



EUROPEAN COMMISSION

PROTECTION OF YOUR PERSONAL DATA

This privacy statement provides information about the processing and the protection of your personal data.

Processing operation: FPI procurement and grant award procedures, contract execution and grant implementation under direct management on contract procedures for European Union external action

Data Controller: Service for Foreign Policy Instruments, Budget, Finance and Relations with other Institutions Unit (FPI.6)

Record reference: [DPR-EC-04370.2]

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1. Introduction

The European Commission (hereafter ‘the Commission’) is committed to protect your personal data and to respect your privacy. The Commission collects and further processes personal data pursuant to [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 (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing operation FPI procurement and grant award procedures, contract execution and grant implementation under direct management on contract procedures for European Union external action, undertaken by the Service for Foreign Policy Instruments, Budget, Finance and Relations with other Institutions Unit (FPI.1) is presented below.

2. Why and how do we process your personal data?

Purpose of the processing operation: The Service for Foreign Policy Instruments collects and uses your personal information for the purpose of the management of procurement and grant award procedures, contract execution and grant implementation under direct management. Processing by FPI Headquarters (HQ), as well as processing by Regional Teams in EU Delegations (EUDEL) for the actions falling under FPI's scope of competence, are both covered.

Processing of personal data takes place using both automated means, in particular the Commission's electronic systems for the management of procurement/grant award procedures/contract execution/grant implementation (e.g. PADOR, PROSPECT, CRIS, OPSYS, ABAC, ARES) and manual means, such as paper files.

Your personal data will *not* be used for an automated decision-making including profiling.

3. On what legal ground(s) do we process your personal data

The data processing is considered lawful because it is necessary for the performance of tasks carried out in the public interest and in the exercise of official authority vested in the Union institution on the basis of:

- Regulation (EU, Euratom) 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 (OJ L 193, 30.7.2018, p.1);
- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (CIR) (OJ L 342, 29.12.2015, p. 7);
- Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (OJ L 77, 15.03.2014, p. 1);
- Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries, OJ L 77, 15.3.2014, p. 77.
- Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.03.2014, p. 85);
- All the Council Decisions authorising the implementation of Non-Proliferation and Disarmament Projects and designating the direct beneficiaries of the grants awarded to those projects;

- Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation(EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).
- Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation(EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).
- The Commission implementing decision, which identifies the implementation modality and contains the concrete budgetary commitment in relation to a project.

The data processing is also necessary:

- To ensure compliance of the Data Controller with the legal obligations stated in the abovementioned legal acts.
- For the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.

The grounds for processing described above correspond to points (a), (b) and (c) of Article 5 of Regulation (EU) 2018/1725.

In very limited and specific cases, we might process special categories of personal data indicated in Section 4, namely data related to the health of the data subjects. The processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject, in accordance with Article 10(2)(b) of Regulation (EU) 2018/1725. If so, the processing will be limited to the submission by the contractor of a certificate that the contractor itself, its staff, its subcontractors and/or any person for which the contractor is answerable, are fit to implement their obligations under the contract, with no further details on the health of the data subject. This way the contracting authority ensures the health, safety and welfare of the data subjects and ensures the protection of EU funds by confirming that the contractors can implement their obligations. On the other hand, the contractors comply with their obligation of proper implementation of the contract.

In certain circumstances, it is necessary to reconcile the rights of data subjects pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council with the needs of investigations and confidentiality of exchanges of information with the competent public authorities, as well as with full respect for fundamental rights and freedoms of other data subjects. To that effect, Article 25 of that Regulation provides with the possibility to restrict the application of Articles 14 to 22, 35 and 36, as well as Article 4 thereof, insofar as its provisions correspond to the rights and obligations provided for in Articles 14 to 22.

Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council C/2018/8654 (OJ L 315, 12.12.2018, p. 41) encompasses the processing of personal data contained in information which the Commission's services are required to transmit to OLAF. Where Commission services processes personal data in instances referred to in Article 1(3) of the Commission Decision (EU) 2018/1962, they may, where necessary, apply restrictions in accordance with this decision. To that end, they shall consult OLAF, unless it is clear to the

Commission service or executive agency concerned that the application of a restriction is justified under this decision.

