

Panda Mery



IMI reference: IMI2/OUT/2018-06114

Brussels, 10 September 2018

Subject: **Your application for access to documents – IMI2/INC/2018-01933**

Dear Mr Mery,

I refer to your email of 25 July, registered on 30 July under the above mentioned reference number, in which you made a request for access to documents within the framework of the Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> (hereinafter referred to as 'Regulation 1049/2001').

### **1. Scope of your request**

You requested access to : 'Autism Innovative Medicine Studies-2-Trials (AIMS-2-Trials) grant agreement and its appendices'.

We identified one document falling under the scope of your request, namely the Grant Agreement No 777394 - Autism Innovative Medicine Studies-2-Trials (AIMS-2-Trials) (hereinafter 'the requested document').

### **2. Assessment and conclusions under regulation 1049/2001**

Having examined the requested document under the provisions of the Regulation 1049/2001 regarding public access to EU documents, we have come to the conclusion that it may be partially disclosed.

You may reuse the enclosed document free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the document. Please note that IMI2 JU does not assume liability stemming from the reuse.

Some parts of the document have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The redacted parts of the document contain commercially sensitive business information of the AIMS-2-Trials consortium or personal data, in particular names and surnames of certain members of staff of IMI2 JU and external entities. Disclosure of these parts would undermine the protection of the commercial interests of the Consortium, including its intellectual property, and of privacy and integrity of individuals.

Consequently, for the reason explained in the points 2.1 and 2.2 below:

- the Grant Agreement is partially disclosed with redaction of commercially sensitive information and personal data of the individuals;
- the Annex 1 is withheld in its entirety considering that access to a redacted document would be meaningless;
- The Annex 2 is withheld because it contains commercially sensitive information;
- The Annex 3 contains personal data of individuals, we therefore share the relevant template which is available at the following link as part of the IMI2 JU Model Grant Agreement available:

<sup>1</sup> Official Journal L145 of 31.5.2001, p.43.

[https://www.imi.europa.eu/sites/default/files/uploads/documents/reference-documents/h2020-mga-imi\\_en\\_v5.pdf](https://www.imi.europa.eu/sites/default/files/uploads/documents/reference-documents/h2020-mga-imi_en_v5.pdf)

- the remaining Annexes (4, 5 and 6) being templates to be used by the consortium can also be consulted as part of the IMI2 JU Model Grant Agreement at the link mentioned above.

## 2.1 Protection of commercial interests, including the intellectual property

Article 4(2), first indent of the Regulation 1049/2001 provides that *'The institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property.'*

Annex 1 'Description of Action' and Annex 2 'Estimated budget for the action' of the Grant Agreement No 777394 - Autism Innovative Medicine Studies-2-Trials (AIMS-2-Trials) set out the methodology and the rationale as to how the AIMS-2-Trials Consortium proposed to deliver the project. This is proprietary information of a commercially relevant value.

The IMI2 JU considers that disclosure of such proprietary information about methodologies, commercial information and the financial structure would likely undermine the members of the AIMS-2-Trials Consortium. On the one hand, disclosure would provide an unfair advantage to competitors of consortium members and, on the other hand, deter any future applications from one or more current beneficiaries of the AIMS-2-Trials Grant Agreement.

Similarly, Annex 2 of the Grant Agreement discloses data on partners' wage and financial policies. Given the possibility of future applications and the specificities of the industry focus of this project, revealing the budget details is considered detrimental to the interests of the Consortium.

In consequence, there is a real and non-hypothetical risk that public access to the above-mentioned information would undermine the commercial interests, including intellectual property, of the AIMS-2-Trials Consortium members, beneficiaries of the Grant Agreement No 777394.

The exception laid down in Article 4(2), first indent of Regulation 1049/2001 applies unless there is an overriding public interest in the disclosure of the requested document. We were not able to identify any public interest capable of outweighing the need to protect the commercial interests, including intellectual property, identified in the present letter.

## 2.2 Protection of privacy and the integrity of the individual

Article 4(1)(b) of the Regulation 1049/2001 provides that *'The institutions shall refuse access to a document where disclosure would undermine the protection of (...) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.'*

The requested document contains names and surnames of certain members of the staff of the IMI2 JU and of the AIMS-2-Trials Consortium members, which constitute personal data within the meaning of Article 2(a) of Regulation 45/2001<sup>2</sup>. According to Article 8(b) of this Regulation, personal data shall only be transferred if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced. Those two conditions are cumulative.

In your application, you have not established the necessity of disclosing any of the above-mentioned personal data. Consequently, the use of the exception under Article 4(1)(b) of Regulation 1049/2001 is justified, as there is no need to publicly disclose the personal data included therein and it cannot be assumed that the legitimate rights of the data subjects concerned would not be prejudiced by such disclosure.

<sup>2</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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.

### 3. Means of redress

In accordance with Article 7(2) of the Regulation 1049/2001, you are entitled to make a confirmatory application requesting IMI2 JU to review this position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Executive Director of IMI2 JU.

Sincerely yours,



Hugh Lavery  
Head of Scientific Operations

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Enc. [IMI2 JU Grant Agreement No 777394, redacted version]