



# GUIDE TO FILLING IN THE BACKGROUND DECLARATION

---

## Contents

1. OBJECTIVE OF THE FOREGROUND DECLARATION .....	1
2. HOW TO FILL IN THE SUMMARY PAGE .....	1
3. HOW TO FILL IN THE DESCRIPTION OF EACH ITEM .....	7
4. EXAMPLE OF A FULLY FILLED OUT DECLARATION .....	13
5. FOREGROUND DECLARATION WHEN THERE IS NOTHING TO DECLARE .....	14

## 1. OBJECTIVE OF THE BACKGROUND DECLARATION

---

The activities of F4E within the framework of the ITER project involve the procurement of items that require significant research and development activities. In turn, these activities result in the generation of Intellectual Property, referred to as IP in this document. Contractors frequently need to use their own IP Rights for executing the contract or F4E needs to access said IP Rights in order to use the results of the contract. These IP Rights constitute the so called Background of the contract.

The Background Declaration is the document used by the Contractor to communicate to F4E its Background that will be brought into the contract. The declaration is annexed to the signed contract.

The objective of the Background declaration is to allow the contractor to properly identify the background Intellectual Property Rights. The declaration should include the following:

- Nature of the item, i.e. design, software, patent, etc.
- Type of protection (patent, trade secret, copyright, industrial design) for each declared item;
- Ownership information
- Confidentiality
- Whether the Background item was originated in an Euratom/F4E contract

The Background declaration is compared against the Foreground declaration at the end of the contract in order to establish a clear understanding of the ownership regime and access rights for all the Intellectual Property assets within an F4E contract, i.e. what has been generated under the contract (Foreground) and what was brought by the contractor to the contract or grant (Background).

In this document you will find the necessary instructions to fill in the Background declaration. The document begins by explaining what should be included in a Background declaration and what should not be included. An explanation about how to fill in the summary page of the declaration, the first page in the template, is provided in section 4. Instructions on how to fill in the description of each of the items included in the declaration are also provided in section 5.

## 2. WHAT SHOULD BE INCLUDED IN THE BACKGROUND DECLARATION

---

The declaration should only include items that actually constitute Background to the contract. Only items which are necessary to carry out the contract or to use its results should be included. Thus, information about other IP assets that the contractor may have but which are not relevant to the contract or which are not used to carry out the contractual activity or by F4E to use its results later should not be declared at all.

The items included in the declaration should be concrete and specific, i.e. implemented in a document, patent, etc. Unspecific information such as general declarations about experience or know-how which is not embodied in any document is not eligible as background.

The nature of the IP protection provided for each item should also be taken into account when declaring the items. Here below you can find a non-exhaustive list of types of items which are eligible to be declared along with its kind of protection:

- Designs or drawings – copyright
- Software, source code, databases – copyright
- Inventions – patents or patents applications

It should be born in mind that any of those items may be considered as confidential by the contractor and thus, be dealt as trade secret. This should be also communicated in the declaration.

### **3. WHAT SHOULD NOT BE INCLUDED IN THE BACKGROUND DECLARATION**

---

As explained above, the Background declaration is intended to declare Intellectual Property rights. Thus, intangible forms of information such as ideas, experience or nonspecific know-how should not be included in the declaration because they are not covered by any form of Intellectual Property.

Additionally, as referred above, the contractor should not declare any Intellectual Property asset which is not necessary to carry out the contract or to use its results.

It is also necessary to point out that since Background is defined as the Intellectual Property brought into the contract, items owned by F4E should not be included in the background declaration. This could be the case for results stemming of previous F4E contracts where F4E was the owner of the Foreground. These results should not be included in the Background declaration.

On the other hand, all results from a previous contract where the Contractor was the owner of the Foreground, and notably all Grants, should be included in the Background declaration provided that they are necessary to carry out the contract or use its results.

### **4. HOW TO FILL IN THE SUMMARY PAGE**

---

The first page of the declaration identifies the contractual activity, the contractor or subcontractor, and includes a summary of the information included in the declaration.

In order to explain how to fill in each of the fields of the Background Declaration form, figure 1 shows the summary page with reference numbers that will be referred to when explaining the different fields in the form.

