

ESMA Specific Privacy Notice – Public procurement

A specific privacy notice on personal data protection in relation to their processing in order to evaluate the proposals received in response to a call for tender referring to exclusion and award criteria set in the tender specifications and award the contract to the best candidate in terms of quality/price

1. Context and Controller

The European Securities and Markets Authority (ESMA) processes personal data in accordance with Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000¹ on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([Regulation \(EC\) 45/2001](#)). Processing operations are under the responsibility of the Controller, the Executive Director of ESMA.

2. What personal information do we collect, for what purpose, and under which legal bases?

Types of personal data

Personal data collected and further processed concern the grant applicant, tenderer and its staff or sub-contractors (natural persons). Information can relate to the following data:

Data

Name, address, telephone number, e-mail address;

Copy of the company registration;

Bank account details;

CV's of staff proposed for the provision of the service;

Evidence of the payment of social taxes;

Copies of certificates of different nature;

Any other documents required in the tender dossier.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:008:0001:0022:en:PDF>



Special categories of data:

Recent extract from the judicial record.

Purpose

The purpose of the processing is to use the various data in order to evaluate the proposals received in response to a call for tender referring to exclusion and award criteria set in the tender specifications and award the contract to the best candidate in terms of quality/price.

The purpose of publishing a call for tender is to open the competition, to increase the choice of potential suppliers, thereby allowing achieving a better value for money result, while at the same time developing market opportunities for companies.

Legal bases

The legal bases for the processing operations on personal data are:

- Regulation (EU) No 1095/2010 of the European Parliament and the Council of 24 November 2010 establishing ESMA, amended by the Decision No 716/2009/EC;
- Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (Financial Regulation);
- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.

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

For the purpose detailed above, access to your personal data is given to the following persons, without prejudice to a possible transmission to the bodies in charge of a monitoring or inspection task in accordance with European Union law:

- Members of the Evaluation Committee and to the Procurement and Financial staff;
- 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);
- Members of the public; In case you are awarded a contract by the Commission, your personal data will be made public, in accordance with the Commission's obligation to publish information on the outcome of the procurement procedure and on the beneficiaries of funds deriving from the budget of the European Community (Article 90, 110 (2) and Article 30(3) of the Financial Regulation, respectively). The information will concern in particular your name, the amount awarded and the name of the project or programme for which you are awarded a contract. It will be published in supplement S of the Official Journal of the European Union.



4. How do we protect and safeguard your information?

Documents received from the tenderers are saved in Outlook-folders with access rights limited to the Procurement-staff and the documentation received is stored in a locked cupboard accessible only to Procurement staff.

The personal data are stored in a dedicated part of the ESMA server and access is granted only on an individual basis to those with authorised access.

Any physical files are stored in a lockable filing cabinet within ESMA with restricted access rights.

5. How can you verify, modify or delete your information?

In case you wish to verify which personal data is stored on your behalf by the Controller, have it modified, corrected, or deleted, please make use of the contact information below, by explicitly describing your request. Any correction of your personal data will be taken into consideration from the data protection point of view.

6. How long do we keep your personal data?

Data are kept for at least 5 years following the discharge for the budget year in question.

7. Contact information

For any questions related to your rights, feel free to contact the Controller, by using the contact information mentioned in the Call for expression of interest, Grant Application Form or the Call for tenders, and by explicitly specifying your request.

More information:

Should candidates have any queries, please address them in writing to the ESMA Data Protection Officer at dpo@esma.europa.eu.

Candidates have the right of recourse at any time to the European Data Protection Supervisor (EDPS) at edps@edps.europa.eu.