

**REGISTER NUMBER: 745**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 03/10/2011

Case number: 2011-0890

Institution: CFCA

Legal basis: article 27-5 of the regulation CE 45/2001<sup>(1)</sup>

*(1) OJ L 8, 12.01.2001*

**INFORMATION TO BE GIVEN<sup>(2)</sup>**

*(2) Please attach all necessary backup documents*

1/ Name and adress of the controller

Niall McHale, Head of Unit Resources, Community Fisheries Control Agency, Avda. Garcia Barbon, 4, E-36201 Vigo  
(see Note for the attention to Heads of Units in Annex I)

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

Unit Resources, Budget and Finance Section

3/ Name of the processing

Procurement procedures and contract execution

4/ Purpose or purposes of the processing

Management and administration of procurement procedures by the CFCA, including in particular the provision of evidence of the technical and professional capacity of tenderers, their staff and subcontractors. Where applicable, purpose indicated in the relevant contract and carried out by the contractor acting as data processor.

5/ Description of the category or categories of data subjects

Persons willing to participate in procurement procedures of the CFCA: tenderers - natural persons, staff of tenderers, and/or subcontractors - natural persons. Persons concerned in the relevant contract.

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

Personal data of tenderers, their staff or subcontractors which may include in particular: 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); Certificates for social security contributions and taxes paid, extract from judicial records; Bank account reference (IBAN and BIC codes), VAT number, passport number, ID number; Information for the evaluation of selection criteria: expertise, technical skills and languages, educational background, 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 74 of the CFCA Financial Regulation and Articles 93 and 94 of the General Financial Regulation. Since the information is often provided on CV, the tenderers, staff or subcontractors might supply additional information which is not necessary for the purpose of procurement (such as gender, age, nationality). Data processing on implementation of contract may require other types of data as s

7/ Information to be given to data subjects

A specific paragraph is included in the Tender Specifications with a link to the CFCA procurement webpage where a specific Privacy statement (see Annex II) is available for download ([http://cfca.europa.eu/pages/docs/procurement/Privacy%20statement\\_web%20site.doc](http://cfca.europa.eu/pages/docs/procurement/Privacy%20statement_web%20site.doc)) and specific articles are introduced in the model contract (Based on model contracts published on BUDG web: [http://intracomm.cec.eu-admin.net/budg/imp/procurement/imp-080-030-010\\_contracts\\_en.html](http://intracomm.cec.eu-admin.net/budg/imp/procurement/imp-080-030-010_contracts_en.html)), see Annex III.

Paragraph in the Tender Specifications:

"If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 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. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Head of Unit A Resources. Details concerning the processing of your personal data are available on the privacy statement at:  
[http://cfca.europa.eu/pages/home/cfca\\_jobs\\_procurement.htm](http://cfca.europa.eu/pages/home/cfca_jobs_procurement.htm)

Your personal data (name, given name if natural person, address, legal form, registration number and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the Early Warning System (EWS) only or both in the EWS and Central Exclusion Database (CED)

by the Accounting Officer of the Commission, should you be in one of the situations mentioned in: the Commission Decision 2008/969 of 16.12.2008 on the Early Warning System

(for more information see the Privacy Statement on:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)), or the Commission Regulation 2008/1302 of 17.12.2008 on the Central Exclusion Database

(for more information see the Privacy Statement on:

[http://ec.europa.eu/budget/library/explained/management/protecting/privacy\\_statement\\_ced\\_en.pdf](http://ec.europa.eu/budget/library/explained/management/protecting/privacy_statement_ced_en.pdf)), see Annex IV

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

Please refer to point 5 of the Privacy Statement (Annex II).

9/ Automated / Manual processing operation

Automated processing operations are not applicable. For manual processing operations:

**Procurement procedures:**

Management, coordination and organisation of calls for tenders including in particular the reception of tenders and requests to participate (both referred to as "tenders"), their opening, evaluation, negotiation, ranking, copying, distributing, using, filing, archiving and destruction, the preparation of the opening report, the evaluation report, the award 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 relevant procedure in the Official Journal of the European Union and / or the CFCA website. In all these procedures, 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 most cases, the tenderers must provide a declaration on their honour that they are not in a situation of exclusion as defined Article 74 of the CFCA Financial Regulation and in Articles 93 and 94 of the General Financial Regulation.

