure depends on the **type of purchase** (service or supply in most cases), and the **estimated amount of the purchase** for the total duration of the contract.

⁶ Regulation (EU, Euratom) No966/2012 of 25 October 2012

The specific procedure to be followed is chosen on the basis of the following requirements⁷:

Estimated value of contract ⁸		Type of standard procedure minimum applicable procedure	Special procedures
Services or supplies	Works		
€0.01-€1000		Simple payment against invoice.	The dynamic purchasing system for commonly used purchases
€1000.01-€15 000		Negotiated procedure with a single tender.	
€15 000.01-€60 000		Negotiated procedure with at least three candidates, without a contract notice .	
<p>€60 000.01 to <€130 000 (service contracts in Annex IIA to Directive 2004/18/EC, except for research and development contracts in category 8 and telecommunications services in category 5) €60 000.01 to <€200 000 (service contracts in Annex IIB and research and development contracts in category 8 and telecommunications services in category 5 of Annex IIA to Directive 2004/18/EC)</p>	<p>€60 000.01 < €5 000 000</p>	<p>Procedures following a call for expressions of interest (list of pre-selected candidates or list of vendors). (Procedure useful if a number of contracts are planned over a period of several years. If the plan is to conclude a single contract, it is generally advisable to use an open or restricted procedure with publication of a contract notice).</p>	<p>The competitive dialogue for particularly complex contracts <i>(An option available when a contract is particularly complex and cannot be awarded using the standard procedure)</i></p> <p>The negotiated procedure with or without a contract notice published in the Official Journal may be used in exceptional cases</p>
<p>≥ €130 000* (service contracts, except for research and development contracts in category 8 and telecommunications services in category 5)</p> <p>≥ €200 000* (service contracts in Annex IIB and research and development contracts in category 8 and telecommunications services in category 5)</p>	<p>≥ €5 000 000</p>	<p>Open or restricted procedure with publication of a contract notice in the Official Journal.</p>	<p>Contest</p>
<p>Service contracts under Annex IIB to Directive 2004/18/EC without limit</p>		<p>Exceptional negotiated procedure following publication of a contract notice in the Official Journal</p>	

The different types of procedures are briefly described below⁹:

⁷ *Vademecum on public procurement in the Commission, January 2012*

⁸ *The thresholds indicated in the table are the euro equivalents of the amounts laid down in SDR (special drawing rights – a virtual currency made up of a number of currencies (euro, dollar, yen and pound sterling) and used as a unit of account by the International Monetary Fund).*

11.2.1. Open or restricted procedure

The open procedure is a single step procedure – all economic operators have access to the tender documents and may submit a complete offer. Tenders are evaluated on the basis of the criteria published in the contract notice.

The restricted procedure is divided in two steps:

- (1) Economic operators submit a proposal including the required documentation following the exclusion and selection criteria set;
- (2) Only the selected candidates, i.e. who comply with the exclusion criteria and fulfil the requirements for the selection criteria, are invited to submit an offer, which is assessed against the award criteria.

11.2.2. Call for expression of interest (CEI)

The procedure covers purchases of repetitive but not identical nature of a value lower than 130 000 EUR. The outcome of the CEI is the establishment of a list of pre-selected economic operators who have proven to have the required economic and technical capacity for carrying the required type of tasks. The list is used for restricted tendering with sending invitations to tender to the listed candidates when there is a need to procure what has been announced in the CEI.

11.2.3. Low value procedures

Contracts of amount less than 60 000 Euro are considered ‘low-value contracts’ and the rules are more flexible in order to avoid unnecessary administrative costs. The basic principle is that the effort for purchasing the services or supplies needed should be proportional to their value.

The practical implementation of the procedures to be applied, depending on the amount involved, is clearly described in the Vade mecum.

11.2.4. Exceptional negotiated procedures

Articles 126 and 127 of the Commission Implementing Rules contain an exhaustive list of circumstances under which exceptional negotiated procedures, which are not linked to particular threshold, might be used. The most common situations include: failed open or restricted procedure, monopoly, extreme urgency, etc.

