

[Documentation to be filled, signed and included in Envelope A]

**ANNEX 4**

**EUROPEAN UNION  
REQUIREMENTS FOR PROCUREMENT PROCEDURES UNDER THE  
EUROPEAN UNION THRESHOLD**

Vendors must enter all information, unless differently stated

**PART I  
PROCUREMENT PROCEDURE AND BUYER INFORMATION**

<b>Buyer</b>	<b>Answer:</b>
Name:	<i>(ICE – Italian Trade Agency – New York Office) 33 East 67<sup>th</sup> Street, New York, NY 10065</i>
Title or brief description of the offer:	<b>Procedura aperta per l'affidamento del servizio di gestione del desk Assistenza e Tutela della Proprietà Intellettuale e Ostacoli al Commercio</b>
CIG/Identification Code of Tender	<b>9055560483</b>

**PART II: VENDOR'S DATA**

<b>A. Vendor data</b>	<b>Answer:</b>
Name:	[.....]
TAX ID number	[.....]
Mailing Address:	[.....]
Contact Person:	[.....]
Telephone Number:	[.....]
PEC or e-mail:	[.....]
(website) (if there is one):	[.....]

<b>B. Vendor's Agents (if any)</b>	<b>Answer:</b>
Full name:	[.....]
Place and Date of Birth:	[.....]
Working position/ Power to bind Vendor (Y/N):	[.....]
Mailing Address:	[.....]
Telephone Number:	[.....]
E-mail:	[.....]
If necessary, provide details on agency agreement (form, limits, purpose):	[.....]

### PART III: REASONS FOR EXCLUSION

#### A: Reasons for exclusion: criminal convictions

Vendors who have been convicted before a federal or state criminal court (in Italy or in the US) and for the following crimes, will be excluded from participation in the bid selection: (1) criminal conspiracy; (2) bribery; (3) fraud; (4) crimes related to terrorist activities; (5) money laundering or terrorism financing; (6) child labor and other forms of human trafficking; (7) any other crime that carries the sanction to forbid the individual from deal with public (federal, state or local) entities. Relevant reasons of exclusion are those regulated under Italian law, as well as:

- in the EU Member States, the factual circumstances described under Article 57 of Directive 2014/24 / EU;

- in non-EU countries, the factual equivalent circumstances regulated under local criminal law.

<b>A. Reasons related to criminal convictions</b>	<b>Answer:</b>
1) Has the vendor or a member of its management or audit teams or anyone with agency or control power been convicted for one of the above-mentioned crimes with a final judgment in the last five years or after which an exclusion period is still applicable?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2) If so, indicate (repeat if needed): a) the date of the final judgement, which crimes and the grounds for conviction; b) names of individuals convicted; c) duration of the exclusion period established by the judgement.	a) Date: [.....], Sentencing: [.....] Reasons: [.....] b) [.....] c) Duration of the exclusion period [.....]
3) In case of convictions, which measures vendor has undertaken to re-establish his credibility (self-cleaning)?	[Indicate measures taken]

#### B: Reasons for exclusion related to the payment of taxes or social security

<b>B. Payment of taxes, fees or SS</b>	<b>Answer:</b>
1) Has Vendor paid taxes, social security contributions and/or fees, as required by law, in the country where it is established, in Italy (if required) and in the country where the bidding process takes place (if different from where established)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2) If not, indicate: a) The State where the violation occurred; b) The amount; c) How the violation was proved; d) Measures taken to correct the violation;	a) [.....] b) [.....] c) [.....] d) [.....]

#### C: Reasons for exclusion related to insolvency, conflict of interests or professional misconduct

<b>C. Information related to insolvency, bankruptcy, conflict of interest or professional misconduct</b>	<b>Answer:</b>
1) Has vendor breached any of the following laws: health and safety; environmental; employment law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2) Is vendor currently under:	a) <input type="checkbox"/> Yes <input type="checkbox"/> No

a) Bankruptcy, insolvency proceedings, liquidation, receivership and any other similar proceedings? b) Has ceased its business activities?	b) <input type="checkbox"/> Yes <input type="checkbox"/> No
3) Is vendor guilty of gross professional misconduct?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4) Has vendor entered into agreements with other vendors to influence competition?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5) Is vendor aware of any conflict of interest affecting his participation in this procurement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6) Did vendor or any affiliated party provide advice to the buyer or have otherwise participated in the preparation of the bidding procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7) Has vendor being terminated or being ordered to pay damages or similar penalties in relation to a previous procurement deal?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8) Has Vendor: a) been condemned for misrepresentation in supplying false information (in the case of absence of grounds for exclusion or compliance with the selection criteria)? b) concealed this information? c) been able to transmit promptly the additional documents requested by the buyer? d) attempted to unduly influence a buyer's decision-making process; attempted to obtain confidential information that may give undue advantages in the procurement procedure; provided misleading information that may have a significant influence on the decisions concerning the bid?	a) <input type="checkbox"/> Yes <input type="checkbox"/> No b) <input type="checkbox"/> Yes <input type="checkbox"/> No c) <input type="checkbox"/> Yes <input type="checkbox"/> No d) <input type="checkbox"/> Yes <input type="checkbox"/> No
9) <u>In case of a positive answer to any of the questions in this section C</u> , indicate the circumstances that have occurred and what measures vendor has undertaken to re-establish its credibility (self-cleaning)	[Indicate measures taken]

