



Document ID

PON-OR1-01-TSP-01-Phase_3-ENG

Revision

01

Document classification

Tender specifications

Tender

Supply of a W-band multibeam heterodyne receiver for the Sardinia Radio Telescope.

Type of tender

Competitive Dialogue pursuant to art. 64 D.lgs. 18 april 2016, n. 50, and s.m.i.

Decision Act

Determinazione n. 183 - 9 agosto 2019

Tender value

€ 2.300.000,00

Funding source

PON "Ricerca e Innovazione 2014-2020" - Avviso D.D. 424 del 28/02/2018

PON FSE FESR / PIR01_00010 "SRT_HighFreq - *Potenziamento del Sardinia Radio Telescope per lo studio dell'Universo alle alte frequenze radio*"

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Abbreviations and acronyms

INAF: the Italian National Institute for Astrophysics

Code: Italian Law on Public Procurement (Decreto legislativo 18 aprile 2016, n. 50)

Entity / Contracting Authority / OAC: the INAF Cagliari Astronomical Observatory

SRT: the Sardinia Radio Telescope

U-BUY: the INAF website electronics platform for e-procurement activities

Main Reference Laws

The tender and its documentation will be governed by:

1. Decree-Law of 18 april 2016, n. 50, and s.m.i., therein on also “**Code**”
2. Decree-Law of 9 aprile 2008, n. 81, and s.m.i., therein on also “**TUSL**”
3. Italian Civil Code

Important Internet links

Contracting authority official tender repository related to accountability

http://www.oa-cagliari.inaf.it/page.php?id_page=101&level=3

U-Buy electronic platform to be used for submitting bids:

<https://inaf.ubuy.cineca.it/PortaleAppalti>

National Anticorruption Authority site where the bidders request the “PASSOE”

<https://www.anticorruzione.it/portal/public/classic/Servizi/ServiziOnline/AVCpass>

This English text is a translation from the official Italian text in order to help foreign bidders to participate in the tender. In case of doubt, dispute or involuntary errors or omissions, only the Italian text will be valid.

Section 1 – General information on the tender

Art. 1 Contracting Authority

INAF – Osservatorio Astronomico di Cagliari - via della Scienza 5 - 09047 Selargius (CA)

C.F. 97220210583

P.IVA 06895721006

Codice ISTAT: 092011

Contracting authority website: <http://www.oa-cagliari.inaf.it>

Contracting authority procurement website area: <http://www.oa-cagliari.inaf.it> section “Amministrazione Trasparente”

Certified electronic mail (PEC): inafoacagliari@pcert.postecert.it

Art. 2 Preliminary notes – PON “Ricerca e Innovazione 2014-2020”

The Astronomical Observatory of Cagliari (OAC) is a research facility of the National Institute for Astrophysics (INAF), located in Via della Scienza 5, municipality of Selargius (CA). OAC also has managerial and operational responsibility for the radio telescope "Sardinia Radio Telescope" (SRT), in the "Pranusanguni" area, municipality of San Basilio (SU), INAF's Research Infrastructure. The SRT is a radio telescope with an altazimuth mount, about 70 meters high and weighing over 3000 tons, with a 64 meter diameter primary dish.

With the formal Notice 424, 28 February 2018, the “Ministero dell’Istruzione, dell’Università e della Ricerca” (MIUR) issued the “Avviso per la concessione di finanziamenti finalizzati al potenziamento di Infrastrutture di ricerca, in attuazione dell’Azione II.1 del PON Ricerca e Innovazione 2014-2020”, from now on also “MIUR Notice”.

The MIUR Notice identified, in Article 2 paragraph 8 letter q), the Sardinia Radio Telescope as a “research infrastructure” that “deserve to be upgraded” and INAF as a Public research institute eligible to submit a proposal. In response to the MIUR Notice, INAF presented the Project proposal “PIR01_00010 - SRT_HighFreq - Enhancement of the Sardinia Radio Telescope for the study of the Universe at high radio frequencies” (thereafter “Proposal”). The Proposal consisted of nine “Obiettivi Realizzativi (OR)” - achievable goals - corresponding to the actual work breakdown structure.

