

DEP4ALL Legal and Financial Infosheet

RESTRICTED CALLS AND OTHER SECURITY ISSUES IN DIGITAL EUROPE PROGRAMME (DEP)

OBJECTIVE AND CONTENT OF THE INFOSHEET

The objective of this *infosheet* is to help applicants that wish to apply in DEP restricted calls to become aware of the security requirements and in particular, the ownership control assessment procedure. This procedure will be conducted to determine control and the guarantees that may be required if control by an ineligible third country, a third country entity or a third country national is confirmed.

LEGAL BASIS AND OTHER DOCUMENTS TAKEN INTO ACCOUNT

- Regulation (EU) 2021/694 of the European Parliament and of the Council of 29 April 2021 establishing the Digital Europe Programme and repealing Decision (EU) 2015/2240 - [DEP Regulation](#)
- Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 - [Chips Act](#)
- Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) - [Financial Regulation](#)
- Standard [Application Form](#) for the Digital Europe Programme, V2.0, 1.06.2022
- General Model [Grant Agreement](#) for the Digital Europe Programme, V1.0, 1.11.2024
- Participation in Digital Europe Programme (DEP), Horizon Europe (HE) and European Defence Fund (EDF) restricted calls, V0.1 - DRAFT, 20 Dec 2021 - [guidance document](#)
- Ownership control declaration: V3.0 – 01.10.2023, and other relevant documents such as Work Programmes and Calls for proposals published on the EU Funding & Tenders Portal (EU F&T) in section [Reference Documents](#)

ARTICLE 12.5 AND 12.6 OF DEP REGULATION

The DEP Regulation introduces participation restrictions for some of the DEP calls. The objective of the restrictions is to protect essential security interests of the EU and its Member States and the strategic autonomy of the EU. The restrictions aim at e.g. protecting the security and integrity of critical infrastructure or reducing the risk of technology leakage. For these reasons the participation of entities established in and/or controlled from non-EU countries could be limited.

What Articles 12.5 and 12.6 are exactly about?

Article 12.5: For security reasons, the work programme may state that entities from associated countries and those from EU countries, but controlled from other countries, cannot take part in Specific Objective 3 actions. In such cases, only entities based in EU Member States and controlled by them or their nationals will be allowed to apply.

Article 12.6: If needed for security reasons, the work programme may allow entities from associated countries or those established in the EU but controlled from outside the EU to take part in actions under Specific Objectives 1, 2, and 6 — but only if they meet certain conditions to protect the EU's and Member States' key security interests and classified information. These conditions will be set out in the work programme.

Any restriction introduced upon these articles is stated and justified in the respective Work Programmes and Call documents. The Calls for proposals document additionally precises the conditions for participation to be fulfilled (in the specific topic description part and in section 6 *Eligibility*). The restrictions stemming from Articles 12.5-6 are also explained in Appendix 3 to the Main and Cybersecurity Work Programmes and in Annex 2 of the Call for proposals document.

APPLICABLE PROCEDURES FOR ACTIONS RESTRICTED UNDER ARTICLE 12.5-6 (Ownership control assessment and submission of guarantees)

Eligibility of participants

For actions restricted under Article 12.5-6:

Eligible countries: Member States and countries fully associated to the DEP - EEA EFTA States (Iceland, Norway, Liechtenstein).

Eligible legal entities: legal entities that meet the following conditions:

- are established or deemed to be established in an eligible country AND
- are controlled by an eligible country, eligible country entity, or by national of eligible countries.

Additionally, for actions restricted under Article 12.6:

- the eligibility is broaden by including among the eligible countries all associated to the DEP countries, listed [HERE](#)
- legal entities that are controlled by an ineligible country, ineligible country entity/national may participate in actions under Article 12.6 only if they comply with specific conditions to guarantee the protection of essential security interests of the Union and the Member States.

Ownership control assessment (OCA): applicants must undergo the assessment

Step 1

Fill in the Ownership control declaration (OCD) - template available [HERE](#).

Beneficiaries and affiliated entities must always provide the declaration; associated partners and subcontractors must provide it only if required by the call conditions.

In the OCD you need to indicate if:

- A. your organisation is subject to no control by an ineligible country/ ineligible country entity or national
- B. your organisation is subject to control by an ineligible country/ ineligible country entity or national
- C. there is no change to previous declaration/assessment.

'Control' is defined as the possibility to exercise decisive influence on the participant, notably in relation to its strategic business decisions directly or indirectly, through one or more

