

Privacy statement on processing personal data in procurement and grant procedures

Protecting your privacy is of the utmost importance to the European Union Intellectual Property Office ('EUIPO' or 'us' or 'the controller'). The Office is committed to respecting and protecting your personal data and ensuring your rights as a data subject. All data of a personal nature that identifies you directly or indirectly will be handled fairly, lawfully and with due care.

This processing operation is subject 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The information in this communication is given pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725.

1. What is the nature and purpose of the processing operation?

Data is collected and managed by the Office to evaluate the eligibility of economic operators/applicants, partners/affiliated entities and subcontractors to participate in procurement or grant procedures, and/or evaluate the content of tenders or proposals submitted during the procurement/grant procedures with a view to awarding the contract or agreement¹. Certain data is necessary for the execution of the contracts/agreements awarded.

2. What personal data do we process?

Personal data processed can concern the tenderer/applicant, their partners and affiliated entities, subcontractors and their staff (both natural and legal persons). The categories/types of personal data processed are as follows:

- identification data:
 - name (first name, surname, previous surname);
 - gender, nationality, place and date of birth;
 - passport number and ID number;
 - signature of person or authorised representative;
 - title, position, functions, department and company;
 - contact details (website and email address, fax, business and mobile telephone number, official postal address, country of residence);
- personal data contained in certificates for social security contributions and taxes paid, extracts from judicial records;
- bank account reference (IBAN and BIC codes), VAT number, national insurance number;

¹ Therefore, this privacy statement concerns procurement and grant procedures and calls for expressions of interest for the selection of experts.

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- documents for the evaluation of selection criteria or eligibility criteria (expertise, technical skills and languages, educational background, professional experience including details on current and past employment);
- proof of security clearance and declaration of honour that they are not in one of the exclusion situations and/or administrative sanctions referred to in Article 136 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, No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, hereinafter Regulation 2018/1046.

3. Who is responsible for processing the data?

The processing of the personal data in the context of the procurement/grants procedures is carried out under the responsibility of the director of the Finance Department, acting as delegated EUIPO data controller.

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

Personal data collected will be treated confidentially and processed solely by authorised staff members dealing with procurement and grant procedures, including staff dealing with financial matters and members of the opening and evaluation committees, exclusively for management and administration purposes. If applicable, external experts and contractors assisting the Office with evaluations may be granted access to personal data on a need-to-know basis after signing a Declaration of confidentiality and of absence of conflict of interests.

Some personal data is also disclosed to the public in order to meet the obligation to publish information on the outcome of procurement and grant procedures. The information disclosed is as follows:

- for procurement procedures involving contracts worth more than EUR 15 000, the following data will be published in supplement S of the Official Journal of the European Union and/or on the website of the Office:
 - name of the contractor;
 - subject matter of the contract;
 - amount legally committed.
- procurement procedures involving contracts worth EUR 15 000 or less are not published, in order to protect personal data;
- for grant procedures:
 - a) the name of the beneficiary;
 - b) the locality of the beneficiary, namely:
 - i. the address of the recipient when the beneficiary is a legal person;

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- ii. the region on NUTS 2 level when the beneficiary is a natural person;
 - c) the amount legally committed;
 - d) the nature and purpose of the grant.
- scholarships and other direct support paid to persons most in need are exempt from publication.

Furthermore, upon request, data may be transferred to the legal advisors of the Office, the European Court of Auditors, the European Anti-Fraud Office (OLAF), the Internal Audit Service of the Office and the Court of Justice. The data transferred is limited to that strictly necessary for managing the procurement and/or grant procedures, or for official investigations or audits.

5. How do we protect and safeguard your information?

We take appropriate technical and organisational measures to safeguard and protect your personal data from accidental or unlawful destruction, loss, alteration and unauthorised disclosure or access.

Personal data is stored in secure IT applications according to the Office's security standards.

Members of staff who have access to personal data related to procurement and grant procedures are required to protect it in a manner consistent with this privacy statement.

Following the closure of the procurement or grant procedure, personal data and all related information is securely gathered and stored on the premises of the Office and on servers of the Office with appropriate levels of security.

6. How can you access your personal information and, if necessary, rectify it? How can you receive your data? How can you request that your personal data be erased, or restrict or object to its processing?

You have the right to access, rectify, erase and receive your personal data, as well as restrict its processing or object to the same, as provided in Articles 17 to 24 of Regulation (EU) 2018/1725.

If you wish to verify what personal data is stored on your behalf by the controller, and/or have it modified, corrected or deleted, please send an explicit written request to the delegated data controller, the Finance Department director. Any request for correction of your personal data will be evaluated considering data protection requirements.

However, restrictions to the right of access and rectification are imposed before the limit for receipt of request to participate or tenders where contact between the Office and the tenderer/applicant is forbidden (without prejudice to the exceptions of making clarifications or correcting administrative errors). 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 Regulation 2018/1046.

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Your request will be answered without undue delay, and in any event within 1 month of receipt of the request. However, according to Article 14(3) of Regulation (EU) 2018/1725, this period may be extended by up to 2 months where necessary, taking into account the complexity and number of requests. The Office will inform you of any such extension within 1 month of receipt of the request, together with the reasons for the delay.

7. What is the legal basis for processing your data?

Personal data is processed in accordance with Article 5(1)(a) of Regulation 2018/1725, which states 'processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body', Article 5(1)(b) of Regulation 2018/1725, which states 'processing is necessary for compliance with a legal obligation to which the controller is subject', and Article 5(1)(c) of Regulation 2018/1725, which states 'processing is necessary 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'.

Personal data is collected and processed in accordance with the following legal instrument(s):

- Regulation No BC-1-19 of the Budget Committee of the European Union Intellectual Property Office of 10 July 2019 laying down the financial provisions applicable to the Office ('Financial Regulation');
- Regulation 2018/1046;
- The contract or grant agreement awarded.

8. How long do we store your data?

Procurement and grant procedures:

For successful tenderers/applicants, procurement and grant files are subject to an administrative retention period of up to 7 years following the signature of the contract, in line with the Office's retention policy and schedule for financial files. For unsuccessful tenders/proposals the retention period lasts up to 5 years.

Personal data referring to natural persons published on the Office website for both procedures shall be removed 2 years after the end of the financial year in which the funds were awarded. The same shall apply to personal data referring to legal persons for whom the official title identifies one or more natural persons.

Selection of experts:

Files including personal data related to the selection of experts are to be retained until the end of the validity period of the relevant lists of experts, and then stored in the archives for an additional 5 years. Extracts from judicial records can be kept only for 2 years after the completion of a particular procedure. Files related to unsuccessful candidates will be deleted at the end of the selection process, before the relevant list of experts is published.

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Once the period mentioned above has elapsed, paper documents and media stored in the Office Archives will be destroyed.

The retention period runs from the date the file is closed. Furthermore, data is also kept until the deadline for filing a claim has been totally exhausted, and/or for the time necessary to resolve an appeal, a disciplinary procedure or an audit, if one started before the end of the above period.

9. Whom should you contact if you have questions/queries concerning the processing of your personal data?

Should you have any queries on the processing of your personal data, please address them to the data controller at the following email address:
DPOexternalusers@euipo.europa.eu

You may consult the EUIPO Data Protection Officer at:
DataProtectionOfficer@euipo.europa.eu

Forms of recourse

If your request has not been responded to adequately by the data controller and/or DPO, you can lodge a complaint with the European Data Protection Supervisor at:
edps@edps.europa.eu.