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Attn.

SUBJECT: negotiated procedure tender by fiduciary, according to article n. 125 of the Italian Legislative Decree 163/2006 dated 12/04/2006, for the supply of “**System for THz Time Domain Spectroscopy (THz-TDS) equipped with femtosecond laser source and fiber-coupled emitter and receiver**”, to be delivered to the Italian National Research Council - Institute for Complex Systems (CNR-ISC), based at UOS Sapienza, Dept. of Physics, University of Rome “Sapienza”, Piazzale Aldo Moro 2, 00185 Rome (Italy).

CIG. 60711718CB

CUP B52I12000270005

INVITATION TO SUBMIT A TENDER

Instructions for tenderers

Final deadline for submission: at 12:30 hours on July 3rd, 2015

THE RESPONSIBLE FOR THE PROCEDURE

INVITES

the Economic Operator in address to participate in the tender procedure indicated in the subject, subject to eligibility requirements, through presentation of a special offer, meaning that, with the successful participation, the Economic Operator fully recognizes and accepts all modes, directions and requirements specified in this letter of invitation and in the Technical Specification document, under the following conditions.

It is understood that this call does not constitute presumption of eligibility and that the Contracting Authority can proceed to exclusion also if the capability of fulfilling the tender requirement if the prohibitive is not detected during the course of the competition or if it is achieved occurs after the conclusion of the same.

According to Article 37, paragraph 12, Legislative Decree no. 163/2006, the Economic Operator invited is entitled to tender or treat for itself or as a representative of gathered Economic Operators.

Pursuant to the art.2, paragraph 2, of Law no. 241/1990 and art. 11, paragraph 6, of Legislative Decree no. 163/2006, the end of the process is set at 180 (one hundred eighty) calendar days from the due date for submission of tenders.

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INTRODUCTION

General information on the procedure

- Order of call: Decision to bargain of the Director of the CNR - ISC - UOS Rome Sapienza, Prot. n. 0002717 of 12/22/2014.
- Notice of expression of interest: Prot. N. 0000297 of 05/02/2015 published on the website of the National Research Council, www.urp.cnr.it.
- Contracting Authority: Institute of Complex Systems of the National Research Council, Via dei Taurini n. 19, 00185 Roma (Italy).
- Type of contract: execution of supply.
- Place of delivery and installation: Institute of Complex Systems - UOS Rome Sapienza, c/o Dept. of Physics, University of Rome "Sapienza", Piazzale Aldo Moro n. 5, 00185 Roma (Italy).
- Brief description of supply: System for THz Time Domain Spectroscopy (THz-TDS) equipped with femtosecond laser source and fiber-coupled emitter and receiver
- Possibility of variants: no.
- Amount of contract (excluding VAT): **€.65,000/00**.

With reference to art.26, paragraph 5, of Legislative Decree no. 81/2008, as amended, it should be noted that the costs for the health and safety risks are zero.

Pursuant to resolution dell'AVCP of 03.05.2014 the contribution due by operators is zero.

- Award criteria: **lowest price** pursuant to art.82 Legislative Decree n°163/2006.
- Delivery and installation: in accordance with art.4 of the Technical Annex.

The following documents to be used for the purposes of participation in the tender form integral and substantial parts of this letter of invitation:

- Administrative declaration (Annex A);
- Declaration of the subjects (Annex A-bis);
- Economic Offer (Annex B);
- Technical specifications (Annex C);
- Contract outline (Annex D).

All tender documents listed above can be downloaded from the website of the National Research Council www.urp.cnr.it.

1. ELIGIBLE ENTITIES

All the Economic Operators that laid down in subjects of art. 34, paragraph 1 of Legislative Decree no. 163/2006, as well as of those based in other states other than Italy in accordance with art.47 of Legislative Decree no. 163/2006 with the requirements of Article.62 of Presidential Decree 207/2010, are eligible to participate in this tender procedure. Under the provisions of art.38, paragraph 1, (m- quater) of Legislative Decree no. 163/2006, and subsequent modifications and supplements, the participation in the same procedure for Economic Operators that are under a control situation as in art. 2359 of the Civil Code, or in any relationship, also *de facto*, is prohibited if the control situation or

relationship that involves the deals are due to a single decision-making. In the event that such a condition is detected for the contractor of the tender after the award of the procedure itself, or after the award of the contract, the Contracting Authority shall cancel the award, with the subsequent repetition of procedural steps.

