

DATA PROTECTION NOTICE – Award procedures for procurement and selection of experts, and managing legal aspects of contractual execution - Outside the scope of Horizon 2020/Europe (record reference number: 10)

Award procedures for procurement and selection of experts, and managing legal aspects of contractual execution - Outside the scope of Horizon 2020/Europe involves processing of personal data, which shall comply with Regulation (EU) N° 2018/1725¹ (the “Regulation”).

This data protection notice explains how the SESAR JU (here after referred to as SESAR JU or SJU) uses any information you give to us, and the way we protect your privacy. Furthermore, it describes the rights you have as a data subject and how you can exercise these rights.

SESAR JU protects the fundamental rights and freedoms of natural persons and in particular their right to privacy with respect to the processing of personal data.

We provide the following information based on Articles 14 to 16 of the Regulation.

What is the purpose of the processing?

- (a) Managing award procedures for procurement and the selection of experts
- (b) Managing legal aspects of contractual execution

Which personal data do we process?

- *For data subjects external to the SESAR JU:*
 - Identification data: name, surname, passport number, ID number, IP address and function
 - Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company name and department, country of residence, internet address);
 - Certificates for social security contributions and taxes paid;
 - Financial data: bank account reference (IBAN and BIC codes), VAT number;
 - Information for the evaluation of selection criteria or eligibility criteria: expertise, technical skills and languages, educational background, professional experience including details on current and past employment;
 - Declaration on honour or the equivalent with regard to exclusion criteria, selection criteria and/or eligibility criteria; and
 - 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)Extracts of judicial records
- *For data subjects internal to the SESAR JU:*
 - Identification data: name, surname, email address, IP address;
 - Organisational data: organisation, unit, etc.;
 - Procedural data; Contracting Authority;
 - Assignments and role; and

¹ Regulation (EU) N° 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 (“EUDPR”).

- 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).

Under what legal basis do we process your data?

- 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 (Financial Regulation) and in particular Articles 160-179 for the procurement procedures and Articles 237-238 for selection of experts and point 20 of Annex 1 of the Financial Regulation on selection criteria
- Public Interest- article 5 (a) of Regulation 2018/1725
- Legal obligation - article 5 (b) of Regulation 2018/1725
- Contractual obligation - article 5 (c) of Regulation 2018/1725
- Extracts of judicial records are processed lawfully under articles 5 (a), (b) and 11 of Regulation 2018/1725 (processing under control of official authority or when the processing is authorised by Union law) and article 137 of the Financial Regulation.

Who is the controller and other actors involved in the processing?

Controller: The SESAR JU, legally represented by Florian Guillemet, Avenue Cortenbergh 100, 1000 Brussels

No personal data is currently processed by external processors.

How is SESAR JU processing the personal data?

Procurement procedures

The submitted tenders (which may contain personal data) are stored in the legal archives until the opening session.

The following documents, part of an award procedure regarding procurement, or the selection of experts may contain personal data:

- Administrative offer:
- Cover letter from the tenderer
- Legal and financial identification forms
- Bank account form
- Financial statements for a period equal to or less than the last three financial years for which accounts have been closed
- A statement of the economic operator's overall turnover
- Declaration of honor
- Supporting evidence on exclusion criteria (article 136 and 137 Financial Regulation)
- Descriptive bio of each member of the team
- CVs
- Staff form
- Financial offer is normally signed by an authorised representative of the tenderer
- Technical offer

Tenders are made available to the duly appointed members of the opening committee in hard copies, for opening of the tenders, and to the members of the evaluation committee. Electronic versions of the tenders are normally available to the evaluation team through a dedicated restricted space in the IDMS.

For opening whenever tenders are submitted through email boxes, tenders are potentially available to the owner of the email box or to those having permissions to access a functional email box.

Upon termination of the evaluation process, the Legal & Procurement sector recovers all copies of the tenders and stores them in the Legal archives, in case of paper submission. The electronic version of the tender is saved in IDMS. Only members of IDMS groups having access to the relevant sites and libraries therein may handle the tender documentation.

As an outcome of ex-post publicity obligations (Article 163 (1) (b) Financial Regulation) information (namely, name and address) on the awarded tenderer, as well as the amount of the contract, is published in section S of the Official Journal of the European Union (<http://ted.europa.eu>) and/or on the website of the SJU (www.sesarju.eu).

Financial Identification Form and Legal Entity Form of the awarded are transmitted to the European Commission in order to be included in the third party file of the ABAC System for electronic transactions. This transmission between institutions is made on the basis of recital 21 and Article 6 of the Regulation.

Furthermore, information provided may lead to an entry in the Early Detection and Exclusion System Database (the "EDES") managed by the European Commission, in line with Article 135 of the Financial Regulation. Information exchanged within the EDES will be centralised in this database. The database may contain information on economic operators that could represent a threat to the Union's financial interests, economic operators who are in one of the exclusion situations listed in Article 136 (1) of the Financial Regulation and economic operators on which financial penalties are imposed - Article 138 of the Financial Regulation, in the form of cases created therein.

