



Fuel Cells and Hydrogen Joint Undertaking (FCH JU)

Rules for submission of proposals, and the related evaluation, selection and award procedures

Adopted by the FCH JU Governing Board on 26 September 2008, revised on 3 October 2011

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CONTEXT AND SCOPE

This document establishes the rules of the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) for the proposals submission, and the related evaluation, selection and award procedures (hereafter “the Rules”), in relation to the Seventh Framework Programme of the European Community¹ for research, technological development and demonstration activities (hereafter “FP7”). It describes the basic procedures that the Fuel Cells and Hydrogen Joint Undertaking will follow in accordance with its Financial Rules (hereafter “Financial Rules”).

This document is based on the provisions of the FP7 “Rules for submission of proposals and the related evaluation, selection and award procedures”.

These rules do not apply to public procurement procedures.

1. INTRODUCTION

The "Fuel Cells and Hydrogen Joint Undertaking" publishes calls for proposals based on topics stemming from its Annual Implementation Plan.

Applications for financial support under the FCH JU are made in the form of proposals submitted to the FCH JU in response to calls for proposals, which set out details of planned work, budget and participants. The FCH JU evaluates proposals in order to identify those of best quality for possible funding. The FCH JU shall appoint independent experts (hereafter "experts") to assist with the evaluation of proposals.

The FCH JU enters into a negotiation with the coordinators of proposals that successfully pass the evaluation stage, and for which there is budget available.

If negotiations are successfully concluded, the project is selected and a grant agreement providing for a FCH JU financial contribution is established with the applicants.

These rules rest on a number of well-established principles:

- i) **Excellence.** Projects selected for funding must demonstrate a high quality in the context of the topics and criteria set out in the calls.
- ii) **Transparency.** Funding decisions must be based on clearly described rules and procedures, and applicants should receive adequate feedback on the outcome of the evaluation of their proposals.
- iii) **Fairness and impartiality.** All proposals submitted to a call are treated equally. They are evaluated impartially on their merits, irrespective of their origin or the identity of the applicants.
- iv) **Confidentiality.** All proposals and related data, knowledge and documents communicated to the FCH JU are treated in confidence.

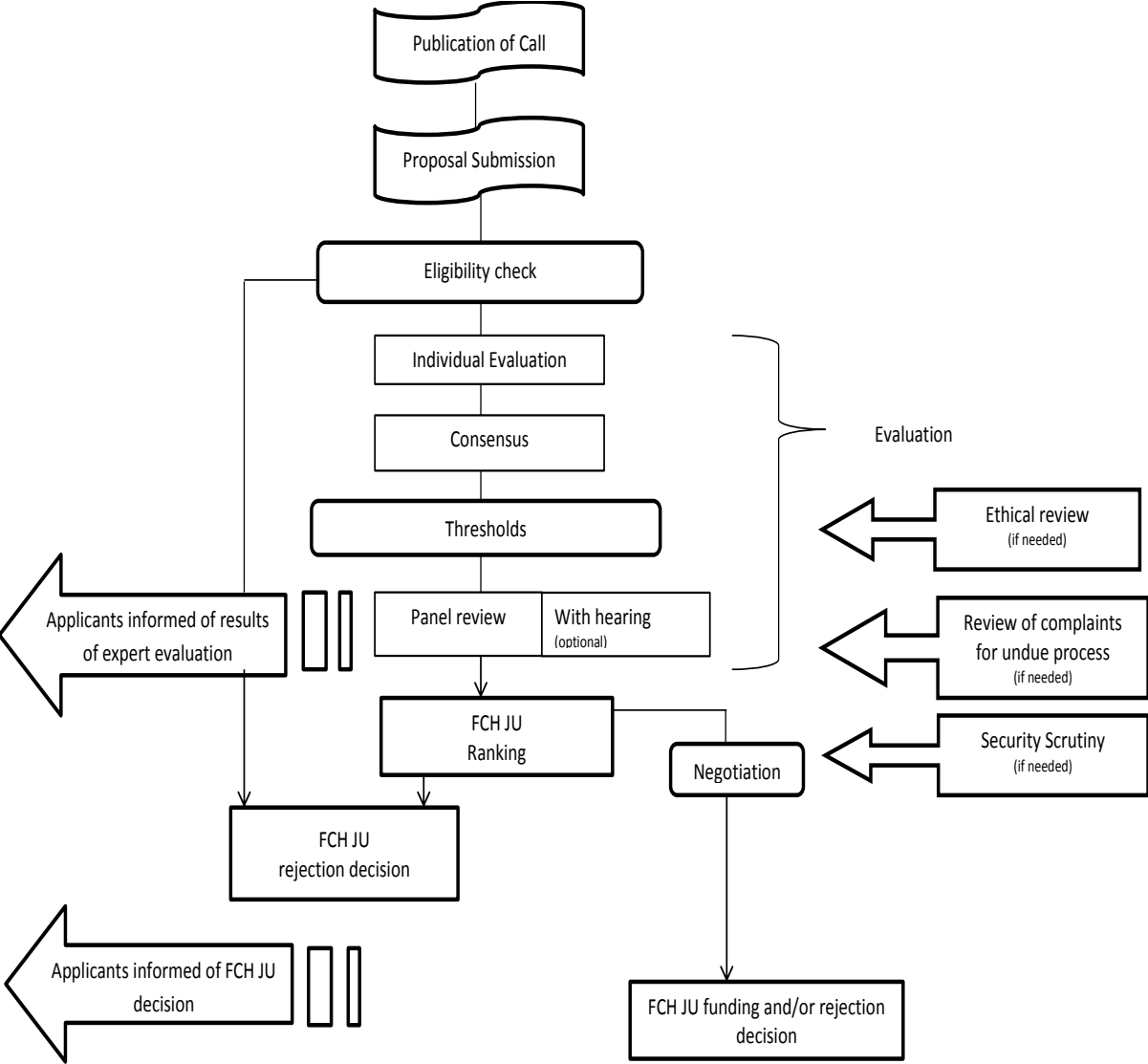
¹ OJ L412 of 30.12.2006, p.1.

- v) **Efficiency and speed.** Evaluation, award and grant preparation should be as rapid as possible, commensurate with maintaining the quality of the evaluation, and respecting the legal framework.
- vi) **Ethical and security considerations:** Any proposal which contravenes fundamental ethical principles, or which fails to comply with the relevant security procedures may be excluded at any time from the process of evaluation, selection and award (Article 4 of the Council decision 2006/975/EC of 19 December 2006 concerning the Seventh Framework Programme of the European Community – See Annexes A and B).

The FCH JU Annual Implementation Plan may set out specific evaluation criteria and/or provide further details on the application of the evaluation criteria, which will be reflected in the call for proposals.

The call and the Guide for Applicants may spell out in more detail the way in which these rules and procedures will be implemented and, where relevant, which options are to be followed.

The various steps involved in the proposal, submission, evaluation and selection procedures are summarised in the following diagram:



2. SUBMISSION

2.1. Calls for proposals

According to Article 16 of the FCH JU Regulation¹ the Commission shall be responsible for the establishment and initial operation of the FCH Joint Undertaking until the Joint Undertaking has the operational capacity to implement its own budget.

Therefore, the first Call for proposals will be managed by Commission officials and the infrastructure to be used for submission of proposals will be the one of the Commission.

Proposals are submitted in response to calls for proposals (“calls”). The content and timing of calls are set out in the FCH JU Annual Implementation Plan. Notifications of calls for proposals are published in the Official Journal of the European Union. The 'call texts' are published on the appropriate website(s) (such as CORDIS <http://cordis.europa.eu> and the *FCH JU website, when available*), and include references to the topics against which proposals are invited, indicative call budgets, funding schemes, deadlines for submission and links to the Electronic Proposal Submission Service (EPSS) (see section 2.2). This/these web site(s) provide(s) access to all the necessary information for those wishing to apply to calls. In particular, a Guide for Applicants is available. This guide explains the submission process, and how the applicants can seek assistance or information on any matter related to a call. A dedicated help desk is provided for issues related to the Electronic Proposal Submission System (EPSS).

Calls are considered 'open' until the specified deadline.

A call will also specify that a single stage submission and evaluation procedure is to be followed.

The Executive Director may appoint a “call coordinator” for every call. This person acts as a contact point for practical questions associated with the call, and ensures the overall planning and organisation of the proposal reception and evaluation process.

2.2. Submission of proposals

Proposals are submitted electronically² via the web-based Electronic Proposal Submission Service (EPSS).

Among the applicants in a proposal consortium, only the proposal coordinator (identified by user id and password) is authorised to submit a proposal.

The preparation and uploading of all the proposal data and the applicants' agreement to the conditions of use of the system and of the evaluation must take place prior to the attempt to submit the proposal.