11.2.5. Contest

Contests are procedures which enable the contracting authority to acquire, mainly in the fields of architecture and civil engineering or data processing, a plan or design proposed by a selection board after competitive tendering with or without the award of prizes. Winners of a contest, selected on the

⁹ Further information could be consulted at: <http://intracomm.ec.testa.eu/budg/imp/procurement/doc/vm/vade-mecum-public-procurement-bookmarked-en.pdf#410>

basis of the announced criteria, can be invited for a negotiated procedure in a second stage, with a view to signing a contract to implement and follow up the selected project.

11.2.6. Competitive dialogue

The competitive dialogue is used for particularly complex purchases. ACER can launch such procedure in collaboration with the industry, when it is not possible to define the appropriate technical means or solutions to meet the ACER requirements.

* * * * *

All of the above procedures, related thresholds and applicable rules are detailed in the [Vade-mecum on public procurement in the Commission \(Annex 67\)](#). The document establishes the rules concerning the launching, monitoring and conclusion of the public procurement procedures and is applied by ACER. Additionally, it provides all templates for concluding the relevant procurement procedures, which are an integral part of the ACER procurement system. Together with the respective explanatory remarks, the templates shall be employed fully whilst preparing tender documentation.

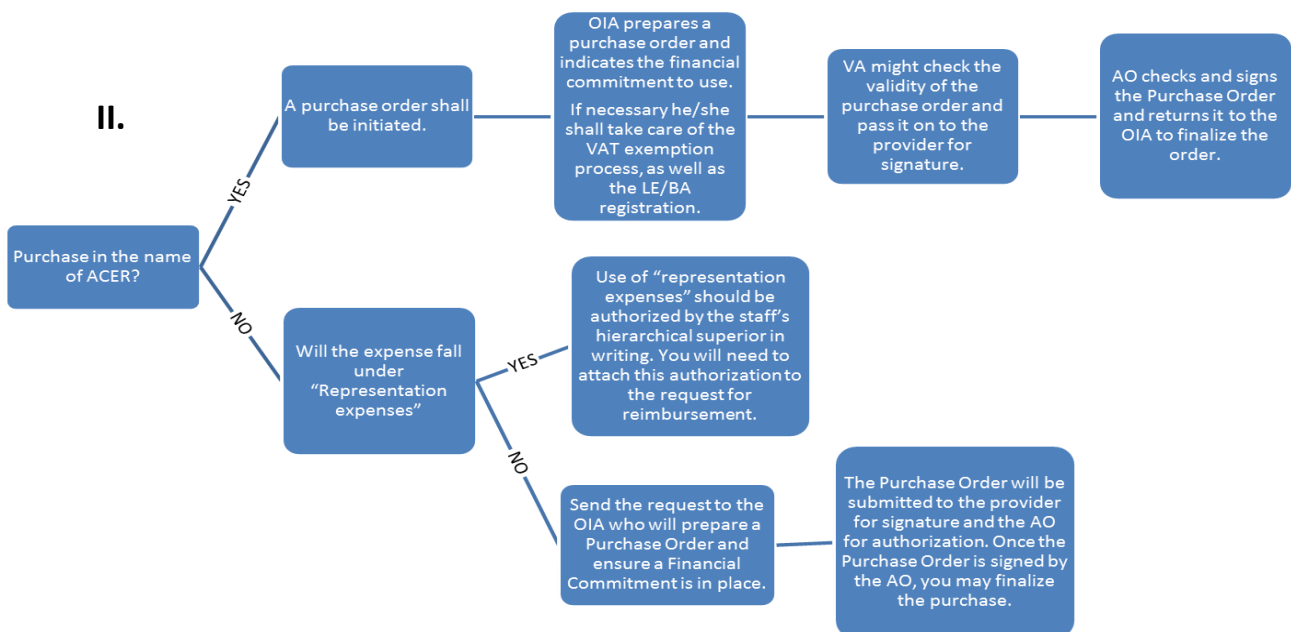
The provisions of ACER’s Financial Regulation and Implementing Rules shall also be fully considered when a tender procedure is carried out.