With Directorial Act n. 461 of March 14, 2019, the MIUR has granted a total amount of 18,683,000.00 euros to the Proposal. Afterwards, in the meeting of 25 June 2019, the Board of Directors of INAF, with Resolution number 41, approved the Obligation Act connected to the acceptance for the Proposal. During the same meeting, the INAF - Cagliari Astronomical Observatory was appointed as the contracting authority for the management of the tenders that would achieve the scientific objectives of the Proposal.

Art. 3 Subject of the tender – Contract to be awarded

With the Resolution n. **183** of the 9th of August 2019, the Director of the contracting authority has started the tender procedure, which aims at acquiring a ***W-band multibeam heterodyne receiver for the Sardinia Radio Telescope*** as “Obiettivo Realizzativo n. 1”, i.e. as “OR1 achievable goal”. A **competitive dialogue procedure** pursuant to art. 64 of the Code has been selected, and the *most economically advantageous tender shall be assessed*

based on the best price-quality ratio. The bid is finalized to the acquisition of a 3 mm band (W-band) multibeam receiver based on a cryogenic focal plane array of dual-polarization feed-systems utilizing cryogenic low noise amplifiers (LNAs). The instrument shall be installed on the Gregorian focus of the SRT. The array shall be designed to fit in the usable area of the focal plane and to provide optimum beam patterns, high antenna efficiency, low-noise and image band rejection performances.

During Phase 1 of the competitive dialogue INAF identified those economic operators potentially able to provide a technical solution that could fit the needs that INAF presented in the document "PON-OR1-01-SPE -01-All_1.pdf". **During Phase 2** the selected economic operators presented and discussed with the INAF Technical Group their "Preliminary technical solution", through face-to-face meetings conducted according to the rules and formal protocols defined in the Phase 1 document "PON-OR1-01-TSP-01.pdf" and in the Phase 2 document "PON-OR1-01-IPD-01.pdf".

At the end of Phase 2, INAF prepared the Phase 3 documentation, which requires economic operators to submit technical and economic bids. At the end of the evaluation of these bids, which will be done by a selection Board, an economic operator will be identified to whom the construction of the W-band receiver will be awarded.

Primary CPV: **38635000-5 Telescopes**

EU PON FESR FSE "Ricerca e Innovazione 2014-2020", Code PIR_01_00010, co-funds the purchasing of this receiver.

Art. 4 Electronic means of information and communication

Starting from **October 18, 2018**, in compliance with the combined provisions of art. 40 and 52 of the Code, in ordinary sectors and in special sectors, all communications and exchanges of information between the contracting authority and economic operators are carried out using electronic means of communication in compliance with the provisions of the Digital Administration Code of which to the legislative decree 7 March 2005, n. 82.

The digital tools and devices to be used to communicate electronically, as well as the related technical features, are non-discriminatory, commonly available and compatible with the ICT (Information and Communication Technology) products generally in use, so that these tools do not restrict access to the *award procedure*. For this tender procedure the INAF e-procurement platform, identified with the acronym "**U-Buy**", will be used:

<https://inaf.ubuy.cineca.it/PortaleAppalti/>

Art. 5 Estimated value of the tender - Lots

Value of the tender

Following a market analysis, the contracting authority has established that the net value of this tender is equal to:

2.300.000 (2,3 million) Euros

This value does not include VAT and / or other fees, if due. The safety charges relating to interference risks are not evaluated for the single installation of this supply, provided that



safety procedures and the related costs will be analysed in a more complex scenario. From the outcome of Phase 2 of the competitive dialogue, the contracting authority has not identified the possibility of dividing the supply into main and secondary services, pursuant to art. 48 paragraph 2 of the Code. Subcontracting is allowed.

The established value includes the labour costs that the contracting authority preliminary estimates equal to the 30% of the awarded contract. This amount was evaluated by taking into account a mean labour cost of three full-time equivalent (6 FTE) high level operators.

A **10.000,00 (ten thousand) euros** award (VAT at the rate of 22% included) will be granted to the three bidders (including the winner) best ranked in the competitive dialogue final ranking.

The estimated value of the tender includes the **mandatory (minimum) list of items** which can be found in the **Article 15, PON-OR1-01-SOW-01-Phase_3.pdf** document.