The EPSS will carry out a number of basic verification checks, including that of completeness of the proposal, internal data consistency, absence of virus infection and conformity to the file

¹ Council Regulation No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking

² There may be exceptional circumstances when proposals may be submitted on paper. Any such possibility will be specified in the call text

types and size limitations, which are specified. Only upon completion of these checks, which do not replace the formal eligibility checks described in section 2.4, will the EPSS allow the applicant to submit. Submission is deemed to occur at the moment when the proposal coordinator initiates the final submission process, as indicated by the EPSS, and not at any point prior to this.

The proposals submitted via the EPSS are entered into databases after the call closure. The FCH JU has no access to the proposal until the call deadline has passed.

Versions of proposals sent on paper (except if exceptionally allowed in the call), removable electronic storage medium (e.g. CD-ROM, diskette), by e-mail or by fax will not be regarded as having been received by the FCH JU.

The withdrawal of a proposal is possible at any moment before the call deadline. A procedure for the withdrawal of a proposal by its coordinator is given in the Guide for Applicants. A withdrawn proposal will not subsequently be considered by the FCH JU.

Proposals might be updated with new data online until the call deadline. If more than one copy of the same proposal is received, only the most recent eligible version is evaluated.

Proposals are archived under secure conditions at all times. After completion of the evaluation and any subsequent negotiation, all copies are destroyed other than those required for archiving and/or auditing purposes.

2.3. Reception by the Fuel Cells and Hydrogen Joint Undertaking

The date and time of receipt of the last version of submitted proposals are recorded. After the call closure, an acknowledgement of receipt is sent to the proposal coordinator by e-mail containing:

- Proposal title, acronym and unique proposal identifier (proposal number);
- Name of the topic and/or activity/research area and call identifier to which the proposal was addressed;
- Date and time of receipt.

There is normally no further contact between the FCH JU and applicants on their proposal until after completion of the evaluation, except for proposals which are subject to hearings (see section 3.8). The FCH JU may, however, contact an applicant (usually through the coordinator) in order to clarify matters such as eligibility (see section 2.4).

2.4. Eligibility check

Proposals must fulfil all of the eligibility criteria if they are to be retained for evaluation. These criteria are rigorously applied. The following eligibility criteria apply to all proposals submitted under a FCH JU call¹.

- Receipt of proposal by the FCH JU before the deadline date and time established in the call, if applicable.

¹ These criteria may be complemented by additional eligibility criteria provided in the Annual Implementation Plan and call fiche

- Minimum conditions (such as number of participants and at least one legal entity must be a member of the Industry Grouping or the Research Grouping), as referred to in the call for proposals.
- Completeness of the proposal, i.e. the presence of all requested administrative forms and the proposal description (N.B. the completeness of the information contained in the proposal will be for the experts to evaluate; the eligibility checks only apply to the presence of the appropriate parts of the proposal).
- Scope of the call: the content of the proposal must relate to the topic(s) and funding scheme(s) set out in that part of the Annual Implementation Plan open in the call. A proposal will only be deemed ineligible on grounds of ‘scope’ in clear-cut cases.

If it becomes clear before, during or after the evaluation phase that one or more of the eligibility criteria have not been fulfilled, the proposal is declared ineligible by the FCH JU and is withdrawn from any further examination. Where there is a doubt on the eligibility of a proposal, the FCH JU reserves the right to proceed with the evaluation, pending a final decision on eligibility. The fact that a proposal is evaluated in such circumstances does not constitute proof of its eligibility.

2.5. Eligibility review committee

If the question of eligibility is not clear-cut and a more comprehensive review of the case is deemed necessary, the call co-ordinator may convene an internal eligibility review committee.

The committee’s role is to ensure a coherent legal interpretation of such cases and equal treatment of applicants.

This committee, composed of FCH JU staff having the requisite expertise in legal matters, S&T content, and/or information systems, is chaired by the call co-ordinator. It examines the proposal and, if necessary, the circumstances surrounding its submission; and provides specialist advice to support the decision on whether to allow a proposal to be evaluated, or on whether or not to reject it on eligibility grounds. The committee may decide to contact the applicant in order to clarify a particular issue.

3. EVALUATION OF PROPOSALS

3.1. Role of experts

The FCH JU evaluates proposals with the assistance of independent¹ experts to ensure that only those of the highest quality are selected for funding. These experts are external to the FCH JU². Experts may be invited to carry out the evaluation fully or partially at their home or place of work (“remote evaluation”), on the premises of the FCH JU or any other place considered appropriate by the FCH JU.

¹ An independent expert is an expert who is working in a personal capacity and in performing the work does not represent any organisation.

² Staff from relevant specialised EU agencies is regarded as external experts.

3.2. Appointment of experts

Experts are required to have skills and knowledge appropriate to the areas of activity in which they are asked to assist. They must also have a high level of professional experience in the public or private sector in one or more of the following areas or activities: research in the relevant scientific and technological fields; administration, management or evaluation of projects; use of the results of research and technological development projects; technology transfer and innovation; international cooperation in science and technology; development of human resources. Experts may be citizens of other than the Member States or countries associated to the Framework Programmes.

To evaluate the proposals submitted in response to a call, the FCH JU draws up a list of appropriate experts (including, if necessary, a reserve list). The lists are drawn up primarily using the selection criteria:

- A high level of expertise;
- An appropriate range of competencies.

Providing the above conditions can be satisfied, other criteria are also taken into consideration:

- An appropriate balance between academic and industrial expertise and users;
- A reasonable gender balance¹;
- A reasonable distribution of geographical origins²;
- Regular rotation of experts³.

In constituting the lists of experts, the FCH JU also takes account, as necessary, of their abilities to appreciate the industrial and/or societal dimension, and policy relevance, of the topics covered by the call. Experts must also have the appropriate language skills required for the proposals to be evaluated.

In cases where experts shall have to deal with classified information, the appropriate security clearance might be required before appointment.

The list of experts to be used for evaluation sessions is decided by the Executive Director. The names of the experts assigned to individual proposals are not made public. However, once a year, the list of experts used for the FCH JU evaluations is published on the FCH JU web site.

¹ Regarded as best practice, the European Communities pursue an equal opportunities policy and aims in particular at achieving in the medium term at least 40 % of members of each sex in each expert group and committee (Commission Decision n°2000/407/EC of 19 June 2000 relating to gender balance within the committees and expert groups established by it).

² In the case of calls relating to specific international cooperation activities, a significant number of experts who are citizens of the international cooperation partner countries might be included.

³ In general, the FCH JU will ensure that at least a quarter of the experts used by an activity/research area will be replaced each calendar year.

3.3 Terms of appointment, Code of conduct and Conflict of interest

The FCH JU shall conclude an 'appointment letter' with each expert, based on the model given in Annex C.

The appointment letter binds the expert to a code of conduct, establishes the essential provisions regarding confidentiality, and, specifies in particular, the description of work, the conditions of payment, and reimbursement of expenses (see Annex C).

When appointing experts, the FCH JU must take all necessary steps to ensure that they are not faced with a conflict of interest in relation to the proposals on which they are required to give an opinion. To this end, experts are required to sign a declaration that no such conflict of interest exists (see Annex C) at the time of their appointment and that they undertake to inform the FCH JU if one should arise in the course of their duties. When so informed, the FCH JU takes all necessary actions to remove the conflict of interest. In addition, all experts are required to confirm that they have no conflict of interest for each proposal that they are asked to examine at the moment of the evaluation.

The declaration makes a distinction between 'disqualifying' and 'potential' conflicts of interest.

When a disqualifying conflict of interest is reported by the expert or established by the FCH JU on the basis of any available source of information, the expert shall not evaluate the proposal concerned (consensus group), nor take part in any related panel review¹.

Experts who are employed by one of the applicant organisations in a proposal are normally considered as facing a 'disqualifying' conflict of interest. However, when justified by the requirement to appoint the best available experts and by the limited size of the pool of qualified experts, the FCH JU may decide to invite such experts to take part in the panel review session, if the expert works in a different department/laboratory/institute from the one where the work is to be carried out, and if the constituent bodies operate with a high degree of autonomy. In this case, the expert shall abstain from the discussion (or electronic forum) if the panel discusses in detail the proposal involving the organisation concerned. Such experts will not take part in any hearings.

In exceptional duly justified cases, experts in the circumstances described above may also participate in the consensus group for the proposal in question. The FCH JU will inform the other experts in the group of the affiliation of the expert concerned.

When a potential conflict of interest is reported by the expert or brought to the attention of the FCH JU by any means, the FCH JU will consider the circumstances of the case and will decide, on the basis of the objective elements of information at its disposal, on the existence of an effective conflict of interest. If such an effective conflict is established, the expert will be excluded in the same manner as for a disqualifying conflict. In other cases, depending on the specific circumstances of the case and taking due account of the associated risks, the FCH JU may decide to allow the expert to evaluate. The expert must sign a declaration confirming that he/she will act in an impartial manner.

The FCH JU may take any appropriate measures to prevent a conflict of interest. The role of the expert may be restricted to the panel review. In this case, the expert shall leave the room

¹ The steps in the evaluation process are described in section 3.8.