2. PARTICIPATION OF TEMPORARY JOINT VENTURES AND CONSORTIA

Articles 35, 36 and 37 of Legislative Decree no. 163/2006 are applied in these cases. For the participation of permanent consortia, the provisions of art.277 of Presidential Decree 207/2010 are applied.

3. REQUIREMENTS FOR THE PARTICIPATION

Without prejudice to the procedures for submission of the tender as described below, for the purposes of the tender the Economic Operator will have to declare the possession of the General requirements and the Requirements of professional competence listed below. Pursuant to paragraph 2 of art.38 of Legislative Decree no. 163/2006, the Economic Operator certifies the possession of the requirements by the participation application/self-certification declaration in accordance with the model (Annex A, Annex A-bis, Exhibit A-ter) prepared by the Contracting Authority.

3.1. General requirements

The lack of the subjective requirements of art.38 of Legislative Decree no. 163/2006 and subsequent amendments constitute grounds for exclusion from the tender. The exclusion also applies to the Economic Operators for which there are other impediments by law to participate in the procedure (in accordance with art. 32-quater of the Criminal Code of the Italian Republic) or, in any case, to sign contracts with public entities, such as the examples reported in the following (not exhaustive) list:

- 1) entities excluded from public tender competition for a period of two years, as result of serious discriminatory behavior (racial, ethnic, national or religious) under Article 44 of Legislative Decree no. July 25 1998, n. 286 ("Uniform provisions governing immigration and the status of aliens");
- 2) entities with individual plans of emergence from black economy in accordance with art. 1-bis, paragraph 14, of the L. October 18, 2001, n. 383;
- 3) entities excluded from public tender competition for a period up to two years, for serious discriminatory behavior in access to employment, pursuant to art. 41 of Legislative Decree no. April 11, 2006, n. 198 ("Code of equal gender opportunities ");
- 4) participants excluded from public tender competition for a up to five years for breaching the obligation to apply or enforce toward employees conditions matching or exceeding the conditions laid down in the collective contract of the category and the area under Article 36 of the Law of 20 May 1970 n. 300 ("Regulations on the Protection of the freedom and dignity of workers, freedom of association and trade union activities in the workplace and regulations on employment").

3.2. Requirements of professional competence

Italian Economic Operators will have to prove their registration in the register of the Chamber of Commerce, Industry, Handicraft and Agriculture or in the register of provincial commissions for the craft, or at the relevant professional bodies. If the applicant is a citizen of another UE State and is not resident in Italy, he/she will have to prove his/her enrollment, as prescribed in the State of residence, in one of the professional or trade registers listed in Annex XI-A for public works contracts, Annex XI-B for public supply contracts, and in Annex XI-C for public service contracts, by affidavit or as prescribed in the Member State in which he/she is established. The Economic Operators from Member States not listed in those Annexes, can attest, under their own responsibility, that the provided certificate has been issued by one of the professional or trade registers established in the country in which they are resident.

3.3. Registration to the National Anti-Corruption System "AVCPASS".

This paragraph is omitted because it applies to the Italian Economic Operators only.

4. DEADLINE AND TERMS FOR TENDER SUBMISSION

4.1. The mail package

The Economic Operators can send the tender offer, written in Italian, or English, enclosed in a single package, closed and sealed on the natural closure edges, with sealing wax or other suitable means (other suitable means shall be deemed stickers or tape adhesive), and countersigned on the flaps thereof, to ensure security against tampering.

The package containing the tender offer and the related documentation must be sent to the following address:

**CNR – Istituto dei Sistemi Complessi - Sede di Roma
Via dei Taurini, 19
00185 Roma (Rm)**

under penalty of exclusion from the procedure no later than the final deadline of:

at 12:30 hours on July 3rd, 2015

The final deadline is designed to enforce the principle of equal opportunities.

Compliance with the deadline for submission required under penalty of exclusion, will be stated only by the stamp of the Office Protocol of the Contracting Authority, with the certification of the day and time of arrival (times will be reported if the parcel is delivered the last day for submission).

In addition:

- the offer submitted by the deadline terms is binding for the Economic Operator;
- by the closing date of the offer, who has submitted a tender may withdraw it; offer withdrawn will be considered as an offer not submitted.