Lots

This tender will have a single lot.

The contracting authority has assessed that the non-division into lots does not constitute an obstacle to the access of micro, small and medium companies. This assessment is carried out in compliance with the EU rules of public procurement. The possible division into lots would entail a high technical risk, deriving from the adoption of different production lots or in adopting components with non-homogeneous performance characteristics between them.

Art. 6 Receiver lead time - Options and renewals

Lead time

The receiver must be delivered at the final site within **22 (twenty-two) months** from the date of the signature of the contract; the delivery protocol follows DDP Incoterms 2020. Delivery dates cannot be extended in time and are bound to the maximum duration of the whole Project, which must not exceed **32 months** from the date of June 25, 2019.

Within these 32 months, a mandatory deadline, all the invoices have to be paid. Any delay might lead INAF to loose the grant.

Options and renewals

Neither option nor renewals are foreseen.

Changes to the contract

Pursuant to art. 106, paragraph 1, lett. a) of the Code, the procurement contract may be modified.

Art. 7 Award criterium

The tender will be awarded according to the criterion of the most economically advantageous offer, pursuant to art. 95, paragraph 3 *sub 3-bis* of the Legislative Decree 50/2016.

Section 2 – Tender sequence and steps

Art. 8 Procedure sequence

This competitive dialogue procedure is being developed by means of three phases:

- **Phase 1 - prequalification;** this step allowed INAF, through the evaluation of the technical, professional and economic requirements of the candidates who have expressed interest in being admitted to the procedure, to select the economic operators that have been involved into the competitive dialogue meetings.
- **Phase 2 - dialogue;** during this Phase the contracting authority has invited the "qualified" economic operators to present the design solutions. These "solutions" have been thoroughly analysed during the face-to-face and teleconf meetings where INAF and the Companies' delegations discussed about the "solution". These meetings did allow the Scientific Responsible of the OR_1 and its Technical team to define the final technical specifications, which would be the most suitable means and solutions to meet the INAF needs and objectives.
- **Phase 3 - presentation and evaluation of the final offer;** it is the current phase, where the economic operators admitted from Phase 2 are invited to submit their final technical and economic offer. Offers that will be evaluated on the basis of the award criteria set out below in this Tender Specifications document.

Pursuant to art. 64, paragraph 11, letter b, of the Code, the contracting authority reserves the right to carry out negotiations with the awarded bidder.

Art. 9 Procurement documentation, clarifications and communications

Tender Documentation

The official Phase 3 tender documentation, settled up by the contracting authority and sent to economic operators, consists of

1. Invitation to submit a Bid
2. Tender specifications (this document)
3. Statement of work – Technical specifications
4. Annex 1: European Single Procurement Document / Application form. Economic operators have to renew/confirm they own the requisites they need on order to submit an offer
5. Annex 2: economic bid form, where the economic operator will make its bid for the supply of the W-band receiver and (eventually) the related services which will be described in the Technical Report (see below)
6. Annex 3: a draft version of the contract.

The above listed documentation will be sent to the economic operators through the U-Buy platform.

Clarifications

Any communication from/to the contracting authority to/from the Phase 3 economic operators will use the **U-Buy** platform.



Clarifications on the documentation and the terms of Phase 3 of the competitive dialogue procedure can be obtained by proposing questions on the U-Buy platform **at least 5 (five) days** before the deadline for submitting the Bids.

The questions will be answered, through the U-Buy platform, **within 3 (three) days** from the date of submission. Replies will be anonymous (source of question will not be disclosed) and visible/available to all economic operators admitted to Phase 3.

If questions have no interest as a FAQ:

- In the case of temporary groupings, EEIGs, aggregations of network companies or ordinary consortia, even if not yet formally constituted, the communication delivered to the agent is considered validly made to all the economic operators grouped, aggregated or consortium.
- In the case of consortia referred to in art. 45, paragraph 2, lett. b and c of the Code, the communication delivered to the consortium is considered validly made to all the consortium members.
- In the event of use, the communication sent to the bidder is given to all auxiliary economic operators.

Questions will be accepted both in Italian and English languages.

Telephone clarifications are not allowed.



