

## PRIVACY NOTICE- Procurement & contract management

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*Conducting procurement procedures and management of resulting contracts involves processing of personal data, which shall comply with Regulation 2018/1725<sup>1</sup> (EU DPR)*

### What is the purpose of the personal data collection?

Upon reception of your expression of interest, tender or request to participate by the SJU, your personal data is collected and further processed for the purpose of procurement procedures (e.g. including the selection of experts and the evaluation of tenders) and the management of the resulting contracts.

**Personal data collected and further processed concerns the staff employed by the tenderer, including consortium partners and subcontractors participating in procurement procedures and entering into a contractual relation with the SJU (hereinafter referred to as “data subjects”). Which kind of personal information is collected?**

The personal data collected are:

- Personal details (e.g. name, address, ID number, passport number);
- Professional details (e.g. function, company department);
- Education and training details (CV’s, staff form or short descriptive bio of each of the team members);
- Certificate for social security contributions and taxes paid<sup>2</sup>;
- Financial details<sup>3</sup>
- Extract from judicial records (sensitive data<sup>4</sup>);
- Information on the evaluation of the exclusion criteria: Declaration on honour, Legal and Financial identification forms that the tenderer is not in one of the exclusion situations referred to in Article 136 of the Financial Regulation<sup>5</sup>.

### What is the legal basis of the processing?

- Articles 84 and 85 of the SJU Financial Rules<sup>6</sup> of the SESAR JU.
- Articles 135 to 142 of the Financial Regulation, on exclusion criteria and Early Detection System (EDES)<sup>7</sup>, and Article 167 (2) and point 20 of Annex 1 of the Financial Regulation on selection criteria.

### Actors in the data collection

- Controller: The SESAR JU

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<sup>1</sup> [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](#)

<sup>2</sup> Only if the tenderer is a natural person. Otherwise, this information will be required from the legal entity.

<sup>3</sup> Only if the tenderer is a natural person. Otherwise, this information will be required from the legal entity.

<sup>4</sup> Sensitive information on the state of the data subject, signatory of the contract, as per exclusion situation listed in Article 136 (1) of the Financial Regulation is processed. Supporting evidence of these situations is typically extracts from judicial reports.

<sup>5</sup> [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, \(EU\) No 223/2014, \(EU\) No 283/2014, and Decision No 541/2014/EU and repealing Regulation \(EU, Euratom\) No 966/2012](#)

<sup>6</sup> [Decision of the Administrative Board, ref. ADB \(D\) 08-2015 of 23 June 2015 \(the “SJU Financial Rules”\)](#)

<sup>7</sup> [http://ec.europa.eu/budget/library/explained/management/protecting/privacy\\_statement\\_edes\\_en.pdf](http://ec.europa.eu/budget/library/explained/management/protecting/privacy_statement_edes_en.pdf)

- Processor: Legal Affairs & Procurement Sector, Administration Affairs.

### How is SJU processing the personal data?

The data collected is processed either manually or electronically.

- When processing manually, the submitted offers (which may contain personal data, as specified above) are stored in the legal archives until the opening session. Then, they are made available to the duly appointed members of the opening committee and the members of the evaluation committee, who evaluate the offers against criteria defined in the call documentation. Upon termination of the evaluation process, the Legal sector recovers all copies of the tenders and stores them in the Legal archives.
- When processing electronically, the electronic versions of the offers are available to the evaluation team through a dedicated, restricted area in IDMS<sup>8</sup> where they are also saved after the evaluation process.

### How do we protect and safeguard your information?

Data are stored:

- Electronically in specific areas of IDMS with restricted access rights
- Paper files are stored in archives, locked and only accessible to the Legal Sector

In both cases, access and control rights to the files are limited and granted only on a need-to-know basis.

### Who has access to your information and to whom is it disclosed?

For the purpose detailed above, access to your personal data is given to the following persons:

- Authorized staff from the EU bodies in charge of monitoring and inspection tasks in accordance with European Union Law (e.g. European Court of Auditors, European Anti-Fraud Office, etc.) or to the competent national courts in case of dispute arising between the contracting parties;
- EUROCONTROL: personal data might be transferred to in the context of EUROCONTROL internal audit operations<sup>9</sup>;
- Designated SJU staff members (Legal & Procurement and Financial team, evaluators and/or contract managers);
- Members of the public: only in case of contract award by a natural person, the information concerning in particular the name and address of the winner, the amount awarded and the name of the project or programme, will be published in supplement S of the Official Journal of the European Union (<http://ted.europa.eu>) and/or on the website of the SJU ([www.sesarju.eu](http://www.sesarju.eu));
- Directorate-General of Budget of the European Commission: *Financial Identification Form*<sup>10</sup> and *Legal Entity Form*<sup>11</sup> of the winner are transferred to the European Commission in order to be included in the third party file of the ABAC System for electronic transactions.
- Early Warning System (“EWS”)<sup>12</sup> and the EDES when appropriate and provided that the conditions in Art. 135 of the Financial Regulation are met.

<sup>8</sup> Share point based intranet of SESAR JU

<sup>9</sup> In accordance with the Agreement between EUROCONTROL and the SESAR JU based on article 9.2 of the Council regulation (EC) 219/2007 as modified by Council regulation (EC) 1361/2008 (the EUROCONTROL agreement).

<sup>10</sup> <http://ec.europa.eu/dpo-register/details.htm?id=42817>

<sup>11</sup> <http://ec.europa.eu/dpo-register/details.htm?id=40687>

<sup>12</sup> <http://ec.europa.eu/dpo-register/details.htm?id=42815>

## What are your rights and how can you exercise them?

The procedure to grant rights to data subjects includes:

- Access to the DPO's register of data processing operations;
- Requests from data subjects to the Data Controller to exercise their rights; as well as
- Detailed procedures to exercise the rights to **access, rectify, erase, block, object, notify to third parties of any rectification, erasure or blocking and not to be subject to a decision which produces legal effects concerning him or her or significantly affects him or her and which is based solely on automated processing of data** intended to evaluate certain personal aspects relating to him or her, unless such decision is expressly authorised pursuant to national or Community legislation or the European Data Protection Supervisor (as required by articles 14-16 of the EU DPR Regulation).

Possible restrictions as laid down in Article 25 of the EU DPR Regulation can apply, based on the assessment conducted on a case by case analysis, in particular where it is necessary to safeguard the rights of the data subjects and/or the rights and freedom of others.

## For how long the data is retained?

- Maximum retention period for files relating to tender procedures:
  - In case of successful (awarded) tenderers: all personal data related to the management of the procurement procedure and the service contract is to be retained at the SJU premises for a period of **7 years** following the signature of the contract, or until the dissolution of the SJU, whichever is earlier. Only original documents are stored, copies are destroyed.
  - In case of unsuccessful tenderers: the personal data of unsuccessful tenders is kept in the archives for a period of **7 years** following the signature of the contract with the successful tenderer. The copies are destroyed.
  - Data is also retained until the end of a possible audit if one started before the end of the above periods.
  - Maximum retention period for **extracts from judicial records** is 2 years.

After the periods mentioned above have elapsed, the tender files are destroyed.

## Complaints, concerns and recourse

Any complaint or concern shall be addressed to:

- the data protection officer of the SJU: [sju.data-protection@sesarju.eu](mailto:sju.data-protection@sesarju.eu), and
- Legal Affairs and Procurement Sector at [procurement@sesarju.eu](mailto:procurement@sesarju.eu)

Data subjects have a right to recourse to the European Data Protection Supervisor (EDPS) at any time [edps@edps.europa.eu](mailto:edps@edps.europa.eu)