(or electronic forum) if the panel discusses the individual case of the proposal where any conflict exists.

If a hitherto unsuspected conflict becomes apparent during the course of the evaluation, the expert must announce the fact immediately to a member of the FCH JU staff. If the conflict is found to be a disqualifying one, the expert must abstain from further evaluation involving the proposal concerned. Any comments and scores made earlier by that expert will be discounted. If necessary, the expert will be replaced.

If an expert knowingly conceals a disqualifying or potential conflict of interest, and this is discovered during the evaluation, the expert will be immediately excluded, and the sanctions indicated in the appointment letter will apply. Any consensus group in which he or she has participated will be declared null and void, and the proposal(s) concerned will be re-evaluated.

3.4 Independent observers

With a view to ensuring a high degree of transparency, the FCH JU may appoint independent experts to act as observers (hereafter "observers") of the evaluation process from the point of view of its working and execution. Their role is to give independent advice to the FCH JU on the conduct and fairness of all phases of the evaluation sessions, on ways in which the expert evaluators apply the evaluation criteria, and on ways in which the procedures could be improved. As such, they shall verify that the procedures set out or referred to in these Rules are adhered to, and report their findings and recommendations to the FCH JU. They are also encouraged to enter into informal discussions with the FCH JU staff involved in the evaluation sessions and to suggest to the FCH JU any possible improvements that could be put into practice immediately. However, in the framework of their work, they should not express views on the proposals under evaluation or the experts' opinions on the proposals.

To this end, it is not necessary that the observers have expertise in the area of the proposals being evaluated. Indeed, it is considered advantageous to avoid having observers with too intimate a knowledge of the particular S&T area in order to avoid conflicts between their opinions on the outcome of the evaluations and the functioning of the sessions. In any case, they will not express views on the proposals under examination or the experts' opinions on the proposals.

The observers are invited to be present from the beginning of the evaluation sessions when the experts are briefed by the FCH JU. When part of an evaluation takes place away from the FCH JU premises ("remote evaluation"), the observer may assess that stage after the event on the basis of discussion with the experts once they have gathered in Brussels (or other central evaluation site).

The FCH JU shall inform the Governing Board of the FCH JU of the choice of experts as observers, and their terms of reference as well as of the observers' findings and may make available publicly a summary of their report.

Observers are required to respect the same obligations as the experts with regard to confidentiality and avoidance of conflicts of interest, and they sign the same declaration to that effect (see Annex C). They are not permitted to divulge details of the proposals, the experts assigned to examining the proposals, nor the discussions in the evaluation panels. The observers have to respect a code of conduct annexed to their letter of appointment.

3.5 Evaluation criteria

All eligible proposals are evaluated by the FCH JU, assisted by experts where provided for, to assess their merit with respect to the evaluation criteria relevant for the call.

The detailed evaluation criteria and sub-criteria, and associated weights and thresholds, are set out in the Annual Implementation Plan. The criteria consist of selection and award criteria in the meaning of the FCH JU Financial Rules.

In general, unless specified otherwise in the call, the evaluation criteria and sub-criteria will be the following:

- Criterion S/T Quality (scientific and/or technological excellence – relevant to the topics addressed by the call):

- Sub-criteria: i/soundness of concept and quality of objectives

ii/ progress beyond the state of the art (*for Collaborative Projects only*)

iii/ quality and effectiveness of the S/T methodology and associated work plan (*for Collaborative Projects only*)

OR

quality and effectiveness of support actions mechanisms and associated work plan (*for Coordination and support actions only*)

- Criterion Implementation (quality and efficiency of the implementation and the management)

- Sub-criteria: i/appropriateness of the management structure and procedures

ii/ quality and relevant experience of the individual participants

iii/ quality of the consortium as a whole (including complementarity, balance)

iv/ appropriateness of the allocation and justification of the resources to be committed (budget, staff, equipment, ...)

- Criterion Impact (potential impact through the development, dissemination and use of project results)

- Sub-criteria: i/ contribution at the European and/or international level to the expected impacts listed in the Annual Implementation Plan and Multi Annual Implementation Plan under the relevant topic / activity

ii/ appropriateness of the measures for the dissemination and/or exploitation of project results and management of Intellectual Property (*for Collaborative Projects only*)

OR

appropriateness of the measures for spreading excellence, exploiting results and disseminating knowledge, through engagement with stakeholders and the public at large (*for Coordination and Support actions only*)

The manner in which they will be applied will be further explained in the call for proposals and the Guide for Applicants.

3.6 Proposal scoring

Experts examine the issues to be considered comprising each evaluation criterion.

Experts score each of the above evaluation criteria on a scale from 0 to 5. Half point scores may be given.

For each criterion under examination, score values indicate the following assessments:

0 -	The proposal fails to address the criterion under examination or cannot be judged due to missing or incomplete information
1 -	Poor. The criterion is addressed in an inadequate manner, or there are serious inherent weaknesses.
2 -	Fair. While the proposal broadly addresses the criterion, there are significant weaknesses
3 -	Good. The proposal addresses the criterion well, although improvements would be necessary
4 -	Very Good. The proposal addresses the criterion very well, although certain improvements are still possible
5 -	Excellent. The proposal successfully addresses all relevant aspects of the criterion in question. Any shortcomings are minor

3.7 Thresholds and weighting

Thresholds

Thresholds are set for some or all of the criteria, such that any proposal failing to achieve the threshold scores will be rejected. In addition, an overall threshold may also be set. The thresholds to be applied to each criterion as well as any overall threshold are set out in the Annual Implementation Plan and call text.

If the proposal fails to achieve a threshold for a criterion, the evaluation of the proposal may be stopped.

It may be decided to divide the evaluation into several steps with the possibility of different experts examining the different criteria. Where the evaluation is carried out in several successive steps, any proposal failing a threshold score may not progress to the next step. Such proposals may immediately be categorised as rejected.

Weighting

According to the specific nature of the funding schemes and the call, it may be decided to weight the criteria. The weightings to be applied to each criterion are set out in the Annual Implementation Plan and call.

3.8 Detailed description of proposal evaluation

(a) Briefing of the experts

The FCH JU is responsible for the briefing of experts before evaluation sessions. The briefing of the experts covers the evaluation processes and procedures as well as the evaluation criteria to be applied, and the content and expected impacts of the research topics under consideration.

Particular attention will be given to the briefing of experts who will work remotely, when specially adapted material may be needed (e.g. CD-ROMs, on-line presentations). Close contact is maintained with the individual experts to assist them on any query.

(b) Individual evaluation of proposals

Proposals are evaluated by a minimum of three experts. In the initial phase of the evaluation each expert works individually, and gives scores and comments for each criterion as described in the Annual Implementation Plan and call.

They also indicate if the proposal:

- Falls entirely out of the scope of the call for proposals;
- Deals with sensitive ethical issues (see Annex A);
- Requires further scrutiny with regard to security considerations (see Annex B).

When remote evaluation is used, the FCH JU forwards copies of the proposals to be examined to each individual expert. This may be done by sending paper copies by post or courier service or by making the proposal available electronically.

Justification of scoring

Experts are required to provide comments to accompany each of their scores. These comments must be consistent with any scores awarded and serve as input to any consensus discussion and related consensus report.

Outcome of the individual evaluation

After the individual evaluation of a proposal, the expert completes an individual evaluation report confirming his/her individual reading and assessment. In the case of remote evaluation, the results are communicated to the FCH JU by post or electronically. The expert's individual evaluation report shall not subsequently be changed. In signing the individual evaluation report, each expert confirms that he/she has no conflict of interest with respect to the evaluation of that particular proposal.

In some instances, experts may perform only the individual evaluation. In this case, their individual evaluation report are forwarded to the experts involved in the consensus phase (see below) to be taken into account in the preparation of the consensus report

If a proposal is considered to be out of scope by all individual experts, it may be considered to be ineligible and may not be passed on to the consensus stage.

(c) Consensus

Once all the experts to whom a proposal has been assigned have completed their individual assessments, the evaluation progresses to a consensus assessment, representing their common views.

This normally entails a consensus meeting (or electronic forum) to discuss the scores awarded and to prepare comments.

The consensus discussion is moderated by a member of the FCH JU staff ("the moderator"). The role of the moderator is to seek a consensus between the individual views of experts without any prejudice for or against particular proposals or the organisations involved, and to ensure a fair and equitable evaluation of each proposal according to the required evaluation criteria.

The moderator for the group may designate an expert to be responsible for drafting the consensus report ("rapporteur").

The experts attempt to agree on a consensus score for each of the criteria that have been evaluated and suitable comments to justify the scores. Comments should be suitable for feedback to the proposal coordinator. Scores and comments are set out in a consensus report.

If applicable, they also come to a common view on the questions of scope, ethics and security, as mentioned under step (b) above.

If during the consensus discussion it is found to be impossible to bring all the experts to a common point of view on any particular aspect of the proposal, the representative of the FCH JU in charge of the evaluation may ask up to three additional experts to examine the proposal.

