



## EUROPEAN COMMISSION

European Climate, Infrastructure and Environment Executive Agency

### RECORD OF PERSONAL DATA PROCESSING ACTIVITY

In accordance with Article 31 of the [Data Protection Regulation for EUIs](#)<sup>1</sup> (hereinafter referred to as the Regulation), individuals whose personal data are processed by the European Climate, Infrastructure and Environment Executive Agency (hereinafter referred to as CINEA or Agency) in any context whatsoever are to be protected with regard to the processing of personal data and the Agency has to keep records of their processing activities.

Record No: 2020-007/R2-FIN-01  
 Created on (date): 04/05/2020  
 Last update (date): 19/05/2021

#### NAME OF THE PROCESSING ACTIVITY

Processing of personal data related to procurement procedures conducted by the Agency and contract management, including processing of data of contractors.

#### GROUND FOR THE RECORD:

- Regularisation of a data processing activity already carried out
- Record of a new data processing activity prior to its implementation
- Change of a data processing activity (e.g.: update of a record).

*This record replaces notification FIN 2 issued under the repealed Data Protection Regulation 1045/2001 and incorporates the new activities received by the Agency due to its new mandate.*

<sup>1</sup> Regulation (EU) 2018/1725 of 23 October 2018

## **1. MANDATORY RECORD UNDER ARTICLE 31 OF THE REGULATION**

### **1.1. Name and contact details of controller**

- a. CINEA Head of Unit responsible\* for launching the tender procedure  
(\*see specific Data Protection Notice for the relevant info)  
Chaussée de Wavre 910  
W910  
BE – 1049 Brussels
- b. the Head of Unit
- c. Email: email address indicated in the relevant documents of the underlying procurement procedure and in the data protection notice.

### **1.2. Name and contact details of the Data Protection Officer (DPO)**

CINEA DPO

[CINEA-DPO@ec.europa.eu](mailto:CINEA-DPO@ec.europa.eu)

### **1.3. Name and contact details of joint controller (where applicable)**

- 1.4. Applicable only in case of inter-institutional procurement procedures where joint controllership is agreed among the participating authorities to the procedure: see specific Data Protection Notice for the relevant info.

### **1.5. Name and contact details of processor (where applicable)**

DG DIGIT: Calls for tenders are managed electronically through the e-Procurement applications (e-TED etc). Thus, personal data may be processed through the “e-Submission” application, managed by DG DIGIT, where economic operators prepare and submit their tenders. This is based on the Service Level Agreement SLA DIGIT-042-00 signed between the Agency & DIGIT on 11/02/2019 (Ares(2019)806354).

Research Executive Agency (REA): for legal validation and preparation of financial viability assessment in PDM.

### **1.6. Purpose of the processing**

The purpose of the personal data processing operation is the management and administration of calls for tenders and contracts between the Agency and economic operators in the context of its administrative and operational budgets.

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 136 to 143 of the Financial Regulation 2018 (hereafter the Financial Regulation), including checking economic operators’ representatives criminal records;
- to evaluate the content of tenders submitted during the procurement procedure with the view to award a contract, in accordance with award criteria as defined in article 167 of the Financial Regulation and in the tender specifications;
- to manage and monitor the execution of the awarded contracts.

### **1.7. Legal basis for the processing**

Lawfulness: Article 5(1) (a) & (c) of the Regulation:

- 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;
- 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.

The relevant legal basis encompasses:

- Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes;
- Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency and delegating powers to the Agency and repealing Commission Decision 2013/801/EU of 23 December 2013 establishing the Innovation and Networks Executive Agency and repealing Decision 2007/60/EC establishing the Trans-European Transport Network Executive Agency as amended by Decision 2008/593/EC;
- Commission Decision C(2021) 947 of 12 February 2021 delegating powers to the European Climate, Infrastructure and Environment Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of transport and energy infrastructure; climate, energy and mobility research and innovation; environment, nature and biodiversity; transition to low-carbon technologies; and maritime and fisheries; comprising, in particular, implementation of appropriations entered in the general budget of the Union and those stemming from external assigned revenue;
- Regulation (EU, EURATOM) No 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 193/30.07.2018, p.1.
- 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 as amended by Commission Regulation (EC) No 651/2008 of 9 July 2008 amending Regulation (EC) No 1653/2004 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.

## **1.8. Categories of data subjects**

Natural persons representing economic operators submitting tenders to or signing contracts with the Agency (authorised/legal representatives and contact persons).

## **1.9. Categories of personal data**

The categories of personal data collected and used for the processing operations are, for economic operators:

- Name, surname, passport number, ID number
- Function
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address)
- Financial data: bank account reference (IBAN and BIC codes), VAT number
- Data related to the legal existence and representatives: company registration details, legal representative data
- CV of staff employed by economic operators and involved in the implementation of the contract
- Documentary evidence of exclusion criteria as mentioned in Article 137 of the Financial Regulation, such as:
  - Certificates for social security contributions and taxes paid, extract from judicial records;
  - Declaration on honour that the economic operator is not in one of the exclusion situation referred to in Article 136 and 141 of the Financial Regulation 2018.
- Information for the evaluation of selection criteria: expertise, technical skills and languages, educational background, professional experience including details on current and past employments.

Data are provided directly by the data subjects and are mandatory for the purpose(s) outline in section 1.5.

