

PRIVACY NOTICE

Procurement Procedures and Contract Management

We understand that you are aware of and care about your personal privacy interests, and we take that seriously. The processing of an individual's personal data carried out by the European Agency for Fundamental Rights (FRA or the Agency) is performed in compliance with Regulation 2018/1725 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.

This Privacy Notice explains FRA policies and practices regarding its collection and use of your personal data, and sets forth your privacy rights. We recognise that information privacy is an ongoing responsibility, and we will update this Notice as we undertake new personal data practices or adopt new privacy policies .

1. [Why do we collect personal data?](#)
2. [What kind of personal data does the Agency collect?](#)
3. [How do we collect your personal data?](#)
4. [Who is responsible for the processing your personal data?](#)
5. [Which is the legal basis for this processing operation?](#)
6. [Who can see your data](#)
7. [Do we share your data with other organisations?](#)
8. [Do we intend to transfer your personal data to Third Countries/International Organizations](#)
9. [When will we start the processing operation?](#)
10. [How long do we keep your data?](#)
11. [How can you control your data?](#)
 - 11.1. [The value of your consent](#)
 - 11.2. [Your data protection rights](#)
12. [What security measure are taken to safeguard your personal data?](#)
13. [What can you do in the event of a problem?](#)
14. [How do we update our privacy notice?](#)

PRIVACY NOTICE

1. Why do we collect personal data?

Upon receipt of expressions of interest and/or tenders, your personal data are collected for the purpose of the management and administration of the procurement procedures carried out in order to select and contract external economic operators needed by FRA to carry out its tasks to fundamental rights, pursuant to Art. 3 of the Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights.

2. What kind of personal data does the Agency collect?

- a) The following data relating to tenderers (or to contractors and subcontractors, if applicable) can be processed during the procurement and contracting process:
- identification and contact details (name, surname of natural person, name and legal form of legal person, address, identity card number, registration number, VAT number, phone number, e-mail address);
 - proof of independent worker status (if applicable) and extract from the trade register
 - financial data: bank certificate stating financial situation; bank account details (IBAN and BIC codes);
 - statement of the overall turnover for the supplies and/or services referred to in the procurement procedure;
 - organisational chart of the tenderer and company profile;
 - certificates for social security contributions and taxes paid;
 - certificate of clear criminal record or extract of judicial history;
 - extract from the register of bankruptcy or relevant document;
 - documents attesting professional capacity of the persons proposed by the tenderer or candidate to perform the contract (curriculum vitae, selection grids including signature, copies of diplomas, certificates, if applicable, etc.);
 - list of similar services provided by the tenderer and information on contracts considered similar in scope, amount or nature, including clients and/or contracting authorities' reference letters and/or certificates;
 - declaration on honour that they are not in one of the exclusion situations referred to in Articles 136 and 141 of 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, repealing Regulation (EU, Euratom) No 966/2012 ("Financial Regulation").
- b) Data relating to staff members participating in the procurement procedure are limited to identification and contact details (name and surname, function, e-mail address, business telephone number);

PRIVACY NOTICE

3. How do we collect and process your personal data?

We collect only the personal data you provide us by submission of your expression of interest or tender.

Data is processed by the Agency manually and automatically. In the manual processing of personal data, physical files (received expression of interest, tenders and other relevant records) are processed during the opening and evaluation phases and stored in locked cupboards in the procurement storage area. The authorised procurement and finance staff members can access these files.

In automated processing, personal data (such as names, addresses, bank accounts and other personal data) are stored in the electronic database. Access to the database is restricted to authorised procurement and finance staff members, and the files are password protected.

4. Who is responsible for the processing your personal data?

The Agency is the controller and the legal entity responsible for the processing of your personal data and determines the objective of this processing activity. The Head of Corporate Services is responsible for this processing operation.

5. Which is the legal basis for this processing operation?

The procurement procedures are necessary for the management and functioning of the Agency. Therefore, the processing is lawful under Article 5(a) of the Regulation (EU) No 2018/1725.

Also, since the participation in the procurement procedures is not mandatory, the processing is lawful under Article 5(d) of the Regulation (EU) No 2018/1725 because “the data subject has unambiguously given his or her consent”.

Processing financial data of the tenderers is also in line with the requirements of the Financial Regulation and in particular Articles 148, 67, 194.1 (h), 196, 198, 200, 237 and points 18 and 20 of Annex I.

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

FRA’s authorised procurement and contracting staff members can access the data stored and processed as described in point 3 above.

