



## Procedure for managing conflicts of interest

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<b>Description</b>	Procedure for preventing and remedying conflicts of interest
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<b>Purpose</b>	To establish guidelines to detect and resolve conflicts of interest that may arise at ICN2
<b>Classification</b>	Internal document

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## INTRODUCTION

The purpose of this Conflict of Interest Management Procedure (hereinafter, the Procedure) is to establish guidelines for managing conflicts of interest that may arise at ICN2 in relation to its procedures and operations when using funds from the Recovery, Transformation and Resilience Plan (hereinafter, the RTP) and any other type of fund managed by ICN2 in the future, if there is a legal obligation to apply this Procedure to them.

This Procedure forms part of the Policy for the Prevention of Corruption, Fraud and Conflicts of Interest. Its purpose is to detect, report and manage conflicts of interest, defining and regulating the procedure applicable to the resolution of such conflicts, so that they do not directly or indirectly clash with the aims and objectives of ICN2, the RTP, its personnel and/or any third party, to ensure that at ICN2 situations in which there might be conflicts of interest are foreseen and analysed. Unless otherwise indicated, any reference to the RTP will, therefore, be understood to include any other funds managed by ICN2 in the future, if there is a legal obligation to apply this Procedure to them.

This Procedure will allow ICN2 to develop monitoring systems that eliminate or mitigate the main risks related to conflicts of interest, notwithstanding any procedures it may have established regarding conflicts of interest in the field of research.

## 1. SCOPE

The scope of application of this Procedure is as follows:

**Legal scope:** This Procedure is applicable to ICN2.

**Personnel scopes:** This Procedure is applicable to all levels of ICN2, including governing and administrative bodies, control bodies and all personnel, regardless of their position, function or status (hereinafter jointly referred to as employees or personnel).

**Objective scope:** This Procedure will be applicable to all ICN2 processes.

**Relational scope:** The scope of application of this Procedure will be extended, as far as possible, to contractors and subcontractors of ICN2 processes and bodies managing grants and the RTRP. If this is not possible, standards of conduct, preventive measures and control systems will be contractually imposed.

**Geographical scope:** This Procedure shall apply to public and private dealings in relation to the RTRP or any others that ICN2 may establish in any geographical area, whether local, national or international.

## 2. GENERAL QUESTIONS

The purpose of this Procedure is to detect, report and manage situations where there may be conflicts of interest in order to prevent them from occurring or, if they do occur, to manage them appropriately, in order to prevent any person at ICN2 from obtaining any unlawful financial or non-financial benefit, whether for themselves or for a third party, brought about by a conflict of interest arising from a personal interest or from a relationship with a third party.

ICN2 wishes to avoid any type of situation in which the personal interests of any of its employees: (i) could come into conflict with or (ii) could lead to a conflict of interest with processes dependent on future subsidies subject to legal requirements similar to those currently governing the RTRP or the RTRP itself.

The following points will, therefore, have to be taken into account:

- a. Avoiding conflicts of interest: Personnel must withdraw from any activity in which they have or may have, directly or indirectly, any personal interest or in which a related person (defined below) may be involved.
- b. Reporting conflicts of interest: Personnel must report situations or possible situations of conflicts of interest to their hierarchical superior, as established in this Procedure.

- c. Ensuring equal treatment: Contractors and subcontractors must not be given favourable or unfavourable treatment in terms of contracts, benefits, decisions, etc. This also applies to the bodies managing subsidies. In particular, the system established for making and executing decisions, in line with current legislation, must be respected. ICN2 personnel responsible for applying for or justifying subsidies must also take care to avoid any conflict of interest, notifying their hierarchical superior if one should arise.
- d. Acting with independence and objectivity: At all times, in addition to behaving professionally, personnel must act with neutrality and impartiality. Consequently, they must avoid giving priority to their own interests or the interests of related persons over the interests of ICN2 or the aims and objectives of the RTRP or other plans.

The above obligations imply that any person belonging to ICN2 must refrain from engaging in any of the following activities, directly or indirectly:

1. Personal transactions or business dealings with contractors or subcontractors of ICN2 processes related to the RTRP or other future grants subject to the same regulations, or with grant managers.
2. Use the ICN2 name or invoke membership of ICN2 to improperly participate in or influence the performance of operations related to ICN2, subject to RTRP regulations.
3. Make use of RTRP funds or other future funds subject to the same regulations and under ICN2 control, for personal purposes.
4. Use confidential or privileged information about ICN2 processes related to the RTRP or other future grants subject to the same regulations for personal purposes.
5. Take advantage of business opportunities arising from ICN2 processes related to the RTRP or other future grants subject to the same regulations.
6. Obtain benefits or remuneration from third parties other than ICN2 in connection with ICN2 processes related to the RTRP or other future subsidies subject to the same regulations.
7. Carry out activities on their own account or on behalf of others that involve real or potential competition with ICN2 regarding processes related to the RTRP or other future subsidies subject to the same regulations or that, in any other way, put them in conflict with the interests of ICN2.