11.3. Internal procedures

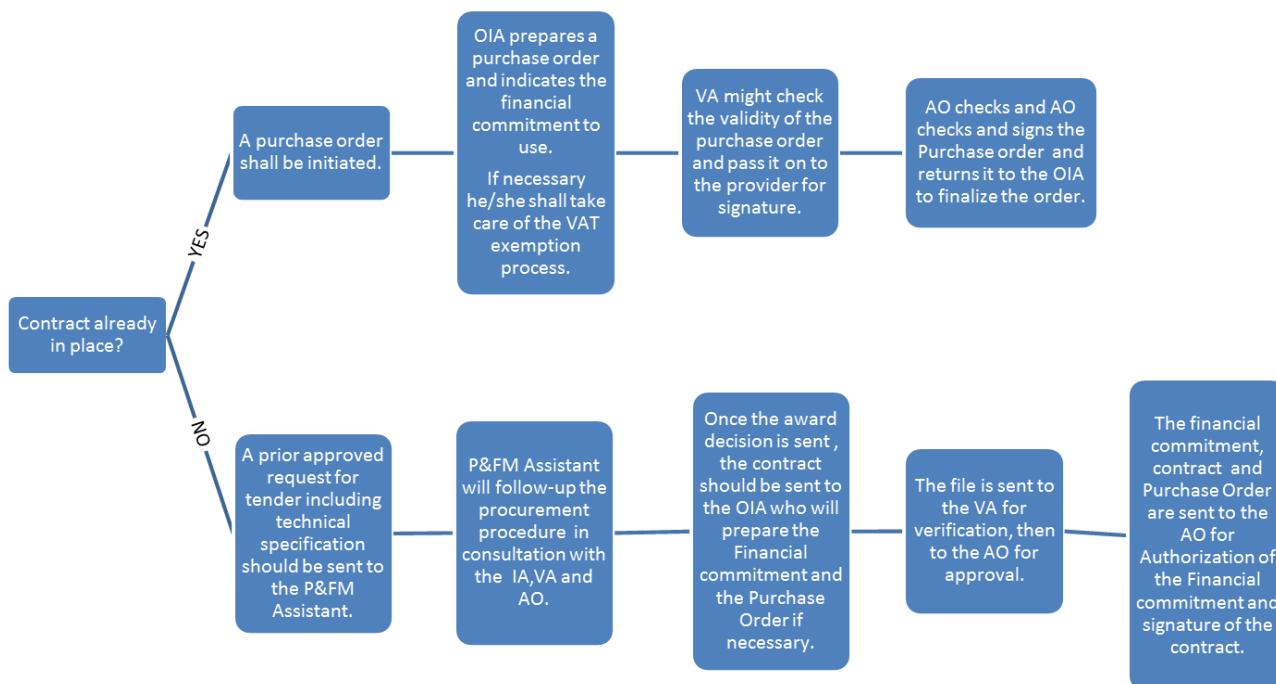
11.3.1. Workflow – what to do if you need to make a purchase on behalf of ACER?

The steps described below shall be followed when purchases are planned:

I. Purchases below 500€/Provider/Year



III. Purchases/contracts above 500€/Provider/Year



11.3.2. Purchase orders – how to proceed

Staff initiating Purchase orders (PO) shall allow sufficient time before the event takes place or the delivery of services/goods is scheduled for processing all the necessary documentation and obtaining the relevant authorisations and signatures.

Furthermore staff has to ensure that **the amount to appear on the final invoice is not higher than the amount on the purchase order.**

The following basic requirements and document shall be completed for all Purchase orders:

#	Document	Where to find the document	Remarks
1	Request for an offer/pro-form invoice	ToR/detailed description to be sent by e-mail.	Make sure you have specified the exact services/products to be purchased and quantities, including the delivery time.
2	If applicable, LEF and BAF to be filled out by the provider (these forms are required whenever an order is made to a new provider who is not registered in ABAC yet)	LEF http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm BAF http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id	1. Legal Entities Form (LEF) – filled in, signed and dated by the provider (make sure all supporting documents requested in the form are attached). 2. Financial Identification Form (BAF) – filled in, signed and dated by the provider. The form needs to be both signed and dated by the bank, or a copy of a bank statement needs to be