Outcome of consensus

The outcome of the consensus step is the consensus report, signed (or approved by electronic means) by the moderator and all the experts, or as a minimum, by the moderator and "the rapporteur". The moderator is responsible for ensuring that the consensus report reflects the consensus reached, expressed in scores and comments. In the case that it is impossible to reach a consensus, the report sets out the majority view of the experts but also records any dissenting views from any particular expert(s).

The FCH JU will take the necessary steps to assure the quality of the consensus reports, with particular attention given to clarity, consistency, appropriate level of detail. If important changes are necessary, the reports will be referred back to the experts concerned.

The signing of the consensus report completes the consensus step.

Evaluation of a resubmitted proposal

In the case of proposals that have been submitted previously to the Commission or the FCH JU, the moderator will inform the experts and, if possible, gives them the previous evaluation summary report (see below) at the consensus stage, if the previous evaluation took place under comparable conditions (e.g. broadly similar work programme topics and criteria). If

necessary, the experts will be required to provide a clear justification for their scores and comments should these differ markedly from those awarded to the earlier proposal.

(d) Panel review

This is the final step involving the experts. It allows them to formulate their recommendations to the FCH JU having had an overview of the results of the consensus step. The practical arrangements are determined in the light of the nature of the call and number of proposals submitted to it.

For a particular call, or part of a call, it may be possible to arrange for all the experts to examine all the proposals, and carry out their final review at the same time as they prepare the consensus reports. These experts are thus considered to constitute the panel.

Otherwise, a new panel is created that may comprise only part of the experts involved at the consensus step, new experts, or a mixture of the two. There may be one panel covering the whole call or several panels covering different activities, topics, or funding schemes.

Role of the panel

The main task of the panel is to examine and compare the consensus reports in a given area, to check on the consistency of the marks applied during the consensus discussions and, where necessary, propose a new set of marks.

The tasks of the panel may also include:

- Hearings with the applicants of those proposals that have passed thresholds (see below);
- Resolving cases where a minority view was recorded in the consensus report;
- Recommending a priority order for proposals with the same score (only if necessary, taking into account the available budget, or other conditions of the call set out in the Annual Implementation Plan);
- Making recommendations on possible clustering or combination of proposals

The panel is either chaired by the FCH JU, or by an expert appointed by the FCH JU. In either case, the FCH JU will ensure fair and equal treatment of the proposals in the panel discussions. A panel "rapporteur" (who may also be the panel chairperson) may be appointed to draft the panel's advice.

Hearings with applicants

Hearings with applicants may be organised as part of the panel deliberations. Hearings may be particularly useful in calls that attract large scale integrating collaborative projects. When hearings are held, invitations are sent to the co-ordinators of those proposals having consensus scores above the individual and overall thresholds. In some calls it may be decided to extend the invitation to representatives of those proposals that passed the individual thresholds, but that failed the overall threshold.

In either case, the condition for issuing invitations shall be applied consistently in relation to all proposals submitted to a call.

Hearings provide input to clarify further the proposals and to help the panel to establish their final rating and scores for the proposals. They are intended to improve the understanding of the experts of the proposal but not to modify or improve in any way the proposal itself. The applicants will, thus, not be invited to present their proposal, but to provide explanations and clarifications to questions submitted to them in advance.

Any particular issues raised by individual proposals requiring specific expertise may be dealt with by inviting appropriate extra experts to the hearings for those proposals. In this case, the extra experts are only invited to comment on the particular issue on which they have expertise and not on the proposal as a whole.

If a consortium submitting a proposal does not attend the hearing, but replies in written form to the questions, which were sent, their written responses will be taken into account. If a consortium both fails to reply to the questions and also to attend the hearing, the panel will arrive at a final score and comments for the proposal on the basis of the originally submitted material only.

In some circumstances a hearing may be conducted entirely through a written procedure.

Specific arrangements for hearings will be described in the Annual Implementation Plan and the call fiche.

Outcome of panel review

The outcome of the panel review is a report recording, principally:

- An evaluation summary report (ESR) for each proposal, including comments and scores, taking account of any hearings. Where relevant, any ethical issues and any security considerations are reported;
- A list of proposals passing all thresholds, along with a final score for each proposal passing the thresholds and the panel recommendations for priority order;
- A list of evaluated proposals having failed one or more thresholds;
- A list of any proposals having been found ineligible during the evaluation;
- A record of the hearings (if applicable);
- A summary of any other recommendations of the panel.

If the same panel has considered proposals submitted to various parts of a call (for example different funding schemes, or different topics that have been allocated distinct indicative budgets in the Annual Implementation Plan), the report may contain multiple lists accordingly.

The Evaluation Summary Reports agreed by the panel experts may include recommendations for further improvements to a proposal that is already highly rated.

These recommendations will aim for a more efficient implementation of the proposed work, for example by modifying details of the methodology, or by removing superfluous work packages. The experts will indicate the likely impact in effort and equipment, and may

indicate the impact on budget, of any such changes. The experts may also suggest a reduction in effort and/or budget without a change in content, if the reasons for such a reduction are well founded.

In duly justified cases, the panel may recommend a merging of proposals, or funding up to a certain milestone with the possibility to grant complementary funding following a subsequent call for proposal.

If applicable, the experts will make a recommendation for the funding of projects requesting a higher level of reimbursement for security-related research and technological development activities, where this is justified by the development of capabilities in domains with very limited market size and a risk of 'market failure' and for accelerated equipment development in response to new threats.

The panel report is signed by at least three panel experts, including the panel "rapporteur" (if an expert was so appointed), and the chairperson.

3.9. Feedback to applicants

The FCH JU sends electronically a letter ("initial information letter"), together with the ESR, to the coordinator of each evaluated proposal. The letter and ESR may also be sent by paper. The aim is to give the applicants a prompt indication of how their proposals fared in the evaluation by experts. However, at this stage, the FCH JU cannot make a commitment as regards possible selection and funding.

The Annual Implementation Plan and the call fiche will indicate the expected date for the dispatch of these letters.

The FCH JU will not change the ESRs that form part of the panel report, except if necessary to improve readability or, exceptionally, to remove any factual errors or inappropriate comments that may have escaped earlier proof-reading. The scores will never be changed. The ESR reflects the consensus reached by the experts, including the final review by the panel. It contains comments and scores on each criterion and an overall score, as well as providing overall comments when appropriate. The comments recorded must give sufficient and clear reasons for the scores and, if appropriate, any recommendations for modifications to the proposal should the proposal be retained for negotiation. In exceptional cases, possibilities for clustering or combination with other proposals may be indicated.

For those proposals rejected after failing an evaluation threshold, the comments contained in the ESR may only be complete for those criteria examined up to the point when the threshold was failed.

Coordinators of proposals found to be ineligible will be informed of the grounds for such a decision.

Coordinators of proposals rejected because of security considerations will be informed of the grounds for such a decision.

4. FINALISATION OF THE EVALUATION RESULTS

At this stage, the FCH JU staff review the results of the evaluation by experts, and make their own assessment of the proposals, in particular a review of their financial contribution, based on the advice from these experts.

4.1. Fuel Cells and Hydrogen Joint Undertaking ranked list

Proposals shall be ranked according to the evaluation results. Funding decisions shall be made on the basis of this ranking.

The Programme Office, under the responsibility of the Executive Director, draws up the final list of proposals for possible funding from those that passed the evaluation thresholds, on the basis of the results of the evaluation by experts. Due account is taken of the scores received and of any advice from the experts. It will also take account of the available budget, the strategic objectives of the Annual Implementation Plan, as well as the overall balance of proposals to be funded.

The number of proposals in the list depends upon the available budget. Proposals are ranked in priority order, unless there is sufficient budget to fund all proposals having passed the necessary thresholds.

As a general rule, the FCH JU follows the priority order of proposals suggested by the experts. In exceptional cases, duly justified and authorised at an appropriate level, a proposal may be placed in a different order than the one suggested by experts. The reasons for arriving at the order are set out.

A suggested financial contribution from the FCH JU is determined for each of these proposals, based on the comments of the experts, and on the Programme Office's own analyses. Budget cuts are possible, but will not be made for the purpose of supporting additional projects that would not otherwise be funded.

The Executive Director then asks the FCH JU Governing Board to approve the list of proposals intended to be selected for funding, including the suggested financial contribution from the FCH JU for each proposal. A reserve list may be indicated (see below). In this request, any aspects that would need to be modified during negotiation, based on the advice of the experts are also addressed. This might include special conditions regarding the merging of proposals, or conditional funding suggested by the experts (see section 3.8).

Following approval by the Governing Board, the final FCH JU ranked list and negotiation mandates are established. If any consultation associated with the evaluation of proposals reveals that very similar work is already funded elsewhere, it is possible that a project that had originally been put forward for funding by the Executive Director does not appear on the final FCH JU ranked list.

