

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

1	Title of the processing activity	Processing of personal data related to procurement procedures and contracts managed by the European External Action Service (EEAS)
2	Update of the record (last modification date)	15/12/2020
3	Register reference number	441
4	Identity and contact details of the Data Controller Joint Controller (if applicable) Data Processor (if applicable)	<p>European External Action Service Rond Point Schuman 9A, 1046 Brussels, Belgium Data Controller contact entity – Delegated Controller: BA.BS.2 Public Procurement, Finance and Contracts Functional mailbox: BA-BS-2@eeas.europa.eu</p> <p>In the context of procurement procedures, the contact details of the representative of the controller the contact details of the representative of the controller – the EEAS Directorate / Division / EU Delegation – responsible for managing the data collection and processing activity under the supervision of the Director / Head of Division / Head of Delegation can be found in the Invitation to Tender.</p> <p>In the context of managing the contract, the contact details of the representative of the controller – the EEAS Directorate / Division / EU Delegation – responsible for managing the data collection and processing activity under the supervision of the Director / Head of Division / Head of Delegation are indicated in the contract.</p> <p>The EEAS herewith takes note of the already provided Opinions of the EDPS in the subject matter of procurement, such as Opinions of 15th of April 2010 related to the previous notification of the EEAS of 19th July 2007 and took the recommendations and remarks of the EDPS into account as far as possible</p> <p>EEAS Data Protection Officer: Emese Savoia-Keleti DATA-PROTECTION@eeas.europa.eu</p>
5	Identity and contact details of the Data Protection Officer	<p>EEAS Data Protection Officer (DPO): Emese Savoia-Keleti. SG.AFFGEN.DPO Functional Mailbox of the DPO: DATA-PROTECTION@eeas.europa.eu</p>
6	Purpose of the processing activity	<p>Purpose(s) to ensure:</p> <ul style="list-style-type: none"> - Management of procurement procedures launched by the EEAS (Headquarters and Delegations). Under the Financial Regulation, the purpose of procurement procedures is to conclude contracts by ensuring transparency, proportionality, competition, equal treatment and non-discrimination. Several type of contracts are concerned, as defined in Article 2, paragraph 49, of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 – Financial Regulation (FR): contracts of supplies or services - Implementation of contracts concluded between EEAS services (Headquarters and Delegations) and economic operators.

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

7	Legal basis and lawfulness	<p>- 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, Financial Regulation, in particular Title V – Common rules, Title VII – Procurement and concessions and Annex I – Procurement;</p> <p>- For contract management, the legal basis is the particular contract.</p> <p>The processing operations on personal data carried out in this context are necessary and lawful under Article 5(1) (a), (b) and (c) of Regulation (EU) 1725/2018:</p> <p>(a) 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;</p> <p>(b) processing is necessary for compliance with a legal obligation to which the controller is subject ;</p> <p>(c) 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.</p> <p>Further legal reference: Council Decision of 26 July 2010 establishing the organisation and functioning of the EEAS (2010/427/EU) – OJ L 201, 3/8/2010, p. 30.</p>
8	<p>Categories of individuals whose data is processed</p> <p>- Data subjects</p>	<p>Natural persons such as :</p> <p>- individuals participating in procurement procedures, notably candidates, tenderers, subcontractors, or staff or authorized representatives of legal persons.</p> <p>- contractors, or if the contractor is a legal person, authorized representatives and main contact persons or any other employee of such entities.</p>
9	Categories of data - Data processed	<p>The data, including personal data which may be processed for that purpose, are the following:</p> <p>- Identification data: name, surname, passport number, ID number, date of birth;</p> <p>- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);</p> <p>- Certificates such as certificates for social security contributions and taxes paid, extract from judicial records, certificates related to insurances and licences / authorizations concerning the subject of the procurement;</p> <p>- Bank Account File (BAF): Financial data such as bank account reference (IBAN and BIC codes), VAT number;</p> <p>- Legal Entity File (LEF): for natural persons and for legal persons;</p> <p>- Information for the evaluation of a request to participate, a tender or during the contract execution: expertise, technical skills and languages, educational background, professional experience including details on current and past employment;</p> <p>- Declaration on honour on exclusion criteria referred to in Articles 136 to 141 of the FR;</p> <p>- Other non-required information that may be provided by the candidate, tenderer or by the contractor, its staff or subcontractors, such as gender, age or nationality, which is not necessary for the purpose of the procurement or contract implementation.</p>

