

## **Privacy Statement on processing of personal data in the public procurement and grant procedures**

### **1. Context and Controller**

The personal information we collect from you ("the data subject") will be processed in line with Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (hereinafter - Regulation (EU) No 2018/1725).

Your privacy is important to the Community Plant Variety Office ("CPVO" or "Office" or "the controller") and we feel responsible for the personal data that we process on your behalf. Therefore, we are committed to respecting and protecting your personal data and ensuring the efficient exercising of your data subject's rights.

### **2. What personal data do we process?**

Personal data processed can concern the tenderer/applicant, their partners and affiliated entities, subcontractors and their staff (both natural and legal persons). The categories/types of personal data processed are as follows:

a) identification data:

- name (first name, surname, previous surname);
- gender, nationality, place and date of birth;
- passport number and ID number;
- signature of person or authorised representative;
- title, position, functions, department and company;
- contact details (website and email address, fax, business and mobile telephone number, official postal address, country of residence);

b) personal data contained in certificates for social security contributions and taxes paid, extracts from judicial records;

c) bank account reference (IBAN and BIC codes), VAT number, national insurance number;

d) a declaration of absence of conflict of interest;

e) a financial identification composed of the name, first name, address and contact details of the natural person owning the account. Should the natural person represent a legal person, he or she should identify the company for which the tenderer works. Same issue if the owner of the account is different from the tenderer/applicant.

### **3. Why do we process your personal data?**

Data is collected and managed by the Office to evaluate the eligibility of economic operators/applicants, partners/affiliated entities and subcontractors to participate in procurement/grant procedures, and/or evaluate the content of tenders or proposals submitted during the procurement/grant procedures with a view to awarding

the contract or agreement. Certain data is necessary for the execution of the contracts/agreements awarded.

#### **4. What are the legal bases and the ground for lawfulness of processing?**

The legal basis for the processing of data:

Article 5.1 (a) of the Regulation (EU) No 2018/1725 (processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority),

Article 5.1 (b) of the Regulation (EU) No 2018/1725 (processing is necessary for compliance with a legal obligation to which the controller is subject),

Article 5.1 (c) of Regulation (EU) No 2018/1725 (processing is necessary 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).

Personal data is collected and processed in accordance with the following legal instruments:

- Regulation 2018/1046;
- CPVO Financial Regulation,
- The contract or grant agreement awarded.

#### **5. Who is responsible for processing the data?**

The processing of personal data is carried out under the responsibility of the the Head of Legal Unit.

#### **6. Who has access to your personal data and to whom is it disclosed?**

Personal data collected will be treated confidentially and processed solely by authorised staff members dealing with procurement and grant procedures, including staff dealing with financial matters, staff dealing with technical matters and members of the opening and evaluation committees, exclusively for management and administration purposes. If applicable, external experts and contractors assisting the Office with evaluations may be granted access to personal data on a need-to-know basis after signing a Declaration of confidentiality and of absence of conflict of interests. Some personal data is also disclosed to the public in order to meet the obligation to publish information on the outcome of procurement procedures.

Contracts awarded with a value between EUR 15 000 and 60 000 Euros are published on the CPVO website, which contains the name of the contractor, description of the activity and contractual amount.

For procurement procedures involving contracts worth more than EUR 144 000, the following data will be published in supplement S of the Official Journal of the European Union and on the website of the Office:

- name of the contractor;
- subject matter of the contract;
- amount legally committed.

Furthermore, upon request, data may be transferred to the legal advisors of the Office, the European Court of Auditors, the European Anti-Fraud Office (OLAF), the Internal Audit Service of the Office and the Court of Justice. The data transferred is limited to that strictly necessary for managing the procurement and/or grant procedures, or for official investigations or audits.

The personal data is not intended to be transferred to a third country.

For more information about how you can exercise your personal data rights, please see below.

#### **7. How do we safeguard your personal data?**



The controller implements appropriate technical and organisational measures in order to safeguard and protect your personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to it.