Section 3 – Phase 3 Regulations

Art. 10 Tenderers and conditions of participation

Pursuant to art. 45 of Legislative Decree n. 50/2016, *only economic operators who participated in the previous two phases of the competitive dialogue are allowed to participate in Phase 3.*

The provisions of articles 47 and 48 of the Code apply to the associated economic operators.

Competitors are allowed to submit the Offer as an agent of an ordinary grouping or consortium of competitors or aggregation of companies participating in the network contract.

It is forbidden for competitors to submit the Offer as an agent of an ordinary grouping or consortium of competitors or aggregation of companies participating in the network contract which includes another competitor admitted to Phase 3.

It is forbidden for the competitor who participates in a grouping or ordinary consortium of competitors, to participate also individually.

Art. 11 General requirements

Economic operators admitted to Phase 3 can submit a Bid if there are no grounds for exclusion pursuant to art. 80 of the Code which occurred after the submission of Phase 1 application. To this end, it is requested to the economic operator to confirm declarations which were made during the Phase 1 admission to the competitive dialogue.

NOTE Pursuant to art. 48 paragraph 11 of the Code, the economic operator that has individually submitted a request for participation and has been admitted individually to the competitive dialogue phase, that is, has been invited to present the technical solution that will be the subject of the dialogue phase and the subsequent final offer, has the right to present an offer or to negotiate for himself or as an agent of combined operators. The possibility of submitting an offer as principal of another operator also admitted to the competitive dialogue phase is therefore **excluded**. Two operators, both invited to the competitive dialogue phase, will therefore **not be allowed to join** as “temporary grouping of companies (RTI)” when presenting the solution based on the competitive dialogue and the final offer

Art. 12 Subcontracts

The “Company” that will be awarded with the supply contract has to execute it.

However, subcontracting might be authorized pursuant to art. 105 of the Code. In order to be able to subcontract, companies must preliminary list which part(s) of the offer that they intend to subcontract to third parties, within the total amount of **40% of the contract value**, pursuant to art. 105 of the Code.

Please note again that the subcontract is subject to the requirement of prior authorization from the contracting authority, and will be authorized only when:

- a) the subcontractor meets the requirements of article 80 of the Code;
- b) at the time of the offer, the parts of the service or supplies to be subcontracted have been indicated.



Art. 13 Provisional guarantee / Bid Bond

The bid submitted by the economic operators must be accompanied by:

1. a **temporary guarantee**, as defined by art. 93 of the Code, equal to 2% of the base price of the contract and precisely for an **amount equal to 46,000.00 (forty-six thousand) euros**, except as provided for in art. 93, paragraph 7 of the Code in terms of reduction of the amount.
2. a **declaration** of commitment by a banking or insurance institution or other entity referred to in art. 93, paragraph 3 of the Code, also different from the one that issued the provisional guarantee, to issue definitive surety guarantee ("performance bond") pursuant to Article 93, paragraph 8 of the Code, in case of contract award. This declaration of commitment is not required of micro, small and medium-sized enterprises and temporary groupings or ordinary consortia established by such kind of enterprises.

Pursuant to art. 93, paragraph 6 of the Code, the bid bond covers the non-signing of the contract, after the award, due to any fact attributable to the proposed contractor or to the adoption of disqualifying anti-mafia information issued pursuant to articles 84 and 91 of the legislative decree 6 September 2011, n. 159. The non-proof of possession of the general and special requirements as well as the failure to produce the documentation required and necessary for the stipulation of the contract might prevent from signing the contract.

Any exclusion from the tender prior to the award, except in the cases referred to in art. 89 paragraph 1 of the Code, will not involve the provision of the provisional guarantee.

The provisional guarantee can be, at the competitor's choice:

- a) a government-guaranteed public debt securities deposited with a provincial treasury section or with authorized companies, as a pledge, in favour of the contracting authority; the value must be on the day of the deposit;
- b) a bank or insurance guarantee issued by banking or insurance companies that meet the requirements of art. 93, paragraph 3 of the Code. In any case, the guarantee guarantees comply with the standard scheme pursuant to art. 103, paragraph 9 of the Code.

