

## **Privacy Statement relating to EUSPA procurement procedures, grants, prizes and selection of experts**

This is a generic Privacy Statement for processing of personal data pertaining to conduct and management of procurement procedures, grants award procedures, contests for prizes and selection of experts, as well as subsequent implementation and management of the resulting (procurement and experts) contracts, (grant) agreements and prizes.

The European Union Agency for the Space Programme (hereafter referred to as 'EUSPA', 'the Agency') is committed to protect your personal data and to respect your privacy. This Privacy Statement explains *inter alia* the reason for the processing of your personal data, the way EUSPA collects, handles and ensures protection of all personal data provided, how that information is used and what rights you have in relation to your personal data.

### **I) Purpose of the personal data processing operation**

The personal data is collected and processed to:

1. Conduct and manage procurement procedures, grants award procedures, contests for prizes and selection of experts, in compliance with the applicable EU framework;
2. Enable implementation and management of the resulting contracts, agreements and prizes.

### **II) Legal bases and lawfulness of the processing**

The processing operations on personal data carried out in the context of EUSPA's procurement procedures, grants award procedures, contests for prizes and selection of experts, as well as subsequent implementation and management of the resulting contracts, agreements and prizes, are necessary and lawful under:

- Article 5(1)(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”) of Regulation (EU) 2018/1725<sup>1</sup>. In particular, the processing is necessary “for the management and functioning of those institutions and bodies” (Recital 22).

- Article 5(1)(b) (“processing is necessary for compliance with a legal obligation to which the controller is subject”) of Regulation (EU) 2018/1725. Your data will be processed for compliance with legal obligations as per Regulation (EU, Euratom) 2018/1046<sup>2</sup> (hereinafter referred to as “the Financial Regulation”), Regulation (EU) 2021/696<sup>3</sup> (hereinafter referred to as “the EU Space Programme Regulation”), Regulation (EU) 2023/588<sup>4</sup> (hereinafter referred to as “the IRIS<sup>2</sup> Regulation”).
- Article 5(1)(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”) of Regulation (EU, Euratom) 2018/1725. Your data will be processed prior to and for the performance of the contract, should the said contract be awarded to you further to conclusion of the procurement procedure.
- Article 11 (“processing of personal data relating to criminal convictions and offences or related security measures based on Article 5(1) shall be carried out only under control of official authority or when the processing is authorised by Union law providing for appropriate safeguards for the rights and freedoms of data subjects”) of Regulation (EU) 2018/1725. Your data relating to criminal convictions and offences, in the form of an extract from the judicial record or a declaration on honour, will be processed as envisaged in Articles 136-140 of Regulation (EU, Euratom) 2018/1046.

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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> 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>3</sup> REGULATION (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU.

<sup>4</sup> REGULATION (EU) 2023/588 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027

As stipulated in Article 5(2) of Regulation (EU) 2018/1725, the basis for the processing should be laid down in Union law. Consequently, the legal basis for processing operations on personal data in the context of EUSPA's procurement procedures, grants award procedures, contests for prizes and selection of experts, as well as the subsequent implementation and management of the resulting contracts, agreements and prizes is:

- The Financial Regulation, in particular Articles 33 and 36 for principles on sound financial management and performance, Articles 160-179 of Title VII - Procurement and Concessions and Annex I for procurement procedures, Articles 180-200 of Title VIII - Grants for grant application, Articles 206-207 of Title IX – Prizes for contests for prizes and Articles 237-238 of Title XII – Other budget implementation instruments for selection of experts, ; additionally, financing decisions form part of the legal basis for a processing operation, where applicable, in line with Article 110 of the Financial Regulation;
- The EUSPA Financial Regulation<sup>5</sup>;
- The EU Space Programme Regulation;
- The IRIS<sup>2</sup> Regulation.

### **III) Types of personal data collected**

Personal data shall mean any information relating to an identified or identifiable natural person.

