



Re: Article 26 GDPR – Joint Data Controller Arrangement between OGP and Contracting Authorities in respect of Competition Data on eTenders platform

Dear Contracting Authority

eTenders (www.etenders.gov.ie) is the Irish Government's electronic tendering platform administered by the Office of Government Procurement ("OGP"). The platform is a central facility for all public sector contracting authorities (buyers) to advertise procurement opportunities and award notices.

As you will be aware, Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation or "GDPR") is effective from 25 May 2018.

Given its management role of eTenders, OGP considers itself to be a joint data controller with you, as the contracting authority, for the purposes of the GDPR in respect of any personal data which is submitted by tenderers as part of tender response to public procurement competitions run by you using the eTenders platform (your "Competition Data"). This letter sets out the respective roles and responsibilities of OGP and you, the contracting authority, as Joint Data Controllers of such personal data for the purposes of Article 26 GDPR.

OGP

- OGP has a binding agreement with EUS Holdings Limited for hosting, processing and day-to-day management of the eTenders platform. Under the provisions of its existing contract with EUS Holdings Limited, OGP will put in place a binding legal obligation on EUS Holdings Limited in accordance with Article 28 GDPR.
- By way of its published Data Protection Statement for eTenders, OGP will provide data subjects with the information required by Article 14 GDPR.
- By way of its published Data Protection Statement for eTenders, OGP will make available to data subjects, information on the essence of this Joint Data Controller arrangement.
- In the event that OGP becomes aware of any data breach which may involve a personal data breach under Article 33 GDPR affecting your Competition Data, OGP will notify you.

Contracting Authority

- You, the contracting authority, will act as the contact point for data subjects in respect of any exercise of the rights of the data subject under Chapter III GDPR in relation to personal data of the data subject which has been submitted in any tender response to you as contracting authority, namely:
 - right of access
 - right to rectify
 - right of erasure
 - right to restrict processing and
 - right to be notified regarding the erasure and/or rectification of personal data.
- You, the contracting authority, will provide all assistance and co-operation required by OGP (including but not limited to the identification and location of all personal data of the data subject which has been submitted in any tender response to you as contracting authority) in





Oifig um Sholáthar Rialtais Office of Government Procurement

order to allow OGP to respond to any request by a data subject specifically wishing to exercise his or her data subject rights against OGP under Article 26(3) GDPR

- In the event that you, the contracting authority, become aware of any data breach which may involve a personal data breach under Article 33 GDPR affecting eTenders you are requested to immediately notify OGP by email corporateoffice@ogp.gov.ie

For the avoidance of doubt:

1. It is the responsibility of each of OGP and the contracting authority to ensure that it has a legal basis in accordance with Article 6 GDPR for processing all relevant personal data.
2. OGP is a data controller in its own right for the registration data it seeks from buyers and suppliers when registering on eTenders see: [eTenders Data Protection Statement](#).
3. ***For all data controller obligations not expressly set out above, it will be the responsibility of each of OGP and the contracting authority to comply with their respective obligations, as data controllers, under the GDPR.***

If you have any queries regarding any aspect of the above arrangement, please contact eTendersGDPR@ogp.gov.ie

FOR AND ON BEHALF OF THE OFFICE OF GOVERNMENT PROCUREMENT

