



## **PRIVACY STATEMENT for processing of personal data related to PROCUREMENT PROCEDURES**

### **1. Context and Controller**

The Education, Audiovisual and Culture Executive Agency ("EACEA") is dedicated to respecting the privacy of natural persons participating in procurement procedures. As in the framework of the procurement process, the follow-up of tenderer's responses will require the recording and further processing of personal data by the EACEA, all personal data are dealt with in accordance with Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data<sup>1</sup>. The following Privacy statement outlines the policies by which the EACEA collects, manages and uses the personal data provided by participants in procurement procedures.

Regarding the collection and processing of personal data, processing operations are under the responsibility of the Controller as mentioned in the Invitation to Tender.

### **2. What personal information do we collect, for what purpose, under which legal bases and through which technical means?**

#### *Types of personal data*

Personal data collected and further processed concern the tenderer, its staff or subcontractors (natural persons). Information may contain the following data:

Information about the Organisation:

- Name of the organisation;
- Contact details (e-mail address, business telephone number, fax number, postal address, company and department, country of residence, internet address);
- Certificates for social security contributions and taxes paid;
- Bank account reference (IBAN and BIC codes), VAT number;
- list of personnel capable of performing the tasks described in the tender specifications,
- Declaration on honour that the Organisation is not in one of the exclusion situation referred to in article 93 and 94 of the Financial Regulation.

Information about the Tendering party's representative and staff members:

- Name, First name, Title, Position, Telephone number, Mailing address, passport number, ID number, extract from judicial records, signature;
- Information for the evaluation against the selection criteria like e.g. personal data included in Curriculum Vitae of staff members, expertise, technical skills and languages, educational background, professional experience including details on current and past employment.

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<sup>1</sup> Regulation (EC) No 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, OJ L8 of 12.1.2001, p. 1.

## ***Purpose***

Upon reception of your tender or request to participate by the EACEA, your personal data is collected and further processed for the purpose of the management and administration of the procurement procedures by EACEA services. The data is collected and processed with the purpose to evaluate the eligibility of economic operators to participate in the procurement procedure in accordance with exclusion and selection criteria as defined in articles 93 to 97 of the Financial regulation, and to evaluate the content of tenders submitted during the procurement procedure with the view to award the contract, in accordance with award criteria as defined in article 97 of the Financial regulation.

## ***Legal bases***

The legal bases for the processing operations on personal data are:

- COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, as subsequently amended ('Financial Regulation'): Articles 93, 94 and 97 (1).
- COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>, as subsequently amended ('Implementing Rules'): Articles 135-137.
- 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<sup>4</sup>, as subsequently amended: in particular Art 50 on procurement.

## ***Technical means***

Personal data is provided by submission of the tender.

The information is collected in files stored in an isolated secure system. The information is processed by EACEA and transferred to EACEA computer systems (as described in point 4.), under the responsibility of the Controller mentioned in the Invitation to Tender.

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

For the purpose detailed above, access to your personal data may be given on a need-to know basis to the following persons:

- EACEA staff as well as outside experts and contractor's staff who work for the purposes of management of the procurement procedure and tender evaluation,
- In case of control or dispute the bodies charged with a monitoring or inspection task in application of Union law (e.g. Internal Audit Service, Internal Audit Capacity, European Commission, OLAF, EU Courts etc.);
- Members of the public: In case you are awarded a contract by the EACEA, limited personal data will be made public, in accordance with the EACEA's obligation to publish information on the outcome of the procurement procedure and on the beneficiaries of funds deriving from the budget of the European Community (Article 90 and Article 30(3) of the Financial Regulation, respectively). The information will concern in particular your name and address, the year, the amount awarded and the name of the project or programme for which you are awarded a

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<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 357, 31.12.2002, p. 1.

<sup>4</sup> OJ L 297, 22.09.2004, p. 6.

contract. These data may be published on a yearly basis on the website of the EACEA, of the European Commission and/or in supplement S of the Official Journal of the European Union.

#### **4. How do we protect and safeguard your information?**

The collected personal data and all related information are stored after closure of the procurement procedure on the premises of the EACEA and on servers of a computer centre of EACEA. The EACEA premises and operations of all computer centres abide by the Commission's security decisions and provisions established by the Security Directorate of Directorate General Human Resources and Security.

#### **5. How can you verify, modify or delete your information?**

In case you wish to verify which personal data is stored on your behalf by the responsible Controller, have it modified, corrected, or deleted, please make use of the contact information mentioned in the Invitation to tender, by explicitly describing your request.

NB: Material data may not be updated or corrected after the deadline for submission of the tenders since elements that would change the nature of the offer cannot be changed after the offer has been received as this would compromise the award procedure.

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 exclusion as stated in Article 148 of the Implementing Rules (see legal basis in Section 2 above).

#### **6. How long do we keep your personal data?**

Your personal data are kept:

- Files relating to tender procedures, including personal data, are to be retained in the service in charge of the procedure until it is finalised, and in the archives for a period of 7 years following the end of the procurement contract<sup>5</sup>. However, tenders from unsuccessful tenderers have to be kept only for 5 years following the signature of the contract.<sup>6</sup>
- Until the end of a possible audit if one started before the end of the above period.
- After the period mentioned above has elapsed, the tender files containing personal data are sampled to be sent to the historical archives of the Commission for further conservation. The non-sampled files from unsuccessful tenders are destroyed.

#### **7. Contact information**

For any questions on your rights and the exercise of your rights related to the processing of personal data (like access and rectification of your personal data), feel free to contact the Controller, by using the contact information mentioned in the Call for tenders, and by explicitly specifying your request.

#### **8. Recourse**

In case of conflict on any Personal Data Protection issue you can address yourself to the Controller at the address mentioned in the Call for tenders.

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<sup>5</sup> In line with Article 49, paragraph 1 (d), and paragraph 2, of the Implementing Rules of the Financial Regulation: Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L 357, 31.12.2002.

<sup>6</sup> Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p.11, point 7.1.4 and p. 23, point 12.6.1.

You can also contact EACEA's Data Protection Officer at the following email address: [eacea-data-protection@ec.europa.eu](mailto:eacea-data-protection@ec.europa.eu)

Should the conflict not be resolved by the Controller or the Data Protection Officer you may lodge a complaint with the European Data Protection Supervisor at any time:

Website <http://www.edps.europa.eu>; E-mail: [edps@edps.europa.eu](mailto:edps@edps.europa.eu).