		en.cfm#en	attached.
3	Priloga II Form for Slovenia providers, <u>or Form 15.10</u> for foreign providers, has to be filled in and sent to the Ljubljana Customs Directorate for VAT exemption on the services/goods provided	S:\Calls for tender\VAT	<ol style="list-style-type: none"> Priloga II Form <u>or Form 15.10</u> is filled out in duplicate based on the pro-forma invoice received or contract signed. A copy of the pro-forma invoice or contract is attached to Priloga II Form or Form 15.10. Make sure the Priloga II Form or Form 15.10 is registered, i.e. receives the correct successive number on it. All filled in Priloga II Forms for 2012 are saved under S:\Calls for tender\VAT\2012\01_Priloga II. All filled in Forms 15.10 for 2012 are saved under S:\Calls for tender\VAT\2012\02_Form VAT 15.10. The Form has to be signed and stamped on behalf of ACER before being sent to the Ljubljana Customs Directorate. Examples of filled out forms are available under: S:\Calls for tender\VAT\2012\01_Priloga II
4	Purchase Order , detailing the services to be provided, has to be filled out	S:\Admin\Purchase orders	<ol style="list-style-type: none"> The information on the Purchase Order Form has to appear exactly as it is in the pro-forma invoice received. An example of filled out Purchase Order is available under: S:\Admin\Purchase orders Make sure there is a commitment in place from which the purchase order will be financed. IMPORTANT: The provider is the <u>FIRST</u> to sign the Purchase Order. Only after that the Order is signed on behalf of ACER.
5	Note to the file has to be prepared together with the Purchase order	Example: S:\Admin\Purchase orders	The Note has to specify the details with regards to the services/goods requested, delivery, etc.
6	Payment		IMPORTANT: Payment is made on the base of an original invoice. <u>No VAT should be applied!</u>

The approved [Purchase Order Form](#) to be used is attached as [Annex 68](#).

11.3.3. Time limits

How much time do I need to allow if I need to procure services, supplies or works? Staff shall be aware of the following general time limits for conducting a procedure:

1.) Restricted/negotiated procedure – contracts above 5.000 and below 60.000 EUR

<u>RESTRICTED/NEGOTIATED PROCEDURE</u>
CONTRACT ABOVE EUR 5.000 and BELOW EUR 60.000 - <u>TIME LIMITS in calendar days</u>
Once the tender documentation is finalised and approved: <ul style="list-style-type: none">▪ 21 days for negotiated procedure▪ 7 days for evaluation of offers▪ 2 days for notification of tenderers▪ 5 days for signing the contract
<u>Total = min 35 days</u> from launching the procedure to signing the contract

2.) Open procedure – contracts above 60.000 EUR

<u>OPEN PROCEDURE</u>
CONTRACT ABOVE EUR 60.000 - <u>TIME LIMITS in calendar days</u>
Once the tender documentation is finalised and approved: <ul style="list-style-type: none">▪ min. 12 days for OPOCE (to publish the tender notice)▪ 52 days for open procedure (ordinary access to tender docs) or 47 days for open procedure (electronic access to tender docs - Internet)▪ 7 days after the deadline - public opening of tenders▪ 7 days for evaluation of offers▪ 2 days for notification of tenderers▪ 15 days stand still period before signing the contract
<u>Total = min 95 or 90 days</u> from launching the procedure to signing the contract

3.) General time limits for submission of tenders (in calendar days)

		Open procedure	Restricted procedure	
		tenders	applications	tenders
WITHOUT pre-information notice	Ordinary	52	37	40
	Electronic access to tender documents (Internet)	47	37	35
WITH pre-information notice	Ordinary	36	37	36
	Electronic access to tender documents (Internet)	31	37	31

- Time limits run from the date of dispatch of the contract notice to the Publications Office or the invitation to tender to selected candidates. If the last day of a minimum time limit falls on a holiday, a Saturday or a Sunday, the period allowed must include the next working day.
- The time limits set out above are the minimum. The actual limits must be long enough to allow interested parties reasonable and appropriate time to prepare and submit their tenders, taking particular account of the complexity of the contract. Longer time limits must be allowed where a prior visit to the site or on-the-spot consultation of certain documents is required.
- The Publications Office has up to 12 days after dispatch to publish the tender notice in the Official Journal.
- The tender documents must be provided within 6 calendar days in the requested language. In case the contracting authority fails to dispatch the document in the given timeframe, the time limit would have to be extended.
- In the restricted procedure, the time limits for the two phases must not be aggregated. The two phases are separated by receipt and processing of applications, selection of the candidates and dispatch of the tender documentation.
- As seen in the table, time limits for receipt of tenders may be shortened by five days if unrestricted direct access to the tender documents by electronic means is available from the date of publication of the contract notice, i.e. if they are available on the Internet.