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

10	Recipients of data – Access to data	<p>The recipients of the data may be:</p> <ul style="list-style-type: none"> - Assigned staff of the EEAS or other EU Institutions, executive agencies, Union bodies or Member States' contracting authorities or seconded national experts or interim agents involved in calls for tenders launched by the EEAS and in the management of the contract in case of inter-institutional procurement or joint procurement in accordance with Article 165 of the Financial Regulation (e.g.: staff in EU Delegations including EEAS staff and local agents; staff from other Union institutions, executive agencies, Union bodies or Member States' contracting authorities called to participate in evaluation committees on the grounds of their expertise); - Assigned staff of the EEAS in charge of internal audit controls and legal matters; - External experts, including those established outside the EU, participating in the evaluation of tenders, when external expertise is required on the basis of Article 237 of the Financial Regulation; - Assigned staff from the Institutions or bodies charged with a monitoring, audit or inspection task in conformity with the European Union law. e.g.: staff of European Anti-fraud Office (OLAF), European Public Prosecutor's Office (EPPO), Investigatory and Disciplinary Office (IDOC), Internal Audit Services (IAS), European Court of Auditors (ECA), the Legal Service of the European Commission (also hereinafter Commission) as well as staff of other General Directorates (DGs) of the European Commission (Secretariat General, DG Budget and clearinghouse) and of other EU institutions upon request necessary in the context of official investigations or for audit purposes (e.g. internal audits, Financial Irregularities Panel referred to in Article 93 of the Financial Regulation, Exclusion Panel referred to in Article 143 of the Financial Regulation, OLAF); - Assigned staff from Third countries' bodies charged with inspection, investigation or proceeding tasks in conformity with these Third countries' national law; - Assigned staff of the European Commission Directorate General for Budget (DG BUDG) with regard to the Legal Entity Form (LEF) and Bank Account File (BAF); - Members of the public (personal data of the individuals to whom the contract is awarded and contact persons of the organisations to whom the contract is awarded, will be made public, in accordance with the obligation to publish information on the outcome of the procurement procedure pursuant to Articles 163 and 38(2) of the Financial Regulation. The information concerns, in particular, name and address of the awardee, the amount awarded and the subject matter of the contract. It will be published in supplement S of the Official Journal of the European Union and/or on the website(s) of the EEAS); - Assigned staff of host country authorities and implementation partners who participate in the evaluation of tenders or the implementation of the contract. <p>Personal data is not intended to be transferred to a Third Country except where stated above. Data may be transmitted to EU Delegations established in Third Countries, to which the Regulation (EU) 2018/1725 fully applies. The given information will not be communicated to third parties, except, where necessary, for the purposes outlined above.</p>
11	Transfer to Third Countries or International Organizations (IOs) and suitable safeguards (if applicable)	<ul style="list-style-type: none"> - Personal data collected for the purpose of procurement procedures and contract management for the account of EEAS HQ located in Brussels is not transferred to third countries. - Personal data collected during procurement procedures launched for the account of EU Delegations which are outside EU, is processed by each EU Delegation in its host country in accordance with the Regulation (EU) 2018/1725. In this case, no personal data related to procurement procedures and contracts is transferred to authorities of the host country where the Delegation is located, nor to any international organisations, except in cases where the Delegation is obliged to transfer the data to national authorities due to ongoing inspections, investigations or proceedings, in conformity with this host country's national law. However, personal data pertaining to the staff of EU Delegation may be transferred to contractors located outside EU for the purpose of contract management (i.e.: name and contact details including addresses of local staff may be transferred to the security provided/contractor). <p>Due to the particular situation of EU Delegations, standard clauses will be prepared for contracts concluded between EU Delegations and economic operators implying processing of personal data outside EU.</p>

12	Time limit for keeping the data - Retention period	<p>Personal data would be retained as follows:</p> <ul style="list-style-type: none">- 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 10 years following the closure of the contract in conformity with the Common Commission-Level Retention List (SEC(2019)900 second revision) as part of the e-Domec policy. However, requests to participate and tenders from unsuccessful tenderers have to be kept only for 5 years following the closure of the contract.- Files related to implementation of contracts are kept by the EEAS or EU Delegation and by the data processor (contractor) for up to 10 years from the date on which the European Parliament grants discharge for the budgetary year to which the data relates (end of the contract).- 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 and sent to the historical archives of the EEAS for further conservation, as applicable. The non-sampled files are destroyed.
----	---	--