4. Which personal data do we collect and further process?

In order to carry out this processing operation FPI collects and further processes the following categories of personal data:

A. Personal data of members of the staff¹ of FPI in both HQ and EUDEL and/or any intra muros service provider of FPI involved in procurement/grant award procedures and/or contract implementation, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence);
- Signature;
- Opinions;
- Declarations on honour that the person is not in situation of conflict of interest, that they will execute their responsibilities impartially, objectively and bound by confidentiality.

B. Personal data of tenderers, grant applicants, their staff, subcontractors, proposed experts, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- Certificates for social security contributions and taxes paid, extract from judicial records;
- Bank account reference (IBAN and BIC codes), VAT number, passport number, ID number;
- Information for the evaluation of selection criteria: expertise, technical skills and languages, educational background, professional experience including details on current and past employment;
- Declaration that they are not in one of the exclusion situations referred to in Articles 136 – 141 of the Financial Regulation;
- Declaration of availability of experts.

Since the information is often provided on CV, the tenderers, staff or subcontractors may supply additional information, such as gender, age, nationality.

C. Personal data of reference persons mentioned in the CVs of (non-)key experts, which may include in particular:

- Name;
- Contact details.

D. Personal data processed in the context of project implementation – financial execution of services, supplies, works and grant contracts, which may include in particular:

¹ Staff encompasses all staff categories: officials, contractual agents, local staff,

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- Signature;
- Opinions;
- Certificate that the contractor itself, its staff, its subcontractors and/or any person for which the contractor is answerable, are fit to implement their obligations under the contract. In the very limited cases where this certificate is requested/submitted it takes the form of a confirmation that the data subjects are capable of implementing the tasks entrusted under the contract without revealing any specific information on their health status. and
- any other type of data that may be collected by or transmitted to the Commission by any means for the purposes of contract implementation.

We have obtained your personal data from tenderers/grant applicants/contractors.

5. How long do we keep your personal data?

FPI only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing. The retention periods are aligned with the Common Commission-Level Retention List (CRL)² of the European Commission.

Files relating to tender and/or grant 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 10 years following the signature of the contract (point 7.1.2 and 7.1.4 of CRL).

However, tenders from unsuccessful tenderers have to be kept only for 5 years following the signature of the contract into question (Annex I, T2 of CRL). Applications from unsuccessful applicants have to be kept only for 5 years following the finalisation of the call (Annex I, T1 of CRL).

Files relating to contracts including personal data are to be retained in the service in charge of the procedure until the closure of the contract and in the archives for a period of 10 years following the closure of the contract. (point 7.1.3 and 7.1.5 of CRL).

These files could be retained until the end of a possible audit if one started before the end of the above periods.

After the periods mentioned above have elapsed, the files containing personal data are sampled to be sent to the historical archives of the Commission for further conservation. The non-sampled files are destroyed.

In case of investigations where irregularities are suspected or have been established in relation to an open file, it can only be closed when: (1) it has finally been established that no irregularity took place; or (2) the irregularity has been rectified, possibly, but not necessarily, as a result of litigation.

The extracts from the judicial records can be kept only for 2 years after the accomplishment of a particular procedure. According to Article 75 of the Financial Regulation, personal information contained in supporting documents should be deleted when these data are NOT necessary for budgetary discharge control and audit purposes.

² Annex 1 to SEC(2019)900.

The Commission's contractors/beneficiaries are under contractual obligation to keep records for a for up to 7 years for service/supplies/work contracts, for 5 years for grant contracts exceeding EUR 60 000, and for 3 years for grant contracts not exceeding EUR 60 000. The period starts counting after payment by the Commission of the balance of the contract.

These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including but not limited to timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for incidental expenditure.

6. How do we protect and safeguard your personal data?

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the European Commission or of its contractors. All processing operations are carried out pursuant to the [Commission Decision \(EU, Euratom\) 2017/46](#) of 10 January 2017 on the security of communication and information systems in the European Commission.

The Commission's contractors are bound by a specific contractual clause for any processing operations of your data on behalf of the Commission. If the processing falls within its scope, the Commission's contractors are also bound by the confidentiality obligations deriving from the General Data Protection Regulation ('GDPR') [Regulation \(EU\) 2016/679](#).

