

REGISTER NUMBER: 0527

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 04/09/2009

Case number: 2009-570

Institution: Commission

Legal basis: article 27-2 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

2) Name and First Name of the Controller: none yet (model-notification)

3) Title:

4) Directorate, Unit or Service to which the Controller is attached:

5) Directorate General to which the Controller is attached:

2/ Organisational parts of the institution or body entrusted with the processing of personal data

26) External Company or Directorate General to which the Processor is attached:

25) External Company or Directorate, Unit or Service to which the Processor is attached:

3/ Name of the processing

DG XXXX Procurement procedures including call for expressions of interest for selection of experts, [covering the execution of the contract and additional purposes such as statistics, reporting or auditing.]

4/ Purpose or purposes of the processing

Management and administration of procurement procedures by the DG services, including in particular :

- the provision of evidence of the technical and professional capacity of tenderers, their staff and subcontractors,
- the execution of the contract and additional purposes such as statistics, reporting or auditing.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Persons possibly participating in procurement procedures of the DG services:

- tenderers - natural persons,
- staff of tenderers, and/or
- subcontractors - natural persons.

16) Category(ies) of Data Subjects:

See point 14 above

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)(*including, if applicable, special categories of data (article 10) and/or origin of data*)

17) Data field(s) of Data Subjects:

Attention: Please indicate and describe in the answer to this question also data fields which fall under article 10

Personal data of tenderers, their staff or subcontractors which may include in particular:

- Name (first name, family name, previous family name);
- Gender, nationality, title, function;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- Personal data contained in absence and medical certificates, certificates for social security contributions and taxes paid, extract from judicial records;
- Bank account reference (IBAN and BIC codes), VAT number, national insurance number, passport number, ID number and personnel number;
- Place and date of birth; and
- Other personal data contained in CVs (expertise, technical skills and languages, professional experience including details on current and past employment).
- A declaration on their honour that they are not in one of the exclusion situation referred to in article 93 and

18) Category(ies) of data fields of Data Subjects:

Attention: Please indicate and describe in the answer to this question also categories of data fields which fall under article 10

See point 17 above.

7/ Information to be given to data subjects

15a) Which kind of communication(s) have you foreseen to inform the Data Subjects as described in articles 11 - 12 under 'Information to be given to the Data Subject'

Documents 1 + 2 are included in the model invitation to tender of the Commission,
Document 3 is included in any contract of the Commission:

1. the adapted model of data protection clauses for Invitations
2. the adapted model of Privacy Statement
3. the adapted model of data protection clauses for Contracts

8/ Procedures to grant rights of data subjects (rights of access, to rectify, to block, to erase, to object) (*rights of access, to rectify, to block, to erase, to object*)

15b) Which procedure(s) did you put in place to enable Data Subjects to exert their rights: access, verify, correct, etc., their Personal Data as described in articles 13 - 19 under 'Rights of the Data Subject' :

See the "Contact" section of the Privacy Statement

9/ Automated / Manual processing operation

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

Management, coordination and organization of calls for tenders including in particular the reception of tenders and requests to participate (both referred to as "tenders"), their evaluation, negotiation, ranking, copying, distributing, using, filing, archiving and destruction, the preparation of the opening report, the evaluation report, the decision and the contract, the correspondence with tenderers or candidates (both referred to as "tenderers"), the generation of mailing labels and the publication of the results of the procurement procedure in the Official Journal of the European Union. In all procedures involving a call for expressions of interest, personal data are processed within the duration of the particular procedure, or if applicable, up to provision of publicity of the results of that procedure.

In some cases, the tenderer must provide a declaration on her/his honour that s/he is not in a situation defined in the exclusion criteria for participation and for award.

Some "tenderers" or "candidates" can be legal entities of one person (translators, experts...) directly allowing the identification of the natural person. Therefore, some personal data contained in the above mentioned documents fall under article 27 of Regulation 45/2001. (see also the Procurement Vade-Mecum at: https://intracomm.ec.europa.eu/budg/imp/procurement/imp-080-020_procproced_en.html)

8) Automated Processing operation(s):

n/a

9) Manual Processing operation(s):

See point 7

10/ Storage media of data

Personal data in paper format is stored in operational and financial units of the DG.

