

## Privacy Statement

### **Processing of personal data in the context of EFSA procurement and grant award procedures and the management of contracts and grants**

Processing of personal data in the context of procurement and grant award procedures of EFSA and the management of contracts and grants shall comply with 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.

#### **I. Purpose, controller and legal basis for the personal data processing**

The **purpose** of the personal data processing is the management of procurement and grant award procedures in accordance with the applicable legal framework and the management of contracts for services and supplies and of grant agreements. Procurement, grant calls and contract/grant management operations enable EFSA to rely on services and deliveries from contractors and grant holders in order to fulfil its mission defined in the EFSA Founding Regulation (EC) n° 178/2002.

- Particularly in the context of procurement and grant award procedures, personal data are processed for the purpose of evaluating information related to the legal, financial, economic, technical and professional capacity of tenderers, candidates and grant applicants (legal or natural persons) with a view of selecting offers best satisfying the criteria set out in the respective procurement or grant call ;
- For the management of resulting contracts and grant agreements, personal data are processed for the purpose of (1) the service provision or supplies and the organisation of cooperation activities outlined in the respective contract or grant agreement and (2) for the execution of the contract or grant agreement in all its modalities, including the reporting and payments.

The Head of Finance Unit is **the controller** of personal data processing in the context of EFSA procurement and grant award procedures and the contract and grant management.

The processing of the personal data is necessary for compliance with a legal obligation in the sense of Article 5.1 (b) of the Data Protection Regulation and to which the controller is subject in the context of procurement and grant award procedures and the management of contracts and grants. More specifically **the legal basis** is provided by:

- Regulation (EU, Euratom) No 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;
- The European Food Safety Authority's Financial Regulation and Implementing Rules, adopted on 19 December 2013;
  - Regarding grant award procedures: Article 36 of EFSA's Founding Regulation (EC) No 178/2002 as well as Commission Regulation (EC) No 2230/2004 laying down detailed rules with regard to the network of organisations operating in the fields within EFSA's mission;
  - Regarding the processing of declarations of interest in the context of procurement and grant award procedures in the scientific remit of EFSA: Articles 15 & 16 of the Decision of the Executive Director on competing interest Management, adopted on 29/06/2018.

## II. What personal information do we collect and process?

- Identification data: name & contact details of representatives and staff of tenderers and grant applicants, including consortium partners and subcontractors data;
- Evidence on eligibility and absence of falling under exclusion criteria: extracts from the register of the Chamber of Commerce (procurement), legal entity form (procurement, grants) and partnership statements (grants), declaration of honour by tenderers and grant applicants and resp. consortium partners (procurement, grants) and for what concerns tenderers proposed for contract award, turnover statements and balance sheets of the previous financial years (up to maximum of three years), proofs on payment of social contributions, taxes, extract from judicial records. Extracts from judicial records are considered sensitive data in accordance with Article 10 of the Data Protection Regulation, the processing of which is authorised by virtue of the Financial Regulation;
- Financial identification data (also of individuals), including identification details, bank account details and VAT number; as part of grant application, the payslips of proposed experts are asked with the aim of correctly establishing the amount of the grant award;
- Information for the evaluation of tender bids and grant proposals against selection criteria, such as information on the financial capacity of tenderers based on turn-over figures and balance sheet data of previous financial years (up to maximum of three years), information on the operational capacity of tenderers/applicants, including lists of personnel capable of performing the tasks described in the tender/grant specifications, lists of principle services and supplies delivered over the past 3 years, detailing sums, dates and recipients, curriculum vitae of project managers and (scientific) staff outlining their educational background, professional experience, technical skills, language proficiency, details on past and current employment;
- Information for the evaluation of tender bids and grant proposals against award criteria, such as a summary of the strategy of the tenderer/grant applicant related to the tender specification, such as a description of the goods and services they may propose (procurement) and related to the grant call, such as a description of the project for which funding is requested, the financial proposal including hourly/daily rates applied (procurement) and the estimated budget (grants);

- Appraisal data on tenders/grant proposals in evaluation reports, which may include observations on individuals/consultants/experts proposed for involvement in the contract/grant;
- For procurement and grant procedures related to a scientific or technical project, a Declaration of Interest by tenderers and/or by individuals employed or working as consultants in the sense of Articles 15 & 16 of the Decision of the Executive Director on Competing Interest Management, adopted on 29/06/2018.

The provision of personal data in the context of procurement and grant award procedures is in principle not mandatory, however failure to provide certain information may imply the exclusion from the evaluation and award procedure.

