



European Research Council
Executive Agency

Established by the European Commission

RECORD OF PERSONAL DATA PROCESSING

Art. 31 of the 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 (henceforth the "Data protection regulation")

Record n°

DPO 07 - 2019

In accordance with Article 31 of the Data protection regulation, individuals whose personal data are processed by the Executive Agency in any context whatsoever are to be protected with regard to the processing of personal data and the Executive Agency has to keep records of their processing operations.

This record covers two aspects:

1. Mandatory records under Art 31 of the data protection regulation (recommendation: make the header and part 1 publicly available)
2. Compliance check and risk screening (initial; part 2 is internal only to the Agency, not published)

The ground for the record is (tick the relevant one):

- Regularization of a data processing operation already carried out
- Record of a new data processing operation prior to its implementation
- Change of a data processing operation.
- Migration to record

Name of the processing operation: Public Procurement in the ERCEA

1	Last update of this record if applicable	8/7/2016 - Ares(2016)3267245
2	Short description of the processing	<p>A procurement procedure is a process that leads to the conclusion of a public contract. A public contract is defined as a purchase by a public institution (the ERCEA in this case) of service(s), good(s) or works. Public contracts are provided for the institution in exchange for remuneration. The process is in line with Financial Regulation.</p> <p>In all procurement procedures, personal data are collected and further processed for the purpose of the management, coordination and organisation of calls for tenders. The collected data are processed within the duration of the particular procedure, or if applicable, up to the publication of the results of this procurement procedure in the Official</p>

Part 1 - Article 31 Record

3	Function and contact details of the controller	Function: ERCEA Director ERC-D3-PROCUREMENT@ec.europa.eu
4	Contact details of the Data Protection Officer (DPO)	Functional e-mail address: ERC-DATA-PROTECTION@ec.europa.eu
5	Name and contact details of joint controller (where applicable)	<p>In case of <u>inter-institutional procurement</u> procedures where ERCEA is not the leading institution, the Agency processes data as joint-controller in cooperation with the leading institution. Such processing data starts upon receipt from the leading institution of the decision to award the contract.</p> <p>In case where ERCEA relies on REA (Research Executive Agency) services, REA performs the validation of legal entities participating in public procurement procedures and the preparation of financial viability assessment only on the basis of supporting documents uploaded by the successful tenders in the Participant Register.</p>
6	Name and contact details of processor (where applicable)	<p>Depending of inter-institutional procurement procedures, the contact details of the leading institution/body/agency are different and will be identified in the specific published procurement procedure.</p> <p>DG BUDG manages ABAC. It is the financial and accounting application set up by the European Commission, to monitor the execution of its budget and to prepare its accounts.</p> <p>DG DIGIT hosts IT Tools (ABAC System, e-Submission).</p> <p>ERCEA and other Bodies/Agencies/Institutions (namely, DG BUDG, DG DIGIT) through a Service Level Agreement/Memorandum of Understanding.</p>
7	Purpose of the processing	<p>Management and administration of procurement procedures and contracts in ERCEA, including in particular the provision of evidence of the technical and professional capacity of tenderers, their staff and subcontractors. The specific purpose for each tender is indicated in the relevant contract.</p> <p>The processing is necessary for the performance of a task carried out in the public interest: for the functioning of the ERCEA goods have to be bought, works have to be conducted and service providers must be hired.</p>

8	<p>Description of the categories of data subjects</p>	<p><input checked="" type="checkbox"/> EA staff (Contractual and temporary staff in active position)</p> <p><input type="checkbox"/> Visitors to the EA</p> <p><input checked="" type="checkbox"/> Contractors providing goods or services</p> <p><input type="checkbox"/> Applicants</p> <p><input type="checkbox"/> Relatives of the data subject</p> <p><input type="checkbox"/> Complainants, correspondents and enquirers</p> <p><input type="checkbox"/> Witnesses</p> <p><input type="checkbox"/> Beneficiaries</p> <p><input checked="" type="checkbox"/> External experts</p> <p><input checked="" type="checkbox"/> Contractors</p> <p><input checked="" type="checkbox"/> Other, please specify: Persons willing to participate in the procurement procedures of the ERCEA:</p> <ul style="list-style-type: none"> • tenderers (including joint tenderers) /individual economic operators - natural persons • staff of tenderers, and/or • subcontractors /individual economic operators -natural persons
9	<p>Description of personal data categories</p> <p>Indicate all the categories of personal data processed and specify which personal data are being processed for each category (between brackets under/next to each category):</p>	<p><i>Categories of personal data:</i></p> <p><input checked="" type="checkbox"/> in the form of personal identification numbers (identity card number, passport number)</p> <p><input type="checkbox"/> concerning the physical characteristics of persons as well as the image, voice or fingerprints</p> <p><input type="checkbox"/> concerning the data subject's private sphere</p> <p><input checked="" type="checkbox"/> concerning pay, allowances and bank accounts (salary name and first name, address, date of birth, country of birth, bank account reference [IBAN and BIC codes]);</p> <p><input checked="" type="checkbox"/> concerning recruitment and contracts</p> <p>(official name, first name, family name-, function, e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address, place of registration, date of registration, VAT registration number, bank account reference [IBAN and BIC codes], diplomas, employment certificate);</p> <p><input type="checkbox"/> concerning the data subject's family</p> <p><input checked="" type="checkbox"/> concerning the data subject's career CVs (expertise, technical skills, educational background, languages, professional experience including details on current and past employment, diplomas, employment certificate)</p> <p><input type="checkbox"/> concerning leave and absences</p>

- concerning missions and journeys
- concerning social security and pensions (certificates for social security contributions)
- concerning expenses and medical benefits
- concerning telephone numbers and communications (business telephone number, mobile telephone number, fax number, email address, postal address, internet address)
- concerning names and addresses (including email addresses) (official name, first name, family name email address, postal address)
- Other: statement of the overall turnover for the supplies and/or services referred to in the procurement procedure; 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 extract of judicial record; 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.