### **3. PROCEDURE FOR REPORTING AND MANAGING CONFLICTS OF INTEREST**

This Procedure is established to identify, analyse and manage situations of conflict of interest that may arise at ICN2, using the documentation attached as ANNEXES I and II and in accordance with the obligations established in Order HFP/55/2023.

### **3.1 Recognition of Conflicts of Interest:**

1. One of the main issues concerning conflict of interest situations is the inability to identify them or, once they have been identified, the belief that they will not affect decision-making.
2. It is the responsibility of each person at ICN2 to declare any conflict of interest and to have this conflict reviewed.
3. Anyone involved in a situation where there may be a conflict of interest must abstain from intervening in or influencing the taking of decisions (related to the conflict) until the present proceedings are resolved.
4. In order to determine the existence of possible conflicts of interest, the following situations must be reported to the employee's hierarchical superior:
  - a. External mandates and occupations: If a person attached to ICN2 is or will be part of any private entity, either as a member of the Board of Directors or Management, or is or will be a contractor or subcontractor of public funds linked to ICN2;
  - b. Personal financial interests: If a person attached to ICN2 is or will be a participant (or a related party) of a contractor or subcontractor and/or participates or will participate in the contracting or fund granting process. Also, if the person attached to ICN2 has to apply for or justify a grant as part of their relationship with the body managing the subsidy;
  - c. Declaration of incompatibilities and property owned by senior managers [*via the Declaration of Incompatibilities and Property Ownership*].

### **3.2 Communication of conflicts of interest:**

1. ICN2 personnel who are aware of any conflict of interest that affects them must notify their hierarchical superior before participating in the activity or relationship concerned or as soon as they become aware of the conflict of interest.
2. They can report such cases using channels including the following:
  - E-mail
  - Post
  - By going to ICN2 in person
  - Procedures already established at ICN2, such as the declaration of the absence of conflict of interest by the members of contracting boards.

### **3.3 Declaration of absence of conflicts of interest (DACI): RTRP and other future funds and/or subsidies that require it in their regulations.**

All persons involved in the management or execution of the RTRP such as the single-person or collegiate head of the contracting body, personnel assisting the contracting body who participate in the evaluation of bids, the proposal of awards and the award of contracts, and personnel who request, manage or justify subsidies, if they make judgements when they carry out management, control or payment tasks in those procedures, must complete the following documents attached to this Procedure, which will be reviewed to analyse possible conflicts of interest:

1. If any conflict of interest may have arisen after they have signed the DACI, they must complete the conflict of interest communication form (Annex I) to report the situation so it can be determined whether there is a conflict of interest.
2. Declaration of absence of conflict of interest (DACI Annex II or II bis depending on the case, see annexes), by means of which they guarantee that they are not involved in any conflict of interest and that they will inform ICN2 of any issues in this regard.

In addition, ICN2 will do the following:

In accordance with the terms of *Order HFP/55/2023, of 24 January, regarding the systematic analysis of the risk of conflict of interest in procedures implementing the Recovery, Transformation and Resiliency Plan*, a conflict of interest analysis will be carried out regarding the persons listed in the first paragraph of point 3.3.1. of this document with the exception of those who carry out tasks related to applications for or the justification of grants.

Contractors and subcontractors will be asked to complete the declaration of absence of conflict of interest (DACI Annex II) and will also be asked to complete the commitment to comply with transversal principles (Annex IV.C of Order HFP1030/2021 of 29 September) before any contract may be signed.

The analysis is carried out using the MINERVA application of the Spanish Tax Agency (AEAT), following the instructions of the aforementioned Order.

### **3. 4 Verification of information:**

#### **3.4.1. RTRP FUND**

1. The conflicts of interest analysis carried out using the MINERVA application will generate a report with three possible results:
  - a) No red flags are detected and there is, therefore, no circumstance that could indicate the risk of a conflict of interest. The procedure can follow the usual course.
  - b) One or more red flags have been detected.