Some tenderers 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 Vademecum on Public Procurement at:

[http://intracomm.cec.eu-admin.net/budg/imp/procurement/imp-080-020\\_procproced\\_en.html](http://intracomm.cec.eu-admin.net/budg/imp/procurement/imp-080-020_procproced_en.html)

**Contract execution:**

Where the contract implementation necessitates the processing of personal data, the contractor will act as data processor as per Article 23 of Regulation 45/2001. The categories of data, the purpose of the processing, the recipients of data and the means for data subjects to exercise their rights will be stipulated in the contract.

10/ Storage media of data

Personal data in paper format is stored in Unit A, section Budget & Finance, of the CFCA. Personal data in electronic form is stored on servers of the CFCA's computer centre, physically under the control of Unit A, section ICT. The contractor acting as data processor is submitted to the obligations of data processing confidentiality and security provided for in articles 21 and 22 of Regulation 45/2001.

11/ Legal basis and lawfulness of the processing operation

Art. 5a Regulation (EC) 45/2001; Clearly covered by mandate of CFCA as laid down in Regulation 768/2005 (public interest); processing necessary mainly for the management and functioning of the CFCA. Article 74 of the Financial Regulation applicable to the CFCA and Articles 93,94, 97(1) of the General Financial Regulation and Articles 135-137 of the Implementing Rules of the General Financial Regulation.

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

All recipients are on a "need to know" basis.

- Staff of operational and financial units of the CFCA participating in procurement procedures as defined in Point 7 and to the bodies charged with a monitoring or inspection task in application of Union law (e.g. internal control, internal audit);
- Staff of OLAF, IAS (Internal Audit Services), upon request necessary in the context of official investigations or for audit purposes;
- Members of the public in accordance with the CFCA's obligation to publish information on the outcome of the procurement procedure (Article 74 of the CFCA Financial Regulation and Article 90 of the General Financial Regulation). The information concerns in particular name and address, the amount awarded and the name of the project. It will be published in supplement S of the Official Journal of the European Union and/or on the website of the CFCA;
- Staff of the contractor who need to have access to the data strictly for performance, management and monitoring of the contract.

For electronic information: only designated staff has the possibility to access the data kept for the purpose of administrative or financial process.

**Procurement:** P:\Agency\1 SG Common\2 Legal Affairs\Procurement

Access limited to the following user groups: Unit B's Head of Unit, Secretary and Assistants, Legal Officer, all Project Managers, Executive Director and his secretariat, Advisor to the Executive Director.

**Contracts:** P:\Agency\1 SG Common\2 Legal Affairs\Contracts

Access limited to the following user groups: Units' Secretaries, Assistants, Project Managers, Head of Units, Accounting Officer, Legal Officer, Executive Director and his secretariat, Advisor to the Executive Director.

For hardcopy documentation, limited number of staff having access upon request for the purpose of administrative or financial process to cupboards; the storage offices are always locked when unattended.

Data processed maybe transferred abroad within the context of the evaluation of offers received in response to an open call for tenders, following the appointment of external members to the Evaluation Committee (Article 74 of the CFCA Financial Regulation and Article 146 of the IR of the General FR).

13/ retention policy of (categories of) personal data

Files relating to tender procedures including personal data are to be retained in the service in charge of the procedure (Unit A, section Budget & Finance) until it is finalised (see point 10), and in the archives for at least five years from the date on which the European Parliament grants discharge for the budgetary year to which the documents relate.

All these files could be retained until the end of a possible audit if one started before the end of the above periods.

Files related to the implementation of contracts are kept by the data processor (contractor) for up to 5 years after payment of the balance of the 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)*

Legitimate requests are treated immediately and in any case not later than 15 days from the date of receipt of the request.

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)

Data processing operations relating to health and to suspected offences, offences, criminal convictions or security measures;

- Article 27.2.(b)

Data processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct;

17/ Comments

N/A

PLACE AND DATE: Vigo, 3 October 2011

DATA PROTECTION OFFICER: Rieke Arndt

INSTITUTION OR BODY: Community Fisheries Control Agency