



European Research Council
Executive Agency

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ERCEA

DATA PROTECTION NOTICE
ERCEA Unit D3/ Procurement Sector
Public procurement – service/supply contracts

This statement concerns the processing operation called “**Public procurement – service/supply contracts**”. This processing requires the handling of personal data and is therefore subject to Regulation (EU) 2018/1725 (Data Protection Regulation)¹.

1. What personal information do we collect, from where and for what purpose?

1.a) Personal data collected and further processed concern the tenderer (including joint tenders) and its staff or subcontractors (which can also be natural persons). Information **can** relate to the following data:

- identification and contact details (official name/name of individual economic operator, official legal form, abbreviation, place and date of registration, VAT registration number, address, phone (and fax) number, e-mail address, identity card number, date and country of birth, bank account details [IBAN and BIC codes]);
- organisational chart of the tenderer and company profile;
- declaration on honour of absence of an exclusion situation² and, if requested, the relevant evidence: certificates for social security contributions, extract from the judicial record (for individual economic operators), extract from the register of bankruptcy and reorganization procedures or extract from the register of debt regulations or a certificate given by a creditor, as applicable;
- documents attesting compliance with selection criteria or eligibility criteria:
 - o curriculum vitae, including such data as expertise, technical skills, educational background, languages, professional experience (details on current and past employment);
 - o copies of diplomas and certificates;
 - o statement of the overall turnover for the [services][goods] referred to in the procurement procedure;

¹ REGULATION (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

² Declaration on honour that the tenderer is not in one of the exclusion situation referred to in articles 136 and 141 of the Financial Regulation.

- financial statements or their extracts for a period equal to or less than the last three financial years for which accounts have been closed or appropriate statements from banks;
- information about similar [services][goods] provided by the tenderer in the past three years.

1.b) Purposes of the processing

The data are processed for the purpose of management and administration of procurement procedures launched by ERCEA, including verification of evidence of the technical, professional and financial capacity of tenderers, and verification of the absence of an exclusion situation. The collected data are processed within the duration of the particular procedure, or if applicable, up to the publication of the results of the procurement procedure in the Official Journal of the European Union or ERC webpage.

In addition, the data are processed for the management of signed contracts by the responsible ERCEA operational units, including in particular, the reception of goods, services and/or deliverables; the assessment of compliance with contract provisions, technical specifications and offer; the preparation of amendment to the contracts; the handling of daily administrative arrangements; the preparation of the payments.

In the case of inter-institutional procurement procedures where ERCEA is not the leading institution, the Agency processes data as joint-controller in cooperation with the leading institution. Such processing starts upon receipt from the leading institution of the decision to award the contract.

The contact details of the leading institution and participating bodies/agencies are published for each specific procurement procedure.

1.c) From where the data is collected

Personal data may be collected in the following ways:

Option 1 (in case of a negotiated procedure below the EU Directive on public procurement thresholds): search on the internet for information about potential candidates to be invited to participate in a procurement procedure and candidates who *express interest following an ex-ante publicity*.

Option 2 (in case of an open/restricted procedure): receipt of tenders.

Option 3 (in case of an inter-institutional procurement procedure where ERCEA is not the leading institution but processes data in cooperation with the leading institution): such data are provided by the leading institution upon approval of the decision to award a contract.

2. Who has access to your information and to whom is it disclosed?

For the purpose detailed above, access to your personal data are given to the following persons, without prejudice to a possible transmission, in compliance with the relevant current legislation and established case law and on a temporary basis, to the legislative or supervisory bodies of ERCEA, as well as auditing bodies:

- ERCEA staff managing the procurement procedure, i.e. staff involved in the preparation, launching, publication, evaluation, follow-up, contract execution, ex-post publicity.
 - external experts (if involved in the evaluation of tenders).
- Authorised staff of other European Commission services, EU institutions, bodies and agencies in case of inter institutional procurement procedures’.
- Staff of Court of Auditors, Investigation and Disciplinary Office of the Commission (IDOC), European Ombudsman, European Anti-Fraud Office (OLAF), Internal Audit Services (IAS) and the Commission Legal Service as well as staff of other Directorate Generals of the European Commission (Secretariat-General (SG) and Directorate-General for Budget (DG BUDG)) upon request and only if necessary in the context of official investigations or for audit purposes. In DG BUDG particularly the Accounting Officer who is in charge of the Early Detection and Exclusion System (EDES) and Early Detection and Exclusion System Database (EDES-DB).
 - Members of the public in accordance with the Commission's obligation to publish information on the outcome of the procurement procedure deriving from the budget of the European Union (Article 163 and Article 38 (1) and (2) of the Financial Regulation, and point 2 and 3 of Annex I FR respectively). The information concerns in particular the name and address of the successful tenderers and the amount awarded are published in the supplement S of the Official Journal of the European Union and on the ERC website.

3. What are your rights?

In case you wish to verify which personal data are stored on your behalf by the responsible Controller, have it modified, corrected, or deleted, or restrict the processing, or object to it or to exercise the right to data portability, all based on Regulation (EU) 2018/1725, please make use of the contact information mentioned in the invitation to tender, by explicitly describing your request. Any correction of your personal data will be taken into consideration from the data protection point of view. Please note that in some cases restrictions under the terms and conditions of Article 25 of the Data Protection Regulation may apply.

Special attention is drawn to the consequences of a request for deletion, as this may lead to an alteration of the terms of the tender and lead to rejection as stated in Article 169 of the Financial Regulation.

4. How long do we keep your data?

Files relating to tender procedures including personal data are to be retained for a period of ten (10) years following the signature of the contract.

Tenders from unsuccessful tenderers are kept for five (5) years following the signature of the contract into question.

Extracts from judicial records are kept for two (2) years after the signature of the contract.

If before the end of these periods either an audit or legal proceedings have started, the retention period is suspended until the end of the proceedings.

5. Contact information

If you would like to receive further information related to the processing of your personal data and/or to exercise your rights mentioned above, you can contact the responsible person (the Controller), by using the contact information mentioned in the Call for tender, and by explicitly specifying your request.

The ERCEA Data Protection Officer is at your disposal for any clarification you might need on your rights under Regulation (EU) 2018/1725 at the following e-mail address:

ERC-DATA-PROTECTION@ec.europa.eu

6. Recourse

If you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of personal data, you have the right to lodge a complaint the European Data Protection Supervisor: EDPS@edps.europa.eu

7. Legal basis

The processing is lawful according to article 5 (1)(a, b, c) of Regulation (EU) 2018/1725:

- for the performance of tasks carried out in the public interest on the basis of the Financial Regulation;
 - for compliance with a legal obligation to which the controller is subject;
 - for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012,³ in particular Articles 160-179 for the procurement procedures.
 - Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies pursuant to Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes, (OJ L 297, 22.09.2004, p. 6), as subsequently amended by Commission Regulation 651/2008 of 9 July 2008, in particular Article 50 on procurement.
 - Annual ERC Work Programmes.

³ OJ L 193 of 30.7.2018, p.1,

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.119.01.0001.01.ENG