F4E\_D\_2GFFJC



**FUSION  
FOR  
ENERGY**

**BACKGROUND  
DECLARATION FORM**

1	<b>Contract Ref.</b>	F4E-OPE-XXX-XX
2	<b>Title of the Contract</b>	
3	<b>Declaring company/entity</b>	<input type="checkbox"/> <b>Contractor:</b> <input type="checkbox"/> <b>Subcontractor:</b>
4	<b>Contact person of the declaring company/entity</b>	<b>Name:</b> <b>E-mail address:</b>
5	<b>List of items included in this Background declaration</b>	1. Item #1 2. Item #2 3. Item #3
6	<b>List of Confidential items included in this Background declaration</b>	1. Item #1 2. Item #2
7	<b>In case there would be no Background Intellectual Property to be declared</b>	<input type="checkbox"/> I declare that I have no background intellectual property to declare for this contract
8	<b>Signature of the present Background declaration by the declaring company/entity</b>	<b>Signature:</b>  <b>Name and position of the Undersigned:</b>  <b>Date and place of the signature:</b>

In case you need assistance filling in this form, please, refer to the [Industry Portal IP Section](#)



## 1 Contract reference

This field contains the contract reference number as it appears in the contract document.

The complete F4E reference number including the Lot, Task Order, or Specific Grant number should be indicated.

<b>Contract Ref.</b>	F4E-OPE-111-01-01
----------------------	-------------------

Note: this number must be indicated at the header of each page of the declaration form.

## 2 Title of the Contract

This field contains the title of the contract. Please indicate the complete title of the Task Order/Specific Contract as it appears in the Contract document or the technical specification (Annex B).

<b>Title of the Contract</b>	Design of the glazing of component X
------------------------------	--------------------------------------

## 3 Declaring Company/Entity

This field identifies the Declaring Company or Entity.

The name of the Company or Entity should be its legal name. Brand names cannot be indicated.

The Declaring Company/Entity tends to be the Contractor but it may also be the Subcontractor. This is the case when the Subcontractor has been clearly/properly identified before the award of the contract or during its execution, and it is the owner of the declared Information and Intellectual Property.

The example below refers to the contractor as Declaring company which is the most common case:

<b>Declaring company/entity</b>	<input checked="" type="checkbox"/> <b>Contractor:</b> TECH S.L.  <input type="checkbox"/> <b>Subcontractor:</b>
---------------------------------	--

4

### Contact Person of the declaring company

This field is used to identify the contact details of the person managing the declaration in the Declaring Entity. Example:

<b>Contact person of the declaring company/entity</b>	<b>Name:</b> John Smith  <b>E-mail address:</b> <a href="mailto:John.smith@tech.com">John.smith@tech.com</a>
---	--

5

### List of items included in this Background declaration

This field contains a list with references to all the Items declared in the declaration regardless of whether they are protected or not or whether they are of a confidential nature or not.

<b>List of items included in this Background declaration</b>	<ol style="list-style-type: none"> <li>1. Glass composition</li> <li>2. Process for producing glass material</li> </ol>
--	---

6

### List of Confidential items included in this Background declaration

This field should be used to identify only the Items listed in field 5 which are Confidential. “Confidentiality” in the Background Declaration refers to items that have not been disclosed to any third party by the Declaring Entity or F4E without any measures to maintain its confidential nature, i.e. without signing a Non Disclosure Agreement (NDA).

F4E shall not be held liable for the disclosure of any information whose confidential nature has not been previously declared and agreed.

<b>List of Confidential items included in this Background declaration</b>	2. Process for producing glass material
---	---

## 7 In case there would be no Background to be declared

This field should be checked only in case no Background will be incorporated into the contract by the declaring entity. Please, refer to section 7 of this guide “*BACKGROUND DECLARATION WHEN THERE IS NOTHING TO DECLARE*” for instructions on how to proceed.

<b>In case there would be no Background Intellectual Property to be declared</b>	<input type="checkbox"/> I declare that I have no background intellectual property to declare for this contract
--	---

## 8 Signature of the Background declaration

This field should contain the signature of an authorized representative of the Declaring Entity. The signatory should be entitled to legally sign on behalf of the Declaring entity.

<b>Signature of the present Background declaration by the declaring company/entity</b>	<b>Signature:</b>  <b>Name and position of the Undersigned:</b> Adam Johnson, Executive Manager  <b>Date and place of the signature:</b> London, 20 <sup>th</sup> March 2015
--	--

## 5. HOW TO FILL IN THE DESCRIPTION OF EACH ITEM

For each of the items listed in the *List of items included in this Background declaration* (5) further description should be provided in pages 2-4 of the template.

Figure 2 below includes the reference numbers that will be referred to when explaining the different fields in the form. For each field an example is provided. Please, refer to the available sample in the [IP Section of the Industry Portal](#) for a fully completed declaration including all the examples used throughout this guide.