In this case, circumstances have been detected that show a risk of a conflict of interest. The MINERVA result will indicate the ID number of the decision-maker concerned (one of the individuals listed in section 3.3.1) and the ID number of the counter-party with whom there is a risk of a conflict of interest (tenderer). The person responsible for the transaction must bring the red flag to the attention of the decision-maker involved and the latter's hierarchical superior, so that, if necessary, he or she can **withdraw from any decision-making responsibility within two working days.**

At this point, there are two possible scenarios:

- The decision-maker affected will withdraw and, in this case, the risk analysis will be carried out again for the person who replaces him or her.
- The decision-maker affected does not withdraw. In this case, it will be up to the hierarchical superior to allow the decision-maker who has been flagged to take part in the procedure or to order him or her to withdraw. For this purpose, the hierarchical superior will take the following into consideration:
  - I. Objections by the decision-maker affected, within two working days of the red flag being reported. In this case, a confirmation of the absence of a conflict of interest must be submitted, in accordance with Annex II of Ministerial Order HFP/55/2023, of 24 January.
  - II. Additional information drawn from the MINERVA application, at the request of the person responsible for the operation, regarding the risks detected.
  - III. If appropriate, a report from the Committee responsible for the ICN2 Anti-Fraud Measures Plan (AFMP), requested by the person responsible for the operation and issued within two working days. If the committee considers it necessary, it may request advice from the specialised advisory unit of the General Comptroller of the State Administration (IGAE), which must issue a report within two additional working days.

**Important:** until the situation of the decision-maker affected by a red flag is clarified, the procedure for contracting or granting subsidies will be paused.

*Reminder.* For the purposes of possible audits, the person responsible for the operation will upload to CoFFEE a record of all proceedings (objections, additional documentation provided by MINERVA, reports, etc.), where it will be available to the bodies managing projects and sub-projects (or their equivalent in the case of special purpose vehicles) of which the operation is part in the RTRP management information system.

c) One or more black flags have been detected.

This indicates that the real identity of the legal entity submitting the application has not been found, making it impossible to analyse any possible conflict of interest. This situation can occur simultaneously with either of the two previous results. The consequences of this scenario are as follows:

- The procedure in progress will not be automatically suspended, and work on it may continue.
- However, at the same time, the contracting bodies and those awarding subsidies are authorised to request the participants in the procedure to provide information on their real identity. This information must be provided to the contracting body or the body awarding the subsidy within **five working days** after the request for information is made. Failure to provide this information constitutes grounds for excluding the participant from the procedure.
- When information regarding the real identity of the participants is received, the person responsible for the operation will proceed to carry out a new ex-ante check of the risk of conflict of interest through MINERVA, replacing the original names of the applicants with the real identity of the participants, as indicated by the contracting body or the body awarding the subsidy.

1. **3.4.2. In the case of other future subsidies or sources of funding:** When a possible conflict of interest is reported, relevant information will be collected and the situation will be analysed.
2. If the person who has to decide on the conflict of interest (the hierarchical superior) could themselves be involved in a conflict of interest, this person will abstain from participating in the decision and will assign responsibility for it to another ICN2 employee in the same professional category.
3. In order to assess whether a possible conflict of interest exists, the information provided by the person reporting it must be taken into account. The person may be asked to provide additional information in order to resolve the case, and must send this information and any relevant documentation within one working day from receipt of the request, or as soon as possible.

4. The hierarchical superior may also gather information from other persons and departments in order to analyse the possible conflict of interest and, if necessary, adopt measures to resolve it. The information must be verified through the databases of mercantile registers, databases held by national and EU bodies, or employee records (taking data protection regulations into account).
5. Information obtained during the investigation and throughout the verification process must always be treated with the utmost confidentiality and impartiality.

### **3. 5 Resolution of conflicts of interest:**

1. With regard to the resolution of conflicts of interest, as a general principle, the interests of ICN2 and the aims and objectives of the RTRP or other plans will prevail. In the event of a conflict of interest between ICN2 personnel and a contractor or subcontractor, a body managing subsidies or any other third party, they must refrain from participating in the process in question.
2. The hierarchical superior will study the case and issue a written report in which he/she will establish appropriate measures to resolve the conflict of interest if there should be one.
3. ICN2 may authorise, expressly and in writing, a situation where there is a conflict of interest in a particular case, provided that the following conditions are met:
  - a. There is no likelihood of significant harm to either party involved in the conflict, to the interest of ICN2 or to the aims and objectives of the RTRP or other plans.
  - b. Any insignificant harm is offset by the benefits to be obtained.
  - c. It does not contravene current legislation.
  - d. The person will be informed of the resolution with an explanation of the reasons for its adoption and the resolution will be followed up to ensure it is understood and implemented.