4.2. Fuel Cells and Hydrogen Joint Undertaking reserve list

The list of proposals to be retained for negotiation takes into account the budget available (as indicated in the call for proposals). A number of proposals may be kept in reserve to allow for eventualities such as the failure of negotiations on projects, the withdrawal of proposals, budget savings agreed during negotiation, or the availability of additional budget from other sources.

The coordinators of any proposals held in reserve receive confirmation that negotiations with a view to preparing a grant agreement may be offered, but only if further funding becomes available. This confirmation may also indicate a date after which no further offers of negotiations are likely to be made.

When the budget for the particular call has been used up, the co-ordinators of unfunded proposals remaining from the “reserve” will be informed, and the proposals will be rejected (see below).

4.3. Fuel Cells and Hydrogen Joint Undertaking rejection decisions

The FCH JU formally decides to reject those proposals found to be ineligible (whether before, or during the course of the evaluation), failing any of the thresholds for evaluation criteria, and those which, because they fall below a certain ranking, cannot be funded because the available budget is insufficient. The FCH JU may reject all proposals below a certain rank, regardless of the availability of budget and the comments of experts, if it considers that the level of quality is insufficient to merit support.

The FCH JU may also reject proposals on ethical grounds following an ethical review (see Annex A), or on security grounds following the procedure described in Annex B.

After a rejection decision, coordinators of rejected proposals are informed in writing of the decision of the FCH JU. The letter informing them also includes an explanation of the reasons for rejection.

5. NEGOTIATION AND AWARD

5.1. Negotiation of proposals

The coordinators of proposals that have not been rejected, and for which funding is available, are invited to begin negotiations.

The FCH JU may be assisted by experts during the negotiation, possibly including those involved during the evaluation stage.

In addition to any points raised in the ESR, the applicants may receive requests for further administrative, legal, technical and financial information necessary for the preparation of a grant agreement. The FCH JU may request changes, possibly including modifications to the budget, in line with the negotiation mandate mentioned above (section 4.1). The FCH JU will justify all requested changes.

Changes to the managerial and scientific aspects would cover, in particular, revisions to the proposed work as established in the negotiation mandate described in section 4.1. The legal aspects would cover, in particular, the verification of the existence and legal status of the participants, review of any special clauses in the grant agreement, or conditions required for the project, and other aspects relating to the development of the final grant agreement (including date of start of project, timing of reports and other legal requirements). The financial aspects would cover the establishment of the FCH JU contribution, up to a set maximum, the amount of the pre-financing, the estimated breakdown of budget and financial contribution per activity and per participant, and the assessment of the financial capacity of the co-ordinator and any other participants, if needed.

Grants may not be awarded to potential participants who are, at the time of a grant award procedure, in one of the situations referred to in articles 81 and 82 of the FCH JU Financial Rules (relating, for example, to bankruptcy, convictions, grave professional misconduct, social security obligations, other illegal activities, previous break of contract, conflicts of interest, misrepresentation).

Any potential participant who has committed an irregularity in the implementation of any other action under a Community Programme may be excluded from the selection procedure at any time, with due regard being given to the principle of proportionality. Any proposal that contravenes fundamental ethical principles or which does not fulfil the conditions set out in the Annual Implementation Plan or in the call for proposals shall not be selected.

Any arrangements for merging projects are also dealt with in this phase and ethical issues (see Annex A) or security considerations (see Annex B) are clarified and addressed, if necessary.

If it proves impossible to reach agreement with a coordinator, acting on behalf of the consortium, within a reasonable deadline that the FCH JU may impose on any matter covered during the negotiation stage, negotiations may be terminated and the proposal rejected by decision of the FCH JU

The FCH JU may terminate negotiations if the co-ordinator proposes to modify the project in terms of its objectives, S&T content, consortium composition or other aspects, to the extent that it becomes significantly different from the proposal that was evaluated, or in a manner that is not in line with the negotiation mandate.

Negotiation of proposals from the reserve list may begin once it is clear that sufficient budget has become available to fund one or more of these projects. Subject to budget availability, negotiations should begin with the proposals at the top of the reserve list and should continue in the order of the final ranking.

5.2. Award of grant

If negotiations are successful (that is, once the details of the grant agreement have been finalised with the applicants and all the necessary checks carried out), the FCH JU completes its internal financial and legal procedures. Once the selection decision has been adopted by the Governing Board, a grant for funding is awarded, by means of a formal grant agreement between the FCH JU, and the coordinator and the other participants.

5.3. Assistance and enquiries

The Guide for Applicants will explain how applicants can seek assistance or information on any matter related to a call for proposals and subsequent procedures A dedicated help desk will be provided for issues related to the EPSS.

Further, the “initial information letter” referred to under section 3.9 will indicate an address for any questions concerning the results of a particular evaluation. The letter will also provide an address to be used if the coordinator believes there have been shortcomings in the handling of his or her proposal, and that these shortcomings have jeopardised the outcome of the evaluation process. The letter will specify a deadline for the receipt of any such complaints, which will be one month from the date of dispatch of the FCH JU's letter. The co-ordinator should provide the name and identifier of the call, the number (if any), name and acronym of the proposal, and a full description of the alleged shortcomings. The method for submitting the complaint shall be described in the letter (e.g. via a functional mailbox).

An internal evaluation review committee will then be convened to examine those cases that have been submitted by co-ordinators, before the deadline mentioned above, using the method described in the initial information letter. Complaints that do not meet these conditions, or do not deal with the evaluation or eligibility checking of a specific proposal, will not be considered.

The committee's role is to ensure a coherent interpretation of such requests, and equal treatment of applicants. It provides opinions on the implementation of the evaluation process on the basis of all the available information related to the proposal and its evaluation. It works independently. The committee itself does not evaluate the proposal. If the committee considers that there has been a failing in the eligibility checking or evaluation process that is likely to have jeopardised the decision whether or not to fund the proposal, it may suggest a further evaluation of all or part of the proposal by independent experts. The committee will not call into question the judgement of appropriately qualified groups of experts.

This Committee will be composed of

1. The Project manager involved in the evaluation of the concerned proposal (i.e. moderating the consensus meeting)
2. The Head of Programme and/or the Call Coordinator
3. The FCH JU Legal Manager
4. The Chair of the evaluation panel (if available)

In case the Head of Programme or the Call Coordinator was moderating the consensus meeting related to the contentious proposal (persons 1 and 2 are the same), another Project manager should participate on the Committee.

In the light of its review, the committee will recommend a course of action to the Executive Director who will take the final decision.

The complainants will be informed about the outcome of the redress procedure by a letter signed by the Executive Director. Once the deadline for submitting complaints is over, the Programme office has another 30 days to treat complaints and answer to applicants.

The redress procedure does not replace the channels applying to all EU actions, viz. the European Ombudsman for “maladministration”; the European Court of Justice for a decision affecting a person or legal entity. These channels are also available to applicants who wish to register a complaint after the deadline mentioned above.

5.4. Reporting on the outcome of calls for proposals

The FCH JU will provide statistical information on the outcome of calls for proposal to the FCH JU Governing Board.

ANNEXES

ETHICAL REVIEW PROCEDURES

Introduction

The evaluation procedure includes a check of ethical issues raised by the proposals. An ethical review of proposals involving sensitive ethical issues may take place after the evaluation and before any selection decision by the Fuel Cells and Hydrogen Joint Undertaking (FCH JU).

The objective of this ethical review is to make sure that the FCH JU does not support research, which would be contrary to fundamental ethical principles.

Proposals

Where appropriate and/or required by the call, proposals include a section which:

- Describes the potential ethical aspects of the proposed research regarding its objectives; the methodology and the possible implications of the results;
- Justifies the design of the research project;
- Explains how the ethical requirements set out in the Annual Implementation Plan will be fulfilled;
- Indicates how the proposal meets the national legal and ethical requirements of the country where the research is performed;
- Indicates the timing for approval by any relevant authority at national level.

To this end, applicants are invited to fulfil the “Ethical issues table”, included in the Guide for applicants.

General procedural modalities

Evaluation

In the first instance, the experts make a check of any ethical issues raised by a proposal with reference to the "Ethical issues table" on research ethical issues completed by the applicant. The experts identify those proposals, which may require special attention due to the importance of the ethical issues raised and/or the inadequacy of the way the ethical issues are addressed in the proposal. The Evaluation Summary Report (ESR) should include any comments of the experts concerning ethical issues raised by the proposal. If any ethical issue is raised by the proposal or identified during the evaluation, an Ethical Issues Report (EIR) should be produced by the experts at this stage alongside the ESR.

Where appropriate, the experts examining the proposal at this stage may include experts specialised in ethical issues.

Submission to the Ethical Review (ER) panel

The FCH JU may decide to submit any of the proposals proposed for funding to a specific ethical review panel, taking account of any EIR (see above), and of any other screening operation that may be undertaken by experts..

Composition of the Ethical Review (ER) panel

The ER panel is composed of experts from different disciplines such as law, sociology, psychology, philosophy and ethics, medicine, molecular biology, veterinary science with a reasonable balance of scientific and non-scientific members. The panel is transnational.