**D: Reasons for exclusion under Italian law and equivalent circumstances under the laws of the Country where the contract is awarded and performed**

<b>D. Reasons for exclusion under Italian law</b>	<b>Answer:</b>
Is vendor in one of the following circumstances?	
1) Are there any grounds for revocation, suspension or prohibition under anti-mafia laws?	1) <input type="checkbox"/> Yes <input type="checkbox"/> No
2) Is the vendor at risk of infiltration by criminal organizations?	2) <input type="checkbox"/> Yes <input type="checkbox"/> No
3) Has vendor been banned from its business activity or has been subject to sanction involving prohibition to contract with the public administration?	3) <input type="checkbox"/> Yes <input type="checkbox"/> No
4) Is vendor registered with the Registry held by the National Anti-Corruption Authority for having submitted false statements in order to obtain a certificate?	4) <input type="checkbox"/> Yes <input type="checkbox"/> No
5) Has vendor violated the prohibition of registration through a fiduciary?	5) <input type="checkbox"/> Yes <input type="checkbox"/> No
6) Does vendor comply with employment law for disabled individuals?	6) <input type="checkbox"/> Yes <input type="checkbox"/> No
7) If vendor was a victim of crimes of bribing and extortion committed by criminal organizations or any facilitators (and this is not a self-defense claim), did vendor report the events to the prosecuting authorities?	7) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.
8) Does vendor control any another participant in the same bidding procedure because of the way the decisions are adopted?	8) <input type="checkbox"/> Yes <input type="checkbox"/> No
9) Has vendor entered into employment contracts and, in any case, has vendor assigned tasks to former employees of the buyer who have ceased to work for the buyer in the last 3 years and who were managers with negotiating contracting authority on behalf of the buyer with respect to the same vendor ( <i>pantouflage or revolving door</i> )?	9) <input type="checkbox"/> Yes <input type="checkbox"/> No

#### **PART IV: SELECTION CRITERIA**

**This part is replaced by the Affidavit (Annex 2) in particular points no. 6, 7 and 8**

#### **PART V: FINAL STATEMENTS**

The undersigned hereby state that the information contained in parts II to IV of this document is true and correct and that the undersigned is aware of the civil and criminal consequences in case of false statement and perjury under Italian law and US law.

The undersigned hereby certifies the absence of grounds for exclusion provided in Part III and that the undersigned holds the requirements set out in Part IV.

The undersigned authorizes the Buyer, indicated in part I, to perform the background check with the competent authorities on the veracity of the statements hereby issued.

The undersigned provides irrevocable consent and accepts without conditions and/or exceptions the terms and conditions contained in the bid invitation letter and in Attachments 1 and 2 to the same letter, which are an integral part thereof.

[Dated and signed]

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[Name, last name and title of signatory/signatories]

#### **SUPPLEMENTARY DECLARATION (included in the DGUE attached as Annex 3)**

1. [until the update of the DGUE] declares not to incur the **causes of exclusion pursuant to art. 80**, paragraph 5 lett. b), c), c-bis, c-ter, c-quater, f-bis and f-ter of the code;
2. declares the **identification data** (name, surname, date and place of birth, tax code, municipality of residence etc.) of the subjects referred to in art. 80, paragraph 3 of the Code, or indicates the official database or public register from which they can be obtained in an updated way on the date of submission of the offer;
3. declares the **economic offer** presented profitable since for its formulation it has taken note and taken into account:
  - a) the contractual conditions and charges, including any related safety, insurance, working conditions and social security and assistance in force in the place where the services / supply are to be carried out;
  - b) of all the general, particular and local circumstances, none excluded and excepted which may have influenced or influence both the provision of services / supply and the determination of its offer;
4. accepts, without conditions or reservations, all the rules and provisions contained in the tender documentation;
5. accepts the integrity pact annexed to the tender documentation (art. 1, paragraph 17, of Law 190/2012);
6. declares to be aware of the obligations deriving from the Code of Conduct adopted by the contracting authority with resolution no. 402 of January 24, 2017 available on the website [www.ice.gov.it](http://www.ice.gov.it) - Transparent Administration - General Acts and undertakes, in the event of award, to observe and make its employees and collaborators observe, as applicable, the aforementioned code, under penalty termination of the contract;