In case personal data have not been obtained from the data subject: evidence that the economic operator is not in a situation of exclusion can be accessed by the Contracting Authority on a national database free of charge, in which case the economic operator shall provide the Contracting Authority with the internet address of the database and, if needed, the necessary identification data to retrieve the document.

#### **1.10. Retention time (time limit for keeping the personal data)**

a) Retention period:

As per Commission's Retention List SEC(2019)900/2<sup>2</sup>:

- 10 years for successful tenders;
- 5 years for unsuccessful tenders following the award of the contract of the concerned procedure;
- 10 years for contract management following award of contracts;

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<sup>2</sup> SEC (2019) 900/2 - ARES(2019)4374520 – 09/07/2019

- 2 years for economic operators' representatives criminal records.
- b) Storage period:
- Same as retention period indicated in section 1.9(a). After the period mentioned above has elapsed, the files containing personal data may be sampled to be sent to the historical archives of the Agency and/or the European Commission for further conservation in line with the retention policy applied by the Commission . The non-sampled files are destroyed.
- c) Is any further processing for historical, statistical or scientific purposes envisaged, which would go beyond the normal retention period?
- No

### 1.11. Recipients of the data

All recipients are on a "need to know" basis:

- Staff members of the Operational and/or Administrative Units in the Agency - and if applicable other EU Institutions, bodies and agencies - in charge of the call for tenders, procurement , financial and legal matters as specified in the relevant data protection notice
- Members of the Evaluation Committee appointed from the Agency or other EU Institutions, bodies and agencies;
- External experts participating in evaluation of tenders in the CINEA's procurement procedures (if applicable);
- Contractors staff working as processors on behalf of the Agency or the EU Institutions in various stages of the procurement procedures (publication, evaluation, contract execution, checks, reviews, ex-post controls);
- Contractors staff entitled to collect data or to run satisfactions surveys to assess the performance of the Agency or if applicable other EU Institutions, bodies and agencies;
- In addition, data may be disclosed to public authorities, which are not regarded as recipient but may receive personal data in the frame of a particular inquiry in accordance with Union and Member State law, namely:
  - The European Court of Justice or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure;
  - The competent Appointing Authority in case of a request or a complaint lodged under Articles 90 of the Staff Regulations;
  - IDOC in line with Commission Decision of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings - C(2019)4231
  - OLAF in case of an investigation conducted in application of Regulation (EC) No 1073/1999
  - The Internal Audit Service of the Commission within the scope of the tasks entrusted by article 118 of the Financial Regulation and by article 49 of the Regulation (EC) No 1653/2004

- The Court of Auditors within the tasks entrusted to it by Article 287 of the Treaty on the Functioning of the European Union of the EC Treaty and Article 20, paragraph 5 of Regulation (EC) No 58/2003
- The European Ombudsman within the scope of the tasks entrusted to it by Article 228 of the Treaty on the Functioning of the European Union
- The European Data Protection supervisor in accordance with Article 58 of the Regulation (EC) 2018/1725
- The European Public Prosecutor's Office within the scope of Article 4 of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office
- Members of the public: in case an economic operator is awarded a contract by the Agency, part of personal data may be made public, in accordance with the Agency's obligation to publish information on the outcome of the procurement procedure and on the beneficiaries of funds deriving from the Union's budget (Articles 38(2), 163 and 189(2) of the Financial Regulation 2018). The personal data concerned by this obligation are name and address, the amount awarded and the name of the project or programme for which contract is awarded. It will be published in supplement S of the Official Journal of the European Union and/or on the website of the Commission (see the Financial Transparency System of the European Commission) and/or on the website of the Agency.

In case of audits or proceedings, etc., personal data may be provided to CINEA's Internal Controller, DPO, Staff Committee, etc.

#### **1.12. Transfers of personal data to third countries or international organisations**

Not applicable

#### **1.13. Description of security measures**

As calls for tenders are handled electronically, access to data is possible through User-ID and password granted on a need-to-know basis via authentication system.

Procurement procedures in place in CINEA ensure that documents submitted in a paper form are only available to the relevant persons and locked at all times when not used during evaluations.

When handled electronically, personal data reside on the servers of the European Commission, which abide by strict security measures implemented by DG DIGIT to protect the security and integrity of the relevant electronic assets. The login and the passwords are managed by the common certification service of the European Commission. The Agency is bound by Commission Decision 2017/46 of 10/1/17 on the security of communications & information systems in the EC.

Personal data stored electronically and on paper is accessible only by the authorized personnel for the purposes of the processing on a need to know basis. Access is granted only if there is a clearly specified administrative purpose, and only to those whose role and level of responsibility require them to have access. Staff having access to the data is bound by confidentiality in line with the Staff Regulation.

The access to the personal data is protected by the management of the access rights, which are strictly limited to specific user groups. The entitlement is distributed taking into consideration the function, the job and responsibilities of the staff member involved in the procurement procedure. These access rights are continuously updated in accordance with the changes in the assignments of the jobholders.

#### **1.14. Data Protection Notice**

The template for the Data Protection Notice (DPN) relevant to this data processing activity is available on the CINEA Intranet in the e-Manual of Procedure in the section on [procurement](#) and for the specific DPN on CINEA website under the page relating to the relevant procurement procedure