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Andrea Schlapbach

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Cologne, 24.05.2022

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

Reference: your e-mail dated 16 May 2022

Attachment: Evaluation report (EASA.2021.HVP.18: Machine learning application approval)

Dear Mr Schlapbach,

Thank you for your e-mail from 16 May 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 further 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:

EASA decided to disclose the evaluation report that you requested, except for the names of the unsuccessful tenderers and information related to the financial and technical offers and related technical evaluation grids, which is information covered by exceptions listed in Article 4(2) of Regulation 1049/2001 concerning protection of commercial interests of a natural or legal person, including intellectual property. Personal data has been also removed from the disclosed document in order to protect the privacy and the integrity of the individuals concerned in accordance with Article 4(1)(b) of Regulation 1049/2001.

As indicated in our previous correspondence, Ref. Ares(2022)2971713 - 12/04/2022, 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>

As regards the contract signed with the successful tenderer (now contractor), since you were already informed about the value of the contract signed and the name of the contractor (leader & consortium member) in previous correspondence, I would like to refer you to the version published on the EU e-tendering website at: [eTendering - Document library \(europa.eu\)](https://eTendering-Documents.europa.eu), which will provide you with information that EASA could disclose in response to your request. Other elements of the contract cannot be disclosed as they are covered by exceptions listed in Article 4(2) of Regulation 1049/2001 concerning protection of commercial interests of a natural or legal person,

<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.

including intellectual property and in Article 4(1)(b) of Regulation 1049/2001 concerning protection of privacy and integrity of the individual.

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,

*e-signed*

Arthur Beckand