### **3. 6 Storage of documentation and files:**

1. ICN2 will store all documents and attachments (forms, documentation provided, reports, etc.) related to this Procedure for the period legally established by applicable regulations.
2. The following information will be included in the record in a clear, orderly format:
  - a. Identity of the persons affected by the conflict of interest.
  - b. Date on which the conflict originated.
  - c. Functions or services of the process or RTRP to which the conflict refers.
  - d. Reason for which the conflict arose and description of the situation.
  - e. Description of the process by which the situation is managed, minimised or, if necessary, remedied.

#### 4. COMMUNICATION OF THIS PROCEDURE

The provisions contained in this Procedure must be known by all those to whom it applies.

A copy of the same will be distributed, by electronic means or on paper, to all those to whom it applies.

ICN2 will keep sufficient evidence of the effective delivery of the Procedure to all persons listed and of their commitment to respect it. It will also be necessary to provide training on the Procedure, so that all persons to whom it applies are aware of its content, their obligations under it and the tools available to them to manage possible conflicts of interest.

#### 5. HISTORY, APPROVAL AND ENTRY INTO FORCE

##### History:

The following table reflects the different versions of the Procedure that have been drawn up, as well as the date and subsequent modifications that each version of the document may have undergone:

VERSION	DATE	AUTHOR	CHANGES
1.0	July 2023	ICN2 COMMITTEE RESPONSIBLE FOR THE ANTI- FRAUD MEASURES PLAN (AFMP)	Initial version

##### Approval and entry into force:

This Procedure will be approved by the ICN2 Governing Body and take effect from the date of its approval.

#### 6. FOLLOW-UP, CONTINUOUS ADAPTATION AND AMENDMENT OF THE PROCEDURE

##### Follow-up and continuous adaptation:

The Procedure will be regularly reviewed in order to ensure it responds to ICN2's current circumstances, legislative or jurisprudential changes, etc. In this regard, the Procedure

will comply with the jurisprudential criteria established by the courts and with the criteria established in the guidelines, reports and resolutions of any government body that may be applicable to the Procedure.

Updates to the Procedure will also take into consideration the rulings and delegated acts published by European Commission services regarding the requirements of each of the management principles of the RTRP.

#### Amendments:

ICN2 may revise the Procedure on its own initiative and/or at the proposal of any of those to whom it applies, subject to review by the RTRP Manager. Amendments to the Procedure will be proposed when the following circumstances arise: (i) When serious breaches of the Procedure are found to have occurred; (ii) When there are significant changes in the control structure of ICN2 or in its activity according to the powers assigned to it; and (iii) When legal or jurisprudential changes make it advisable.

## **7. COMMITMENT AND ACCEPTANCE OF THE PERSONS TO WHOM THE PROCEDURE APPLIES**

All persons to whom this Procedure applies must be familiar with it, actively respect it and take seriously any breaches they may become aware of and any deficiencies they may observe in its content or application.

If they observe any non-compliance or there is evidence or proof of conduct that could constitute corruption, fraud or failure to comply with legal or internal ICN2 regulations, this circumstance must be brought to the attention of the person responsible for the ICN2 Anti-Fraud Measures Plan (AFMP) through any of the communication channels established by the organisation.

## **8. DEFINITIONS AND ABBREVIATIONS**

**Conflict of interest:** in accordance with Article 61 of Regulation (EU) 2018/1046 of the European Parliament and of the Council of 18 July 2018, on the financial rules applicable to the EU general budget (Financial Regulation), when the impartial and objective performance of the duties of financial actors and other persons involved in budget implementation, under direct, indirect and shared management, including acts preparatory thereto, audit or control, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

Conflicts of interest can be classified by how likely they are to occur:

1. **Apparent conflict of interest:** occurs when the private interests of a public employee or beneficiary are likely to compromise the objective performance of their duties or obligations, but ultimately there is no identifiable, individual link with specific aspects of the person's conduct, behaviour or relationships (or an impact in this regard).
2. **Potential conflict of interest:** arises when a public employee or beneficiary has private interests that may lead to a conflict of interest in the event that they were to assume certain official responsibilities in the future.
3. **Actual conflict of interest:** involves a conflict between the public duty and the private interests of a public employee, or where the public employee has personal interests which may unduly influence the performance of his or her official duties and responsibilities. In the case of a beneficiary, this would involve a conflict between the obligations incurred when applying for funds or other financial support from ICN2 and their private interests which may unduly influence the fulfilment of said obligations.

Conflicts of interest can be classified according to the persons concerned:

1. **Conflict of self-interest:** a situation where a person has to make a decision that affects himself or herself as well as a third party (e.g. deciding who should manage the European funds at ICN2).
2. **Conflict of interest with third parties:** a situation where a person has to make a decision that affects one or more third parties (e.g. deciding which contractor should be granted the execution of the European funds).