In order to protect your personal data, the Commission has put in place a number of technical and organisational measures in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

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

Access to your personal data is provided to the Commission staff responsible for carrying out this processing operation and to authorised staff according to the "need to know" principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

Recipients within the EU organisation:

- Staff and intra muros service providers of operational and financial units of FPI in both HQ and EUDEL participating in management of selection of experts or procurement or grant award procedures as defined under point 2 and to the bodies charged with a monitoring or inspection task in application of Union law (e.g. internal control, internal audit);
- Staff of OLAF, IDOC, IAS (Internal Audit Services), European Court of Auditors and the Legal Service of the Commission as well as staff of other DGs (SG, DG BUDG and clearinghouse) upon request necessary in the context of official investigations or for audit purposes.

Recipients outside the EU organisation:

- External experts and contractors participating in the evaluation of tenders when external expertise is required, on the basis of Articles 150 and 237 of the Financial Regulation.
- Members of the public in accordance with the Commission'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 Union (Article 163, 189 and Article 38 of the Financial Regulation, respectively). The information concerns in particular name and address, the amount awarded and the name of the project or programme. It will be published in supplement S of the Official Journal of the European Union and/or on the website of the Commission. Where personal data is

published under Article 38 of the Financial Regulation, the information shall be removed two years after the end of the financial year in which the funds were legally committed. This shall also apply to personal data referring to legal persons whose official name identifies one or more natural persons.

- Staff of the contractor (data processor) or beneficiary who need to have access to the data strictly for performance, management and monitoring of the contract or grant.

Transfer of personal data to third countries:

Transfers of personal data outside of the EU or the EEA are likely to occur in the context of procurement and grant award procedures when the contractor or beneficiary are non-EU based. Additionally, transfers of personal data outside of the EU or the EEA are likely to occur in the context of the execution of service contracts when the contractor is non-EU based or when it is an International Organisation. Unless there is an adequacy decision of the Commission for the third country, potential transfers of personal data to the contractor take place on the basis of derogations set out in Article 50(1)(c) and 50(1)(d) of Regulation (EU) 2018/1725. More specifically, the conclusion of contracts in the implementation of foreign policy contributes to a policy interest of the Union recognized in the Treaty of the European Union (Title V – Chapter 1). Pursuant to article 21 of the Treaty of the European Union, the Union shall work for a high degree of cooperation in all fields of international relations in order to prevent conflicts, strengthen international security, consolidate and support democracy and rule of law. Such transfers are also necessary for the conclusion or performance of a contract concluded in the interest of the data subject, under article 50(1)(c) of Regulation 2018/1725.

The types of data likely to be transferred include in particular:

A. Personal data of members of the staff of FPI in both HQ and Delegations of the EU and/or any intra muros service provider of FPI involved in procurement/grant award procedures and/or contract implementation, which may include in particular name, function, title, business contact details (e-mail address, telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence), signature, opinions, declarations on honour that the person is not in situation of conflict of interest, that they will execute their responsibilities impartially, objectively and bound by confidentiality.

B. Personal data processed in the context of project implementation – financial execution of services, supplies, works and grants which may include in particular name, function, title, business contact details (e-mail address, telephone number, mobile telephone number, fax number, postal address, company and department, country of residence), signature, opinions, and any other type of data that may be collected by or transmitted to the Commission by any means for the purposes of the contract implementation.

Please note that pursuant to Article 3(13) of Regulation (EU) 2018/1725, public authorities (e.g. Court of Auditors, EU Court of Justice) which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by law.

8. What are your rights and how can you exercise them?

You have specific rights as a ‘data subject’ under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your

personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

9. Contact information

- The Data Controller

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller at FPI-DATA-PROTECTION@ec.europa.eu.

- The Data Protection Officer (DPO) of the Commission

You may contact the Data Protection Officer (DATA-PROTECTION-OFFICER@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- The European Data Protection Supervisor (EDPS)

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

10. Where to find more detailed information?

The Commission Data Protection Officer (DPO) publishes the register of all processing operations on personal data by the Commission, which have been documented and notified to him. You may access the register via the following link: <http://ec.europa.eu/dpo-register>.

This specific processing operation has been included in the DPO's public register with the following Record reference: DPR-EC-04370.1.