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12. REPORTING

12.1. Annual Activity Report

According to Article 17 (8) of Regulation (EC) No 713/2009, each year the Director shall prepare a draft annual report with an independent section on the regulatory activities of the Agency and a section on financial and administrative matters.

The Administrative Board shall adopt and publish the **annual report on the activities of the Agency**, on the basis of the draft annual report referred to in Article 17(8), and shall transmit that report to the European Parliament, the Council, the Commission, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions by 15 June of each year. The annual report on the activities of the Agency shall contain an independent section, approved by the Board of Regulators, concerning the regulatory activities of the Agency during the year concerned.

The **first Annual Activity Report (Annex 69)**, providing detailed overview of the results and achievements in the first year of the Agency's operation (2011) has been released in 2012.

12.2. Market Monitoring Report

Along with other tasks, ACER has an important role to play in the monitoring and reporting on the electricity and natural gas sectors.

The Agency, in close cooperation with the Commission, the Member States and the relevant national authorities including the National Regulatory Authorities, shall monitor the internal markets in electricity and natural gas, in particular the retail prices of electricity and natural gas, access to the network including access of electricity produced from renewable energy sources, and compliance with the consumer rights.

As a result, the Agency shall make public an **annual report on its monitoring activities**. The report shall identify any barriers to the completion of the internal markets in electricity and natural gas. When making public its annual report, the Agency may submit to the European Parliament and to the Commission an opinion on the measures that could be taken to remove these barriers.

The **first Market Monitoring Report (Annex 70)** has been produced and released in December 2012.

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13. EXTERNAL RELATIONS

13.1. Access to documents

The Administrative Board of ACER has adopted its Decision AB No 08/2010 on the **Procedures and practical measures for applying Regulation (EC) No 1049/2001 on access to documents of the Agency** ([Annex 71](#)).

In accordance with the provisions of Article 13 of the above Administrative Board Decision *Ms. Annamaria Marchi, Legal Assistant*, has been appointed as ACER **Document Access Co-ordinator** and shall be responsible for maintaining the public register together with all applications for access to the Agency documents, sent by third parties.

The tasks of the Document Access Co-ordinator, **practical arrangements for the processing of applications for access to documents of the Agency**, the procedure to be followed and the actors, responsible to ensure efficiency and uniformity in the management of the Agency documents, have been detailed in Director Decision 2012-014 ([Annex 72](#)).

13.2. Publications and speeches

Officials, staff members and other servants enjoy, as all citizens, the right to freedom of expression. However, members of the European public services shall observe some principles when exercising this right.

Staff members shall use restraint and caution in expressing their private opinions, in particular when they are closely linked to the subject and nature of their duties in the two preceding years. For outsiders it is often not easy to make a difference between the private opinion of a citizen and the opinion expressed by a member of the European public services in his/her professional capacity.

Therefore, personal opinions regarding EU policies and/or ACER tasks and operations must be expressed with moderation and under the sole responsibility of the individual staff member.

Furthermore, a staff member may not accept any remuneration that is offered in exchange for any work done - and in particular participation in a conference or a presentation - in the course of a mission ordered by the Appointing Authority. The staff member should ask for the costs of the mission to be reimbursed by the body to which he/she renders such services. Any such reimbursement shall be declared to the Appointing Authority and deducted from the staff member's mission costs.

13.2.1. Provisions regarding publications

Article 17a(2) of the Staff Regulations states that staff members must inform the Appointing Authority in advance if they intend to publish or cause to be published, either alone or together with others, any matter dealing with the work of ACER or the European Union in general. This restriction continues to apply after termination of working with ACER.