Conflicts of interest can be classified according to the intended goal of the decision:

1. **Positive conflict of interest:** a situation where a person seeks to benefit himself or herself or a third party, usually due to friendship and/or a good relationship (e.g. hiring someone, giving them preference in dealing with their requests, failing to impose a sanction on them, etc.).
2. **Negative conflict of interest:** a situation where a person seeks to harm a third party, usually due to enmity and/or a bad relationship (e.g. not wanting to hire them, not complying with their requests, imposing a sanction on them, etc.).

**Related persons:** For the purposes of this Procedure and in accordance with Law 40/2015, of 1 October, on the Legal Regime of the Public Sector, the following are considered to be related persons:

- a) Spouses, partners or persons with similar affective relationships (hereinafter referred to as partner);
- b) Ascendants, descendants and collateral relatives up to the fourth degree and their partners;
- c) Ascendants, descendants and collateral kin by marriage to the second degree and their partners;

- d) Persons who are closely connected (friends, acquaintances or relatives not included in the preceding subparagraphs) who may affect decision-making, whether because of a close friendship or a manifest enmity.

## ANNEX I – CONFLICT OF INTEREST COMMUNICATION FORM

<b>First name(s) and surname(s):</b>	
<b>Identity card number:</b>	
<b>Position and role within ICN2 or the RTRP:</b>	
<b>Organisation:</b>	<input type="checkbox"/> ICN2 <input type="checkbox"/> Other organisation ( <i>please indicate</i> ): _____
<b>Date:</b>	
<b>Signature*:</b>	<input type="checkbox"/> This form is to be used in the procedure for managing the RTRP or other funds. <input type="checkbox"/> It reports a possible conflict of interest. Describe the situation: _____

*\*By signing this form, the signatory declares that he/she is aware that ICN2 will be able to investigate all the information that current legislation allows about him/her and corroborate and/or verify that the information provided in this form, together with the attached documents, is true and accurate. The signatory declares, voluntarily, that the information in the attached form is, to the best of his/her knowledge, true and complete, and declares that he/she is aware that the discovery of a material omission or falsehood in this form and/or in the documents or information requested may lead to the termination of an existing contract or an ongoing negotiation, in addition to any legal action that ICN2 may take.*

**Declaration of disclosure and processing of data relating to the implementation of measures forming part of the Recovery, Transformation and Resilience Plan (RTRP)**

Mr./Ms. ...., with ID number .....  
as ..... of the entity .....  
....., with Tax registration number ....., and registered  
address at .....

.....beneficiary of aid financed with resources from the RTRP/who participates as a contractor/subcontractor in the implementation of activities necessary to achieve the objectives defined in Component XX "....." declares that he/she is aware of the applicable regulations, in particular the following sections of Article 22 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the European Recovery and Resilience Facility:

1. Section 2 d): "for the purpose of audit and control and to provide for comparable information on the use of funds in relation to measures for the implementation of reforms and investment projects under the recovery and resilience plan, to collect and ensure access to the following standardised categories of data:

- i. name of the final recipient of funds;
- ii. name of the contractor and sub-contractor, where the final recipient of funds is a contracting authority in accordance with Union or national law on public procurement;
- iii. first name(s), last name(s) and date of birth of beneficial owner(s) of the recipient of funds or contractor, as defined in point 6 of Article 3 of Directive (EU) 2015/849 of the European Parliament and of the Council (26);
- iv. a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the Facility and under other Union funds".

In accordance with the aforementioned legal framework, he/she hereby declares that he/she agrees to the disclosure and processing of data for the purposes expressly detailed in the aforementioned articles.

....., XX ..... 202X

Signed .....

Position: .....

## INSTRUCTIONS

*(Please read carefully)*

### What is the purpose of this form?

A key element in the granting of funds from the RTRP (Recovery, Transformation and Resilience Plan) or other funds is to ensure that their decision-making processes are not affected by conflicts of interest. The purpose of this information form is to identify and address potential and actual conflicts of interest.

### What is a conflict of interest?

Conflict of interest means, in accordance with Article 61 of Regulation (EU) 2018/1046 of the European Parliament and of the Council of 18 July 2018, on the financial rules applicable to the EU general budget (Financial Regulation), when the impartial and objective performance of the duties of financial actors and other persons involved in budget implementation, under direct, indirect and shared management, including acts preparatory thereto, audit or control, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.