The package must be signed on the closing flaps and must show:

- the legal name and the full address of the tenderer;
- the following indication “Negotiated procedure tender by fiduciary, according to article n. 125 of the Italian Legislative Decree 163/2006, for the supply of **“System for THz Time Domain Spectroscopy (THz-TDS) equipped with femtosecond laser source and fiber-coupled emitter and receiver”**, to be delivered to the Italian National Research Council - Institute for Complex Systems (CNR-ISC), based at UOS Sapienza, Dept. of Physics, University of Rome “Sapienza”, Piazzale Aldo Moro 2, 00185 Rome (Italy) - CIG. 60711718CB - CUP B52I12000270005 – OFFER – DO NOT OPEN”.

The package containing the tender offer and the related documentation must be sent via the State postal service, by registered letter with acknowledgment of receipt, or via private courier or delivery company duly authorized. The envelope can be also hand-delivered on weekdays, Monday through Friday (except holidays), from 09:00 to 12:30 and from 14:30 to 18:00, at the **National Research Council - Institute Complex Systems (CNR - ISC) - Via dei Taurini 19-00185 Rome**.

In the latter case, a receipt, indicating the date and time of delivery, will be issued as proof of the delivery. In any case, the delivery will be attested by the label affixed into the envelope by the Protocol Office of the CNR- ISC. Packages that arrive after the above-mentioned compulsory deadline will not be taken into consideration, even if sent before the deadline indicated above, whatever the cause. In this case the envelope will not be opened and it will be considered as undelivered. The timely delivery, therefore, remains at the sole risk and expense of the Economic Operator concerned. The Contracting Authority will not pay any reimbursement, for whatsoever reason, to Economic Operators for the

submitted documentation, which will be filed in the official record and cannot be returned to Economic Operators under any circumstances.

4.2. The envelopes

The mail package, under penalty of exclusion from the procedure, must contain two (2) envelopes, marked by the letters "A" and "B". Each single envelope will have to be closed and sealed on the natural closure edges, with sealing wax or other suitable means (other suitable means shall be stickers or adhesive tape), and countersigned on the flaps thereof, to ensure security against tampering.

The envelopes will be packaged in the manner set out below depending on whether the Economic Operator participate individually or in temporary joint ventures and consortia, formed or under formation, and include the following text:

- **Envelope A:** "Negotiated procedure tender by fiduciary, according to article n. 125 of the Italian Legislative Decree 163/2006, for the supply of "System for THz Time Domain Spectroscopy (THz-TDS) equipped with femtosecond laser source and fiber-coupled emitter and receiver", to be delivered to the Italian National Research Council - Institute for Complex Systems (CNR-ISC), based at UOS Sapienza, Dept. of Physics, University of Rome "Sapienza", Piazzale Aldo Moro 2, 00185 Rome (Italy) - CIG. 60711718CB - CUP B52I12000270005 – Administrative Documentation".
 - **Envelope B:** "Negotiated procedure tender by fiduciary, according to article n. 125 of the Italian Legislative Decree 163/2006, for the supply of "System for THz Time Domain Spectroscopy (THz-TDS) equipped with femtosecond laser source and fiber-coupled emitter and receiver", to be delivered to the Italian National Research Council - Institute for Complex Systems (CNR-ISC), based at UOS Sapienza, Dept. of Physics, University of Rome "Sapienza", Piazzale Aldo Moro 2, 00185 Rome (Italy) - CIG. 60711718CB - CUP B52I12000270005 – Economic Offer".
- For Economic Operators participating individually: in order to identify the origin of these envelopes, they must indicate, outside each envelope, the legal name and the full address of the tenderer.
- For temporary joint ventures and for consortiums, formed or under formation: in order to identify the origin of these envelopes, they must indicate, outside each envelope, the complete legal name and the complete full address of:
- the agent company and/or one of the principal companies, in case of temporary joint ventures, formed or under formation, and/or one of the companies participating jointly in the case of consortia of bidders, as in art. 34, paragraph 1, letter. e) of Legislative Decree no. n. 163/2006;
 - the Consortium, in case of ordinary consortium of art. 34, paragraph 1, letter. e) of the Legislative Decree no. 163/2006 already constituted or consortia under letters. b) and c) of art. 34, paragraph 1 of the Decree. N.163/2006.

4.3. The content of the envelopes

4.3.1. Envelope "A" – Administrative documentation"

Envelope "A" must contain the following documents:

- a) The administrative declaration (Annex A).
- b) The statement of the subjects (Annex A-bis).
- c) (If any) The statement of other subjects (Annex A-ter).
- d) The PassOE (For Italian Economic Operators only).

