

Linking space to user needs

Access to procurement

EUSPA INDUSTRY DAYS WORKSHOP, PRAGUE, 25-26 MARCH 2025

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Access to procurement - Intro

“Access to procurement” is a specific section of Tender Specifications setting forth the following conditions/criteria:

- **Participation Conditions** → Art. 24 of Reg. (EU) 2021/696 (Space Regulation)
- **EU Restrictive Measures** as per information → www.sanctionsmap.eu
- **IPI - International Procurement Instruments** measures → Regulation 2022/1031

Participation Conditions - Rationale and scope

When Participation Conditions come into play ?

Participation Conditions apply when necessary and appropriate to
“preserve the security, integrity and resilience of the operational Union systems”

Responsibility:

European Commission, upon proposal by EUSPA and taking into account Programme Committee prerogatives, is the entity **ultimately responsible for the Space Programme** and decides

- which Participation Conditions approach is to be taken for a specific procurement
 - whether granting waivers in case of non-compliance

Participation Conditions – Art. 24 Space Regulation

A) Entity must be registered in EU Member States (MSs)

‘The entity and its ‘executive management structure’ are established in a EU MS’

B) Location of the facilities must be within the EU

‘The entity commits to carry out all relevant activities in one or more MSs’

C) ‘Control’ is exercised by ultimate beneficial owners having nationality within the EU

*‘The entity is **not** to be subject to control by a third country or by a third country entity’*

Derogation to Participation Conditions: Waivers

- Triggering event: An entity is **not** compliant with one or more Participation Conditions
- Pre-condition: Waiver must be allowed in Tender Specifications
- Process:
 - A. Tenderer (and/or the non-compliant consortium member/subcontractor) are to submit a justified “request for waiver”
 - B. Tenderer has to gather positive assessment by its National Security Authority in connection with security guarantees/measures implemented by tenderer
 - C. EUSPA will check and process the documentation for the waiver
 - D. European Commission (EC) will decide whether granting the waiver
- Decision: By granting the waiver, EC renounces to have (one or more) Participation Conditions fulfilled and, therefore, the entity is allowed to participate in the procurement/grant/contract notwithstanding its non-compliance to Participation Conditions

How to fill and submit documentation

Declaration on Honour – Section on Part. Conditions

- Box to be ticked and specific info about the location to be provided

Declaration on Ownership and Control

- Excel file to be filled in and populated with supporting documentation
- Relevant pdf to be signed
- Supporting documents: Group chart, By-laws, shareholders' meetings, etc.
- Hint on supporting documents: Submit them as separate files if there are issues to embed them into the excel file

EU Restrictive Measures

What are EU Restrictive Measures:

- List of restricted persons is available in www.sanctionsmap.eu

Scope of application in EUSPA procurements:

- It applies to participating entities (prime, core team and subcontractors)
- Also to persons who are a member of the administrative, management or supervisory body and/or who has powers of representation (“relevant persons”)

How to comply with EU Restrictive Measures:

- Statement in cover letter guaranteeing that the participating entities/relevant persons do not fall under EU Restrictive Measures in the list at <https://www.sanctionsmap.eu>
- Declaration on Honour specific section to be filled in by ticking “no” in the relevant section

IPI - International Procurement Instruments measures

What are IPI measures:

- **Background:** New restriction introduced by Financial Regulation 2509/2024 (Art. 179.4):

“Participation in procurements ... subject to conditions laid down in Regulation (EU) 2022/1031 and in implementing acts (IPI measures)”

- **IPI purpose:** promoting reciprocity in access to international public procurement markets.
- **IPI outcome:** Restrictions to access of economic operators, goods or services from third countries to EU public procurement procedures.

How to comply with IPI criterion:

- Participating entities must **not** be subject to international procurement instruments (IPI) measures pursuant to Regulation 2022/1031 and related implementing acts
 - Declaration on Honour specific section to be filled in by ticking “yes” in the relevant section

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