Conflicts of interest can be classified by how likely they are to occur:

1. **Apparent conflict of interest:** occurs when the private interests of a public employee or beneficiary are likely to compromise the objective performance of their duties or obligations, but ultimately there is no identifiable, individual link with specific aspects of the person's conduct, behaviour or relationships (or an impact in this regard).
2. **Potential conflict of interest:** arises when a public employee or beneficiary has private interests that may lead to a conflict of interest in the event that they were to assume certain official responsibilities in the future.
3. **Actual conflict of interest:** involves a conflict between the public duty and the private interests of a public employee, or where the public employee has personal interests which may unduly influence the performance of his or her official duties and responsibilities. In the case of a beneficiary, this would involve a conflict between the obligations incurred when seeking the awarding of the funds and their private interests, which may unduly influence the performance of said obligations.

Conflicts of interest can be classified according to the persons concerned:

1. **Conflict of self-interest:** a situation where a person has to make a decision that affects himself or herself as well as a third party (e.g. deciding who should manage the funds at ICN2).
2. **Conflict of interest with third parties:** a situation where a person has to make a decision that affects one or more third parties (e.g. deciding which contractor should be granted the execution of the funds).

Conflicts of interest can be classified according to the intended goal of the decision:

1. **Positive conflict of interest:** a situation where a person seeks to benefit himself or herself or a third party, usually due to friendship and/or a good relationship (e.g. hiring someone, giving them preference in dealing with their requests, failing to impose a sanction on them, etc.).
2. **Negative conflict of interest:** a situation where a person seeks to harm a third party, usually due to enmity and/or a bad relationship (e.g. not wanting to hire them, not complying with their requests, imposing a sanction on them, etc.).

### **What is meant by related person?**

For the purposes of this form and in accordance with Article 23 of Law No. 40/2015 of 1 October on the Legal Regime of the Public Sector, related persons shall be considered as follows:

- a) Spouses, partners or persons with similar affective relationships (hereinafter referred to as "partner");
- b) Ascendants, descendants and collateral relatives up to the fourth degree and their partners;
- c) Ascendants, descendants and collateral kin by marriage to the second degree and their partners;
- d) Persons who are closely connected (friends, acquaintances or relatives not included in the preceding subparagraphs) who may affect decision-making, whether because of a close friendship or a manifest enmity.

### **What is meant by contractor or subcontractor?**

Any natural or legal person who, by contract, is required before a public administration to carry out any service which constitutes the object of an administrative contract. Only natural or legal persons, whether Spanish or foreign, who have full capacity to operate, who are not subject to a prohibition on hiring, who prove their economic, financial and technical or professional solvency or, where appropriate, are properly classified and have the requisite professional or business status in each case, may enter into contracts with the public sector.

### **What is meant by beneficiary?**

Any person who is required to carry out the activity which gave rise to the grant or who is in the situation which legitimises the awarding of the grant shall be considered as a beneficiary. When the beneficiary is a legal person, and as long as this is contemplated in the applicable regulations, the associated members of the beneficiary who undertake to carry out all or part of the activities which legitimise the awarding of the grant to the beneficiary shall also be considered as beneficiaries.

### **What do I do if I have questions?**

If you have any queries, you can contact the person responsible for the ICN2 Anti-Fraud Measures Plan (AFMP) via e-mail.

### **QUESTIONS**

**(a) Please answer all the questions on the form.**

**(b) Questions should be answered sincerely, providing all the requested information.**

**(c) If you need more space for any answer, please use a separate sheet, signing, dating and appending the sheet to this form.**

1. Are you an employee, member, partner, administrator, manager, etc. of any corporation, company, association, foundation or other public or private organisation other than ICN2, regardless of whether this is a remunerated or pro bono activity?

Yes:  No:

If you answered yes, please provide the details of the organisation and describe its activities.

2. If you answered yes in question 1. Is this organisation currently, or has it applied to be, a contractor or subcontractor for ICN2 RTRP funds or other funds?

Yes:  No:

If you answered yes, please indicate the activity or business related to the RTRP or other funds that will be carried out.

3. Is there any person related to you who has applied to be or is already a contractor or subcontractor for ICN2 RTRP funds or other funds, or are they a member, partner, administrator, manager, etc. of any corporation, company, association, foundation or other public or private organisation other than ICN2 that is currently, or has applied to be, a contractor or subcontractor?

Yes:  No:

If you answered yes, please specify the first name(s) and last name(s) of the person, the place where they work and the activity that they perform, together with the details of the contractor or subcontractor.

4. Are any persons related to you responsible for managing any subsidies requested by ICN2, whether currently under application or as justification thereof.

Yes:  No:

If you answered yes, please describe the situation below.

