

To whom it may concern

Barcelona, **31 JAN 2019**

**Subject: Withdrawal of the United Kingdom from the European Union (BREXIT)  
Consequences for F4E procurement procedures and ongoing contracts**

Dear Sir or Madam,

The United Kingdom (UK) submitted on 29 March 2017 the notification of its intention to withdraw from the European Union (EU) and Euratom (BREXIT). This withdrawal is expected to take effect on 30 March 2019. From that date, the UK will no longer be a member of Euratom, effectively becoming a third country for the European Joint Undertaking for ITER and the Development of Fusion Energy (Fusion for Energy or F4E).

This communication provides guidance regarding the consequences of this withdrawal for F4E procurement procedures and ongoing F4E contracts with entities established in the UK (direct and framework contracts). The below information does not apply to UK beneficiaries with ongoing grant agreements, whom will be contacted separately. This communication is based on the currently most likely scenario of a BREXIT without a withdrawal agreement between the EU and the UK or a delay of the BREXIT date (no deal BREXIT).

**1. Access to F4E procurement procedures**

***Procurement procedures launched before 30 March 2019***

Until 30 March 2019 the UK remains a full member of the EU and until that date UK entities retain the right to participate in F4E procurement procedures. For any procurement procedure resulting in a contract signed by both F4E and a UK entity before 30 March 2019, the contractual terms will be honoured.

However, should an F4E procurement procedure not be concluded before 30 March 2019, any UK entity bidding as a prime contractor, will be rejected from that procurement procedure. From 2018 F4E has included a warning to that effect in its procurement documentation.

## ***Procurement procedures launched from 30 March 2019***

F4E, under the provisions of its Financial Regulation, may normally only enter into contract with prime contractors that have access to the F4E market (i.e. entities that have the actual pursuit of a genuine economic activity and their registered office, central administration or principal place of business established in an EU Member State or Switzerland). Accordingly, from 30 March 2019, UK entities not fulfilling this requirement will no longer have the right to participate in F4E procurement procedures, unless explicitly otherwise indicated in the procurement procedure concerned (i.e. in the exceptional case a procurement procedure is opened to UK entities).

### **2. Implementation of ongoing F4E contracts**

#### ***Direct and framework contracts***

Direct, framework and specific contracts signed with UK entities before 30 March 2019 that are ongoing on that date, will be implemented in accordance with their terms until their end-date. This includes the signature of modifications to these contracts, the exercise of options under these contracts and the signature of specific contracts under framework contracts, if considered necessary by F4E to achieve its objectives. Further, any contractual obligation remaining after the end date of such contract shall be respected (e.g. obligations related to warranties, financial guarantees, confidentiality, etc.).

#### ***Subcontracts***

The rules governing access to F4E procurement procedures, as indicated above, do not generally apply to subcontracting. This means that a UK entity may, at any time, be included as a subcontractor under a direct or framework contract, unless a limitation to this possibility is included in the procurement documents of the procurement procedure for that contract.

#### ***Indirect effects***


Notwithstanding the previous paragraphs, both UK prime contractors and EU prime contractors with UK subcontractors must be aware that the implementation of contractual obligations under ongoing F4E contracts may be impacted by the UK's withdrawal from the EU. Areas that are likely to be affected are e.g. free movement of goods, services and persons, export control of dual-use technologies (within the meaning of Council Regulation (EC) No 428/2009 of 5 May 2009) and intellectual property rights. Depending on the contract, other areas might also be affected. As a consequence, certain contractual obligations under ongoing F4E contracts may become more difficult or impossible to achieve.

### **3. Short term actions**

In view of the above indirect effects, F4E invites UK entities with ongoing F4E direct or framework contracts and EU prime contractors with UK subcontractors under F4E contracts, to communicate as soon as possible which measures are planned or have been taken to safeguard the implementation of those ongoing contracts in anticipation of a no deal BREXIT. Please contact the Contracts and Procurement Officer (CPO) assigned to these ongoing contracts regarding the above. The assigned CPO will also be the main point of contact for any question concerning BREXIT.

Further, F4E has activated a BREXIT support desk to answer general questions or questions from potential bidders. The BREXIT support desk can be contacted through the following email address: [brexit-helpdesk@f4e.europa.eu](mailto:brexit-helpdesk@f4e.europa.eu).

Yours sincerely,



Leonardo BIAGIONI

Head of the Contracts & Procurement Unit