

Can your data leave the system?

A three-color guide for AI and digital tools in road agency tenders. Version 0.1, for discussion.

This guide is not legal advice and was prepared without a lawyer's review. The colors show where rules are likely to apply. Check your own country's rules before you sign.

How to use it

Before you write the tender, answer three questions. Each answer has a color. The worst color wins. Then write the tender for the color you want, not the color you got.

Check 1. What data goes in?

GREEN Road geometry, asset condition, aggregated traffic counts, weather. No person can be identified, so no privacy rule applies. In the EU, road network data must be published as open data anyway.^{1,2}

ORANGE Camera video, licence plates, probe-vehicle data, toll records. These are personal data. A large camera or number-plate network needs a data protection impact assessment before it starts. Masking the data does not change this.^{1,3,4,5,6}

RED Biometric or genetic data, classified or restricted data, data your country lists as critical information. Rules already pin this data to a place.^{7,8,9}

Check 2. Where does the data go, and who can read it?

GREEN It stays on your own servers, or in a data centre you control in your country, and the provider cannot read it. No foreign law reaches it.^{10,11}

ORANGE A provider under your own law or EU law hosts it. You have a written transfer basis, an impact assessment and an exit clause. Masked data is still personal data, so these conditions still apply.^{10,12,13,14,15}

RED Raw personal or critical data goes to a provider under foreign law that can read it. Six official bodies say the location of the data centre does not protect it. A major provider said under oath it cannot guarantee protection. A public authority cannot use consent to fix this.^{16,17,18,19,20,21}

Check 3. What does the AI do?

GREEN It suggests, and a person decides. Drafting, document search, dashboards. If citizens talk to it, tell them it is AI.²²

ORANGE It helps a safety or person-affecting decision, and a trained person can override it. In the EU this is high-risk from 2 December 2027. You must assign oversight, keep logs for six months and register the system nationally.^{23,24,25,26}

RED It decides alone, with legal effect on a person or control of a safety function. The GDPR forbids solely automated decisions without a legal basis and human intervention. The AI Act requires effective human oversight.^{27,28}

The grid

	GREEN	ORANGE	RED
1. What data	No person in it	Personal data of the public	Biometric, classified, critical
2. Where, who reads	Your servers, provider cannot read	Domestic or EU-law host, with contract	Foreign-law host that can read
3. What AI does	Suggests, person decides	Assists, person can override	Decides alone

Some countries move a cell one step. In Kazakhstan, personal data must stay in the country, so an orange host abroad becomes red.²⁹ In France or Germany, a host subject only to EU law can move a red case to orange.^{13,30} My own country, Armenia, made transport a vital sector in its cybersecurity law of January 2026.³¹

Ten examples

- 1. On-premise language model for internal documents.** Open-source model on your own servers, strict access. No transfer, no foreign law, a person decides. **GREEN** If staff documents hold personal data, orange.^{11,30}
- 2. Same model, hosted by a provider under your law or EU law.** Documents masked before sending. Still personal data, so you need a contract, an impact assessment and an exit clause. **ORANGE**^{15,13,14}
- 3. Same model, hosted abroad by a foreign-law provider.** Masking does not help. The provider can read the data and its law can reach it. **RED** To move: use a provider subject only to your law or EU law.^{15,18,20}
- 4. Incident detection AI on motorway cameras.** Operators receive alerts and decide. Camera data is personal data. Likely a safety component in road traffic. **ORANGE** Tender: name who overrides, require logs and instructions for use.^{23,32,25}
- 5. Signal timing AI that adjusts traffic lights.** The Commission's own draft example of high-risk road AI. Hosted in your country. **ORANGE** Tender: human override, logs, national registration.^{33,25,26}
- 6. Automatic speeding fines with no human review.** A decision with legal effect, made by the system alone. **RED** To move: a person reviews every fine before it is issued.²⁸
- 7. Pavement condition AI as a foreign SaaS, raw dashcam video uploaded.** Video shows plates and people. Foreign-law provider reads it. **RED** To move: blur at capture and host with a domestic or EU-law provider.^{3,18}
- 8. Asset management SaaS abroad, no export clause.** No personal data, so privacy is green. But your first full asset database sits in one vendor's format. **ORANGE** Tender: export of all data in a structured, commonly used and machine-readable format, on request. EU agencies have this right by law; others must write it in.^{14,34}
- 9. Number-plate cameras with a new vendor in Kazakhstan.** Personal data must be stored in Kazakhstan. Any processing abroad is **RED**²⁹
- 10. Publishing your road network as open data.** **GREEN** In the EU it is required, in open machine-readable formats, through an interface and bulk download.²

What to write in the tender

If your project is green. Ask the three questions anyway and write the answers into the contract. Where is my data stored and processed? Can I take my data out, in a format another system can read, without paying extra? Who else can read it today?¹⁴

If your project is orange. Add the condition that opens the compliant path. For personal data: the transfer basis, the impact assessment, the exit clause with export in a structured, commonly used and machine-readable format. For AI that assists decisions: the named human who can override, the logs, the instructions for use.^{10,14,25}

If your project is red. A lawyer sees it before the tender goes out. Ask the lawyer two things. Which rule blocks this? What change to hosting, data or decision path moves it to orange?^{17,28}

Whoever builds your system brings their law with them. Whoever funds it brings their contract. Read both before you sign.^{18,35,36}

Where the rules come from

- General Data Protection Regulation, Regulation (EU) 2016/679. In force. Personal data, transfers, automated decisions.^{10,28}
- Artificial Intelligence Act, Regulation (EU) 2024/1689, as amended by Regulation (EU) 2026/1744. Road traffic safety AI high-risk from 2 December 2027.^{37,24}
- Data Act, Regulation (EU) 2023/2854. Applies since 12 September 2025. Cloud exit and export rights for EU customers. No switching charges from 12 January 2027.^{38,39,14}
- NIS2 Directive (EU) 2022/2555. Road authorities responsible for traffic management and ITS operators are covered.⁴⁰
- Cyber Resilience Act, Regulation (EU) 2024/2847. Product security duties from 11 December 2027.⁴¹
- Open Data Directive (EU) 2019/1024 and High-Value Datasets Regulation (EU) 2023/138. Transport networks open by law since 9 June 2024.²
- US CLOUD Act, 18 U.S.C. 2713. Reaches data held by US providers inside or outside the United States.⁴²
- Kazakhstan Law on Personal Data No. 94-V, Article 12. Personal data stored in Kazakhstan.²⁹
- Türkiye Law No. 6698, Article 9, and Presidential Circular 2019/12. Transfers with safeguards; critical data stored domestically.⁹
- Uzbekistan Law LRU-547, Article 27-1, as amended March 2026. Biometric, genetic and telecom data stay in the country.⁸
- Armenia Law on Cybersecurity, in force 4 January 2026. Transport is a vital sector.³¹
- Kazakhstan Law on Artificial Intelligence, in force January 2026, and Kyrgyzstan Digital Code, 2026. Own AI rules; check them.^{43,44}
- EU contract clauses for AI procurement, updated March 2025. Non-binding working documents.⁴⁵

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