The EDES foresees the right of the economic operator to be informed of the data stored in the database upon its request to the EC. The information contained in the database shall be updated, where appropriate, following a request for rectification or erasure of the data stored. For more information, please visit: <http://ec.europa.eu/dpo-register/details.htm?id=42815>

Drafting of contracts (procurement, experts) and amendments

Contracts may contain personal data for the particular purpose of identification of the tenderer, namely:

- Name and signature of the person empowered to signed contract on behalf of the contractor, or the contract her or himself in case it is a natural person.
- Annex B of the contract, or technical offer, may contain a list of personnel identified to carry out the tasks. Neither CVs nor Declarations of Honour (including its supporting evidence) are part of a contract.

Tenders, as described supra, in their paper version are stored in their integrity in the Legal & Procurement archives and in the relevant space of the IDMS (contract's register). Different retention periods (see infra) apply. Personal data as part of offer is stored in the Legal & Contracts Sector archives and/or in the Legal & Contracts Sector safe.

In addition, personal data are processed when it is necessary to amend the contract based on offer for additional services and when it is necessary to add new subcontractors (re-assessment against exclusion and selection criteria).

See <https://www.sesarju.eu/dataprotection> for more information.

How do we protect and safeguard your information?

- Staff dealing with this processing operation is designated on a need-to-know basis
- Data kept according to the security measures adopted by the European Commission
- Obligation of confidentiality of the staff
- Standard clause for the processing of personal data included in the contract

- Segregation of duties
- A paper copy is made and saved in a paper file. The paper file is archived in a locked cupboard

Who can access to your personal data and to whom is it disclosed?

The following might have access to your personal data:

- EU institutions and bodies: Early Warning System (“EWS”) and the EDES when appropriate and provided that the conditions in article 135 of the Financial Regulation are met.
- Designated SJU staff members: Legal & Procurement team, finance team, Evaluators and/or contract managers, [members of the institutions, agencies and bodies participating in the award procedure in the case of inter-institutional procurement] as well as external experts and contractors who work on behalf of the SJU. For contracts awarded as part of a procurement procedure, SJU staff members who may use the contract or may use the information (excluding personal data) related to the contract for the sole purpose of future procurement procedures;
- European Commission and its services: DG BUDG and DG DIGIT
- The general public: Only in the rare case that a natural person is awarded a contract of high value, the name and surname will be published in the Official Journal

What are your rights and how can you exercise them?

You have the right of access to your personal data and to relevant information concerning how we use it. You have the right to rectify your personal data. Under certain conditions, you have the right to ask that we delete your personal data or restrict its use. You have the right to object to our processing of your personal data, on grounds relating to your particular situation, at any time. In addition, you have the right not to be subject to a decision based solely on automated processing of data, including profiling, if such decision has legal effect on him or her, except for certain situations, such as entering into a contract (as required by articles 14-16 & 24 of the Regulation).

Information on action taken on the data subject’s request to exercise her/his rights shall be provided without undue delay and in any case within one month of receipt of the request. In case of complex or voluminous requests, this period may be extended by another two months, in which case the JU will inform the data subject.

In case data subjects wish to exercise their rights, they should send an email to procurement@sesarju.eu.

How to withdraw your consent and the consequences of doing this

Data subjects have the right to withdraw their consent at any time by sending a written request to procurement@sesarju.eu. Please note that withdrawing your consent does not affect the lawfulness of any processing based on your consent before this consent is withdrawn.

Possible restrictions as laid down in Article 25 of Regulation (EC) 1725/2018 may apply, only if necessary to safeguard the rights of the data subjects and/or the rights and freedom of others, and as foreseen in the upcoming SJU Decision on Restriction. Restrictions are also foreseen in art. 142 (1) of the Financial Regulation.

How long is the data retained?

For a procurement award procedure, data are retained for a period of 10 years following the procedure’s closure, although:

- for unsuccessful tenderers, data specific to the tenderer are retained for 5 years following the closure of the procedure;

- for unsuccessful candidates in response to an invitation to request to participate or successful candidates who did not subsequently tender, data specific to the candidate are retained for 5 years following the closure of the procedure;
- 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.
- As regards data collected when managing the execution of the contract, these are retained for 10 years following last payment made under the contract.
- Data regarding the drawing up and maintaining of experts' lists and the management of experts' contracts are retained for 10 years, while data related to unsuccessful experts are eliminated five years after the closure of the procedure. In addition to the above periods, data are also retained until the end of a possible audit if an audit started before the end of the above periods.
- Extracts of judicial records are kept for a maximum of 2 years

Complaints, concerns and recourse

Should you have any complaint or concern you may contact:

- the Data Protection Officer of the SESAR JU at sju.data-protection@sesarju.eu, and
- the procurement team at procurement@sesarju.eu

In addition, as a data subject, you have a right to recourse to the European Data Protection Supervisor (EDPS) at any time by e-mail to edps@edps.europa.eu or a letter to the EDPS postal address marked for the attention of the EDPS DPO:

European Data Protection Supervisor, Rue Wiertz 60, B-1047 Brussels, Belgium

For more information on the EDPS, please consult their website: <https://edps.europa.eu>

Additional information

More information on Data Protection at the SESAR JU can be obtained in the [SJU register of data processing operations](#). The SESAR JU privacy policy relating to this processing activity is included in the call for tender documentation and the SJU website.