5. Are you aware of any other relationship, arrangement, transaction or matter that might give rise to a conflict of interest in relation to the RTRP funds of ICN2 or others?

Yes:  No:

If you answered yes, please describe the situation below.

## **ANNEX II - DECLARATION OF ABSENCE OF CONFLICT OF INTEREST (to be signed by persons who manage applications for and the management and justification of subsidies related to ORDER HFP/1030/2021)**

I, **[First name(s) and surname(s)]**, acting as **[position/job title within the organisation]**, of the Catalan Institute of Nanoscience and Nanotechnology (ICN2), in order to guarantee impartiality in the aforementioned contract/subsidy procedure and as a participant in the preparation and execution of the procedure, hereby declare:

**One.** That I have been informed of the following:

1. I am familiar with Article 61.3 "Conflict of interest", of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council, of 18 July (EU Financial Regulation), which is reproduced below:

*"1. Financial actors ... and other persons, including national authorities at any level, involved in budget implementation under direct, indirect and shared management, including acts preparatory thereto, audit or control, shall not take any action which may bring their own interests into conflict with those of the Union. They shall also take appropriate measures to prevent a conflict of interests from arising in the functions under their responsibility and to address situations which may objectively be perceived as a conflict of interests.*

*Where there is a risk of a conflict of interest involving a member of staff of a national authority, the person in question shall refer the matter to his or her hierarchical superior. Where such a risk exists for staff covered by the Staff Regulations, the person in question shall refer the matter to the relevant authorising officer by delegation. The relevant hierarchical superior or the authorising officer by delegation shall confirm in writing whether a conflict of interests is found to exist. Where a conflict of interest is found to exist, the appointing authority or the relevant national authority shall ensure that the person in question ceases all activity in the matter. The relevant authorising officer by delegation or the relevant national authority shall ensure that any further appropriate action is taken in accordance with the applicable law.*

*A conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest."*

2. That Article 64 "Combating corruption and preventing conflicts of interest" of Law No. 9/2017 of 8 November, on Public Sector Contracts, aims to avoid any distortion of competition and to ensure transparency in the procedure and ensure equal treatment of all candidates and bidders.

**Two.** That I am not involved in any situation that could be classified as a conflict of interest, as indicated in article 61.3 of the EU Financial Regulations.

**Three.** That I undertake to inform the contracting body/evaluation committee, person responsible for the ICN2 Anti-Fraud Measures Plan (AFMP) or his/her hierarchical superior, without delay, of any situation of conflict of interest or cause for withdrawal that may give rise to the aforementioned situations.

**Four.** I am aware that any declaration of absence of conflict of interest that is proven to be false may entail disciplinary/administrative/judicial consequences, as set out in the applicable regulations.

In Bellaterra (Barcelona), XX May 2022.

Signed electronically:

**Declaration of disclosure and processing of data relating to the implementation of measures forming part of the Recovery, Transformation and Resilience Plan (RTRP)**

Mr./Ms. ...., with ID number .....  
 as ..... of the entity .....  
 ....., with Tax registration number ....., and registered  
 address at .....  
 .....

...beneficiary of aid financed with resources from the RTRP/who participates as a contractor/subcontractor in the implementation of activities necessary to achieve the objectives defined in Component XX "....." declares that he/she is aware of the applicable regulations, in particular the following sections of Article 22 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the European Recovery and Resilience Facility:

1. Section 2 d): "for the purpose of audit and control and to provide for comparable information on the use of funds in relation to measures for the implementation of reforms and investment projects under the recovery and resilience plan, to collect and ensure access to the following standardised categories of data:

- i. name of the final recipient of funds;
- ii. name of the contractor and sub-contractor, where the final recipient of funds is a contracting authority in accordance with Union or national law on public procurement;
- iii. first name(s), last name(s) and date of birth of beneficial owner(s) of the recipient of funds or contractor, as defined in point 6 of Article 3 of Directive (EU) 2015/849 of the European Parliament and of the Council (26);
- iv. a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with

the total amount of public funding of those measures and indicating the amount of funds paid under the Facility and under other Union funds”.

In accordance with the aforementioned legal framework, he/she hereby declares that he/she agrees to the disclosure and processing of data for the purposes expressly detailed in the aforementioned articles.

....., XX ..... 202X

Signed .....

Position: .....

**ANNEX IIa - DECLARATION OF ABSENCE OF CONFLICT OF INTEREST** (to be signed by the single-person contracting body, members of the collegiate contracting body, and members of the collegiate body assisting the contracting body who participate in the contracting procedures in connection with the evaluation of offers, proposals for awards and the award of contracts based on **ORDER HFP/55/2023**).