In addition, the bodies charged with a monitoring, audit or inspection task in application of European Union law (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, European Anti-fraud Office – OLAF)

In case you are awarded a contract by FRA, your personal data will be made public, in accordance with the Agency’s obligation to publish information on the outcome of the procurement procedure in accordance with Articles 38 and 163 of the Financial regulation. This information will concern, in particular, your name and address, the amount awarded and the contract you are awarded. It will be published in the Official Journal of the European Union and/or on the website of FRA.

PRIVACY NOTICE

7. Do we share your data with other organisations?

Personal data is processed by the Agency only. In case that we need to share your data with third parties, you will be notified to whom your personal data has been shared with.

8. Do we intend to transfer your personal data to Third Countries/International Organizations

No.

9. When will we start the processing operation?

We will start the processing operation upon the submission of your expression of interest or tender..

10. How long do we keep your data?

The Agency retains personal data in accordance with the Financial Regulation as following:

- a. Files of successful tenderers (including personal data): are to be retained for a period of 10 years after the budgetary discharge;
- b. Tenders from unsuccessful tenderers are to be kept up to 5 years after the signature of the related contract;
- c. Extracts from judicial records are kept in electronic form for 2 years after the signature of the related contract.

11. How can you control your data?

You can access, modify or delete your personal data by sending an email request to procurement@fra.europa.eu. More details are provided below.

11.1. How valuable is your consent for us?

Since the participation in the procurement procedures is not mandatory, the processing is lawful because “the data subject has unambiguously given his or her consent”. Therefore, you have the right to withdraw your consent at any time, and we will delete your data or restrict its processing.

11.2. Your data protection rights

Under data protection law, you have rights and we need to make you aware of these rights. The rights available to you depend on our reason for processing your information. You are not required to pay any charges for exercising your rights.

PRIVACY NOTICE

a) Can you access your data?

You have the right to receive confirmation whether or not we process your personal data. Furthermore, you can have access to such data, as well as obtain copies of your data undergoing processing, at any time and free of charge, by sending an email request to procurement@fra.europa.eu.

b) Can you modify your data?

You have the right to modify your data without delay of inaccurate or incomplete personal data at any time by sending an email request to procurement@fra.europa.eu. You have the right to update or correct at any time your identification data. Any correction of your personal data will be taken into consideration from the data protection point of view. On the other hand, data demonstrating compliance with the eligibility, exclusion and selection criteria may not be updated or corrected after the closing date for the respective submission, except in the cases and under the conditions specified in the invitation to express interest or invitation to tender.

c) Can you restrict us from processing your data?

You have the right to block the processing of your personal data at any time by sending an email request to procurement@fra.europa.eu when you contest the accuracy of your personal data or when the Agency no longer needs the data for completing its tasks. You can also block the processing activity when the operation is unlawful, and you oppose to the erasure of the data.

d) Can you delete your data?

You have the right to ask us to delete your data at any time by sending an email request to procurement@fra.europa.eu when the processing activity is unlawful. Special attention is drawn to the consequences of a request for deletion during the tendering phase, as this may lead to an alteration of the terms of the tender as stated in Article 151 of the Financial Regulation.

e) Can you request the transfer of your data to a third party?

This only applies to information you have given us. You have the right to ask that we transfer the information you gave us from one organisation to another, or give it to you. The right only applies if we are processing information based on your consent or under, or in talks about entering into a contract and the processing is automated.

f) Do you have the right to object?

Yes, you have the right to object at any time by sending an email request to procurement@fra.europa.eu when you have legitimate reasons relating to your particular situation. Moreover, you will be informed before your information is disclosed for the first time to third parties, or before it is used on their behalf, for direct marketing purposes.

PRIVACY NOTICE

The Agency will address your requests within 15 working days from the receipt of the request.

g) Do we do automated decision making, including profiling?

No.

12. What security measures are taken to safeguard your personal data?

The Agency has several security controls in place to protect your personal data from unauthorised access, use or disclosure. We keep your data stored on computer systems with limited access to a specified audience only.

13. What can you do in the event of a problem?

a) The first step is to notify the Agency by sending an email to procurement@fra.europa.eu and ask us to take action.

b) The second step, if you obtain no reply from us or if you are not satisfied with it, contact our data protection officer (DPO) at dpo@fra.europa.eu.

c) At any time you can lodge a complaint with the EDPS at <http://www.edps.europa.eu>, who will examine your request and adopt the necessary measures.

14. How do we update our privacy notice?

We keep our privacy notice under regular review to make sure it is up to date and accurate.

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