- e) The photocopy of the front / back of a photo ID.
- f) (If any) Special Prosecution.
- g) (If any) Memorandum for participation in the Consortium or stable in ordinary Consortium, temporary joint ventures and EEIG already made at the time of submission of the bid.
- h) (If any) Declaration of commitment to provide temporary joint ventures, ordinary Consortium or EEIG not yet established at the time of submitting the tender.
- i) (If any) Pooling.

a) Administrative declaration

This declaration, made on plain paper and in Italian or in English (for not Italian Economic Operators), giving evidence of the requirements described in paragraph 3 of this Letter of invitation, shall be made in accordance with Annex-A, dated and signed by the legal representative of Economic Operator or by the person authorized to sign; in the latter case it must be attached the original, or a certified copy or copies provided of the original declaration of conformity pursuant to Art.47 of Presidential Decree 445/2000, of the appropriate and valid documents which certify the signature. Such declaration must be accompanied by a photocopy of a valid photo ID of the registrant.

In case of participation in temporary joint ventures, ordinary Consortium or EEIG not yet established at the date of submission of the offer, the above statement must be signed by the owner, legal representative or by the person authorized to sign for each company grouping / pooling and accompanied by photocopy of a valid photo ID by the declarant.

b) The statement of the subjects (Annex A-bis).

This declaration must be made in accordance with Annex "A-bis", dated and signed by each party concerned, and accompanied by photocopies of valid photo ID of each registrant.

c) (If any) The statement of other subjects (Annex A-ter).

This declaration must be made in accordance with Appendix "A-ter", dated and signed by the subject, and accompanied by photocopies of valid photo ID of registrant.

d) PassOE (Not necessary for not Italian Economic Operators).

e) The photocopy of the front and back of a photo ID.

It must be attached a front and back photocopy of a photo ID of the signatory or other valid equivalent identification document pursuant to art. 35 paragraph 2 of Presidential Decree 445/2000;

f) (If any) Special Prosecution

In case for the offer by a special prosecutor, it should be accompanied by the original or certified copy or copy provided with the original declaration of conformity pursuant to Art.47 of Presidential Decree 445/2000 of the special power of attorney from which it emerges the power of signature by the special prosecutor.

g) (If any) Memorandum.

In case of participation in the tender of joint ventures and consortia or EEIG already formed at the time of submission of the offer it must be submitted the original or certified copy or copy provided with a

declaration of compliance with the original pursuant art.47 of Presidential Decree 445/2000 of incorporation of such entities.

h) (If any) Declaration of commitment.

In case of participation in the tender of joint ventures and consortia or EEIG not yet established at the time of submission of the offer, it must be submitted a statement of commitment to establish such entities containing the commitment, if awarded, conform to the rules provided in the art. 37 of Legislative Decree no. 163/2006 and, as an example:

- a) to which company of the joint ventures and consortia or EEIG will be mandated free and irrevocable for the representation of the grouping / consortium with the Contracting Authority;
- b) the fee of participation in the grouping / consortium and / or the list of the activities that each company forming the grouping / consortium will carry out if awarded.

i) (If any) Pooling

If you wish to make use of technical, organizational and professional capacity of other enterprise a pooling statement and a pooling agreement (as Art. 49, paragraph 2, letter f) of Legislative Decree no. 163/2006) must be presented, except for the hypothesis where the law (as. Art. 49, paragraph 2, letter g) of Legislative Decree no. 163/2006) allows the pooling with a declaration only.

All statements and documents, constituting the administrative documentation referred to in this article, must not have corrections and erasures

4.3.2. Envelope 'B' - Economic Offer

Inside the envelope "B" must be inserted the economic offer drafted in paper made legal with the application of stamp duty in accordance with existing rules, in Italian language¹, drafted in accordance with Appendix "C". The economic offer must contain, under penalty of exclusion from the tender, the offered price in figures and words. Any costs for safety are not subject to discount.

Under Article.75 of Legislative Decree no. 163/2006 as subsequently amended, the offer must be accompanied by a guarantee equal to 2% of the base price indicated in the Introduction paragraph, in the form of bail or surety chosen by the Economic Operator.

The economic offer, under the penalty of exclusion from the tender, must be dated and signed at the bottom by the legal representative of the Economic Operator or by the subject regularly provided with the relative powers of signature. In the case of participation of temporary joint ventures and consortia, ordinary Consortium or GEIE not yet made at the date of submission of the offer, the economic offer must be dated and signed by the owner, legal representative or by the person duly equipped with the relevant powers of signature of each company grouping / pooling.