Personal data in electronic form is stored on servers of the Commission's computer center, of either DG DIGIT or the DG, physically under the control of DG DIGIT or the DG.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p.1) as amended by later Regulations and Corrigenda ("Financial Regulation")

Commission Regulation (EC, Euratom) N° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) N°1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p.1) as amended by later Regulations and Corrigenda ("Implementing Rules to the Financial Regulation")

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

The data processing is considered lawful because it is necessary to:

- Meet requirements of the legal instruments mentioned above,
 - Ensure compliance of the Commission with legal obligations, and
 - Take steps prior to entering into contract with the data subject
- as described in points (a), (b) and (c) of article 5 of Regulation 45/2001

There are no exemptions or restrictions under article 20 but data or operations require prior checking under article 27 of Regulation 45/2001.

12/ The recipients or categories of recipient to whom the data might be disclosed

20) Recipient(s) of the Processing:

- Staff of operational and financial units of the DG participating in management of procurement procedures and additional purposes such as statistics, reporting and auditing;
- Outside experts and contractors participating in evaluation of tenders in the DG services' procurement procedures;
- Staff of OLAF, IDOC, IAS and the Legal Service of the Commission as well as staff of other units (SG, DG BUDG and clearinghouse) upon request, all possible data, necessary in the context of official investigations or for audit purposes.

21) Category(ies) of recipients:

See point 20) above.

13/ retention policy of (categories of) personal data

Personal data will be used for communication purposes until the end of the engagement - discharge.

Files relating to tender procedures including personal data are to be retained in the archives for a period of at least 10 years following the signature of the contract. However, tenders from unsuccessful tenderers have to be kept only for at least 5 years following the signature of the contract into question. Thereafter, documents containing personal data can be transferred to the historical archives for further conservation. The remaining documents are to be destroyed.

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)
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(Please, specify the time limits for every category, if applicable)

22 b) Time limit to block/erase data on justified legitimate request from the data subjects

Legitimate requests are treated immediately.

However, data encoded as record of reception of the tender is kept as it was at the time of reception, as required by the Commission registration rules - (SEC(2003)349). The updated data - address or contacts - are used for correspondence and exchanges that follow.

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

22 c) Historical, statistical or scientific purposes - If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification

After the minimum period mentioned in point 22) above has elapsed, the documents to be sent to the historical archives of the Commission for further conservation (e.g. for 25 years or permanently) will be selected. The remaining documents are to be destroyed.

15/ Proposed transfers of data to third countries or international organisations

27) Legal foundation of transfer:

Only transfers to third party countries not subject to Directive 95/46/EC (Article 9) should be considered for this question. Please treat transfers to other community institutions and bodies and to member states under question 20.

Not Applicable

28) Category(ies) of Personal Data or Personal Data to be transferred:

Not Applicable

This notification is linked to a generic notification to cover questions 31 - 34. The Notification and Version number is: DPO-0001 Generic notification for Commission IT and Telecom infrastructure

16/ The processing operation presents specific risk which justifies prior checking (please describe): *(please describe)*):

7) Description of Processing:

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Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

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Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

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Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

n/a

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

n/a

Other (general concept in Article 27.1)

n/a

17/ Comments

1) Date of submission:

04/09/2009

10) Comments if applicable:

This notification of personal data processing in all procurement procedures of the DG, is at least applicable to the procedure from its launch up to the conclusion of the contract, cancellation or abandonment of the procedure, or if applicable, up to provision of publicity of the results of the procedure.

Important : the coverage of the execution of the contract, is clearly declared at 6) "Name of Processing". Therefore, relevant points of this notification have been adapted accordingly.

[This notification is considered as the reference of the "ex-post Control" notification DPO-nnnn where relevant]

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

no

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

note annexed : " procurements_model_instructions note_PC.doc"

PLACE AND DATE: 04/09/2009

DATA PROTECTION OFFICER: GEORGES Louis

INSTITUTION OR BODY:European Commission