

**RECORD OF PROCESSING ACTIVITY
ACCORDING TO ARTICLE 31 REGULATION 2018/1725¹
NOTIFICATION TO THE DATA PROTECTION OFFICER**

NAME OF PROCESSING OPERATION²: Procurement Procedures and Contract Management

DPR-2018-036 (to be completed by the DPO)
Creation date of this record: 27/08/2018
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Version:

1) Controller(s)³ of data processing operation (Article 31.1(a))
Controller: European Union Agency for Fundamental Rights (FRA) Organisational unit responsible⁴ for the processing activity: Corporate Services Contact person: ██████████, procurement@fra.europa.eu . Data Protection Officer (DPO): ██████████ dpo@fra.europa.eu

2) Who is actually conducting the processing? (Article 31.1(a))⁵
The data is processed by the FRA itself <input checked="" type="checkbox"/>
The data is processed also by a third party (contractor) [mention the third party] <input type="checkbox"/>

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>

² **Personal data** is any information relating to an identified or identifiable natural person, i.e. someone who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, a picture, professional details, etc.

Processing means any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

³ In case of more than one controller (e.g. joint FRA research), all controllers need to be listed here

⁴ This is the unit that decides that the processing takes place and why.

⁵ Is the FRA itself conducting the processing? Or has a provider been contracted?

3) Purpose of the processing (Article 31.1(b))

Why are the personal data being processed? Please provide a very concise description of what you intend to achieve with the processing operation. Specify the rationale and underlying reason for the processing and describe the individual steps used for the processing. If you do this on a specific legal basis, mention it as well (e.g. staff regulations for selection procedures).

Upon receipt of expressions of interest and/or tenders, 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.

Processing financial data of the tenderers and contractors is also in line with the requirements of the 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 1302/2013, (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**") and in particular Articles 1148, 67, 194.1 (h), 196, 198, 200, 237 and points 18 and 20 of Annex I.

4) Description of the categories of data subjects (Article 31.1(c))

Whose personal data are being processed?

Data subjects are tenderers, contractors and subcontractors (natural and legal persons) and staff members participating in the procurement procedure (from preparation of the call to signature of the ensuing contracts, including the administrative aspects of contract implementation).

5) Categories of personal data processed (Article 31.1(c))

Please tick all that apply and give details where appropriate. Include information if automated decision making takes place, evaluation and monitoring

1. The following data relating to tenderers (and mutatis mutandis 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;
- organizational chart of the tenderer and company profile;
- certificates for social security contributions and taxes paid;
- certificate of clear criminal record or extract of judicial record;
- 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 the Financial Regulation

2. 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).

6) Recipient(s) of the data (Article 31.1 (d))⁶

*Recipients are all parties who have access to the personal data. Who will have access to the data **within** FRA? Who will have access to the data **outside** FRA?*

Designated **FRA** staff members (Corporate Services)

Designated persons **outside** FRA:

There are also other institutional recipients, within the meaning of Article 8(a) of the Regulation (European Commission, including Internal Audit Service and OLAF, European Court of Auditors, EU Courts etc.).

In accordance with the transparency obligations laid down in Articles 38 and 163 of the Financial Regulation and Points 2.3, 2.4, 3.2 and 3.3. of Annex 1 of the Financial Regulation, FRA is publishing contract award notices and notices of modifications of contracts in the Official Journal above the Directive thresholds⁷. In addition, FRA publishes on its internet site the annual list of contracts below the Directive thresholds.

7) Transfers to third countries or recipients outside the EEA (Article 31.1 (e))⁸

If the personal data are transferred outside the European Economic Area, this needs to be specifically mentioned, since it increases the risks of the processing operation.

⁶ No need to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).

⁷ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

⁸ **Processor** in a third country using standard contractual clauses, a third-country public authority you cooperate with based on a treaty. If needed, consult your DPO for more information on how to ensure safeguards.

Data are transferred to third country recipients:

- Yes
- No

8) Retention time (Article 4(e))

How long will the data be retained and what is the justification for the retention period? Please indicate the starting point and differentiate between categories of persons or data where needed (e.g. in selection procedures candidates who made it onto the reserve list vs. those who didn't). Are the data limited according to the adage "as long as necessary, as short as possible"?

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

9) Technical and organisational security measures (Article 31.1(g))

Please specify where/how the data are stored during and after the processing; please describe the security measures taken by FRA or by the contractor

How is the data stored?

- FRA network shared drive
- Outlook Folder(s)
- CRM
- Hardcopy file
- Cloud (give details, e.g. cloud provider)
- Servers of external provider
- Other (please specify): *E.g. The data is stored in the EU and no transferred outside EU; the system cannot track the IP; cookies are enabled just for keeping the session active and deleted after the session expires; the data transmission takes places via https://; you need to check the security incident procedure of the contractor and the data breach procedure*