



European Research Council
Executive Agency

Established by the European Commission

SPECIFIC PRIVACY STATEMENT
ERCEA Unit/Department XX
Public procurement – [service][supply] contract

This statement concerns the processing operation called "**public procurement – [service][supply] contract**". This processing requires the handling of personal data, and is therefore subject to Regulation (EC) No 45/2001¹.

1. What personal information do we collect, for what purpose and by what means?

Data collected relating to tenderers (including joint tenderers):

- identification and contact details (official name/name of individual economic operator, official legal form, abbreviation, 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]);
- statement of the overall turnover for the [services][goods] referred to in the procurement procedure;
- 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 or eligibility criteria (curriculum vitae, copies of diplomas, certificates, references regarding professional activities); list of similar [services][goods] provided by the tenderer and information on three contracts considered similar in scope.

Data relating to the staff members or external consultants of tenderers participating in the procurement procedure on a need-to-know basis:

- 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);

¹ Regulation (EC) 45/2001 of the European Parliament and of the Council 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, OJ L 8, 12.1.2001, p. 1.

- other data contained in the curriculum vitae (expertise, technical skills, educational background, languages, professional experience including details on current and past employment);
- declaration of honour of the legal representative that the economic operators/subcontractors are not in one of the exclusion situations referred in Articles 106 and 107 of the Financial Regulation.

Data relating to the tenderers' subcontractors:

- 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 exclusion and selection criteria”;
- documents attesting selection criteria or eligibility criteria (curriculum vitae, copies of diplomas, certificates, references regarding professional activities).

The data is processed to ensure the management and administration of procurement procedures by the 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. The task are carried out in the public interest: to ensure the functioning of the ERCEA certain [services][goods] providers must be procured.

The personal data are collected through:

Option 1: Internet research to identify the potential candidates (in case of a negotiated procedure for middle and low value contracts).

Option 2: reception of the offers (in case of an open/restricted procedure).

Option 3: the ERCEA starting to process data upon reception of the award decision (in case of an *inter-institutional procurement procedure* if ERCEA is not the leading institution but it processes data in cooperation with the leading institution).

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

- Staffs of the operational and financial units concerned by the service/goods in the ERCEA and its procurement sector have access to your information. Outside experts and contractors who work on behalf of the ERCEA during the procurement procedure and evaluation.
- Your information may be disclosed to staff of OLAF (European Anti-Fraud Office), IAS (Internal Audit Services), to the European Ombudsman, to the Court of Justice of the EU and to the European Commission's Legal Service, as well as to staff of other Directorate Generals of the European Commission (Secretary General, DG Budget, particularly the Accounting Officer in charge of the Early Detection and Exclusion System (EDES) and Early Detection and Exclusion System_Database

(EDES-DB)², and clearinghouse) upon request and only if necessary in the context of official investigations or for audit purposes.

- Your information is disclosed to 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 103 and Article 35(2) of the Financial Regulation, and Article 123 and 124 of Rules of Application respectively). The information concerns in particular the name and address of the successful tenderers and the amount awarded.

1. How do we protect and safeguard your information?

Access to tender documents submitted by candidates is restricted to selected ERCEA staff members only. Access to electronic documents is secured by user-ID and password. Paper documents are stored in a locked cupboard.

4. How can you access, verify, modify or delete your data?

If you would like to check, modify, correct or delete any personal data, you can apply to the Head of Unit/Department responsible for the procurement procedure that is mentioned in the invitation to tender, acting on behalf of the ERCEA Director who is the Controller of the processing, by sending an e-mail giving details of your request to the mailbox indicated in point 6. Any request for change of your personal data will be responded to.

The right of rectification is in principle limited to factual information.

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 to exclusion as stated in Article 160³ of the Rules of Application of the Financial Regulation.

Additionally, some restrictions to the right of access and rectification are imposed before the opening procedure, when contact between the ERCEA and the tenderers is forbidden (without prejudice to the exceptions of making clarifications or correcting administrative errors).

5. How long do we keep your data?

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

² The Authorizing Officer shall ensure the effective protection of the interests of the European Union, taking necessary measures. The EDES provides the means to ensure within the Commission and Executive Agencies the circulation of restricted information concerning third parties with the Early Detection and Exclusion System Database (EDES-DB) being the database containing the relevant information concerning the third parties who are in early detection case and exclusion cases regards procurement procedures.

³ Article 160 - Contacts between contracting authorities and candidates or tenderers
(Article 112 of the Financial Regulation)

1. Contact between the contracting authority and candidates or tenderers during the procurement procedure may take place, exceptionally, under the conditions set out in paragraphs 2 and 3.
2. Before the closing date for receipt of requests to participate or tenders, the contracting authority may communicate the additional information in accordance with Article 153(2):
(a) at the instance of candidates or tenderers, solely for the purpose of clarifying procurement documents;
(b) at its own instance, if it discovers an error, a lack of precision, an omission or any other type of clerical defect in the text of the procurement documents.
3. In every case where contact has been made, and in the duly justified cases where contact has not been made as referred to in Article 96 of the Financial Regulation, a record shall be kept in the procurement file.

Tenders from unsuccessful tenderers are kept only for five (5) years following the signature of the contract with the successful tenders.

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.

6. Contact for information

If you would like to receive further information, you can contact the ERCEA contact person given in the procurement procedure.

The ERCEA Data Protection Officer is at your disposal for any clarification of your rights under Regulation (EC) 45/2001: ERC-DATA-PROTECTION@ec.europa.eu

You can also at any time contact the European Data Protection Supervisor (edps@edps.eu) if you consider that your rights under Regulation (EC) 45/2001 have been infringed as a result of the processing of your personal data by the ERCEA.

7. Legal basis

1. 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 No 1605/2002 as amended by Regulation (EU, Euratom) 2015/1929 of the European Parliament and of the Council of 28 October 2015.
2. Commission Delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of Regulation 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union as amended by Commission Delegated Regulation (EU) 2015/2462 of 30 October 2015.
3. 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, in particular Article 50 on procurement.
4. For contract execution, the legal basis is the particular contract itself.
5. Despite not being legally binding, the Commission internal Vade-mecum on "Public procurement" and the General Guidelines for the management of the ERCEA administrative (operating) budget, Annex V on Public Procurement, are also considered during the tender procedure.