No third person can access to it from the outside. Technical, strategical and other data which may render a tenderer identifiable cannot be disclosed without a prior review and decision of the CPVO authorities. All persons dealing with personal data in the context of the IT systems, at any stage, shall sign a confidentiality declaration and/or non-disclosure agreement.

## **8. How long do we keep your data?**

According to the *Decision of the President of the CPVO on the retention policy for the working documents of the members of opening and attribution committees and CPVO staff appointed for public procurement procedures entered by the CPVO with third persons and companies for the delivering of goods or the accomplishment of services of 28 July 2011*: Data sent by unselected candidates to a call for tender shall be destroyed after a retention period of 3 years starting on the date of the decision of the CPVO awarding the contract.

For successful tenderers/applicants, procurement and grant files are subject to an administrative retention period of up to 7 years following the signature of the contract, in line with the Office's Financial Regulation.

## **9. How can you obtain access to information concerning you and, if necessary, rectify it? How can you request the erasure of your personal data or restriction of processing or object processing? How can you request to exercise your right to data portability? How can you withdraw consent, where processing of your personal data is based on consent?**

If you would like to request to obtain access to information concerning you and, if you think that it is necessary, to correct it, to request the erasure or restriction of processing of your personal data and/or object to processing of it; If you would like to request to receive the personal data concerning you in a structured, commonly used and machine-readable format and to transmit those data to another controller, you may contact us. In exercising your right to data portability, you also have the right to have your personal data transmitted to another controller, where technically feasible.

**Right to object:** We are using your personal data because we believe that it is necessary for the performance of a task carried out in the public interest on the basis or in the exercise of official authority vested in the CPVO. In case you disagree with the processing of your personal data, based on the aforementioned lawful ground, you have the right to object, at any time.

**Right to withdraw consent:** You have the right to withdraw your consent at any time. If you exercise this right we will stop processing your personal data, which we were processing based on your previously given consent. However, there could be a different reason or legal basis, which will allow us to continue processing your personal data. In this case we will let you know. Withdrawal of consent does not affect the lawfulness of processing based on consent before its withdrawal.

**Right to access:** You have the right to access and confirm what personal data we hold about you, at any time.

**Right to rectification:** You also have the right to correct inaccurate personal data.

**Right to erasure:** You have the right to "erase" your personal data.

**Right to data portability:** You have the right to receive your personal data, which we have collected from you based on your consent, from us and to transfer or have it transferred (where it is technically feasible) to another controller.

**Right to restrict the processing:** When certain conditions apply, you have the right to request that we restrict the processing activities relating to your personal data.

If you would like to exercise any of these rights, please send us your request. We will provide information on action taken on your request without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. We shall inform you of any such extension within one month of receipt of the request, together with the reasons for the delay.



In case you wish to request access to your personal data, to verify which personal data we store on your behalf, have it modified, erased, restrict the processing, exercise your right to data portability, object or withdraw consent, please make use of the contact information mentioned, by explicitly and accurately describing your request.

In principle, we cannot accept verbal requests (telephone or face-to-face) as we may not be able to deal with your request immediately without first analysing it and reliably identifying you. Requests can be sent to the controller: Head of the Legal Unit by e-mail at [dpc@cpvo.europa.eu](mailto:dpc@cpvo.europa.eu).

## **10. Who should you contact if you have a question about the protection of personal data or in case you would like to lodge a complaint?**

Should you have any queries in relation to the processing of your personal data, please address these to the data Controller, at the following email address: [dpc@cpvo.europa.eu](mailto:dpc@cpvo.europa.eu).

You may also consult the CPVO's Data Protection Officer: [dpo@cpvo.europa.eu](mailto:dpo@cpvo.europa.eu).

Complaints, in cases where the conflict is not resolved by the Data Controller and/or the Data Protection Officer, can be addressed at any time to the European Data Protection Supervisor: [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

