

REGISTER NUMBER: 687

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 22/07/2011

Case number: 2011-0542

Institution: CEDEFOP

Legal basis: article 27-5 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**

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2 a/ Part of the institution or body entrusted with the processing of personal data

Area Resources - Finance and Procurement

b/ Name and address of the processor

Staff of the service (Finance & Procurement)
 In case there is an external evaluator s/he has access to the data collected for the duration of the evaluation procedure.

3/ Name of the processing

Public procurement and grant award

4/ Purpose or purposes of the processing

The processing of the data is needed upon the receipt of tenders or grant applications by the Procurement Service of Cedefop for the purpose of reception of supplies or services and for the management and administration of public procurement procedures and grants. For the economy of this text when referring to "procurement procedures" we also include grants awarding.

5/ Description of the category or categories of data subjects

As described in the document "Note to the Data Protection Officer", section IV, paragraphs 1, 2 and 3.

The controller will be collecting and processing personal data of various actors taking part in the public procurement at Cedefop, both legal and natural persons such as: tenderers/candidates, staff of tenderers/candidates,

subcontractors, consortium members, and members of the opening and evaluation committees, project managers and Authorising Officers.

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

The following data is processed about staff of the tenderers participating in the procurement:

- name (first name, family name);
- function;
- contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- other personal data contained in CVs (expertise, technical skills, educational background, languages, professional experience including details on current and past employment);
- extracts from judicial records only of the CEO and for high-value contracts (over 125.000 Euros) before the award of the contract;
- declaration of honour that they are not in one of the exclusion situations referred in articles 93 and 94 of the general Financial Regulation, for the CEO.

For the legal persons (companies) or individual economic operators the data processed include:

- name, address;
- phone number;
- fax number;
- e-mail address;
- proof of an independent worker status (if applicable) and extract from the trade register; bank certificate stating his/her financial situation; bank account number and bank's name;
- statement of the overall turnover for the supplies and/or services referred to in the procurement procedure;
- proof of having fulfilled all obligations to pay social-security contributions and taxes;
- certificate of clear criminal record or extract of judicial record;
- extract from the register of bankruptcy and reorganization procedures or extract from the register of debt regulations or a certificate given by a creditor, as applicable;
- documents attesting professional standing (curriculum vitae, copies of diplomas, certificates, references regarding professional activities);
- proof of security clearance (if applicable).

Data processed about subcontractors (section 4.1 Guidelines for drafting tender specifications):

- data contained in the Declaration on exclusion criteria and absence of conflict of interest;
- data contained in the documents proving the economic/financial and technical/professional capacity of the subcontractor;
- data comprised in the Model of Letter of Intent for Subcontractor/s, stating his unambiguous undertaking to collaborate with the tenderer if the latter wins the contract.

For project managers, authorising officers, staff of procurement service and members of the opening committee/evaluation committee only the name, grade and function are collected and processed.

Grant candidates are request to fill in the information contained in the grant application form, payment request for pre-financing, budget estimates and subcontracting form.

The national insurance number is being processed only for the successful tenderer in case of contract award of a value above 125.000 Euro.

7/ Information to be given to data subjects

Data subjects are informed through a privacy statement (see attached) presented at the beginning of the invitation to tender, as well as posted on the Cedefop's official webpage under Public Procurement/Grant section.

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

Data subjects have the right to access their personal data by submitting a request to the controller mentioned in the call for tenders. They can also modify, update or delete the data at any time. However, some restrictions to the right of access and rectification are imposed before the opening procedure, when contact between Cedefop and the tenderers is forbidden (without prejudice to the exceptions of making clarifications or correcting administrative errors).

If tenders have any queries concerning the processing of their personal data, they may address them to the Head of Finance and Procurement (acting as data controller) at the e-mail address mentioned in the call for tenders, or the Data Protection Officer at the following email: data-protection@cedefop.europa.eu.