Depending on whether the data subject is external or internal to EUSPA, different data may be processed:

#### Data subject external to EUSPA

- (a) Personal data collected and further processed concern the candidate(s) / tenderer(s) / applicant(s), as well as, if deemed necessary, their staff and subcontractor(s). Depending on the stage of procurement procedure, grant award procedure, contest for prize and selection of experts and implementation or management of the contract / agreement / prize, different personal data may be processed, as applicable, including *inter alia*:

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<sup>5</sup> European GNSS Agency Financial Regulation 2019 adopted by its Administrative Board on 16 August 2019

- Identification data, such as: name, surname, passport/ID number, IP address, place of establishment/nationality, function;
- Contact details including: e-mail address, business telephone number, mobile telephone number, fax number, postal address, company name and department, country of residence, internet address;
- Financial data including: bank account reference (IBAN and BIC codes), account holder, VAT number;
- Information and/or documentation submitted to prove that the candidate / tenderer / applicant is not in one of the exclusion situations referred to in Articles 136 and 141 of the Financial Regulation, for instance: certificates from social security contributions and taxes paid, extracts from judicial records, extracts from the register of debt regulations or a certificate given by creditors, trade register extracts, Declaration on Honour. Data related to criminal convictions and offences are to be collected for: (1) members of the administrative, management or supervisory body of candidates / tenderers / applicants, (2) natural persons who have powers of representation, decision or control of the candidates / tenderers / applicants, (3) owners of the candidates / tenderers / applicants as defined in Article 3(6) of Directive (EU) 2015/849, (4) natural persons assuming unlimited liability for the debts of the candidates / tenderers / applicants, (5) natural persons who are essential for the award or the implementation of the contract / agreement / prize;
- Information and/or documentation submitted to prove that the candidate / tenderer complies with the selection criteria requirements and/or minimum requirements set in the procurement- / grant- / selection of experts- related documents (or that the contractor's / beneficiary's personnel complies with the contract / agreement requirements), for instance: extracts from the register of the Chamber of Commerce, candidate's /tenderer's turnover statements and balance sheets of the previous financial years, information about technical skills and languages, educational background, professional experience including details on current and past employment, documents attesting professional standing (curriculum vitae, copies of diplomas, certificates, references regarding their professional activities), proof of security clearance, certificates of good conduct;

- System-related data: User account in the context of eSubmission of a tender, European Commission Authentication Service (EU Login) login name and password (only stored in EU Login), security data/log files (for audit trails);
- Signature or e-signature;
- Information concerning contract / agreement implementation and performance, such as certificate of conformity, service or product delivery, request for payment and invoices.

#### Data subject internal to EUSPA

(b) Personal data collected and further processed concern EUSPA staff involved in the procurement procedures, grants award procedures, contests for prizes and selection of experts (or in the event of inter-institutional procedures, the staff members of also other concerned EU institutions/agencies/bodies), EUSPA staff responsible for the implementation and/or management of contracts / agreements / prizes, as well as staff of EUSPA and other EU institutions involved in the audits and other control activities related to the contract, on a need-to-know basis. The same goes with external experts, if any, supporting EUSPA staff in procurement procedures, grants award procedures, contests for prizes and selection of experts, as well as management of contracts / agreements / prizes. Depending on the stage of procurement procedure, grant award procedure, contest for prizes and selection of experts and implementation or management of the contract / agreement / prize, different personal data may be processed, including *inter alia*:

- Identification data, such as: name, surname, IP address, nationality, function;
- Contact details including: e-mail address, business telephone number, mobile telephone number, fax number, office number and location, etc.;
- Organisational data: organisation, directorate, department, etc.;
- Procedural data;
- Assignments and role;
- System-related data: European Commission Authentication Service (EU Login) login name and password (only stored in EU Login), security data/log files (for audit trails).
- Signature or e-signature;
- Opinions;

- Declarations of absence of conflict of interest and of confidentiality, as per which data subjects internal confirm that they will execute their responsibilities impartially, objectively and bound by confidentiality.

#### **IV) Recipients**

The recipient/s of your personal data are:

- EUSPA staff involved in the procurement procedure, grant award procedure, contest for prize and selection of experts (i.a., handling of the given file, opening and evaluation committees, juries, financial actors), EUSPA staff responsible for implementation and/or management of the contract / agreement / prize, as well as staff of EUSPA and other EU institutions involved in the audits and other control activities related to the contract, on a need-to-know basis;
- External experts, if any, supporting EUSPA staff in procurement procedures, grants award procedures, contests for prizes and selection of experts, as well as contract management;
- If translation is required, EUSPA staff tasked with translation and/or staff of the Translation Centre for the Bodies of the European Union (CdT);
- European Commission ABAC systems' operators;
- European Commission eProcurement suite, eSubmission and eGrants (SYGMA/COMPASS) IT systems' operators;
- In the event of inter-institutional procedures, the staff members of other involved EU institutions/agencies/bodies;
- Bodies charged with a monitoring or inspection task in application of Union law (e.g., internal audits, Financial Irregularities Panel, European Anti-fraud Office – OLAF).