The economic offer must remain fixed and unchanged for all effect for a period of not less than 180 (one hundred eighty) calendar days from the date stated for receipt of tenders; the economic offer of the Economic Operator awarded the contract will be considered fixed and unchangeable for the entire duration of the contract.

In case of discrepancy between the price in figures and that indicated in letters, the price most beneficial for the Contracting Authority will be considered, in accordance with art.72 R.D. 827/1924.

The financial offer must also contain commitments about:

- the profitability of the offer;

¹ Valid for Italians and foreigners Economic Operators who have legal residency in Italy.

- the inclusion of any directly and indirectly expenses, except value added tax, which must be incurred to perform the supply of the tender according to economic offer and to the provisions of the Technical Offer as well as all the tasks necessary to ensure the obligations associated with the provisions on safety and protection of workers, all included and nothing excluded.

The offer, under penalty of exclusion, cannot be conditioned, partial or with increased price.

4.4. Reasons for being excluded from the tender

Article.46, paragraph 1-bis of Legislative Decree no. 163/2006, provides for the possibility of exclusion in all cases where it is breached the principle of confidentiality of tenders, referring to the hypothesis of absolute uncertainty about the origin of the offer, and to undamaged packaging, or to other irregularities relating to the closure of the packages, violating the secrecy of tenders. With specific regard to the submission of tenders, and with regard to the identification of the tenderers, the exclusion will be consequential to the following violations:

- a) failure to indicate the reference of the tender for which the offer is addressed on the mail package;
- b) labeling the mail package with an indication totally wrong or generic, to such an extent that it is not possible to identify the package received as containing the offer for this tender;
- c) failure to seal the mail package and inner envelopes with airtight closing to ensure their integrity and prevent it from opening without leaving tampering; to avoid doubts of interpretation, it should be noted that by "sealing" it is meant a seal bearing signatures or stamp affixed to plastic material such as wax or lead or strip glued, such to attest the closing of mail package and the envelopes and therefore certify the authenticity of the closure by the original sender, and, exclude any possibility of tampering with the contents;
- d) absence on the envelopes inside the mail package of appropriate indication to identify the contents (administrative documentation, economic offer);
- e) failure to include the administrative documentation, the economic offer and the technical offer in separate envelopes, duly sealed, inside the package.

It should also be specified that if it will be found practices and / or anti-competitive market agreements in the realization of this tender prohibited under applicable laws - including Articles 81 et seq. of the EC Treaty and Articles 2 et seq. Law no. 287/1990 - the Contracting Authority reserves its rating, even according Article 38, paragraph 1, letter f) of Legislative Decree. N. 163/2006 and Article 68 of R.D. n. 827/1924, for the purpose of motivated exclusion from participation to the subsequent tender procedures launched by the Contracting Authority itself and involving the same subject of this race. The Contracting Authority also reserves the right to report to the competent authorities any evidence that could prove the accomplishment of practices and / or anti-competitive market agreements in this tender, also for the purpose of verifying the existence of any case of criminal law, taking care to make available to those authorities any documents in its possession. The Contracting Authority will inform the Filing Criminal Record of the National Anti-Corruption (formerly Regulatory Authority of Public Contracts AVCP) the information referred to ANAC Determination No. 1 of 10/01/2008.

It will also be excluded Economic Operators:

- whose offers raise exceptions and / or reservations of any kind under the conditions of delivery specified in Contract outline and / or in the Economic Offer;
- whose offers are subject to conditions;
- whose offers substitute, modify and / or complement the above conditions of incomplete tenders and / or partial;
- whose tender offer related services in a manner different, pejoratively, as established by the Technical Specifications and / or the Contract outline;
- whose offers exceed the amount at auction;
- involved in objective situations detrimental to the playing field between Economic Operators and / or damaging to the confidentiality of tenders;

- which has failed to provide the requested documents or who have made false declarations.

It is recalled, in this regard, that the falsification of documents and false statements:

- a) result in criminal penalties in accordance with art. 76 of Presidential Decree n. 445/2000;
- b) constitute a case of exclusion from participation in this tender.

“Usage”: pursuant to art. 46, paragraph 1 of Legislative Decree no. 163/2006, the Contracting Authority, according to the Institute of so called "Usage" may invite the competitor to complete or to provide clarifications on the content of the certificates, documents and statements presented, subject to mere existence in acts of declarations that have actually been made, even though not in a fully intelligible or with no respect for formal requirements, with the power to assign to this end a mandatory period within which the competitors must submit the request, or it will be excluded from the tender.