Data subjects are also entitled to have recourse at any time to the European Data Protection Supervisor: <http://www.edps.europa.eu>

9/ Automated / Manual processing operation

The data are processed both automatically via a workflow in ProLive and manually by the Opening/Evaluating Committees.

10/ Storage media of data

Data is stored in paper form located in the Procurement Service. In addition data is stored in ProLive (electronic format), and for the tenderers who become Contractors/Suppliers, their data (address, bank account, VAT number) is also stored in Fibus as third parties (electronic format).

11/ Legal basis and lawfulness of the processing operation

As described in the section V of the “Note to the Data Protection Officer”:

The processing is necessary for the performance of a task carried out in the public interest, namely the management and functioning of the institution within the meaning of the article 5 (a) of the Regulation 45/2001 and in order to meet the legal obligations arising out of the following legal documents:

(a) Regulation (EEC) No 337/75 of the Council of 10 February 1975 establishing a European Centre for the Development of Vocational Training, as last amended by Council Regulation(EC) No 2051/2004 of 25 October 2004

(b) Articles 74 and 75 of Cedefop decision of 5 June 2009 on the financial rules applicable to the European Centre for the Development of Vocational Training in conformity with the Commission Regulation no 2343/2002 on the framework financial regulation for the bodies referred to in article 185 of Council Regulation no 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended by Commission Regulation no 652/2008 of 9 July 2008

(c) Articles 73, 75 and 76 of the Decision of the Governing Board of the European Centre for the Development of Vocational Training laying down detailed rules for the implementation of the Financial Regulation applicable to Cedefop of 17 December 2010

(d) Articles 93 and 94 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended by Commission Regulation (EC, Euratom) No 652/2008 of 9 July 2008

(e) Articles 135 – 137 of the Commission Regulation (EC, Euratom) 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

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

- Finance and Procurement service staff participating in procurement procedures;
- opening committee;
- evaluation committee;
- external evaluator, if applicable;
- legal advisor, if requested;
- European Court of Auditors (ECA), OLAF, Internal Audit System (IAS), Financial Irregularities Panel;
- European Commission, other institutions or agencies (for data of economic operators which are in one of

the situations referred to in Articles 93, 94, 96(1)(b) and 96(2)(a) of the general FR which may be included in the system that identifies bodies and individuals representing financial and other risks to the European Union, called Early Warning System. This refers as well to the persons with powers of representation, decision making or control over the said economic operators. Any party entered into the database has the right to be informed about the existence of such system and about the flagging *per se* under the conditions laid down in article 8 of the European Commission's Decision of 16 December 2008 on the Early Warning System for the use of the authorising officers of the Commission and the executive agencies (2008/969/EC)

- Members of the public. Personal data of the winner of the call for tender will be made available to the public in accordance with the 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 90.1, article 110.2 of the general Financial Regulation and article 26.4 of Cedefop decision of 5 June 2009 on the financial rules applicable to the European Centre for the Development of Vocational Training).

13/ Retention policy of (categories of) personal data

Files relating to tender procedures are to be retained in the service in charge until the procedure is finalised, then, according to the retention schedule.

The personal data of the successful tenderer/candidate is stored in the archives for a period of at most ten (10) years following the signature of the contract (the reduction of this time to seven (7) years is being considered).

The files of unsuccessful tenderers/candidates are kept for at most five (5) years following the signature of the respective contract.

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)

n/a

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,

n/a

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

n/a

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

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures

The notification falls under article 27.2.(a) above.

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject

The notification falls under article 27.2.(b) above.

17/ Comments

Data collected in the context of calls for proposals for grants (ReferNet) are treated in exactly the same way as those collected in the context of procurement (tendering) procedures, that is, only for the purposes of evaluation and of communication with applicants (and eventually with the successful applicant) as necessary.

PLACE AND DATE: Thessaloniki, 22-July-2011

DATA PROTECTION OFFICER: Spyros ANTONIOU (Data Protection Officer of Cedefop)

INSTITUTION OR BODY: CEDEFOP