

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1253

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 06/06/2014

CASE NUMBER: 2014-0625

INSTITUTION: ECHA

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

European Chemicals Agency, Annankatu 18, 00120 Helsinki, Finland

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

The procurement team within the Finance Unit has a coordinating and advisory role for contract management processes. However, all processing of personal data during the management of contracts takes place under the responsibility of the authorising officer or authorising officer by delegation that is managing the respective contracts.

3/ NAME OF THE PROCESSING

Contract management

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing of personal data is to enable the management of contracts established as a result of a procurement procedure.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The data subjects include representatives from the contracting parties whose personal data is included in the 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 contractors, their staff or subcontractors, which may include in particular:

- Name and contact details;
- Nationality, gender, place and date of birth, title, function, company and department;
- Bank account reference, VAT number, national insurance number, passport number, ID number and personnel number;
- Other personal data contained in CVs (expertise, technical skills and languages, professional experience and career related information);
- A declaration on their honour that they are not in one of the exclusion situations referred to in Article 85 of the ECHA Financial Regulation and Articles 93 and 94 of the Financial Regulation;
- Certificates for social security benefits and taxes paid, extract from judicial record.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

A Data Protection notice is included in the tender specifications, while Data Protection clauses are introduced in the model contract.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

The data subjects are informed of their rights and of the procedure to exercise them (through direct contact with the responsible controller) via the specific contract clauses. To exercise their rights during the contract management stage they can contact the unit in charge of the contract directly.

The right to rectify the information provided can be exercised at any time during contract implementation. Special attention is drawn to the consequences of a request for deletion, as this may lead to an alteration of the original terms for the award and lead to exclusion as stated in Article 85 of the ECHA Financial Regulation and Article 145 of the Rules of Applications.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Contract documents are exchanged between the Agency and contractors in paper format and in electronic format by email. These documents are thus also processed both manually and electronically by designated Agency staff.

Performance, management and monitoring of contracts, including in particular the reception of quotes/offers upon request for services sent by ECHA, their opening, evaluation, negotiation, ranking, copying, distributing, using, filing, archiving and destruction, the preparation of:

- in multiple FWC with reopening of competitions: the opening report, the evaluation report, the award decision;

- in single/cascade FWC: the assessment note;

and the specific contracts/order forms, the correspondence with contractors, the generation of mailing labels and the publication of the annual list of contracts on the ECHA website. In all these procedures, personal data are processed within the duration of the particular procedure.

Especially in case of contracts for IT services, contractors have to provide a technical offer together with CVs of their staff (consultants) that will execute the services and in some cases sign confidentiality declarations. CVs are assessed against the minimum requirements as set in the FWC. CVs are assessed also based on the quality/relevance of the expertise for the specific service request (mainly in FWC with reopening of competition). The assessment of CVs directly allows the identification of natural persons. Therefore, some personal data contained in the above mentioned documents fall under article 27 of Regulation 45/2001.

10/ STORAGE MEDIA OF DATA

All paper versions of contracts are stored in a secure location (locked cupboard for current files and locked archive room for the rest). All electronic documents are stored in an electronic tool with restricted access.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

The processing of personal data is necessary for the performance of tasks carried out in the public interest (see Article 5(a) of Regulation (EC) No 45/2001).

Its legal basis can be found in:

- ECHA Management Board decision on ECHA's Financial Regulation (Management Board decision 03/2014), in particular Article 85 of "the ECHA Financial Regulation".

- Council Regulation (EC, Euratom) N° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities "the 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 "the Implementing Rules".

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 ECHA assisting in the implementation of contracts as defined in Point 4;

• Staff of OLAF, ECA, IAS (Internal Audit Services), IAC (Internal Audit Capability) EDPS, EU Ombudsman, upon request necessary in the context of official investigations or for audit purposes.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA
<p>Files relating to contract implementation are to be retained in the service in charge of the contract until the contract terminates. Contract files are retained in the archives for seven years from the date on which the contract terminates (in order to serve budget discharge requirements).</p> <p>The above limits can be extended until the end of a possible audit or legal proceeding if one started before the end of the above period.</p>
13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS
<p>All requests are handled without undue delay, in line with ECHA's Code of Good Administrative Behaviour in relations to the public (replies within 15 working days).</p> <p>However, a request for deletion may lead to an alteration of the original terms for the award and lead to exclusion.</p>
14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES
Not applicable.
15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS
Not applicable.
16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING
<p>Personal data (e.g. CVs of consultants) are provided to allow ECHA to evaluate the quotes/offers, which makes the processing operation subject to prior checking according to Article 27.2(b) of Regulation (EC) No 45/2001.</p>
17/ COMMENTS

PLACE AND DATE: Helsinki, 6 June 2014

DATA PROTECTION OFFICER: Bo Balduyck

INSTITUTION OR BODY: European Chemicals Agency (ECHA)