

Privacy statement

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

Processing by EFSA of personal data in the context of procurement and grant award procedures and the management of contracts and grants shall comply with Regulation (EC) N° 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.

1. Legal basis, Purpose and controller of personal data processing

The **legal basis** for the processing of personal data related to procurement and grant award procedures and the management of contracts and grants is provided by:

- Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ('general Financial Regulation');
- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council on the financial rules applicable to the general budget of the Union ('Rules of Application');
- 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: Title IV of the Decision of the Executive Director, implementing EFSA's Policy on Independence and Scientific Decision-making Processes regarding Declarations of Interests, adopted on 21/02/2012.

The overall **purpose** of the personal data processing is the management of procurement and grant award procedures in accordance with the applicable legal framework referred to here above 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 identified as the **controller** of personal data processing in the context of procurement and grant award procedures and the contract and grant management.

2. What personal information does EFSA 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 previous financial years (up to a maximum of three years), proofs on payment of social contributions, taxes, extract from judicial records. Extracts from judicial records are considered as sensitive data in the sense of Article 10 of Regulation (EC) No 45/2001, the processing of which is authorised by virtue of the general 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 a 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 grant call, such as description of the project for which funding is requested, the financial proposal including hourly/daily rates applied (procurement) and 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 Title IV of the Decision of the Executive Director, implementing EFSA's Policy on Independence and Scientific Decision-making Processes regarding Declarations of Interests, adopted on 21/02/2012.

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

3. To whom is your personal data disclosed?

In view of the purpose indicated above, access to personal data may be granted on a need-to-know basis. It should be noted that in accordance with Article 7 of Regulation (EC) N° 45/2001, 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 / Director 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;

- Planning & Monitoring Teams (P&M Teams) in charge at all five Directorates of EFSA for general 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 internal electronic database (Comprehensive, Interconnected and Interactive Database) 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 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 8 of Regulation (EC) N° 45/2001 (external experts from EU origin) or Article 9 of Regulation (EC) N° 45/2001 (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 Regulatory Affairs 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 106, 107, 109(1) and 109(2)(a) of the general Financial Regulation may be included in a Central Exclusion Database and communicated to the designated persons of the European Commission, other EU institutions, agencies, authorities and bodies mentioned in Article 108(1) and (2) 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 general 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.

4. What technical means are applied for the data processing and how does EFSA secure and safeguard the information?

In the context of procurement and grant award procedures, offers are submitted on paper as well as on an electronic device, such as a USB key or CD_ROM. 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, signed contract and grant agreement, including all the documentation on the related procurement/grant procedure are kept in paper filing systems within the P&M Teams. The Finance Unit keeps centrally another original of the signed contract and grant agreement. P&M Teams insert some information on contracts and grant agreements in EFSA's internal electronic database (Comprehensive, Interconnected and Interactive Database).

5. 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.

6. How long does EFSA keep your 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 48 of the FR Rules of Application, 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.

7. 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 directorate 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 (procurement@efsa.europa.eu), identified as controller for personal data processing in this area or with the Data Protection Officer at EFSA (DataProtectionOfficer@efsa.europa.eu).

8. Recourse to EDPS

Persons concerned are entitled to have recourse at any time to the European Data Protection Supervisor: <http://www.edps.europa.eu>.