Representatives of civil society may be invited.

The experts are bound to the FCH JU requirements concerning conflicts of interest and confidentiality as defined in Annex C.

Review phase

The experts individually read the proposals, and then meet as an ethical review panel to discuss and arrive at a consensus. The panel produces an Ethical Review report. The Ethical Review report includes the list of the different ethical issues, an account of the way the issues are handled by the applicants and the recommendations of the ER panel. The report is signed by the experts of the ER panel.

In case no consensus can be reached, the report reflects the opinion of the majority of the ER panel.

Ethical Review report

The applicants are informed of the outcome of the ethical review through the Ethical Review report. This is sent without the signatures of the experts.

The Ethical Review report may indicate the need to organise a follow up review at a later stage of the project.

In its decision to fund a project the FCH JU takes into account the results of the ethical review. This may entail changes in Annex 1 of the project grant agreement following negotiation, or in extreme cases, termination of negotiations.

HANDLING SECURITY-SENSITIVE RTD ACTIONS

Introduction

Special procedures will apply to security-related research, due to the sensitive nature of the subjects addressed, and the particular capability gaps that need to be addressed to protect Europe's citizens. RTD actions will be classified if they are considered as sensitive.

These procedures are described below and they will apply to the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) if so specified in the relevant call.

Identification of security-sensitive RTD Actions

A security-sensitive RTD action is an action that will need to handle classified information or exchange sensitive material subject to transfer or export licensing.

A "security considerations" flag will be associated with a proposal if the experts or, the FCH JU, detect or suspect any of the following conditions:

- Classified information is used as background information
- Some foreground is planned to be classified
- Export licences (or intra EU licences to transfer sensitive material) could be required for carrying the planned work

Whenever a "security considerations" flag is associated with a proposal, the circumstances of the planned work will be further scrutinised according to the procedure described below.

Classified RTD Actions

An RTD action will be EU-classified at the level of the highest classification of the documents used/produced by the RTD action.

Proposals under the theme 'Security', (and in other cases if so requested in the call), must identify the background required for carrying the RTD action and the foreground that will be produced by the action. Then, a Security Aspect Letter (SAL) will be part of the proposal and cover:

- The level of classification of background and foreground;
- The requirement to have export or transfer licences;
- Which participant will have access to what information;

- A copy of the clearances (or clearances requests);
- A copy of export or transfer licences (or requests);

The SAL, accompanied by supporting documents, will be examined in the scrutiny procedure described below.

Scrutiny of security-sensitive RTD Actions

The outcome of the evaluation will be a ranked list. The FCH JU will inform the Governing Board of the outcome of the evaluation. A “selection list” will contain proposals to cover the available budget plus reserve.

Any RTD action on the selection list, which has the flag “security considerations”, will undergo a scrutiny procedure performed by competent experts. These persons will verify if all security aspects are properly taken into account by the applicants.

This process should reach a common position between the competent experts, and could result in one of the following recommendations:

- No opposition is given and the RTD action can be negotiated;
- Recommendations for the negotiation are given and the negotiation will be subject to conditions;
- The proposal should not be financed because the participants have not the appropriate experience, skills to handle properly the classified information, transfer and export licences. In that case, the proposal will be rejected and the FCH JU will add an addendum to the Evaluation Summary Report accordingly to explain the reasons of rejection.

International cooperation

Security concerns will not be invoked as a reason for the non-selection of proposals for non-classified RTD actions that entail the participation of entities from a country, which is neither an EU Member State, nor a country associated to FP7. The only exceptions to this will occur if:

- The topic was described in the Annual Implementation Plan as not open to international cooperation: in that case any proposal containing international cooperation will be declared as ineligible;
- The "security considerations" flag has been raised, in which case the proposal will be scrutinised according to the procedure described above.

APPOINTMENT LETTER FOR INDEPENDENT EXPERTS

[Town], [date]
(name of the expert)
(function)
(mailing address)

Subject: [Call identifier(s)]

Dear [Title] [Name]

[OPTION for Evaluator]

[Thank you for agreeing to assist the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) as an independent expert, acting as evaluator, in the evaluation of research proposals in relation to the above call for proposals.]

[OPTION for Observer]

[Thank you for agreeing to assist the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) as an independent expert, acting as observer, during an evaluation session of research proposals in relation to the above call for proposals.]

The description of your work as [evaluator] [observer] is specified in Annex I of this *appointment letter*.

Upon your signature this *appointment letter* will constitute an agreement between you and the FCH JU to contribute to [the evaluation of proposals submitted to the FCH JU] [the evaluation session].

The terms and conditions set out in the annexes to this *appointment letter* form an integral part of this *appointment letter*.

SPECIFIC CONDITIONS

Duration of the agreement

This agreement enters into force on the date of the last signature of this letter. One original copy of the signed letter, including the duly completed and signed *Financial Identification form and Legal entities form for individuals* (Annex IV) should reach the FCH JU before [fixed date][starting date of work].

The agreement shall be completed on [*fixed date*] [*the date of acceptance of the report (s)/deliverable(s)*].

Arrangements for the Evaluation session(s)

[*SCENARIO 0: Multiple evaluation sessions (remote and/or central) – may be combined with scenarios below*]

[The maximum number of times you may be requested to participate in meetings under this agreement, involving separate trips to central evaluation premises, is [*NUMBER*].

[The maximum number of days performed at the central evaluation premises is [*NUMBER*] days.]

[The maximum number of days you may be requested to perform remote work (at home or place of work) is *NUMBER* days.]

[The indicative schedule attached in annex VII stipulates:

- The periods of the remote evaluation that shall be carried out at home or place of work.
- The dates by which deliverable(s) or report(s) should be submitted to the FCH JU.
- The dates and address of the central evaluation].

[The point of origin for travel under this agreement is [*the place of residence as indicated above in the mailing address*] or [*insert other address* (to be agreed prior to the signature of the appointment letter with the FCH JU)].

[*SCENARIO 1: CENTRAL evaluation*]

The maximum number of days assisting the FCH JU will not exceed [*NUMBER*] days.

[This includes [*NUMBER*] days for preparation at home or workplace.]

You are invited to attend the evaluation session at [*insert address*] starting on [*insert date of start of evaluation*] and finishing on [*insert likely date of ending of the evaluation*] at the latest.

The point of origin for travel under this agreement is [*the place of residence as indicated above in the mailing address*] [*insert other address* (to be agreed prior to the signature of the appointment letter with the FCH JU)].

[*SCENARIO 2: REMOTE evaluation*]

The maximum number of days assisting the FCH JU will not exceed [*NUMBER*] days].

[The number of days is defined in Annex VI]

[This includes [NUMBER] days for attending an initial briefing session taking place at [insert address] on [insert date].]

You are requested to submit the individual evaluation reports by [insert date] at the latest and participate in any subsequent consensus process on the proposals you evaluated.

[SCENARIO 3: REMOTE + CENTRAL evaluation (evaluators)]

The maximum number of days assisting the FCH JU will not exceed [NUMBER] days]. This includes

- [NUMBER] days for attending an initial briefing session taking place at [insert address] on [insert date].
- [NUMBER] days for the evaluation of proposals at home or place of work.

You are requested to submit the individual evaluation reports by [insert date] at the latest.

Furthermore you are invited to attend an evaluation session at [insert address] starting on [insert date of start of evaluation] and finishing on [insert likely date of ending of the evaluation] at the latest.

The point of origin for travel under this agreement is [the place of residence as indicated above in the mailing address] [insert other address (to be agreed prior to the signature of the appointment letter with the FCH JU)].

[SCENARIO 4: REMOTE + CENTRAL evaluation (observers)]

The maximum number of days assisting the FCH JU will not exceed [NUMBER] days]. This includes

- [NUMBER] days for examining the background information and preparation.
- [NUMBER] days for attending briefing meetings and direct observation of the process of evaluation of proposals.
- [NUMBER] days for finalising your report after the evaluation session.

You are requested to submit your report by [insert date] at the latest.

The point of origin for travel under this agreement is [the place of residence as indicated above in the mailing address] [insert other address (to be agreed prior to the signature of the appointment letter with the FCH JU)].

Applicable law and competent court

This *appointment letter* shall be governed by the terms of this *appointment letter*, the FCH JU Financial Rules and by the law of Belgium, *country of the seat of the Fuel Cells and Hydrogen Joint Undertaking*.

Furthermore, the *expert* is aware and agrees that the FCH JU may take a decision to impose pecuniary obligations.

The address and contact details for any correspondence regarding this appointment are:

(...*name*...)

Fuel Cells and Hydrogen Joint Undertaking

(...*office*...)

(...Street name – Postal Code/Cedex....Belgium)

(...Email or functional mailbox...)

(...Telephone ...)

[The address and contact details for obtaining reimbursement regarding this appointment are:

(...*name*...)