ACER staff members shall provide the respective Head of Department or the Director with all information necessary to assess the intended publication, in particular the full text of the intended publication in English.

The Head of Department/the Director, and where necessary in cooperation with the Press and Communications Officer and the Legal Advisor, will evaluate whether there is cause to concern that the publication may gravely prejudice the legitimate interests of ACER or the European Union and submit a reasoned proposal to the Appointing Authority for final decision within 20 working days from receipt of the information. If the staff member does not receive a decision in writing within 30 working days from the date of informing the Head of Department/the Director of the intended publication, the Appointing Authority is deemed not to have raised any objection.

13.2.2. Speeches

These rules in principle also apply to speeches and other forms of public statements outside the scope of the respective staff member's duties, where they relate to the activities of ACER or the European Union. Thus, if a staff member is invited to make a speech in a more than strictly private environment, the content of which relates to the activities of ACER or the European Union, an outline of the speech must be submitted to the Head of Department/the Director in advance. Should the text of the speech be intended for publication, the provisions for publications as above apply.

Speeches and presentations during missions and similar occasions in the framework of the normal performance of duties are not subject to a particular procedure. The staff member shall liaise with the respective hierarchical supervisor to ensure that quality and content are in line with agreed practices.

13.2.3. Remuneration

Publication and Speeches outside normal professional activity as ACER staff member

If the publication or speech is connected to any financial compensation, the respective staff member shall ask permission to accept it (see p.13.4. below). When informing about the intended publication or speech (including offered remuneration), the acceptance of the remuneration is deemed permitted when the publication/speech is deemed permitted. If the remuneration is offered later a separate request for permission has to be submitted.

Publication and Speeches part of normal professional activity as ACER staff member

A staff member may not accept any remuneration that is offered in exchange for any work done - and in particular participation in a conference or a presentation - in the course of a mission ordered by the Appointing Authority. The staff member should however ask for the costs of the mission to be reimbursed by the body to which he renders such services. Any such reimbursement shall be declared to the Appointing Authority and deducted from the staff member's mission costs.

13.3. Relations with the media

All relations with the media shall be handled by the Press and Communications Officer, in coordination with the Director. On a case by case basis the Director may ask other staff members to assist in this task.

Staff members shall refrain from making any statements to the press and other media with regard to the activities of ACER unless prior authorisation is received from the Director.

13.4 Outside activities

ACER has recognised the importance of and encourages external mobility to enable staff acquire new skills and knowledge which is of benefit both to staff themselves and to the institution. According to the Agency's **internal provisions on outside activities and assignments (Annex 73)** staff in active employment or secondment wishing to engage in an assignment or outside activity, must request permission from the Appointing Authority. The decision sets out the specific cases in which prior authorisation to engage in an assignment or outside activity is needed and the rules and applicable procedures with regards to outside activities. The rules are also intended to prevent conflicts of interest from arising, without imposing unreasonable restrictions on staff members' outside activities.

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14. General principles of good administration – CODE OF CONDUCT

On 6 September 2001 the European Parliament adopted a resolution approving a Code of Good Administrative Behaviour which European Union institutions and bodies, their administrations and staff should respect in their relations with the public. This decision, concerning both staff and the general public, remains in force and is published on the intranet site of ACER.

The right to good administration by EU institutions and bodies is a fundamental right, according to Article 41 of the EU Charter of Fundamental Rights. The Code tells citizens what this right means in practice and what, concretely, they can expect from the European administration. Thus, all ACER staff members are subject to the rules and obliged to implement the provisions of the **European Code of good administrative behaviour (Annex 74)**.

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15. CONFLICT OF INTEREST

The European civil servant is expected to live up to the highest standards of professional ethics, and to remain independent at all times. The Staff Regulations, and specifically Article 11 (2), provide that officials, temporary agents, contractual agents and special advisors shall not accept any favor, gift or payment from sources outside of the institution without the permission of the Appointing Authority.