It is specified that this institution cannot operate in the presence of simply incomplete statements, but only entirely omitted.

5. TENDER SELECTION CRITERIA

The tender will be awarded in favor of the offer with the lowest price, in accordance with art. 82 of Legislative Decree no. 163/2006.

It is specified that in case of a same offer price, we will proceed in open session, to draw in accordance with art. 77 paragraph 2 of the R.D. 827/1924.

6. AWARD PROCEDURE

The various procedural stages of the tender will be made by the Responsible in charge of the procedure, which will examine all the documentation received, including records made available through the system AVCPass, and he will formulate the ranking and will proclaim, in the absence of anomalous situations, the provisional award.

The Responsible in charge of the procedure will start tendering procedures, in public session, **at 10:00 hours on 7th July, 2015**, in the CNR-ISC headquarters in Rome, Via dei Taurini n. 19, 00185 Roma (Italy).

The mail packages sent or received after the deadline or declared inadmissible will be not opened but acquired in the procedure. In this session, as well as any subsequent sessions open to the public, representatives in charge of the Economic Operators can attend. Their names, in consideration of the procedures regulating the access of third parties to the National Research Council, should be notified by Certified mail (protocollo.isc@pec.cnr.it) no later than the day preceding the date of the session (photocopy of a photo ID must be attached), as well as an indication of its powers or the extremes of the special power of attorney or proxy. Access and permanence of representatives of Economic Operator in the premises where the tender operations will proceed are subject to the absolute respect of the procedures in place at the National Research Council and the exhibition of the original of the photo ID.

The sessions of the tender will be suspended and updated at other hours or days, at the discretion of the Responsible in charge of the procedure, without that competitors can claim pretensions about it.

Of each session of the tender it will be drawn up special reports pursuant to art.78 of Legislative Decree no. 163/2006, according to the chronological progression of operations. These reports, signed by the Responsible in charge of the procedure, will be kept on record at the Contracting Authority. The day fixed for the public session, the Responsible in charge of the procedure (RUP, in accordance with the provisions of this Letter of invitation, will proceed to the following tasks for each competitor:

- Check of the formal correctness of the package arrived in relation to the term of arrival and external requirements required by the rules of competition;

- Opening of the envelopes arrived before deadline and examination to ensure that within them are present both envelopes "A" and "B" and the integrity and external requirements of the envelopes themselves;
- Opening of envelope "A" (Administrative documentation) and examination aimed at verifying the documents contained;

Upon completion of these procedures, the Responsible in charge of the procedure will open the envelopes "B" presented by the Economic Operators admitted at the tender, to check the completeness and formal and substantial correctness of quotations, as well as by reading the offered price and drawing up the merit list, proclaiming, in the eventual absence of anomalous situations, the provisional award.

Then, the Responsible in charge of the procedure will check, with regard to the admitted Economic Operators that declared the existence of a situation of control pursuant to art. 2359 Civil Code, the documents they produced to demonstrate that this situation of control has not influenced the formulation of the offer, excluding the Economic Operators for which he will ensure that their offers are attributable to a single decision-making on the basis of unique items, as required by art. 38, paragraph 2, of Legislative Decree. N. 163/2006.

6.1. Abnormally low offers

Under Article 86, paragraph 4 of Legislative Decree no. 163/2006, the Contracting Authority will proceed - in accordance with paragraph 3 of that Article. 86 - to evaluate the adequacy of the offers, that according to specific elements, appear to be abnormally low.

7. FINAL AWARD AND COMMUNICATIONS

The provisional award will become final after its approval by the Contracting Authority pursuant to art. 12, paragraph 1, of Legislative Decree no. 163/2006 within thirty days from its receipt. After thirty days, the award will be considered approved.

Following this approval, the Contracting Authority will proceed automatically to the verification of the possession of the general requirements stated in the offer by the Economic Operators pursuant art. 38 of Legislative Decree no. 163/2006.

In accordance with art.11, paragraphs 7 and 8, of Legislative Decree no. 163/2006, the final award does not correspond in any case to an acceptance of the offer and it will become effective only after the verification of the prescribed requirements of the contractor.

Communications: within five days of the issuance of the final award decision, the Contracting Authority will communicate the award at the Economic Operator resulted first in the ranking, as well as to that resulted the second, and, however, to all subjects described in the art. 79, paragraph 5, letter a) of Legislative Decree. N. 163/2006 and subsequent amendments; the Contracting Authority must also inform the exclusion to the competitors according to art. 79, paragraph 5, letter b) of Legislative Decree. N. 163/2006 and subsequent amendments.