	<p>intermediate entities, ‘<i>de jure</i>’ or ‘<i>de facto</i>’. The fact that no influence is actually exercised is not relevant, as long as the possibility exists. Any assessment has to be done on a case-by-case basis, looking at the legal and factual position in each individual case.</p> <p>The following elements need to be explained in the OCD: ownership structure and specific rights; corporate governance; commercial links conferring control; financial links conferring control; other sources of control.</p> <p>The OCD must be signed by a person empowered to represent the applicant; the signed originals should be kept by the applicant.</p>
Step 2	<p>The project coordinator must combine all declarations into one single document and submit it with the proposal. Proposals missing the declaration for any of their participants may be declared inadmissible.</p>
Step 3	<p>Submit supporting documents.</p> <p>After positive evaluation of your proposal you will be contacted by the EC Central Validation Service to submit the necessary supporting documents.</p> <p>The documents required will be listed in the notification you receive. You will need to provide documents showing your ownership/control situation (documents showing all direct and indirect shareholders, statutes, articles of association, shareholders’ agreements, reports/minutes of shareholders meetings, ID documents of ultimate owners, etc). You can provide the documents in any official EU language.</p> <p>Template for the documents’ request can be found on the EU F&T.</p>
Step 4	<p>The EC evaluates the submitted documents (may ask for further clarifications) and issues a decision if the applicant is controlled by ineligible country or ineligible country entity/national.</p> <p>If the outcome of the ownership control assessment is ‘controlled’, the consortium will be asked to replace the participant concerned or redistribute the tasks between the other participants. If this is not possible and the consortium cannot propose any other acceptable solution, the proposal is rejected.</p> <p>This finalises the procedure for actions restricted under Article 12.5, but for actions restricted under Article 12.6, if the submission of guarantees is allowed, the EC requests the controlled participant to provide a guarantee.</p>
Guarantees - additional steps applicable only for actions restricted under Article 12.6	
Step 5	<p>If you are a controlled applicant you need to fill in and sign the guarantee, being part of the OCD.</p> <p>Participants must guarantee compliance with the specific conditions set out in the work programme and the call for proposals, for instance (the requirements may differ from call to call):</p> <ul style="list-style-type: none"> • that the involvement will not contravene the security, EU strategic autonomy, defence or public order interests of the EU and its Member States; • that the involvement will not contravene the objectives of the funding programme; • that measures have been put in place to ensure the above. <p>If you know you are a controlled applicant you should start to prepare the guarantee as soon as possible, even still at the stage of application, as part of the proposal.</p>
Step 6	<p><u>Approval by your country of establishment</u></p> <p>The information included by you in the guarantee must be approved by your country of establishment whose representative fills in and signs the relevant section of the OCD.</p>

	<p>Contact your relevant authority as soon as possible after positive evaluation of your proposal as the approval process may take some time and in order to avoid delay in project implementation or the risk of being excluded from the project consortium.</p> <p>Inform your DEP NCP or DEP Committee Delegate to be contacted with your country authority responsible for guarantees.</p>
Step 7	All documents must be assembled by the coordinator and uploaded in a single file during Grant Agreement (GA) preparation.
Step 8	Evaluation and decision of the EC. Specific rules for actions with restrictions may be included in the GA.

General rules concerning the restrictions under Articles 12.5-6

- Procurement actions are also subject to these restrictions.
- Public bodies, validated as such in the Participant Register on EU F&T, will automatically be considered as controlled by their country; they don't need to fill in and submit the OCD.
- The EC procedures result in a decision on participant's eligibility before signing any GA.
- New participants, who join the project later on, will have to submit their ownership control declaration as part of the amendment supporting documents; the same rules for OCA and guarantees apply.
- The conditions for participation must be fulfilled not only at proposal submission and grant signature, but throughout the entire project duration. Changes in the ownership status during the project duration need to be immediately notified to the granting authority. If a participant becomes controlled by an ineligible country/ ineligible country entity/national (e.g. as a result of an acquisition by a foreign entity), its costs will become automatically ineligible as from the date of loss of eligibility and its participation may be terminated.

Until now **all SO3 (Cybersecurity) calls were restricted** upon Article 12.5.

List of calls subject to Article 12.6 restrictions according to DEP Work Programme 2025-2027 (all concern SO2 (AI)):

- *Apply AI: GenAI for the public administrations*
- *Reference deployments of European Cloud-edge Services*
- *Data Space for Manufacturing*
- *Health: Data ingestion capacities and data services for the European Genomic Data Infrastructure in the European Health Data Space*
- *Deployment of cutting-edge multi-modal AI-based solutions in medical imaging*
- *Virtual Human Twins and Artificial Intelligence in health: Platform validation and uptake incubator*
- *Apply AI: Piloting AI-based image screening in medical centres*

For up to date information on restricted calls always refer to the most recent DEP Work Programme.

OTHER SECURITY RESTRICTIONS

Article 12.1-4 of DEP Regulation: Security Appraisal Procedure

- DEP actions shall comply with security rules, including with Union and national law and in particular in relation to the protection of the classified information against unauthorised disclosure (in accordance with *Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information*).
- **Security self-assessment** that identifies any security issues and details how those issues will be addressed is a mandatory part of Part A of the DEP application form.
- The Commission or another body entrusted with the Programme implementation carries out **security review process** for proposals raising security issues that have positively passed the evaluation and have been considered for funding. The outcome of the review may lead to security requirements to be included in the GA.

Appendix 4 to Digital Europe Work Programme 2025-2027 and ECCC Digital Europe Cybersecurity Work Programme 2025-2027: Restrictions for the protection of European digital infrastructures, communication and information systems, and related supply chains

- These Work Programmes identify actions that concern strategic assets and interests of the Union or its Member States (in accordance with Article 136 (2) of the Financial Regulation). The restrictions introduced for the identified calls request to avoid the participation of entities assessed as “high-risk suppliers” (also as subcontractors) and the use of non-secure equipment and other goods, works or services in these actions. The measure was taken to prevent technology transfer and the persistence of dependencies in materials, semiconductor components, computing resources, software tools and virtualisation technologies, and to preserve the integrity of the concerned systems, including from a cybersecurity perspective.
- All of the calls of the ECCC Digital Europe Cybersecurity WP 2025-2027 and significant part of the calls of the DEP WP 2025-2027 (the whole list is stated in its Appendix 4) are subject to these restrictions.

SECURITY REQUIREMENTS IN THE GRANT AGREEMENT

The participation in DEP actions with security restrictions could lead to imposing specific security requirements on the beneficiaries by including them in the GA.

The implementation of these requirements by the DEP participants could be subject to security check by the EC or the body entrusted with the Programme implementation. In case of non-compliance the funding for those participants may be suspended, terminated or reduced.

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