Fuel Cells and Hydrogen Joint Undertaking (...*office*...)

(...Street name – Postal Code/Cedex.... Belgium)

(...Email or functional mailbox...)

(...Telephone ...)]

Done in two originals

For the Fuel Cells and Hydrogen Joint Undertaking

Signature:

Brussels, *date:*

[For the independent expert acting as evaluator]

- I undertake to abide by the code of conduct for independent experts acting as evaluators covered in Annex II (**Code of conduct**).
- I undertake to inform the Fuel Cells and Hydrogen Joint Undertaking immediately if I discover any disqualifying or potential conflict of interest with any proposal that I am asked to evaluate or which is the subject of discussion in any evaluation meeting in which I participate (**Declaration of no conflict of interest**).

In particular, I declare that I have not submitted, nor am I, to my knowledge involved in any proposal currently under evaluation or submitted for evaluation, under the *Call for Proposals* (indicated in the subject of this appointment letter)

In particular, I declare that my participation in the evaluation of the following proposal(s) could create a conflict of interest (please indicate whether this would be a "disqualifying" or "potential" conflict of interest; see Annex I for explanation):

<i>Short title</i>	<i>Title</i>	<i>Area</i>	<i>disqualifying (D) or potential (P)</i>
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.....
.....
.....

- I undertake not to reveal any detail of the evaluation process and its outcomes or of any proposal submitted for evaluation without the express written approval of the Fuel Cells and Hydrogen Joint Undertaking. In case of evaluations carried out outside the premises of the FCH JU, I understand that I will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent and for returning, erasing or destroying all confidential documents or files upon completing the evaluation, unless otherwise instructed (**Declaration of confidentiality**).

For acceptance:

Signature:

Place, date:

[For the independent expert acting as observer]

- I undertake to abide by the code of conduct for independent experts acting as observers covered in Annex II (**Code of conduct**).
- I undertake to inform the Fuel Cells and Hydrogen Joint Undertaking immediately if I discover any disqualifying or potential conflict of interest with any proposal when examining the evaluation process that I am asked to observe or which is the subject of discussion in any evaluation meeting at which I am present (**Declaration of no conflict of interest**).

In particular, I declare that I have not submitted, nor am I, to my knowledge involved in any proposal currently under evaluation or submitted for evaluation, under the *Call for Proposals* (indicated in the subject of this appointment letter)

In particular, I declare that my participation in the observation of the process of the evaluation of the following proposal(s) process could create a conflict of interest (please indicate whether this would be a "disqualifying" or "potential" conflict of interest; see Annex I for explanation):

<i>Short title</i>	<i>Title</i>	<i>Area</i>	<i>disqualifying (D) or potential (P)</i>
.....
.....
.....

- I undertake not to reveal any detail of the evaluation process and its outcomes or of any proposal submitted for evaluation without the express written approval of the FCH JU. In case of evaluations carried out outside the premises of the FCH JU, I understand that I will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent and for returning, erasing or destroying all confidential documents or files upon completing the evaluation, unless otherwise instructed (**Declaration of confidentiality**).

For acceptance:

Signature:

Place, date:

Annexes:

Annex I: General conditions (incl. Conflict of interest issues) for independent experts

Annex II: Specific conditions - Code of conduct for [independent experts acting as evaluators] [independent experts acting as experts observers]

Not included here:

Annex III: Provisions for reimbursement expenses

Annex IV: Financial Identification form and Legal entities form for individuals

Annex V: Reimbursement of expenses forms

Annex VI: (Optional) Specific payment provisions for remote evaluations

Annex VII: (Optional) Provisional planning

General Conditions applicable to the appointment of Independent experts

(Annex I to the appointment letter)

Scope

These general conditions apply to *appointment letters* for experts assisting the Fuel Cells and Hydrogen Joint Undertaking's services for tasks in connection with the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) (EC FP7)¹.

Circumstances in which a conflict of interest may exist

A disqualifying conflict of interest exists if an expert:

- Was involved in the preparation of the proposal
- Stands to benefit directly should the proposal be accepted
- Has a close family relationship with any person representing an applicant organisation in the proposal
- Is a director, trustee or partner of an applicant organisation
- Is employed by one of the applicant organisations in a proposal²
- Is a member of one of the Advisory Groups set up by the Fuel Cells and Hydrogen Joint Undertaking to provide advice on the preparation of the Annual Implementation Plan.
- Is in any other situation that compromises his or her ability to evaluate the proposal impartially.

A potential conflict of interest may exist, even in cases not covered by the clear disqualifying conflicts indicated above, if an expert:

- Was employed by one of the applicant organisations in a proposal within the previous three years
- Is involved in a contract or research collaboration with an applicant organisation, or had been so in the previous three years
- Is in any other situation that could cast doubt on his or her ability to evaluate the proposal impartially, or that could reasonably appear to do so in the eyes of an external third party.

¹ EC FP7 OJ L412 of 30.12.2006, p1.

² When an expert is working in a different department/laboratory/institute to the one where the work is to be carried out, and where the constituent bodies operate with a high degree of autonomy, the Fuel Cells and Hydrogen Joint Undertaking may exceptionally allow the expert to participate in the evaluation, if duly justified by the limited size of the pool of qualified experts.

Description of the work

Work of the independent expert acting as evaluator

Evaluation work includes formulating recommendations on the proposals submitted to the FCH JU. The evaluator shall apply to the best of his/her abilities, his/her professional skills, knowledge and ethics, in accordance with the guidelines and time-schedules provided by the FCH JU.

The evaluator shall provide the FCH JU with any information it may request for the management of the evaluation. Evaluation work requires the evaluator to complete reports, provide comments on proposals, and submit these to the FCH JU using the forms provided by the FCH JU, as appropriate. In addition, the evaluator may be asked to act as a "rapporteur", chairperson, or vice-chairperson for consensus discussions or meetings of panels of experts.

Work of the independent expert acting as observer

The role of the independent expert acting as observer is to give independent advice to the FCH JU on the conduct and fairness of all phases of the evaluation sessions, ways in which the experts acting as evaluators apply the evaluation criteria, and on ways in which the procedures could be improved. The observer shall apply to the best of his/her abilities, his/her professional skills, knowledge and ethics, in accordance with the guidelines and time-schedules provided by the FCH JU.

The observer shall examine the management and execution of evaluation sessions. As such, the observer verifies that the procedures set out or referred to in the 'Rules on submission of proposals, and the related evaluation, selection and award procedures' are adhered to, and report to the FCH JU on ways in which the evaluation process could be improved. The observer is encouraged to liaise with the staff from the FCH JU involved in the evaluation sessions and to make observations on any possible improvements that could be put into practice immediately. However, in the framework of his/her work, the observer shall not express views on the proposals under evaluation or the experts' opinions on the proposals.

To this end, the observer is also invited to be present from the beginning of the evaluation process, especially when the experts acting as evaluators are briefed by the FCH JU. When part of an evaluation takes place away from the premises of the FCH JU ("remote evaluation"), he/she may assess that stage after the event on the basis of discussion with the experts acting as evaluators once they have gathered in the premises dedicated for evaluation.

The observer shall report his/her findings to the FCH JU according to a model provided by the FCH JU.

Implementation of the work

Carrying out the work is subject to the experts' availability and subject to the maxima indicated in the *appointment letter*.

The maxima and other specific conditions indicated in the *appointment letter* may be modified through written amendments.

Further information and reference documents relating to the work are available at <http://cordis.europa.eu> and the FCH JU website, when available.

Inability to perform obligations and termination

If for some reason the experts are not able to fulfil their obligations for a given work, the FCH JU should be informed immediately.

The expert may not delegate another person to carry out the work or be replaced by any other person without the prior written agreement of the FCH JU.

In case of non-performance or poor performance of the work and/or breach of any substantial obligations, including obligations relating to the declarations of confidentiality and no conflict of interest and to the code of conduct, the FCH JU may at any time instruct the expert to cease evaluation work immediately, without formal notice. Furthermore, the termination of appointment shall become effective on the date of receipt by the expert concerned, of formal notification sent by the FCH JU by registered mail.

Start of work

The FCH JU will not make available to the experts any proposals or any other confidential material until it has received the signed original of the *appointment letter*, including the *declaration of no conflict of interest and confidentiality*.

Payments

The experts are entitled to a payment of €450 in the form of a lump sum for each full working day spent assisting the FCH JU's services. The total payment will be calculated to the nearest half day. The payment is made in Euros.

The overall amount shall not exceed the maximum possible contribution for this appointment.

The FCH JU reserves the right to refuse to provide a financial contribution in case of non-performance or poor performance of the work and/or breach of any substantial obligations, including the obligation of *confidentiality* and any obligation described in *the code of conduct*, and in the *no conflict of interest declaration*.

The FCH JU reserves the right to refuse to make a contribution for any report or other deliverable required by the *appointment letter* that is submitted beyond the date specified above under the Specific conditions.