**For non-resident and non-established economic operators in Italy**

- 7. undertakes to comply, in the event of award, with the discipline referred to in articles 17, paragraph 2, and 53, paragraph 3 of the Presidential Decree 633/1972 and to communicate to the contracting authority the appointment of its fiscal representative, in the forms of law;
- 8. indicates the following data: tax domicile .....; VAT tax code .....; indicates the PEC address or, only in the case of competitors based in other Member States, the email address ..... for the purposes of the communications referred to in art. 76, paragraph 5 of the Code;
- 9. authorizes if a participant in the tender exercises the right of "access to the documents", the contracting authority to issue a copy of all the documentation submitted for participation in the tender or does not authorize, if a participant in the tender exercises the right of "access to deeds ", the contracting authority to issue a copy of the technical offer and of the explanations that may be required when verifying the anomalous offers, as they are covered by technical / commercial secrecy. This declaration must be adequately motivated and proven pursuant to art. 53, paragraph 5, lett. a) of the Code;
- 10. certifies that I have read the Information on the processing of personal data pursuant to Regulation (EU) 2016/679 ("GDPR"), available on the institutional website of the ICE-Agency at <https://www.ice.com/en/privacy>.

**For economic operators admitted to the arrangement with business continuity pursuant to art. 186 bis of the R.D. March 16, 1942, no. 267**

11. indicates, in addition to what is indicated in part III, sect. C, lett. d) of the DGUE, the following details of the provision of admission to the composition with creditors and the provision of authorization to participate in the tenders ..... issued by the Court of ..... and declares not to participate in the tender as a temporary grouping agent of companies and that the other companies belonging to the grouping are not subject to a bankruptcy procedure pursuant to art. 186 bis, paragraph 6 of the R.D. March 16, 1942, no. 267.

**ATTACH COPY OF ID OF EACH SIGNATORY - (Sign before a Notary Public)**

**State of** \_\_\_\_\_

**County of** \_\_\_\_\_

I, the undersigned Notary Public in the State of \_\_\_\_\_, duly commissioned and qualified, do hereby certify that \_\_\_\_\_ appeared and signed this instrument before me today and I have verified his/her identity after having examined his/her Passport, State issued driver's license or State issued ID.

IN WITNESS WHEREOF I have hereunto set my hand and affixing the seal of the Notary Public, of the State Of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_

**Seal and Signature of Notary Public**

**STATEMENT ON INDIVIDUALS DATA PROTECTION**  
**As per Regulation (EU) 2016/679, art. 13**

The processing of personal data is based on the principles of lawfulness, fairness and transparency to protect the fundamental rights and freedoms of individuals. To this end, the following information is provided:

1. The data holder is ICE – Italian Trade Agency (hereinafter only ICE) which operates through the Office of New York, 33 East 67<sup>th</sup> Street, New York, NY 10065, T. 212-980-1500, email: [newyork@cert.ice.it](mailto:newyork@cert.ice.it).
2. ICE appointed an individual responsible for the protection of personal data that, for customer purposes, can be contacted at the following addresses: ICE – Italian Trade Agency - Via Liszt, 21 - 00144 Rome; e-mail: [privacy@ice.it](mailto:privacy@ice.it).
3. Personal data are necessary for the vendor selection and awarding process.
4. The transfer of data is mandatory under Italian law and any refusal to provide the requested data will result in exclusion from the selection procedure or the awarding.
5. Data management will be carried out manually or electronically by internal personnel.
6. The data will be transferred to internal and external auditing bodies of ICE. By signing this document, vendor provides consent to the transfer of the aforementioned data also to the competent local authorities for their verification and for the publication of the essential elements of the contract stipulated on the buyer's website in accordance under Italian law on the transparency of Italian public contracts.
7. Data shall be kept for a minimum period of 5 years from the moment when the contractual relationship ends due to completion of performance or for any other reason, including termination due to non-compliance. This term may be suspended in the event of a lawsuit.
8. Each vendor may obtain access to its data and apply for amendments. In these cases, vendor must submit a request to the addresses indicated in section 1, sharing such application with ICE data protection manager at the addresses indicated in section 2.
9. If you believe your rights have been violated, you can file a complaint with ICE Data Protection Officer. Alternatively, you can contact the Guarantor for the Protection of Personal Data (Piazza di Montecitorio 121, 00186 Rome, phone 0039 06 696771 (switchboard), e-mail: [garante@gpdp.it](mailto:garante@gpdp.it), pec: [protocollo@pec.gpdp.it](mailto:protocollo@pec.gpdp.it)) or to the judicial authority.

*[Date]*

Signature of the interested party for acknowledgment and  
acceptance

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