Economic operators, before proceeding with the subscription, should verify that the guarantor is in possession of the authorization to issue guarantees by accessing the following websites:

- <http://www.bancaditalia.it/compiti/vigilanza/intermediari/index.html>
- <http://www.bancaditalia.it/compiti/vigilanza/avvisi-pub/garanzie-finanziarie/>
- <http://www.bancaditalia.it/compiti/vigilanza/avvisi-pub/soggetti-non-legittimati/Intermediari non abilitati.pdf>
- <http://www.ivass.it/ivass/impreses.jsp/HomePage.jsp>

The bid bond must, in the digital (or paper) form issued by the guarantor to the economic operator:

- 1) contain express mention of the object and the guaranteed subject;
- 2) be made out to all the economic operators of the established / establishing temporary grouping or ordinary consortium or EEIG, or to all the retiring companies participating in the tender or, in the case of consortia referred to in art. 45, paragraph 2 lett. b) and c) of the Code, to the consortium only;

- 3) comply with the standard scheme approved by decree of the Minister of Economic Development of 19 January 2018 n. 31 (Official Gazette no. 83 of 10 April 2018) containing the "Regulations with which the models of standard contracts for the surety guarantees provided for in Articles 103 paragraph 9 and 104 paragraph 9 of Legislative Decree 18 April 2016 n. 50";
- 4) be valid for **at least 180 days** from the deadline for submitting the offer;
- 5) expressly provide:
 - a. the waiver of the benefit of the prior enforcement of the principal debtor pursuant to art. 1944 of the civil code, wishing and intending to remain jointly and severally liable with the debtor;
 - b. the renunciation to object to the expiry of the terms referred to in art. 1957 of the civil code;
 - c. their operation within fifteen days upon simple written request from the contracting authority;
- 6) contain the commitment to issue the definitive guarantee, if issued by the same guarantor.

It is possible to remedy, by means of preliminary investigation, the failure to present the provisional guarantee and / or the commitment to issue a performance bond only on condition that they have already been set up before the presentation of the offer. It is the economic operator's responsibility to prove that these documents are issued on a date not later than the deadline for the submission of bids. Pursuant to art. 20 of Legislative Decree 82/2005, the date and time of formation of the electronic document can be opposed to third parties if applied in accordance with the technical rules on validation (e.g. time stamp).

The submission of a guarantee of lesser value or one or more of the characteristics indicated above (heading only to some participants in the Temporary Association, lack of mandatory clauses, etc.) can also be remedied.

Section 4 – Submission of the bids.

Art. 14 Bids in general

A bid will not be accepted if:

- It is submitted by economic operators other than those who participated in the first and second phase of the competitive dialogue
- It is incomplete or partial or subject to conditions
- The price bid is higher than the auction base
- It does not meet the minimum requirements or characteristics established in the invitation letter and related attachments.

Pursuant to art. 95 paragraph 6 of the Code, the contract will be awarded by using the criterion of the most economically advantageous offer, identified on the basis of the best quality/price ratio.

The contracting authority reserves the right to proceed to further negotiation with the best bidder of Phase 3, in order to define some contractual terms, without changing the conditions of the contract and ensuring equal treatment and non-discrimination.



Pursuant to paragraph 13 of art. 64 of Legislative Decree 50/2016, the contracting authority will recognize a gross prize of 10,000.00 euros to operators classified in the first 3 (three) ranking positions in the final classification, including the proposed entrant.

Art. 15 Digital signing of the documentation

The bid documents must be digitally signed by using, e.g., the Pades-BES format, or according to other formats, such as the Pades-BASIC.

The bid documents will also be considered valid whether instead of signing them with a digital signature, the legal representative or a delegate would sign by hand the requested documents and then scan them. The scanned file(s) has/have to be uploaded together with an identity document of the subscriber.

On the other hand, the bid of those economic operators who do not sign the documentation by means of one of the above listed "digital signature" will be rejected and the operator excluded from the tender.

Art. 16 Electronic procedure - Deadline for submitting the Offer

Also for Phase 3, as already done for Phase 2, the economic operators will submit their bid documents on the **U-Buy** platform by using the electronic format of the "*negotiated procedure without prior publication of a tender notice*". The two tender codes [G00XXX] (Phase 2 and Phase 3) which have been assigned by the U-Buy electronic platform, will be a unique electronic procedure for the award of the supply.