In order to avoid such risks, constituting potential conflict of interest, the Agency applies the European Commission [Guidelines on Gifts and Hospitality for the staff members \(Annex 75\)](#).¹⁰

The Guidelines are addressed to staff members covered by Article 35 of the Staff Regulations, i.e. in active employment, on secondment, on leave on personal grounds, on parental or family leave, and on military leave. They provide definition of what shall be considered a gift and a definition of hospitality, the applicable principles and specific provisions related to gifts and hospitality, etc. As a general rule, **staff members should not accept any direct or indirect gifts or hospitality offered by third parties.**

Furthermore, in order to facilitate the prevention of conflict of interest at the Agency, the Administrative Board has adopted [Guidelines on Preventing and Managing Potential or Actual Conflicts of Interest in the Agency \(Annex 76\)](#).

All staff have to be aware of those current Guidelines and to insure constant conformity with their provisions in their personal and professional conduct.

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16. FRAUD AND IRREGULARITIES

With its Decision AB No 05/2012 of 13 March 2012 the Administrative Board adopted **rules concerning the terms and conditions for internal investigations, carried out by the European Anti-fraud Office (OLAF), in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests (Annex 77)**. The decision defines the applicable provisions for cooperation with the Anti-fraud Office, the duty to provide information, and the assistance to be provided to OLAF's investigations.

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17. PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

Psychological harassment and sexual harassment at work are serious problems which the Agency is committed to stamp out by promoting a culture free of all forms of violence in the workplace and in which such harassment is unacceptable. As an employer and to protect its staff, the Agency aims to guarantee respect for the dignity of women and men at the workplace. It is committed to prevent such harassment and to condemn such behaviour.

In this general context, all staff working for the Agency must also refrain from any form of psychological harassment or sexual harassment. Management (at both middle and senior level) play a key role. As managers, it is their job to cultivate a working environment that is not conducive to psychological harassment and sexual harassment, or at least one in which they can be dealt with as swiftly as possible if they arise.

¹⁰ *Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for the staff members SEC(2012) 167, 7.03.2012*

In order to deal with such cases in the event they happen and to protect its staff, the Agency has defined a policy on the prevention of both psychological and sexual harassment. The policy gives anyone who feels they are a victim of sexual harassment access to the informal procedure introduced for cases of psychological harassment, and gives details of the arrangements applicable to the formal procedure which may be initiated in the event of harassment. It provides description of the problem and the consequences it brings, as well as defines the general principles and procedures for dealing with requests from staff and the roles and responsibilities of each party involved.

The Policy is attached hereto as [Annex 78](#) and has also been published on the ACER Intranet.

18. ADMINISTRATIVE INQUIRIES AND DISCIPLINARY PROCEDURES

In order to ensure preventative approach to and transparency in disciplinary matters, in 2013 the Agency has adopted internal implementing provisions to govern the conduct of administrative inquiries and disciplinary procedures. The Agency internal rules follow the rules and provisions established by the Commission on the conduct of administrative inquiries and disciplinary procedures.

This Decision sets out the procedures for opening an administrative inquiry or a disciplinary procedure, as well as also defines the rules concerning the processing of the personal data in the framework of aforementioned procedures.

The applicable procedure is attached hereto as [Annex 79](#) and has also been published on the ACER Intranet.

19. OTHER INFORMATION

The current ACER Manual aims to fully support all ACER staff members through the effective implementation of their duties and tasks by providing at hand all relevant information, which might be useful for their direct responsibilities, but that might also support their quick integration and adaptation to ACER internal and external working environment.

The Manual will be a living document and will mature with the growth of the Agency. An unauthorised use, re-distribution to third parties, alteration and/or copying of the information contained herewith (and in the respective Annexes to the Manual) are strictly forbidden.

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This version of the ACER Manual has been lastly updated in March 2013.

[***Ljubljana, 30 March 2013***](#)

IMPORTANT DISCLAIMER: Any personal data, collected and processed by ACER in the current Manual, is used only for the purposes stated in its Introduction part, and shall be processed in accordance with the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

The Data Subjects shall have the right of access to their personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Data Subjects have any queries concerning the processing of their personal data, they shall address them to the relevant Data Controller (Head of Administration). The Data Subjects shall have right of recourse at any time to the European Data Protection Supervisor¹¹.

¹¹ www.edps.europa.eu