

REGISTER NUMBER: 748

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 13/10/2011

Case number: 2011-0927

Institution: SESAR JU

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

SESAR JOINT UNDERTAKING, Avenue de Cortenbergh 100, B-1000 Brussels

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

Legal Affairs & Contract Sector

Ms Amalia

Friman, Head of Legal Affairs & Contract Sector

3/ Name of the processing

Procurement procedures and hereto related contract management

4/ Purpose or purposes of the processing

a) Assessment of tenders/proposals in response to call for tenders/call for proposals

b)

Management of contracts/agreements placed by the SJU

5/ Description of the category or categories of data subjects

Personal data collected and further processed concern the expert, the tenderer and its staff, including consortium partners and subcontractors, participating in procurement procedures and entering into a contractual relation with the SJU (article 74 in the SJU Financial Rules).

a) After reception of the offers, the duly appointment members of the opening & analysis boards will evaluate the offers against criteria defined in the call documentation; this assessment may include the processing of personal data on the basis of e.g. CVs.

In practice, the process is the following: the submitted offers are stored in the Legal archives (under lock & key and under the responsibility of the Legal sector) until the opening session (POB). Once the opening session is finalised and the POB report signed, the Legal sector distributes copies of the offers to the members of the PAB who then evaluate the content of the tenders in accordance with the criteria defined in the call specifications.

Originals of the offers are always kept in the Legal archives. Upon termination of the evaluation process, the Legal sector recovers all copies of the tenders and stores them in the Legal archives.

Personal data as part of the offers received (original and copies) is stored in accordance with the retention periods specified in the Privacy Statement published on the SJU website. For more details on the technical / organisational measures taken to protect the data, please refer to point 18 below.

b) Managing and monitoring the execution of the contracts, which includes e.g., the following activities:

- amendment of contract on the basis of offer for additional services,
- addition of new subcontractors (assessment of proposed subcontractors against exclusion and selection criteria),
- addition of new experts (support in the frame of assessment of proposed expertise)

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

The data is collected in the tenderer's offer or in supporting forms (legal entity and financial forms) necessary to participate to the tender. The processing may involve the following data:

- Function; Name,
- Contact details (e-mail address, business telephone number, mobile telephone E3number, fax number, postal address, company and department, country of residence, internet address);
- Certificate 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 on the evaluation of the exclusion criteria: Declaration on honour that the tenderer is not in one of the exclusion situations referred to in Articles 93 and 94 of the Regulation (EC, EURATOM) N°1605/2002 of the Council of 25 June 2002: this may include data relating to offences, criminal convictions in the meaning of Article 10 (5) of Regulation 45/2001.

7/ Information to be given to data subjects

Privacy statement for processing of personal data related to procurement procedures
 protection clauses contained in the invitation to tender
 protection clause included in the contracts

Data
 Model Data

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

As mentioned in the privacy statement, data subjects are granted rights of access and rectification upon a request to the controller, as long as it does not call into question the decision awarding the contract and result in unequal treatment.

9/ Automated / Manual processing operation

Personal data as part of offer (paper & electronic version) is stored in the Legal & Contracts Sector archives and/or in the Legal & Contracts Sector safe. Access to these storage facilities is limited to the Legal & Contracts Sector

10/ Storage media of data

Paper-based archives and electronic database, when relevant, only accessible for the persons who need access to the relevant personal data.

11/ Legal basis and lawfulness of the processing operation

In line with Article 5 (a) of Regulation 45/2011, the processing is necessary for the performance of a task carried out in the public interest on the basis of the EU treaties or other instruments adopted on the basis thereof and for the legitimate exercise of official authority vested in the SJU. In particular, the procurement procedure is necessary for the management of the SESAR Programme. The legal basis for SJU procurement is laid down in the SJU Financial Regulation.

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

Access to the personal data is given to the following persons, without prejudice to a possible transmission to the bodies in charge of a monitoring and inspection task in accordance with European Union law (e.g., European Court of Auditors, European Anti-Fraud Office, etc.) or to the competent national courts in case of dispute arising between the contracting parties:

- SJU staff as well as outside experts and contractors who are invited to participate in the procurement procedures (opening and selection of tenders) as well as in the management of the resulting contracts;
- Members of the public: in case of contract award, in accordance with the SJU'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 Union, the information concerning in particular the name and address of the winner, the amount awarded and the name of the project or programme for which the winner is awarded a contract, will be published in supplement S of the Official Journal of the European Union (<http://ted.europa.eu>) and/or on the website of the SJU (www.sesarju.eu);
- Directorate-General of Budget of the European Commission: Financial Identification Form and Legal Entity Form of the winner are transferred to the European Commission in order to be included in the third party file of the ABAC System for electronic transactions.

13/ retention policy of (categories of) personal data

The personal data is kept:

- For selection of experts:

§ until the expiry date of the list resulting from the call for expression of interest, as indicated in the call specifications, § in the archives for a period of 5 years following the expiry date referenced hereabove;

- Files relating to tender procedures, including related personal data:

§ In case of successful (awarded) tenderers: all personal data related to the management of the procurement procedure and the service contract is to be retained at the SJU premises for a period of 7 years following the signature of the contract, or until the dissolution of the SJU, whichever is earlier. Original successful tenders are stored at the SJU premises, while the copies of the successful tenders are not kept.

§ In case of unsuccessful tenderers: the personal data in the original unsuccessful tenders is kept in the archives for a period of 5 years following the signature of the contract with the successful tenderer. The copies are destroyed.

- Until the end of a possible audit if one started before the end of the above period.

After the period mentioned above has elapsed, the tender files are 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)

In case of queries concerning the processing of personal data, the data subjects may send their written requests to a functional mailbox for the data protection controller. Such requests for access, rectification, erasure, etc., are handled within 30 days after the 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,

After the minimum period mentioned above has elapsed, documents, if any, to be sent to the historical archives of the Commission will be selected. The remaining documents shall be destroyed.

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

According to an agreement signed between the SJU and the European Organisation for the Safety of Air Navigation ("EUROCONTROL") based on article 9.2 of the council regulation (EC) 219/2007 of 27 february 2007 modified by Council regulation 1361/2008 of 16 December 2008, EUROCONTROL as one of the two founding members of the SJU has the right to request the SJU to make available the necessary audit reports and supporting documentation requested by EUROCONTROL and its auditors to check that the provisions of the before mentioned contract is fulfilled (correct spending of the funds provided by EUROCONTROL to the SJU). Confidentiality provisions are included in the contract between the SJU and EUROCONTROL.

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

Article 27.2 (a), (b) in particular.

AS FORESEEN IN:

Article 27.2.(a)

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

Article 27.2.(b)

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

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

PLACE AND DATE: Brussels, 9 September 2011

DATA PROTECTION OFFICER: Daniella Pavkovic

INSTITUTION OR BODY: SESAR JU