

## **PROTECTION OF YOUR PERSONAL DATA**

**This privacy statement provides information about the processing and the protection of your personal data in public procurement procedures**

### **1. Introduction**

The European Union Agency for the Operational Management of Large-Scale IT systems in the Area of Freedom, Security and Justice (hereafter, 'eu-LISA') is committed to protect your personal data and to respect your privacy. eu-LISA 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

The information in relation to the processing operation "*Public procurement procedures*" undertaken by the Finance and Procurement Unit (FPU) is presented below.

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

FPU collects and uses your personal information for the purpose of management and administration of procurement procedures (i.e. the process that leads to the conclusion of a public contract - a purchase by a public authority (the Agency) of a service, goods or works) and contract management by eu-LISA, insofar as required in the applicable legal basis provided in Section 3 below.

This purpose includes:

1. Invitation to tendering (applicable for negotiated procedures)
2. Screening the eligibility of economic operators in line with the selection/exclusion criteria;
3. Assessment of compliance by the economic operators with the minimum requirements of the procurement documents;
4. Awarding and drafting the contract to a specific tender;
5. Contract follow-up including amendments to the contract.

This processing activity is in line with the Financial Rules of eu-LISA, adopted by Decision of the Management Board No 2019-198 REV1 of 28 August 2019 establishing the Financial Rules of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (hereinafter referred to as 'eu-LISA Financial Rules'), as well as 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 Regulation (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014 and repealing

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Regulation (EU, Euratom) No 966/2012 (hereinafter referred to as 'the EU Financial Regulation') applicable to eu-LISA by virtue of the eu-LISA Financial Rules.

The same nature of data is processed for all types of procedures. However, there are two categories of procedures through which this data can be processed (until signature of the contract):

1. Procedures using e-platforms: eTendering, eNotices, eSubmission, ARES, EDES (platforms provided by the European Commission);
  - eTendering: no personal data is published by the Agency; the economic operators are requested to create an account and submit the following personal data if they are interested to tender: contact name, email address.
  - eNotices: no personal data is published by the Agency;
  - eSubmission: personal data processed: name, email address, bank account, postal address, CVs, financial data.
2. Procedures not using e-platforms: exchange of correspondence via dedicated functional e-mail boxes, ARES, EDES.

During contract execution (following signature of the contract) personal data is processed through ABAC, ARES, dedicated functional e-mail boxes (only accessible to FPU staff), as well as restricted access shared folders, including on the Agency's intranet.

Eu-LISA uses the following platforms owned by the EC for procurement activities:

- The Information System for European Public Procurement (SIMAP) system, including eTendering, eNotices and eSubmission;
- The Early Detection and Exclusion System (EDES) database, in line with Article 135 of the EU Financial Regulation, applicable to eu-LISA pursuant to the Agency Financial Rules;
- The Accrual Based Accounting (ABAC) information system;
- The electronic document management system, Advanced Records System (ARES).

For more information on the processing of personal data through the ARES Document Management System please consult eu-LISA corresponding record Reference Number: 002/2017 available at:

[https://www.eulisa.europa.eu/AboutUs/DP/Documents/web\\_DPO\\_Register.pdf#zoom=300](https://www.eulisa.europa.eu/AboutUs/DP/Documents/web_DPO_Register.pdf#zoom=300)

You can also consult European Commission Register of Processing Activities for more information on above-mentioned IT Tools: <https://ec.europa.eu/dpo-register/>.

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

Your personal data processed may be reused for the purpose of procedures before the EU Courts, national courts, or the European Court of Auditors.

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

We process your personal data, because:

- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in eu-LISA, including because it is necessary for the management and functioning of the Agency, in particular, based on the following legal acts:
  - Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational

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Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (eu-LISA Establishing Regulation);

- Decision of the Management Board No. 2019-198 rev 1 establishing the Financial Rules of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA Financial Rules);
  - 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 (EU Financial Regulation), insofar as applicable by virtue of the eu-LISA Financial Rules.
- Processing is necessary for compliance with a legal obligation to which the controller is subject, namely:
    - Decision of the Management Board No. 2019-198 rev 1 establishing the Financial Rules of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA Financial Rules);
    - 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 (EU Financial Regulation), insofar as applicable by virtue of the eu-LISA Financial Rules.

We process special categories of personal data which fall(s) under Article 11 of Regulation (EU) 2018/1725, entitled “criminal convictions and offences” indicated in Section 4, of the following natural persons participating in the public procurement process: tenderers/candidates, authorised representatives and staff of tenderers/grant candidates, subcontractors, consortium members, points of contacts whose data is required by the procurement procedure.

The basis for the processing has been laid down in the following Union law: Regulation (EU, Euratom) 2018/1046 insofar as applicable by virtue of the eu-LISA Financial Rules, as applicants or tenderers have to demonstrate that they comply with the applicable exclusion criteria (e.g. bankruptcy, professional misconduct, fraud or corruption).