F4E\_D\_2GFFJC



**FUSION  
FOR  
ENERGY**

### BACKGROUND DECLARATION FORM

<b>1</b>	<b>Contract Ref.:</b>	
<b>9</b>	<b>1. ITEM #1</b>	
<b>10</b>	<b>Confidential</b>	<input type="checkbox"/> <b>YES</b> <input type="checkbox"/> <b>NO</b>
<b>11</b>	<b>Technology Code (4 digits) (<a href="#">see list</a>)</b>	
<b>12</b>	<b>Description</b>	Description of the Item







**FUSION  
FOR  
ENERGY**

## BACKGROUND DECLARATION FORM

<b>1</b>	<b>Contract Ref.:</b>	<b>Item :</b> Item #1
<b>13</b>	<b>Owner</b>	<input type="checkbox"/> Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Third Party
<b>14</b>	<b>Type of protection</b>	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Copyright (e.g. database, software, drawings, etc.) <input type="checkbox"/> Other:
<b>15</b>	<b>Publications (scientific papers, conferences, etc.)</b>	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
<b>16</b>	<b>Does it depend on other declared items in this Background declaration?</b>	<input type="checkbox"/> YES, OWN IP: <input type="checkbox"/> YES, BELONGING TO A THIRD PARTY: <input type="checkbox"/> NO
<b>17</b>	<b>Does it come from former contracts/grants with F4E, EFDA, EURATOM, ITER?</b>	<input type="checkbox"/> YES, contract/grant reference : <input type="checkbox"/> NO
<b>18</b>	<b>Licenses granted</b>	<input type="checkbox"/> YES, with following details (licensor, licensee, exclusivity, scope, etc.): <input type="checkbox"/> NO

In case you need assistance filling in this form, please, refer to the [Industry Portal IP Section](#)



## 1 Contract Reference

This field should contain the contract reference as included in *Contract Reference* (1) of the summary page. This number should be included in the header of every page of the declaration. The title of the item to be described will also be included in the header of the page if the field is present. This allows for a quick and easy identification of all pages in the declaration.

<b>Contract Ref.</b>	F4E-OPE-111-01-01
----------------------	-------------------

## 9 Reference of the Item

This field should make reference to the item to be described in the following pages of the form. The reference should match the one included in the *List of items included in this Background declaration* (5) of the summary page of the declaration.

2. Process for producing glass material
---

## 10 Confidential

This field should be checked in case the Item being described is confidential. Therefore, if this box is checked the item must have been included in the *List of Confidential items of the Background declaration* (6).

<b>Confidential</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
---------------------	--

## 11 Technology Code

This field should contain the Technology Code corresponding to the item under description. A list of technologies with its respective codes to be used is available in the corresponding section of the Intellectual Property section of the Industry Portal ([https://industryportal.f4e.europa.eu/IP\\_PAGES/TechnologyCodes.aspx](https://industryportal.f4e.europa.eu/IP_PAGES/TechnologyCodes.aspx)).

<b>Technology Code</b> (4 digits) ( <a href="#">see list</a> )	0315 glass technologies
--	-------------------------

## 12 Description



This field should contain a more detailed description of the item being declared. The declaration should provide enough information to understand the nature of the item, its different uses and features such as functionality, structure, etc.

<b>Description</b>	<p>Process for producing glass material which is suitable for being moulded into sheets for lamination. The process consists on the steps of:</p> <ul style="list-style-type: none"> <li>- Heating a composition of powder silicon dioxide sodium dioxide to 370°C for 2 hours</li> <li>- Cooling down the composition in synthetic oil at room temperature for</li> </ul>
--------------------	--

### 13 Owner

This field should indicate the ownership of the item. This could be either a contractor, subcontractor or a third party. In case the owner is a third party which is not part of this contract, then the third party should be named. In this case, the box *Licenses granted* (8) should contain information explaining the title under which the declaring entity is allowed to use this item in the contract. This is typically the case when a license is granted to the declaring entity.

<b>Owner</b>	<p><input checked="" type="checkbox"/> Contractor</p> <p><input type="checkbox"/> Subcontractor</p> <p><input type="checkbox"/> Third Party</p>
--------------	---

### 14 Type of protection

This field should indicate the type of Intellectual Property right protecting the item. It is possible to have more than one options checked. For instance when a patent is being considered for the protection of an item, the option “*Trade secret, is to be kept confidential*” should also be ticked. Another example would be when the declaration of a confidential source code of a software , in which case it should be declared as both “copyright” (software is protected under copyright law) and “trade secret” (to maintain confidentiality).