Categories of personal data processing likely to present specific risks:

- data relating to suspected offences, offences, criminal convictions or security measures (The tenderers are often requested to provide an extract from the judicial record, proving that the grounds for exclusion as defined in article 136 of the Financial Regulation are not applicable to them)
- data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct)(expertise, technical skills and languages)

Categories of personal data whose processing is prohibited, with exceptions (art. 10 new Regulation):

- revealing racial or ethnic origin
- revealing political opinions
- revealing religious or philosophical beliefs
- revealing trade-union membership
- concerning health
- genetic data, biometric data for the purpose of uniquely identifying a natural person
- concerning sex life or sexual orientation

Specify any additional data or explanatory information on the data being processed, if any:

Data relating to tenderers (including joint tenderers):

- identification and contact details (official name, official legal form, abbreviation, name and first name of individual economic operators, place of registration, date of

registration, VAT registration number, address, phone number, fax number, e-mail address, identity card number, date of birth, country of birth, bank account reference [IBAN and BIC codes]);

- organisational chart of the tenderer and company profile;

- documents attesting evidence of exclusion criteria (certificates for social security contributions, extract of judicial record, 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 selection criteria:

- statement of the overall turnover for the supplies and/or services referred to in the procurement procedure;
- 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;
- curriculum vitae, copies of diplomas, certificates, references regarding professional activities;
- list of similar services provided by the tenderer and information on a certain number of previous contracts considered similar in scope.

Data relating to the staff members of tenderers or external consultants participating in the procurement procedure:

- identification and contact details (name -first name, family name-, function, e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);

- other data contained in the CVs (expertise, technical skills, educational background, languages, professional experience including details on current and past employment);

- declaration of honour of the legal representative that they are not in one of the exclusion situations referred in Article 136 of the Financial Regulation.

Data relating to the tenderers' subcontractors if they are identified (explicitly mentioned) by the tenderers:

- identification and contact details (official name, official legal form, address, VAT registration form);

- financial identification data (account name, address, city, country; bank name, branch address, account number, IBAN, name under which the account is opened and the telephone number, email address and fax number of the person concerned);

- data contained in the "Declaration on honour for

10	Retention time (time limit for keeping the personal data)	<p>exclusion and selection criteria;</p> <p>- documents attesting selection criteria:</p> <ul style="list-style-type: none"> • statement of the overall turnover for the supplies and/or services referred to in the procurement procedure; • 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; • curriculum vitae, copies of diplomas, certificates, references regarding professional activities). <p>ERCEA is bound by the Commission Retention List (SEC(2019/900/2). According to it:</p> <p>- Files relating to tender procedures including personal data are to be retained for a period of 10 years following the signature of the contract.</p> <p>- Tenders from unsuccessful tenderers are kept only for 5 years following the signature of the contract with the successful tenders.</p> <p>If before the end of the above periods either an audit or legal proceedings have started, the retention period is suspended until the end of the proceedings.</p> <p>A specific retention period applies to extracts from judicial records that are kept for two (2) years after the signature of the contract with the successful tenders.</p> <p>Is any further processing for archiving purposes in the public interest, historical, statistical or scientific purposes envisaged?</p> <p><input type="checkbox"/> yes <input checked="" type="checkbox"/> no</p>
11	Recipients of the data	<p>All recipients receive the data on a "need-to-know" basis only:</p> <ul style="list-style-type: none"> - ERCEA staff managing the procurement procedure from 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

		<p>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).</p> <ul style="list-style-type: none"> - 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 38(1)(2) and 163 of the Financial Regulation, and point 2; 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 Official Journal (supplement S) of the European Union and on the ERC website. <p>In addition the report on negotiated procedures (under Article 74(10) of FR and points 11.1 and 39 of Annex I FR) is send to the European Parliament and to the Council.</p>
12	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	<p>Name and address of the successful tenderers and the amount awarded are published in the Official Journal for procedures above the EU Directive on public procurement thresholds and on the ERC website for low/middle negotiated procedures.</p>
13	General description of the technical and organisational security measures	<p>Documents submitted by candidates are only accessible to selected staff members on a need to know basis. Electronic documents are stored in a file to which access is restricted on need to know basis and where possible, secured by password.</p> <p>Any documents submitted in a paper form are stored in a locked cupboard to which only selected staff members have access.</p>
14	Information to data subjects/Data Protection Notice (DPN)	<p>A reference to Regulation (EU) 2018/1725 of 23.10.2018 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 is included in the following documents:</p> <ul style="list-style-type: none"> - Invitation to tender; - draft Contract. <p>In addition, in the invitation to tender and in the draft contract a link referring to the model for a data protection notice (DPN):</p> <p>https://erc.europa.eu/sites/default/files/document/file/erc_privacy_statement_public_procurement.pdf</p> <p>The DPN is attached to this record and includes a reference to the Early Detection and Exclusion System (EDES).</p>