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

In order to carry out this processing operation Finance and Procurement Unit collects the following categories of personal data:

- Name, contact details and affiliation (e.g. address, first name, surname, e-mail, phone number, citizenship);
- e-Communication and/or connection data (e.g. phone network, internet traffic, IP address, logs, user ID, user credentials);
- Personal identification numbers (e.g. national IDs/passports, staff ID);
- Details on education, expertise, profession of the person (e.g. CV, trainings);
- Economic and financial details (e.g. bank account details, expenses, reimbursements);
- Goods and services the person provides;

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- Personal data relating to criminal convictions and offences or related security measures (e.g. copies of the criminal records certificates).

In particular:

- Identification data: name (first name, surname); date of birth, ID number, passport number, signature), country of residence, nationality, gender, function/position of authorised legal representative of a company;
- Contact details: email address, business and mobile telephone number, official postal address, country of residence, website;
- Financial data: bank account reference (IBAN and BIC codes), VAT number, national registration number, balance sheets;
- Information relating to eligibility and exclusion and selection criteria: proof of security clearance, certificates of good conduct, certificates for social security contributions and taxes paid, extracts from judicial records, chamber of commerce extracts, expertise, personal skills and competences (e.g. technical skills, languages), educational background (e.g. diplomas, certificates), professional experience (e.g. curricula vitae, professional references) including details on current and past employment in line with Articles 57 and 136 - 141 of the EU Financial Regulation.
- Sensitive personal data relating to criminal convictions and offences or related security measures from tenderers/candidates, authorised representatives and staff of tenderers/grant candidates, subcontractors, consortium members, points of contacts, and/or whose data is required by the procurement procedure include, in line with Article 137 of the EU Financial Regulation: information relating to eligibility and exclusion and selection criteria.

Personal data is collected directly from tenderers/candidates participating in a public procurement procedure. Each tenderer/candidate is responsible to provide the accurate information, which is checked against supporting documents by procurement staff members and members of opening and evaluation committees.

Each tool as above listed in Section 2 and storage space owned by FPU is populated with data supplied directly by the economic operators/candidates to the tendering procedures or data collected from public sources.

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

Your personal data is only kept by eu-LISA for the time necessary to fulfil the purpose of collection or further processing, namely, all files relating to the Agency's procurement procedures, including personal data, are to be retained within the procurement offices until the procedure is finalised, and in the archives for a period of up to 10 years following the execution of the last payment made under the related contract.

After the retention period expires, the files may be transferred to the Historical Archives of the European Union.

When determining the maximum retention periods, the Agency takes also into account possible legal recourses, legal, auditing, archiving and reporting obligations.

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

Access to your personal data is provided to eu-LISA 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.

The following data recipients will have access to your personal information within the context of this processing activity:

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- eu-LISA Staff: authorised finance and procurement staff members, members of opening and evaluation committees, Responsible Authorising Officers and the staff entrusted with ex-ante controls, Legal officer, Internal audit capability, Accounting Officer;
- External Contractors and consultants: on an exceptional basis and under strict supervision and limitations, when specialised expertise is not available within eu-LISA;
- Bodies and institutions in charge of monitoring, audit or inspections tasks (e.g. the Commission's Internal Audit Services (IAS), European Court of Auditors (ECA), European Ombudsman (EO), Court of Justice of the European Union (CJEU), European Data Protection Supervisor (EDPS), European Public Prosecutor Office (EPPO)), European Anti-Fraud Office (OLAF);
- The European Commission as the manager of specific IT tools used by eu-LISA for the conduct of procurement procedures and contract management (ABAC, ARES, eTendering, eNotices, eSubmission);
- Other EUIs/EUAs in the case of joint procurement procedures;
- Members of public: in case you are awarded a contract, some personal data will be made public, in accordance with eu-LISA's obligation to publish information on the outcome of procurement procedures except for very low value contracts (i.e. below 15,000.00 EUR) in line with Article 31(4) of the Agency Financial Rules and Article 163 of the EU Financial Regulation. The information will concern in particular the name of the contractor, subject matter of the contract and the amount awarded. It will be published in supplement S of the Official Journal of the European Union and/or on the website of the eu-LISA.

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.

### **7. 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, rectify or erase your personal data and the right to restrict the processing of your personal data. Where applicable, you also have the right to object to the processing or 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).

The right to rectification is restricted after the time limit for receipt of requests to participate or tenders has expired, as per Article 169 of the EU Financial Regulation.

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.

### **8. 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, [eulisa-procurement@eulisa.europa.eu](mailto:eulisa-procurement@eulisa.europa.eu).

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- **The Data Protection Officer of eu-LISA**

You may contact the Data Protection Officer ([dpo@eulisa.europa.eu](mailto:dpo@eulisa.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](mailto: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.