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

13	Data Storage	<p>Storage of data : The information is collected in files stored in an isolated and secured system. The collected personal data and all related information are stored after closure of the procurement procedure on the premises of the EEAS or the European Commission (EC) and on servers of the EEAS, of the EC (DG DIGIT or the EC Directorate General issuing the call for tenders).</p> <p>Personal data in paper format is stored in operational and financial services of the EEAS. Personal data in electronic form is stored in mailboxes of the Contracting Authority and on servers of the EEAS, physically under the control of EEAS.</p> <p>All documents including personal data in the original requests to participate or tenders and copies should be kept with clear identification of the file, in a secure manner (i.e. paper documents should be stored in cupboards; electronic drivers which contain documents with personal data should be accessible only to individuals who need to have access to such data), in the Division's / Delegation's working file storage, both on paper and electronically (if applicable).</p> <p>The procedure files (including the CVs) can be accessed only by persons that manage the procedure on a need-to-know basis.</p> <p>The documents including personal data included in the original request to participate or tender should be kept with clear identification of the file, in a secure manner, in the service's storage or archives.</p> <p>All copies received should be destroyed except the copy that will form an integral part of the contract</p> <p>Documents including personal data received by electronic mail will have to be stored on a drive specific to the administrative entity in charge (Directorate, Division, Delegation), in a folder displaying the reference of the relevant procedure and these folders will be made accessible only to staff on a need-to-know basis for the duration of the contract execution. Thereafter the electronic documents will be deleted.</p> <p>The candidate, tenderer or contractor acting as data processor is required to comply with the obligations of data processing confidentiality and security provided for in articles 33 of Regulation (EU) 2018/1725.</p>
----	--------------	---

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

14	General description of security measures	<p>Appropriate organisational and technical measures are ensured according to Article 33 of Reg. (EU) 2018/1725. The collected personal data are stored on servers that abide by pertinent security rules. Data is processed by assigned staff members. Files have authorised access. Measures are provided to prevent unauthorised entities from access, alteration, deletion, disclosure of data. General access to personal data is only possible to recipients with a UserID/Password. Physical copies of personal data are stored in a properly secured manner. Nature of related processing to be protected</p> <p>Data filing, copying, ranking, reporting, distributing, archiving and destruction;</p> <p>the correspondence with candidates or tenderers and publication of the results.</p> <p>Technical measures to ensure level of security appropriate to the risks represented and to prevent any unauthorised disclosure or access, accidental or unlawful destruction or accidental loss, or alteration, and to prevent all other unlawful forms of processing:</p> <p>see Notification: General IT usage within the EEAS / EEAS IT infrastructure</p> <p>see European Commission's notifications concerning ABAC (General), ABAC Data Warehouse and ABAC Contracts.</p> <p>Organisational measures to ensure level of security to prevent any unauthorised disclosure or access, accidental or unlawful destruction or accidental loss, or alteration, and to prevent all other unlawful forms of processing:</p> <p>For electronic information, usual User IDs and passwords. Only designated staff has the possibility to access the data kept for the purpose of administrative or financial process.</p> <p>For hardcopy documentation, limited number of staff having access to cupboards; the storage offices are always locked when unattended.</p>
15	Rights of individuals	<p>Individuals have the right of access to their personal data and the right to correct any inaccurate or incomplete personal data. The right of rectification can only apply to factual data processed. Under certain conditions, individuals have the right to ask the deletion of their personal data or restrict their use as well as to object at any time to the processing of their personal data on grounds relating to their particular situation.</p> <p>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 rejection as stated in Article 141 of the Financial Regulation.</p> <p>The EEAS will consider the request, take a decision and communicate it to the individuals without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary. For more detailed legal references, information can be found in Articles 14 to 21, 23 and 24 of Regulation (EU) 2018/1725. In specific cases, restrictions under Article 25 of the Regulation may apply.</p> <p>If individuals have questions concerning the processing of their personal data, they may address them to the Data Controller.</p> <p>The privacy statement is published at : https://eeas.europa.eu/sites/eeas/files/procurement_-_privacy_statement.pdf</p>
16	Information to data subjects	<p>Privacy Statement (covering procurement procedures and contract's execution) is available on the EEAS web-site.</p> <p>Data protection clauses are inserted in the contracts.</p>

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records