### III. Who has access to your personal data and to whom is it disclosed?

In accordance with the purpose of the procedures, access to personal data may be granted on a need-to-know basis. It should be noted that recipients of personal data shall process these exclusively for the purposes for which they were transmitted and not for any other purpose. The following **recipients of personal data** have been identified:

- The Head of Unit / Department responsible as Authorising Officer for the related contract or grant agreement and his/her staff;
- The Procurement Team within the Finance Unit, providing overall guidance and support throughout the contract/grant life cycle;
- Procurement Team of EFSA for management and follow-up, including the preparation of procurement/grant calls, the organisation of opening and evaluation sessions, contract/grant management tasks, including the budgetary commitments and payments, the preparation of amendments, the updating of EFSA's electronic database for the recording of financial commitments (LCK-ABAC) and the contract/grant filing maintenance;
- The members of the tenders/grants opening and evaluation committees; Occasionally, the evaluation committee may be composed of external members of EU origin or in very rare occasions also from outside the EU. In such cases, the transmission or transfer of personal data to these external experts involved in the evaluation process shall be assessed on a case-by-case basis against the requirements of Article 9 of Regulation 2018/1725 (external experts from EU origin) or Articles 46- 51 (external experts from outside the EU);
- Members of EFSA's Public Procurement Committee (PPC), advising EFSA Authorizing Officers on the legal compliance of the tender evaluation and selection process within their remit prior to the award decision;
- Staff of the Finance Unit and the Accounting Officer, in charge for the financial verification, budget commitments and payments;
- Staff of the Legal and Assurance Services Unit, providing legal advice throughout the contract/grant life cycle or in case of litigation and legal action against EFSA;
- Data of economic operators which are in one of the exclusion situations referred to in Articles 136 of the Financial Regulation may be included in the Early Detection and Exclusion System (EDES) and communicated to the designated persons of the European Commission, other EU institutions, agencies, authorities and bodies mentioned in Article 142 and 143 of the general Financial Regulation. This refers as well to the persons with powers of representation, decision making or control over the said economic operators;

- Personal data may be transferred to bodies in charge of a monitoring, auditing or inspection task in accordance with European Union legislation, such as the internal audit services, the EU Court of Auditors or the European Anti-Fraud Office (OLAF), as well as to the EU Ombudsman, the European Data Protection Supervisor;
- In case of litigation, including for contractual liability claims, data may be transferred to the European Court of Justice or to a mediator appointed by the parties;
- Finally, pursuant to the publication requirements laid down in the Financial Regulation, limited personal data is made public as concerns the outcome of procurement procedures and grant calls. The information concerns in particular the name, address, year, amount awarded and the name of the project or programme for which the successful tenderers/applications are awarded a contract/grant. The data is published in supplement S of the Official Journal of the European Union as well as on the EFSA website.

#### **IV. What technical means do we apply and how do we protect and safeguard the information?**

In the context of procurement and grant award procedures, offers are submitted either on paper or on an electronic device, such as an USB key or CD\_ROM or via email or via the e-Submission tool. In particular, the e-Submission tool requires prior registration in the European Commission's user authentication service ([EU-Login](#)) and has its own detailed [Privacy Statement](#). Likewise, at EFSA the information is processed both on paper and electronically via the IT tools, abiding to the EFSA security policy.

After completion of the award procedure, the Procurement Team manages the filing of signed contracts and grant agreements, including all the documentation on the related procurement/grant procedure in paper and in EFSA's electronic Document Management System with restricted access on a need-to-know basis. The Procurement Team inserts some information on contracts and grant agreements in EFSA's database for the recording of financial commitments (LCK-ABAC).

#### **V. How can you access, modify or delete your information?**

You have the right to access or verify your personal data EFSA is keeping related to a procurement/grant award procedure or a contract or grant agreement in which you are involved and to have your personal data modified, corrected or deleted. In order to exercise these rights, you should contact in writing the Authorizing Officer in charge of the procedure or contract/agreement in question, using the contact data given in the invitation letter for participation in the relevant procedure or indicated in the respective contract or grant agreement.

Identification data of individuals can be corrected at any time. In the context of contract/grant award procedures, factual data can only be rectified or updated up to the submission deadline for offers for the tender or grant procedure in question. Information that would change the nature of the offer made for EFSA cannot be changed after the submission deadline since this would compromise the award procedure.

Once the tender/grant evaluation has been completed, each tenderer/grant applicant is informed by means of a personalised letter providing details on the evaluation results in compliance with the general Financial Regulation, with a restriction as concerns

comparative data on competing tenderers/applicants except for the winner and the opinions of individual members of the Evaluation Committee.

## VI. How long do we keep your personal data?

Tender bids and grant applications not selected in the context of the respective contract/grant award procedure including all personal data contained therein, are kept for two years after the completion of the award procedure in question.

In application of Article 75 of the Financial Regulation, contracts and grant agreements, including personal data contained therein are kept for at least seven years after the end date of the contract or grant agreement in question.

Extracts from judicial records provided as part of tender bids are kept for maximum two years.

## VII. Who to contact?

If you have any queries concerning the processing of your personal data in the context of a procurement or grant award procedure or in EFSA contracts or grants, you should contact the EFSA unit or department acting as Authorising Officer for the contract or grant in question. The contact details are given in the invitation cover letter for the procedure in question or in the relevant contract or grant agreement. Queries may be followed up further with the Head of EFSA Finance Unit ([EFSAProcurement@efsa.europa.eu](mailto:EFSAProcurement@efsa.europa.eu)), identified as controller for personal data processing in this area or with the EFSA Data Protection Officer ([DataProtectionOfficer@efsa.europa.eu](mailto:DataProtectionOfficer@efsa.europa.eu)).

## VIII. Complaints

Persons concerned have the right to lodge a complaint related to the processing of their personal data with the European Data Protection Supervisor: <http://www.edps.europa.eu>.