Mr./Ms. \_\_\_\_\_, with DNI/NIE/PASSPORT No. \_\_\_\_\_ in order to guarantee impartiality in the contracting/subsidy procedure, the undersigned, as a participant in the preparation and execution of the procedure \_\_\_\_ DECLARES:

One.

That he/she is informed of the following:

1. That Article 61.3 "Conflict of interest" of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July (EU Financial Regulation) stipulates that "a conflict of interests exists where the impartial and objective exercise of the functions is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest".

2. That article 64 "The fight against corruption and prevention of conflicts of interest" of Law 9/2017, of 8 November, on Public Sector Contracts, which transposes Directives 2014/23/EU and 2014/24/EU, of the European Parliament and of the Council, of 26 February 2014, into Spanish law, defines a conflict of interest as "any situation where staff members of the contracting authority or entity who are involved in the conduct of the concession award procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the concession award procedure".

3. That Section 3 of the 112th additional provision of Law 31/2022, of 23 December, on the General Budget of the State for 2023, establishes that "The systematic and automated analysis of the risk of conflict of interest is to be applied to public employees and other personnel at the service of decision-making, executing and implementing

entities that participate individually or as members of collegiate bodies, in the procedures described for the award of contracts or the concession of subsidies.”

4. That section 4 of the aforementioned 112th additional provision states that:

- “Computing software will be used to analyse possible family relations or direct or indirect business links in which a personal or economic interest may arise that is likely to provoke a conflict of interest, between the people referred to in the preceding section and the participants in each procedure.”

- “In order to identify the relationships or links, the tool will contain, among other things, data on the real identity of the legal entities referred to in Article 22.2.d).iii) of Regulation (EU) 241/2021, of 12 February, held in the databases of the Spanish Tax Agency and data obtained through agreements signed with the professional associations of notaries and registrars”.

Two.

That, at the time of signing this declaration and in the light of the information in his/her possession, he/she is not involved in any situation that could be classified as a conflict of interest, in the terms provided for in section four of the 112th additional provision, which could affect the procedure for applying for/awarding subsidies.

Three.

That he/she undertakes to inform the contracting body/evaluation committee, without delay, of any situation of conflict of interest that may arise or become known at any time during the procedure.

Four.

He/she is aware that any declaration of absence of conflict of interest that is proven to be false will entail disciplinary/administrative/judicial consequences as set out in the applicable regulations.

In witness whereof, having read and approved the foregoing, he/she hereby signs this document

In \_\_\_\_\_ on \_\_\_\_\_

Signed \_\_\_\_\_

## **Declaration of disclosure and processing of data relating to the implementation of measures forming part of the Recovery, Transformation and Resilience Plan (RTRP)**

Mr./Ms. ...., with ID number .....  
as ..... of the entity .....  
....., with Tax registration number ....., and registered  
address at .....  
.....

...beneficiary of aid financed with resources from the RTRP/who participates as a contractor/subcontractor in the implementation of activities necessary to achieve the objectives defined in Component XX "....." declares that he/she is aware of the applicable regulations, in particular the following sections of Article 22 of Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the European Recovery and Resilience Facility:

1. Section 2 d): "for the purpose of audit and control and to provide for comparable information on the use of funds in relation to measures for the implementation of reforms and investment projects under the recovery and resilience plan, to collect and ensure access to the following standardised categories of data:

- i. name of the final recipient of funds;
- ii. name of the contractor and sub-contractor, where the final recipient of funds is a contracting authority in accordance with Union or national law on public procurement;
- iii. first name(s), last name(s) and date of birth of beneficial owner(s) of the recipient of funds or contractor, as defined in point 6 of Article 3 of Directive (EU) 2015/849 of the European Parliament and of the Council (26);
- iv. a list of any measures for the implementation of reforms and investment projects under the recovery and resilience plan with the total amount of public funding of those measures and indicating the amount of funds paid under the Facility and under other Union funds".

In accordance with the aforementioned legal framework, he/she hereby declares that he/she agrees to the disclosure and processing of data for the purposes expressly detailed in the aforementioned articles.

....., XX ..... 202X

Signed .....

Position: .....

## **APPENDIX III - ACKNOWLEDGMENT OF RECEIPT OF THE PROCEDURE**

### **Internal receipt of the Procedure**

By signing this document I certify that I have received, read and understood the Procedure for Managing Conflicts of interest. I also undertake to respect and comply with it.

I understand that if I should fail to comply with its terms, this could lead to disciplinary proceedings by the Catalan Institute of Nanoscience and Nanotechnology (ICN2).

DATE:

NAME/ID document:

SIGNATURE: