



EUROPEAN COMMISSION

PROTECTION OF YOUR PERSONAL DATA

This privacy statement provides information about the processing and the protection of your personal data.

Processing operation: DG ENEST External action procurement and grant award procedures, contract execution and grant implementation under direct management, indirect management by partner countries¹ and under shared management with Member States (cross-border cooperation)

Data Controller: Directorate-General for Enlargement and the Eastern Neighbourhood Negotiations Contracts and Finance Unit (NEAR.R4)

Contractor: The consortium consisting of AESA, Global Rights Compliance which is under the leadership of AESA

Contractor Leader: Agriconsulting Europe SA (AESA).

Record reference: DPR-EC- 01706

MIS: Management Information System

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¹ Reference to partner countries is deemed also to encompass IPA beneficiaries listed in: Annex I and II of Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) OJ L 210, 31.7.2006, p. 82; Annex I of Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11) and the beneficiaries of the forthcoming instruments for pre-accession assistance;

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1. Introduction

The European Commission (hereafter ‘the Commission’) and Contractor are committed to protect your personal data and to respect your privacy. The Commission and Contractor collect and further process personal data pursuant to [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller and Contractor with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing operation DG ENEST External action procurement and grant award procedures, contract execution and grant implementation under direct management, indirect management by partner countries and under shared management with Member States (cross-border cooperation) undertaken by Directorate-General for Enlargement and the Eastern Neighbourhood Negotiations Contracts and Finance Unit (NEAR.R4) is presented below.

2. Why and how do we process your personal data?

Purpose of the processing operation: The Contractor and the Directorate-General for Enlargement and the Eastern Neighbourhood Negotiations (DG ENEST) collect and use your personal information for the purpose of the management of procurement and grant award procedures, contract execution and grant implementation under direct management and under indirect management with partner countries and shared management with Member States for the implementation of EU financed external actions. Processing by DG ENEST Headquarters (HQ), as well as processing by EU Delegations (EUDEL) for the actions falling under ENEST’s scope of competence, are both covered.

Processing of personal data takes place using both automated means, in particular the Commission and Contractor’s electronic systems for the management of procurement/grant award procedures/contract execution/grant implementation (e.g. PADOR, PROSPECT, CRIS, OPSYS, ABAC, ARES, MIS) and manual means, such as paper files.

Your personal data will *not* be used for an automated decision-making including profiling.

3. On what legal ground(s) do we process your personal data

The data processing is considered lawful because it is necessary for the performance of tasks carried out in the public interest and in the exercise of official authority vested in the Union institution on the basis of:

- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p.1);

- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (CIR) (OJ L 342, 29.12.2015, p. 7);

- Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27);
- Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11);
- Commission implementing regulation (EU) No 447/2014 of 2 May 2014 on the specific rules for implementing regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument for pre-accession assistance (IPA II) (OJ L 132, 3.5.2014, p. 32;]
- Commission Regulation (EC) No 951/2007 of 9 August 2007 laying down implementing rules for cross-border cooperation programmes financed under Regulation (EC) No 1638/2006 of the European Parliament and of the Council laying down general provisions establishing a European Neighbourhood and Partnership Instrument (OJ L 210, 10.8.2007, p. 10)
- Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument (OJ L 244, 19.8.2014, p. 12)
- Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation(EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).
- The Commission financing decision, which identifies the implementation modality and contains the concrete budgetary commitment in relation to a partner country. The data processing is also necessary:
- To ensure compliance of the Data Controller and Contractor with the legal obligations stated in the abovementioned legal acts, and with the financing agreements concluded between the EU, on the one hand, and the partner country, on the other hand, on the implementation of the EU's external action for the benefit of the partner country and within its sovereign territory.
- For the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.

The grounds for processing described above correspond to points (a), (b) and (c) of Article 5 of Regulation (EU) 2018/1725.

In very limited and specific cases, we might process special categories of personal data indicated in Section 4, namely data related to the health of the data subjects. The processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or Contractor or of the data subject in the field of employment and social security and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject, in accordance with Article 10(2)(b) of Regulation (EU) 2018/1725. If so, the processing will be limited to the submission by the Contractor of a certificate that the Contractor itself, its staff, its subcontractors and/or any person for which the Contractor is answerable, are fit to implement their obligations under the contract, with no further details on the health of the data subject. This way the contracting authority ensures the health, safety and welfare of the data subjects and ensures the protection of EU funds by confirming that the Contractor can implement their obligations. On the other hand, the Contractor comply with their obligation of proper implementation of the contract.

In certain circumstances, it is necessary to reconcile the rights of data subjects pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council with the needs of investigations and confidentiality of exchanges of information with the competent public authorities, as well as with full respect for fundamental rights and freedoms of other data subjects. To that effect, Article 25 of that Regulation provides with the possibility to restrict the application of Articles 14 to 22, 35 and 36, as well as Article 4 thereof, insofar as its provisions correspond to the rights and obligations provided for in Articles 14 to 22.

Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725 of the European Parliament and of the Council C/2018/8654 (OJ L 315, 12.12.2018, p. 41) encompasses the processing of personal data contained in information which the Commission's services are required to transmit to OLAF. Where Commission services processes personal data in instances referred to in Article 1(3) of the Commission Decision (EU) 2018/1962, they may, where necessary, apply restrictions in accordance with this decision. To that end, they shall consult OLAF, unless it is clear to the Commission service or executive agency concerned that the application of a restriction is justified under this decision.

4. Which personal data do we collect and further process?

In order to carry out this processing operation Directorate-General for Enlargement and the Eastern Neighbourhood Negotiations and the Contractor collect the following categories of personal data:

A. Personal data of tenderers, grant applicants, their staff, subcontractors, proposed experts, which may include in particular:

- Name;
- Function;
- Title;
- 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;
- Declaration that they are not in one of the exclusion situations referred to in Articles 136 – 141 of the Financial Regulation;
- Declaration of availability of experts.

Since the information is often provided on CV, the tenderers, staff or subcontractors may supply additional information, such as gender, age, nationality.

B. Personal data of reference persons mentioned in the CVs of key experts, which may include in particular:

- Name;
- Contact details.

C. Personal data processed in the context of project implementation – financial execution of services, supplies, works and grant contracts, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- Signature;
- Opinions;
- Certificate that the Contractor itself, its staff, its subcontractors and/or any person for which the Contractor is answerable, are fit to implement their obligations under the contract. In the very limited cases where this certificate is requested/submitted it takes the form of a confirmation that the data subjects are capable of implementing the tasks entrusted under the contract without revealing any specific information on their health status. and
- any other type of data that may be collected by or transmitted to the Commission by any means for the purposes of contract implementation.

We have obtained your personal data from:

- tenderers/grant applicants/contractors in the context of direct management;
 - the partner country when the latter is the contracting authority under indirect management;
 - MIS membership
- structures and authorities needed for the management, control, supervision, monitoring, evaluation, reporting and internal audit for IPA II;
- the managing authorities and their bodies when the management of the action is delegated to Member States

5. How long do we keep your personal data?

Directorate-General for Enlargement and the Eastern Neighbourhood Negotiations and Contractor only keep your personal data for the time necessary to fulfil the purpose of collection or further processing. The retention periods are aligned with the Common Commission-Level Retention List (CRL)² of the European Commission.

Files relating to tender and/or grant procedures including personal data are to be retained in the service in charge of the procedure until it is finalised, and in the archives for a period of 10 years following the signature of the contract (point 7.1.2 and 7.1.4 of CRL).

However, tenders from unsuccessful tenderers have to be kept only for 5 years following the signature of the contract into question (Annex I, T2 of CRL). Applications from unsuccessful applicants have to be kept only for 5 years following the finalisation of the call (Annex I, T1 of CRL).

Files relating to contracts including personal data are to be retained in the service in charge of the procedure until the closure of the contract and in the archives for a period of 10 years following the closure of the contract. (point 7.1.3 and 7.1.5 of CRL).

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

After the periods mentioned above have elapsed, the files containing personal data are sampled to be sent to the historical archives of the Commission for further conservation. The non-sampled files are destroyed.

² Annex 1 to SEC(2019)900.

Files on indirect management between the Commission and the entity implementing funds under Article 62 of the Financial Regulation (e.g. the partner country), which may cover both technical and financial documentation of the programme or project, as well as any evaluations or audits thereof are kept for 10 years from the closure of the programme (point 7.4 CRL).

Files on shared management, which may cover both technical and financial documentation of the programme or project, as well as any evaluations or audits thereof, are kept for 10 years from the closure of the programme (point 7.1 CRL).

In case of investigations where irregularities are suspected or have been established in relation to an open file, it can only be closed when: (1) it has finally been established that no irregularity took place; or (2) the irregularity has been rectified, possibly, but not necessarily, as a result of litigation.

The extracts from the judicial records can be kept only for 2 years after the accomplishment of a particular procedure. According to Article 75 of the Financial Regulation, personal information contained in supporting documents should be deleted when these data are NOT necessary for budgetary discharge control and audit purposes.

The Commission's contractors/beneficiaries are under contractual obligation to keep records for a seven/five year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including but not limited to timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for incidental expenditure.

6. How do we protect and safeguard your personal data?

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the European Commission or of its contractors and Contractor. All processing operations are carried out pursuant to the [Commission Decision \(EU, Euratom\) 2017/46](#) of 10 January 2017 on the security of communication and information systems in the European Commission.

The Commission's contractors (including the Contractor) are bound by a specific contractual clause for any processing operations of your data on behalf of the Commission. If the processing falls within its scope, the Commission's contractors are also bound by the confidentiality obligations deriving from the General Data Protection Regulation ('GDPR') [Regulation \(EU\) 2016/679](#).

In order to protect your personal data, the Commission and the Contractor have put in place a number of technical and organisational measures in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

7. Who has access to your personal data and to whom is it disclosed?

Access to your personal data is provided to the Commission's and the Contractor's staff responsible for carrying out this processing operation and to authorised staff according to the "need to know" principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

Recipients within the EU organisation:

- Staff and intra muros service providers of operational and financial units of DG ENEST in both HQ and EUDEL participating in management of selection of experts or procurement or grant award procedures as defined under point 2 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, IDOC, IAS (Internal Audit Services), European Court of Auditors and the Legal Service of the Commission as well as staff of other DGs (SG, DG BUDG and clearinghouse) upon request necessary in the context of official investigations or for audit purposes.

Recipients outside the EU organisation:

- External experts and contractors participating in the evaluation of tenders when external expertise is required, on the basis of Articles 150 and 237 of the Financial Regulation.
- Members of the public in accordance with the Commission'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 (Article 163, 189 and Article 38 of the Financial Regulation, respectively). The information concerns in particular name and address, the amount awarded and the name of the project or programme. It will be published in supplement S of the Official Journal of the European Union and/or on the website of the Commission. Where personal data is published under Article 38 of the Financial Regulation, the information shall be removed two years after the end of the financial year in which the funds were legally committed. This shall also apply to personal data referring to legal persons whose official name identifies one or more natural persons.
- Staff of the Contractor or beneficiary who need to have access to the data strictly for performance, management and monitoring of the contract or grant.
- Representatives of the member states' managing authorities and their bodies bound by the confidentiality obligations deriving from the General Data Protection Regulation ('GDPR') Regulation (EU) 2016/679.

Transfer of personal data to third countries:

Transfers of personal data outside of the EU or the EEA are likely to occur in the context of award procedures/contract implementation under direct management, for the Commission to carry out its tasks and to comply with its obligations under the applicable legislation and the financing agreements with the partner countries. Potential transfers of personal data to the partner countries take place on the basis of derogations set out in Article 50(1)(d) of Regulation (EU) 2018/1725.

Transfers might occur to countries with which the Commission has signed a financing agreement to describe the implementation of actions on the sovereign territory of the partner country and to ensure ownership of development aid results.

In particular, the controller might transfer your personal data to the following recipients in a third country in accordance with Regulation (EU) 2018/1725:

- Authorities of the partner country acting as the interlocutors of the Commission staff and/or intra muros service providers in both HQ and EUDEL involved in procurement/grant award procedures and/or contract implementation.
- Authorities of the partner country (i.e. to representatives of those countries as observers in the evaluation committees): A representative of the partner country may participate, as appropriate, either as a voting evaluator or as a non-voting observer pursuant to Article 150(2) of the Financial Regulation.
- Authorities of the partner country, when a representative of those countries does not participate in the evaluation committee, for the partner country to exercise its rights and obligations under the financing agreement (Articles 20 and 21 of the financing agreement general conditions). The Commission, shares the personal data of the successful tender/proposed expert (and in case the procedure fails, of the second-best tenderer) with the partner country for the latter to exercise its rights and obligations under the financing agreement. The Commission acting as a facilitator transmits the data to the partner country allowing it to proceed with the issuing of visas, application

of tax-exemptions and permitting of import of personal and household effects during the implementation of the contract.

- Authorities of the partner country when the Commission notifies the latter of the replacement of sub-contractors/key experts proposed by the contractor during contract implementation;
- Assessors in grant evaluations and external experts in tender evaluations (who are not representatives of the partner countries) participating to committees pursuant to Articles 150(3) and 237 of the Financial Regulation. External experts and assessors are selected using the procedures for service contracts and are bound by data protection clauses contained in the contracts. They do not represent the partner country.

All persons involved in an evaluation process including members of the evaluation committee, whether voting or non – voting and any observers sign a declaration of impartiality and confidentiality, which contains a clause on data protection.

The partner country is bound by clauses on the protection of personal data and by an obligation of confidentiality pursuant to Articles 1(7) and 22 of the financing agreement general conditions.

When the action is implemented under indirect management by the partner country, the Commission does not make available personal data, other than personal data of Commission staff, to the partner countries. Personal data of Commission staff made available to the authorities of the third country are very limited and strictly necessary for enabling communication (names and signatures of Authorising Officers, names and contact details of Commission staff and/or any intra muros service providers acting as contact points of partner country representatives and/or involved in award procedures/contract implementation).

On the other hand, in indirect management, the partner country contracting authority does make available personal data it collected to the Commission to allow the Commission to exercise its supervisory powers.

When the action is implemented under shared management by member states, the Commission does not make available personal data, other than personal data of Commission staff, to the authorities of the member states. Personal data of Commission staff made available to managing authorities and their bodies are very limited and strictly necessary for enabling communication (names and signatures of Authorising Officers, names and contact details of Commission staff and/or any intra muros service providers acting as contact points of the managing authorities' representatives and/or involved in award procedures/contract implementation).

Please note that pursuant to Article 3(13) of Regulation (EU) 2018/1725, public authorities (e.g. Court of Auditors, EU Court of Justice) which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by law.

8. What are your rights and how can you exercise them?

You have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Contractor or the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

9. Contact information

- Contractor

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Contractor, bilgi@etkiniz.eu or info@etkiniz.eu. Contractor will forward the requests and complaints sent to itself to the Data Controller without delay and within 48 (forty-eight) hours at the latest.

- The Data Controller

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller, NEAR-R4@ec.europa.eu

- The Data Protection Officer (DPO) of the Commission

You may contact the Data Protection Officer (DATA-PROTECTION-OFFICER@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- The European Data Protection Supervisor (EDPS)

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

10. Where to find more detailed information?

The Commission Data Protection Officer (DPO) publishes the register of all processing operations on personal data by the Commission, which have been documented and notified to him. You may access the register via the following link: <http://ec.europa.eu/dpo-register>.

This specific processing operation has been included in the DPO's public register with the following Record reference: DPR-EC-01706