The tender documents, which will make up the Offer of the economic operator, must be "uploaded" on the Platform **no later than**

11th of February 2020, 13:00 CET

Beyond this date and time, U-Buy platform will no longer allow uploading of the bids.

Art. 17 Tender documentation required as Phase 3 Bid

Economic operators passing Phase 2 will have to confirm their interest for Phase 3 by uploading through U-Buy three kind/sets of documents, belonging to **Administrative**, **Technical** and **Economic** categories

Administrative

1A) Application form / ESPD . The bidder must confirm once again the Phase 1 self-certifications. Therefore, it has to re-submit the European Single Procurement Document, the template of which is made available by the contracting authority, namely the file PON-OR1-01-TSP-01-Phase_3-All_1. Inside this form, the bidder states how is going to participate in the tender, e.g. as a single company, a consortium, a temporary grouping, etc.

- In case of participation as temporary grouping, ordinary consortium, aggregation of network companies, EEIG, the competitor provides the identification data (company name, tax code, headquarters) and the role of each company (agent /



principal; head of the / consortium);

- In case of a consortium of cooperatives and craft businesses or a stable consortium referred to in art. 45, paragraph 2 lett. b) and c) of the Code, the consortium indicates the consortium for which it competes for the tender; if the consortium does not indicate for which consortium (s) it is competing, it is understood that the consortium participates in its name and on its own account.

The application will be digitally signed by:

- in the case of a temporary grouping or ordinary consortium constituted by the agent / leader;
- in the case of a temporary grouping or ordinary consortium not yet established, by all the subjects that will constitute the grouping or consortium;
- in the case of aggregations of companies adhering to the network contract, reference is made to the rules envisaged for temporary groupings of companies, insofar as it is compatible. In particular:

In the case of a consortium of cooperatives and craft enterprises or permanent consortium as per art. 45, paragraph 2 letter. b) and c) of the Code, the Application has to be signed by the same consortium

2A) PASSOE. Pursuant to art. 80, 83 of the Code, this document (to be uploaded during the submission of the whole bid) allows the contracting authority to speed up, by using the ANAC "AVCPass" portal, the checking phase of the absence of reasons for exclusion of the operator economic from participation in Phase 3. In order to generate the PASSOE, referred to in art. 2, paragraph 3 lett. b) of ANAC resolution no. 157/2016, economic operators must register on the ANAC electronic platform, using the link below:

<http://www.anticorruzione.it/portal/public/classic/Servizi/ServiziOnline/AVCpass>

3A) ANAC fee. Pursuant to the ANAC Resolution number 1174 of December 19, 2018 on "Implementation of the art. 1, paragraphs 65 and 67, of the law of 23 December 2005, n. 266" ("Resolution"), economic operators who want to submit a bid are requested to pay a fee of 140,00 euro (one hundred forty euro). The fee must be paid to the ANAC, following the instructions at

<http://www.anticorruzione.it/portal/public/classic/Servizi/ServiziOnline/Portaledeipagamenti>

Tender name	CIG	ANAC fee amount
Competitive dialogue OR1 - WBA	8018611F1D	€ 140,00

4A) Bid bond / Provisional guarantee. Follow the Article 12 instructions, this Tender specifications document.

5A) (If applicable) Further documentation in case of grouped bidders

The following items only apply to the below listed administrative status



Temporary groups already established

- authentic copy of the irrevocable collective mandate with representation conferred on the agent by public deed or authenticated private deed.
- statement indicating, pursuant to art. 48, co. 4 of the Code, that the service will be performed by the individual economic operators assembled or associated.

Ordinary consortia or EEIGs already established

- deed of incorporation and statute of the consortium or EEIG, in certified copy, with indication of the designated subject as leader.
- statement indicating, pursuant to art. 48, co. 4 of the Code, the percentage that will be performed by the individual economic operators associated with it.

Temporary groupings or ordinary consortia or EEIGs not yet established.