The FCH JU reserves the right to recover any payment made and to exclude from further work any expert who has breached the obligations arising from the *declarations of confidentiality* and *no conflict of interest* and from *the Code of conduct*

To obtain the reimbursement of the expenses and/or the payment for working day(s), the experts will be required to send to the FCH JU at the address specified in the *appointment letter*, the duly completed and signed *forms* (Annex V) together with all required supporting documents, within 30 days from the last day of meeting or of remote evaluation for each evaluation session, whichever is the latest.

The FCH JU shall disburse the corresponding payments within 45 days of their receipt, unless the time-limit has been suspended.

Should a required form and/or supporting document related to a claim for reimbursement/payment be incomplete or should some clarification or additional information be required, the FCH JU reserves the right to suspend the time-limit of 45 days for payment until such document(s) is (are) received. The suspension will be lifted from the date when the documents or the information requested are received by the FCH JU.

The FCH JU shall inform the experts in writing of any suspension of payment and the conditions to be met for lifting the suspension. Suspension shall take effect on the date when notice is sent by the FCH JU.

Should a claim for reimbursement/payment have not been supplied after the time-limit of 30 days, the FCH JU reserves the right to refuse to make a reimbursement/payment.

When the FCH JU decides not to proceed with a reimbursement/payment, the experts shall be duly informed subject to 30 days written notice of non-receipt of a claim for reimbursement/payment.

Arrangements as regards payment and reimbursement are between the experts and the FCH JU, even if the experts are employed by an organisation. It will be for the expert and his/her employer to come to any particular agreement concerning the final destination of any payments and reimbursement; the FCH JU will not intervene in this agreement.

The expert must commit to respect applicable national legislation with regard to any payment or reimbursement received from the FCH JU and with regard in particular to taxation, social security matters and working rights. Upon request by any competent national authorities, the FCH JU may inform them about any payment made for the performance of the work.

Reimbursement of travel and subsistence expenses

In any assignment involving travel, only travel and subsistence expenses¹ will be reimbursed. Travel expenses are reimbursed on the basis of actual expenditure and subsistence expenses are based on a flat rate per diem².

Except in the case of "*force majeure*,"³ the reimbursement of travel and subsistence expenses will be strictly limited to one return travel per meeting from the point of origin and for the dates agreed in the appointment letter.

Processing of personal data

- All personal data contained in the *appointment letter* shall be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council (OJ L8 of 12.01.2001, p1) 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. Such data shall be processed by solely in connection with the implementation and follow-up of the *appointment letter*, without prejudice to a possible transmission to the bodies in charge of a monitoring or inspection task in accordance with Community legislation and this *appointment letter*.

¹ and not for instance to equipment or other resources required for evaluation

² According to Annex III

³ "*Force majeure*" shall mean any unforeseeable and exceptional event affecting the fulfilment of any obligation under this *appointment letter* by the experts, which is beyond their control and cannot be overcome despite their reasonable endeavours.

- Experts may, on written request, gain access to their personal data and correct any information that is inaccurate or incomplete. They should address any questions regarding the processing of their personal data to the contact person indicated in the appointment letter. Experts may lodge a complaint against the processing of their personal data with the European Data Protection Supervisor at any time.

Other conditions

Any results obtained by the independent expert in performance of the work shall be the property of the FCH JU, except where industrial or intellectual property rights already exist.

The FCH JU shall not under any circumstances or for any reason whatsoever is liable for damage sustained by the experts during the performance of the work.

Except in the case of "*force majeure*," the experts may be required to indemnify the FCH JU for any damage it may sustain in the performance, poor or otherwise, of the work.

The provisions of the *appointment letter*, of the present *general conditions*, including the *code of conduct* and the *confidentiality and no conflict of interest declaration* do not constitute an employment agreement and the FCH JU is not liable to provide the experts with any compensation or coverage in the event of injury or illness.

Specific Conditions - Code of Conduct for Independent Experts acting as Observers

(Annex II to the appointment letter)

1. The task of an expert is to observe the evaluation process in a confidential, fair and equitable way, according to the procedures described in the 'Rules on submission of proposals, and the related evaluation, selection and award procedures' and in any specific evaluation document. He/she must use his/her best endeavours to achieve this, follow any instructions given by the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) to this end and deliver a constant and high quality of work.
2. The expert works as an independent person. He/she is deemed to work in a personal capacity and, in performing the work, does not represent any organisation.
3. The expert must sign a declaration of no conflict of interest and confidentiality before starting the work, by which he/she accepts the present Code of Conduct. Invited experts who do not sign the declaration will not be allowed to work as an expert.
4. In doing so, the expert commits him/herself to strict confidentiality and impartiality concerning his/her tasks.
5. If an expert has conflicts of interest, he/she must declare such facts to the responsible staff from the FCH JU as soon as he/she becomes aware of this. The FCH JU ensures that, where the nature of any link is such that it could threaten the impartiality of the expert, he/she does not participate as an observer.
6. Experts may not discuss any proposal with others, including other experts or staff from the FCH JU not directly involved in the evaluation process.
7. Experts may not communicate with applicants. Experts' advice to the FCH JU may not be communicated by them to the applicants or to any other person.
8. Experts are not allowed to disclose any detail of the monitoring and evaluation processes (including names of other experts participating in the evaluation) and their outcomes or of any proposal submitted for evaluation without the express written approval of the FCH JU.
9. Where the evaluation takes place in an office or building reserved by the FCH JU, experts are not allowed to take outside the evaluation building any parts of proposals, copies or notes, either on paper or in electronic form, relating to the evaluation of proposals without the approval of the FCH JU.
10. Experts are required at all times to comply strictly with any rules defined by the FCH JU for ensuring the confidentiality of the evaluation process and its outcomes. Failure to comply with these rules may result in exclusion from the immediate and future monitoring and evaluation processes, without prejudice to penalties that may derive from other applicable Regulations.

Specific Conditions - Code of Conduct for Independent Experts acting as Evaluators

(Annex II to the appointment letter)

1. The task of an expert is to participate in a confidential, fair and equitable evaluation of each proposal according to the procedures described in this guide and in any specific evaluation document. He/she must use his/her best endeavours to achieve this, follow any instructions given by the Fuel Cells and Hydrogen Joint Undertaking (FCH JU) to this end and deliver a constant and high quality of work.
2. The expert works as an independent person. He/she is deemed to work in a personal capacity and, in performing the work, does not represent any organisation.
3. The expert must sign a declaration of no conflict of interest and confidentiality before starting the work, by which he/she accepts the present Code of Conduct. Invited experts who do not sign the declaration will not be allowed to work as an expert.
4. In doing so, the expert commits him/herself to strict confidentiality and impartiality concerning his/her tasks.
5. If an expert has a conflict of interest with a proposal, he/she must declare such facts to the responsible staff from the FCH JU as soon as he/she becomes aware of this.
6. In addition the expert signs a declaration at the bottom of the individual evaluation report for each proposal that he/she examines for the FCH JU notifying that no conflicts of interest for this particular proposal exist. The FCH JU ensures that, where the nature of any link is such that it could threaten the impartiality of the expert, he/she does not participate in the evaluation of that proposal, and, if necessary, competing proposals.
7. Experts may not discuss any proposal with others, including other experts or staff from the FCH JU not directly involved in the evaluation of the proposal, except during the formal discussion at the meetings moderated by or with the knowledge and agreement of the responsible staff from the FCH JU.
8. Experts may not communicate with applicants, except in the case of panel hearings between experts and applicants organised by the FCH JU as part of the evaluation process. No proposal may be amended during the evaluation session. Experts' advice to the FCH JU on any proposal may not be communicated by them to the applicants or to any other person.
9. Experts are not allowed to disclose the names of other experts participating in the evaluation.
10. Where it has been decided that proposals are to be posted or made available electronically to experts, who then work from their own or other suitable premises, the expert will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent and returning, erasing or destroying all confidential documents or files upon completing the evaluation as instructed. In such instances, experts may seek further information (for example through the internet,

specialised databases, etc.) in order to allow them to complete their examination of the proposals, provided that the obtaining of such information respects the overall rules for confidentiality and impartiality. Experts may not show the contents of proposals or information on applicants to third parties (e.g. colleagues, students, etc.) without the express written approval of the FCH JU. It is strictly forbidden for experts to make contact with applicants.

11. Where the evaluation takes place in an office or building controlled by the FCH JU, experts are not allowed to take outside the evaluation building any parts of proposals, copies or notes, either on paper or in electronic form, relating to the evaluation of proposals. Experts may be given the possibility of seeking further information (for example through the internet, specialised databases, etc.) to allow them to complete their examination of the proposals, but they may not contact third parties without the express consent of the FCH JU staff supervising the evaluation.
12. Experts are required at all times to comply strictly with any rules defined by the FCH JU for ensuring the confidentiality of the evaluation process and its outcomes. Failure to comply with these rules may result in exclusion from the immediate and future evaluation processes, without prejudice to penalties that may derive from other applicable Regulations.