In case you are awarded a contract / agreement / prize by EUSPA, your personal data will be made public in accordance with the Agency's obligation to publish information on the outcome of the procurement procedure, grant award procedure, contest for prize and selection of experts, as per Articles 38, 163, 189(2) and 207(5) of the Financial Regulation. The information will concern in particular your name and locality (i.e., address when legal person or region on NUTS 2 level when natural person), the amount legally committed, and the title & reference

number of the contract / agreement / prize awarded. It will be published in supplement S of the Official Journal of the European Union and/or on the EUSPA website.

In case of litigation, including for contractual and/or agreement-related liability claims, data may be transferred to the General Court of the European Union or to a national competent court and/or to an external legal advisor, if requested.

#### **V) Data retention**

##### Unsuccessful candidates / tenderers / applicants

Files of unsuccessful candidates / tenderers, including of candidates / tenderers that participated in a cancelled procurement procedure, are retained for 5 years following the closure of the procedure. Accordingly, applications from unsuccessful applicants and data related to unsuccessful experts have to be kept for 5 years following the finalisation of the call or closure of the procedure respectively. The same goes with proposals from unsuccessful contestants, which have to be retained for 5 years following the prize award.

##### Successful candidates / tenderers / applicants

The conservation of files of successful tenderers / applicants, including personal data, is assured for 7 years after signature of the respective contract / agreement or following the prize award, with the exception of the extracts from the judicial records that can be kept only for 2 years following conclusion of the relevant procurement procedure, grant award procedure or contest for prize.

For candidates to a Call for Expressions of Interest, data specific to the candidate are retained for, whichever is later: 1) 5 years after the list's validity end date; 2) 5 years after the signature of the last contract concluded with a procedure based on the list; 3) 10 years after the signature of the last contract concluded with a procedure based on the list for which the candidate was a successful tenderer.

Files may also need to be retained until the end of a possible audit, if one has started before the end of the aforementioned periods.

With regards to contract management further to award of contracts, for successful tenderers, all documents submitted in the course of the Contract, including those containing personal data, will be retained for 10 years after the completion of the activity.

As regards data collected while managing the implementation of grant agreement, these are retained for 10 years following the last payment under the given agreement.

Data regarding the drawing up and maintaining of experts' lists and the management of experts' contracts are to be also retained for 10 years.

#### **VI) Data storage and safeguard of information**

Appropriate technical and organisational measures are in place to ensure a level of security corresponding to the risks represented by the processing and the nature of the personal data to be processed.

Where data are in an electronic form, they are stored in EUSPA servers with access control measures (i.e., one or two factor authentication) hosted by EUSPA contractors which are located in the EU and abiding by the necessary security provisions.

Where data are kept in a paper format, they are stored in the secure storage cupboards in the EUSPA HQ in Prague. Access to the premises and within the premises is controlled.

Email communication with candidates / tenderers / applicants is kept in dedicated outlook mailboxes accessible only to EUSPA staff managing procurement procedures, grants award procedures, contests for prizes and selection of experts.

All EUSPA staff and external experts participating in opening and evaluation committees or juries sign a "Declaration of absence of conflict of interests and of confidentiality".

Whenever possible, requests to participate / tenders in response to calls for tenders for contracts above Directive thresholds are received via the e-Submission platform, developed by the European Commission. Access to e-Submission is given only to staff appointed as members of the opening and evaluation committees.



**VII) Automated decision-making including profiling**

Your personal data will not be used for an automated decision-making including profiling.

**VIII) Data subject rights**

The rights of the data subject are set out in Articles 17 to 24 of Regulation (EU) 2018/1725.

You have the right to request access to the personal data or their rectification. Under certain conditions, you have the right to ask for your data to be deleted or their use to be restricted. You have the right to object to processing of your personal data, on grounds relating to your particular situation, at any time.

You can exercise your rights by addressing substantiated requests to the Data Controller, the contact information of whom is explicitly stated in the documentation pertaining to the given procurement procedure, grant award procedure, contest for prize and selection of experts, as well as the body of the relevant contract / agreement.

You may contact EUSPA Data Protection Officer at [dpo@euspa.europa.eu](mailto:dpo@euspa.europa.eu) with regard to any issue related to the processing of your personal data under Regulation (EU) 2018/1725.

You have the right to lodge a complaint to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) or through the EDPS complaint form: [https://edps.europa.eu/data-protection/our-role-supervisor/complaints/edps-complaint-form\\_en](https://edps.europa.eu/data-protection/our-role-supervisor/complaints/edps-complaint-form_en)), if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by EUSPA.