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Head of Legal Department/  
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Andrea Schlapbach

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Cologne, 11.04.2022

**Subject: Your request on access to documents**

Reference: your e-mail dated 5 April 2022

Dear Mr Schlapbach,

Thank you for your e-mail from 5 April 2022, in which you request access to documents in accordance with Regulation (EC) No 1049/2001,<sup>1</sup> that is applicable to documents held by the European Union Aviation Safety Agency (EASA) under Art. 119(1) of Regulation (EU) No 2018/1139.<sup>2</sup>

You requested access to documents related to the EASA tender EASA.2021.HVP.18.

After reviewing your request I would like to inform you as follows.

Assessment:

The contract under that procurement procedure was awarded by the Authorising Officer to consortium APSYS SAS (consortium leader), LABORATOIRE NATIONAL DE METROLOGIE ET D'ESSAIS LNE, NUMALIS SAS (consortium members). The value of the contract is: 1.457.400,00 EUR. The contract has not yet been signed and is thus not available. Signature of the contract is planned in the coming weeks.

As regards your request for successful tenderer's full tender submission as well as evaluation report please note that such documentation falls under the exceptions listed in Art. 4(2) and Art. 4(3) of Regulation 1049/2001 concerning protection of commercial interests of a natural or legal person, including intellectual property as well as protection of documents concerning the procedure which is still ongoing, which is the case here as the contract has not yet been signed. In accordance with the jurisprudence of the General Court, there is a general presumption that access to bids submitted by tenderers in principle undermines the protection of their interests.<sup>3</sup>

Please note however that after the signature of the contract with the successful tenderer the evaluation report and the contract can be partially made accessible to the public. In addition the template of the contracts used by EASA and further information can be consulted on our website at: [Procurement | EASA \(europa.eu\)](https://www.easa.europa.eu/procurement).

<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 31 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.3.2001, p. 43).

<sup>2</sup> Regulation (EU) No 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1–122).

<sup>3</sup> Judgment of 21 September 2016 in case T-363/14, *Secolux, Association pour le contrôle de la sécurité de la construction v European Commission*, ECLI:EU:T:2016:521, paragraph 49.

Means of redress:

You are hereby notified that you have a right to request the Agency to reconsider its decision regarding the above mentioned decision by making a confirmatory application. In such case, you should send your justified confirmatory application in writing to the Executive Director of the Agency (Postfach 10 12 53, 50452 Cologne, Germany). Please note that you have 15 working days from receipt of this letter in which to make the confirmatory application. Any confirmatory application received beyond this deadline cannot be accepted.

Yours sincerely,

Stéphanie Rostren