<b>Type of protection</b>	<p><input type="checkbox"/> Patent Publication/Application no.:</p> <p><input checked="" type="checkbox"/> Trade secrets, it is kept confidential.</p> <p><input type="checkbox"/> Copyright (e.g. database, software, drawings, etc.)</p> <p><input type="checkbox"/> Other:</p>
---------------------------	---

## 15 Publications

This field should contain the details of any publication (scientific paper, poster, conference, etc.) relating to the item. Publications included in this box are used exclusively to either further describe or to prove existence of the item being declared.

<b>Publications (scientific papers, conferences, etc.)</b>	<input type="checkbox"/> <b>YES, Publication References:</b> <input checked="" type="checkbox"/> <b>NO</b>
--	---

## 16 Does it depend on other declared items in this Background declaration?

This field should indicate whether in order to use the item under declaration it is necessary to have access to any other item in the present declaration.

This is the case when using the item which is being declared necessarily involves the use of another item of the same declaration. This could be for IP rights reasons, i.e. legal dependence, or because technically the use of a component covered by the item under declaration implies the access to another item in the Background declaration, i.e. technical dependence. For example, this would be the case when the design of the same component is protected both by copyright and more than one patent, or when a single component is protected by more than one patent.

If the declaring Entity does not own the background items, then the relevant field should be checked including the name of the owner.

<b>Does it depend on other declared items in this Background declaration?</b>	<input checked="" type="checkbox"/> <b>YES, OWN IP: Item 1(Glass Composition)</b> <input type="checkbox"/> <b>YES, BELONGING TO A THIRD PARTY:</b> <input type="checkbox"/> <b>NO</b>
---	---

## 17 Does it come from former contracts/grants with F4E, EFDA, EURATOM, ITER

This field should be used to inform F4E about the origin of the item, e.g. contracts/grants under publicly funded research.

Since the conditions for using the Background may be different depending on what is the origin of the item, it is necessary for F4E to be able to establish it.

Does it come from former contracts/grants with F4E, EFDA, EURATOM, ITER?	<input type="checkbox"/> YES, contract/grant reference :  <input checked="" type="checkbox"/> NO
--	--

## 18 License granted

This field should be used to inform F4E about any possible limitation to the use of the item. This could be the case if the use of the item being declared has been granted to the contractor through a license from a third party. In this case, the declaring entity should provide details about the conditions of the license such as temporal, territorial, technical or commercial scope. The owner of the asset must also clearly be identified in this field.

If the item has been marked as being owned by a third party (see field *Owner* 13), then this box should be filled in.

Licenses granted	<input type="checkbox"/> YES, with following details (licensor, licensee, exclusivity, scope, etc.):  <input checked="" type="checkbox"/> NO
------------------	--

## 6. EXAMPLE OF A FULLY FILLED OUT DECLARATION

---

A fully completed declaration with the items showed above is available along with these instructions in the IP section of the [industry portal](#). Other IP items are also included in the same declaration for illustrative purposes.

## 7. BACKGROUND DECLARATION WHEN THERE IS NOTHING TO DECLARE

---

In case that no item will be included in the declaration, then the declaring entity should provide all the necessary identification information about the entity and the contract and check the box *In case there would be no Background Intellectual Property to be declared*  (7). In this case, the declaration must only have the cover page and no item be neither listed in the cover page or describer in subsequent pages.



**FUSION  
FOR  
ENERGY**

**BACKGROUND  
DECLARATION FORM**

Contract Ref.	F4E-OPE-111-01-01
Title of the Contract	Design of the glazing of component X
Declaring company/entity	<input checked="" type="checkbox"/> Contractor: Tech S.L. <input type="checkbox"/> Subcontractor:
Contact person of the declaring company/entity	Name: John Smith E-mail address: <a href="mailto:John.smith@tech.com">John.smith@tech.com</a>
List of items included in this Background declaration	1.
List of Confidential items included in this Background declaration	2.
In case there would be no Background Intellectual Property to be declared	<input checked="" type="checkbox"/> I declare that I have no background intellectual property to declare for this contract
Signature of the present Background declaration by the declaring company/entity	Signature:  Name and position of the Undersigned: Adam Johnson, Executive Manager  Date and place of the signature: London, 20 <sup>th</sup> March 2015

In case you need assistance filling in this form, please, refer to the [Industry Portal IP Section](#)