The Contracting Authority reserves the right:

- to award even if there is only one valid offer, after checking for appropriateness, pursuant to art. 69 R.D. 827/1924;
- to not award if no offer is convenient or appropriate for the subject matter of contract in accordance with Article 81, paragraph 3, of Legislative Decree. N. 163/2006 or for reasons of public interest or necessity of a financial nature.

8. REVOCATION OF THE AWARD

The successful tenderer will decay from the award in the cases listed below, for which the Contracting Authority reserves the right, at its sole discretion, to issue a new tender or to entrust the supply to the

Economic Operator resulted the second and this without prejudice for all damages that may arise to the Contracting Authority for any higher cost of supply:

- a) inability to prove all the legal requirements to enter into and perform the contract;
- b) ascertainment after the adjudication of the absence and / or the loss of even one of the requirements for the award of the tender and contract execution;
- c) failure to present the necessary documents for the signing of the contract, except in case of impossibility resulting from reasons not attributable, with supporting evidence.

9. CONCLUSION OF THE CONTRACT AND FORM - APPLICATION

The effective final award is not a contract and therefore the creation of the contract is still postponed to the conclusion of the contract.

Therefore, became effective the final award, and without prejudice to the exercise of powers of self-defense in cases permitted by applicable law, the award of the contract will take place within a period of sixty days, pursuant to Art. 11, paragraph 9, of Legislative Decree no. 163/2006. The contract will still be signed before thirty-five days of dispatch of the last communication concerning the decision of final award pursuant to art. 11, paragraph 10 of Legislative Decree no. 163/2006. This grace period, according to art.11, 10-bis paragraph letter a) of Legislative Decree no. 163/2006, can not to be applied if it has been made or it has been admitted only one offer and promptly appeals of the notice have not been proposed or these appeals have already been rejected by a final decision.

The Contracting Authority reserves the right to not award the contract, or, if the contract was already signed, to proceed with the termination of the contractual relationship, if are acquired elements or relevant indications to the subjective assessments allowed by law, as well as art. 10, paragraph 9, Presidential Decree 252/1998.

The contract will be concluded through private agreement pursuant to art. 334, paragraph 2 of Presidential Decree 207/2010.

APPEAL AGAINST THE FINAL AWARD

According to art.11, paragraph 10-ter of Legislative Decree no. 163/2006, the contract cannot be signed if it is brought contextual interlocutory application against the final award from the notification to the Contracting Authority and for the next twenty days. Within this period it should intervene at least the precautionary measure of First Instance or the publication of the judgment of first instance in case of decision in the pre-trial hearing or until the pronouncement of such measures, if subsequent. The suspensive effect on the conclusion of the contract ceases when, by examining the appeals, the judge finds its incompetence pursuant to art. 14, paragraph 4, of the Code of Administrative Procedure (Legislative Decree no. 104/2010). It also ceases if the judge fix by order the date of the discussion without giving precautionary measures, or reserves the examining of the application for interim measures, with the consent of the parties, intended as implied waiver to the immediate consideration of the application for interim relief.

10. OBLIGATIONS REQUIRED PREPARATORY TO THE CONCLUSION OF CONTRACT

The conclusion of the contract will be subject to the presentation of the following documents:

10.1. Final deposit

Pursuant art.113 of Legislative Decree no. 163/2006, the successful bidder will have to provide a bank guarantee of 10 (ten) percent of the net contract. If the award has been obtained with reduction of the auction of more than 10 percent, the bank guarantee is increased by an amount of percentage points as those in excess of 10 percent; where the decline is more than 20 percent, the increase is of two percentage points for each point under more than 20 percent. It applies the benefit of the reduction of deposits by half, according to art. 75, paragraph 7, of Legislative Decree no. 163/2006.

The bank guarantee may ultimately be issued by a bank or insurance or financial intermediaries registered within the special list pursuant art. 107 of Legislative Decree no. 385/1993, which play an exclusive or main activity of issuing guarantees, duly authorized by the Ministry of Economy and Finance. The bank guarantee must expressly provide for the waiver of the benefit of preventative redemption of the principal debtor, the renunciation of the exception in Article. 1957, paragraph 2, of the Civil Code, as well as the operation of the guarantee within fifteen days, following simple written request from the Contracting Authority.

The failure to establish the bank guarantee final results in forfeiture of the award.

The final guarantee covers charges for failure to perform or inadequate performance and shall terminate on the date of issue of the certificate of regular execution.

10.2. Civil liability insurance policy

Original or certified copy or copy provided with the original declaration of conformity pursuant to Art. 47 of Presidential Decree 445/2000 of the insurance policy to cover the risks of liability to third parties and labor providers, valid for the entire duration of the contract, provided with a receipt valid.

10.3. Traceability of financial flows

The module "Information pursuant to Law 136/2010" duly completed and signed.

10.4. Articles of incorporation in the case of temporary joint ventures and consortia

In the case of temporary joint ventures and consortia or EEIG not yet formally constituted at the time of submission of the offer, a copy of the memorandum of temporary joint ventures and consortia or EEIG contract also laying special irrevocable mandate given to the company with representatives already designated agent / parent.

11. GENERAL INFORMATION

Communications relating to this procedure - including communications of exclusion - can be communicated to the interested Economic Operators by email PEC (Certified Mail) or fax at the address indicated in the administrative declaration. Each Economic Operator agrees to communicate any changes. The aforementioned communications of exclusion supersede any other form of notification by the Contracting Authority; since communication it will commence the remedies of protection required by current legislation.

The submission of offers, the request for documents and the award procedure is not binding for the Contracting Authority nor are constitutive of rights to the Economic Operator. The Contracting Authority, pursuant to the powers of self-defense, reserves the right to suspend, revoke, cancel the entire process at any stage in the process, even after the award, without any claims from the Economic Operators. The Economic Operator will have no refund or compensation in case of suspension, revocation or cancellation of the tender, not even according to Articles 1337 and 1338 of the Civil Code.

12. PRIVACY POLICY - ACCESS TO DOCUMENTS

Under the terms and for the purposes of articles 7 and 13 of Legislative Decree no. 30 June 2003, n. 196 "Code concerning the protection of personal data", the Contracting Authority will collect, record, re-order, storage and use personal data, whether by electronic means or not, for the purposes of carrying out the institutional activities of the Contracting Authority, including participation in the procedure of this tender, and the possible signature and management of the contract, and for legal obligations in respect of which the provision of personal data is required. For these purposes such personal data may be disclosed to third parties.

ACCESS TO DOCUMENTS: Pursuant to art. 79-quater, paragraph 5 of Legislative Decree no. 163/2006, according to the limitations and deferrals of access provided for in Article 13 of Legislative Decree no. 163/2006, the access to the files of the tender in which are adopted measures object of

communication under that Article. 70, is allowed within ten days from the notice of the measures themselves by viewing and by production of copy. It is not needed a written request for access nor the admission decision, subject to the measures of exclusion or deferral of access adopted pursuant to Article 13 above. The applicant will still have to indicate the document reference subject of the request or the elements that allow its identification and demonstrate the interest connected to the object of the request, as well as, of course, prove their identity, or the representative powers of the person concerned.

The notices of already mentioned Article. 79 indicate the office at which access can be exercised, and their schedules, ensuring that access is allowed during the entire time in which the office is open to the public or its staff is on duty.

In the event that access is not exercised within ten days mentioned above, the applicant will still have the right to submit a formal request for access under the terms and in the manner set out in Law no. 241/1990 and Presidential Decree n. 184/2006, and the relevant proceedings must take place and be completed in accordance to the regulations laid down by the rules of procedure of the National Research Council in the field of access to documents, coordinated with the rules on public procurement. Pursuant to and for the purposes of Articles 7 and 13 of Legislative Decree no. June 30, 2003, n. 196 "Code concerning the protection of personal data", the Contracting Authority will provide for the collection, recording, reordering, storage and use of personal data, either by electronic means, for the purposes of carrying out the institutional activities of the Contracting Authority, including participation in the procedure and the possible signing and contract management, and those related to legal obligations, in respect of which the contribution is required. For these purposes such personal data may be disclosed to third parties.

13. RESPONSIBLE IN CHARGE OF THE PROCEDURE / REQUEST OF CLARIFICATIONS

The Responsible in charge of the procedure is Dr. Mauro Missori, Researcher at the National Research Council ISC - UOS Montelibretti (Rm), office telephone +39 06 90272880, mobile +39 347 9348337, e-mail: mauro.missori@isc.cnr.it, to which all interested Economic Operators may ask any questions related to this tender procedure.

The Responsible in charge of the procedure (RUP)

(Dr. Mauro Missori)