Statement attesting:

- the economic operator to whom, in the case of contract awarding, a special mandate will be conferred with representation or functions of the group leader;
- the commitment, if awarded, to comply with the regulations in force with regard to temporary groups or consortia or EEIGs pursuant to art. 48 paragraph 8 of the Code conferring special collective mandate with representation to the qualified company as agent that will stipulate the contract in the name and on behalf of the principals / consortium members;
- statement indicating, pursuant to art. 48, paragraph 4 of the Code, the percentage that will be carried out by the individual economic operators assembled or associated.

Aggregations of economic operators adhering to the network contract:

if the network has a common body with representative power and legal subjectivity

- act digitally signed pursuant to art. 25 of Legislative Decree 82/2005, with indication of the common body acting on behalf of the network;
- declaration, signed by the legal representative of the common body, indicating for which companies the network competes;
- declaration indicating the percentage that will be performed by the individual economic operators aggregated in the network.

Aggregations of economic operators adhering to the network contract:

if the network has a common body with power of representation but is devoid of legal subjectivity

- act digitally signed pursuant to art. 25 of Legislative Decree 82/2005, bearing the irrevocable collective mandate with representation conferred on the mandatory company; if the network contract has been drawn up with a non-authenticated digital signature pursuant to art. 24 of Legislative Decree 82/2005, the mandate in the network contract cannot be considered sufficient and it will be mandatory to confer a new mandate in the form of authenticated private writing, also pursuant to art. 25 of Legislative Decree 82/2005;



- declaration indicating the percentage that will be performed by the individual economic operators aggregated in the network.

Aggregations of companies adhering to the network contract:

if the network has a common body lacking the power of representation or if the network does not have a common body, or, if the joint body lacks the requisites of qualification required, it participates in the forms of the RTI constituted or constituting:

- in the case of a temporary consortium: act digitally signed pursuant to art. 25 of Legislative Decree 82/2005 with attached the irrevocable collective mandate with representation conferred on the agent, indicating the person designated as the agent and the percentage that will be performed by the individual economic operators aggregated in the network; if the network contract has been drawn up with a non-authenticated digital signature pursuant to art. 24 of Legislative Decree 82/2005, the mandate must take the form of an authentic deed or private deed, also pursuant to art. 25 of Legislative Decree 82/2005;
- in the case of RTI constituting: act digitally signed in accordance with art. 25 of Legislative Decree 82/2005, with attached declarations, made by each competitor adhering to the network contract, attesting to:
 - o which competitor, if awarded, a special mandate will be conferred with representation or functions of the group leader;
 - o the commitment, if awarded, to comply with the regulations in force on temporary groupings;
 - o the percentage of supplies that will be performed by individual economic operators aggregated in the network.

The irrevocable collective mandate with representation may be conferred on the agent by private agreement.

If the network contract has been drawn up with a mere digital signature not authenticated pursuant to art. 24 of Legislative Decree 82/2005, the mandate must take the form of an authentic deed or private deed, also pursuant to art. 25 of Legislative Decree 82/2005.

The declarations referred to in this paragraph may be made or in the form of attachments to the Application.

Technical

1T) Technical Report / Bid. The economic operator must submit its Technical report (the "Technical Bid") through the Platform, digitally signed by its legal representative. This Report would accurately and in detail describe the technical specifications and top characteristics of the receiver that will be built and delivered (including the additional services) that, in the opinion of the economic operator, allow to match the criteria of evaluation reported in a subsequent Article of this document.

In order to be admitted to the evaluation, the receiver offered must therefore have the minimum characteristics and technical specifications reported in the document **PON-OR1-01-SOW-01-Phase_3.pdf**: to obtain the reward score defined by the following described evaluation criteria, the Technical Report must illustrate,



with a maximum number of 80 (eighty) pages, body size 12 (excluding attachments / graphic schemes), what **improved performance** will the receiver achieve and what additional services will be offered. The Technical Report must contain a section that illustrates the **technological infrastructures**, systems and equipment that will be used in the receiver construction process, such as to allow INAF to assess the actual availability of infrastructure adequate for the high quality standard and the times required by INAF.

- 2T) Organization Chart and team CV.** The economic operator must provide an organization chart that illustrates which and how many human resources will be involved in the design and construction of the receiver, plus the curriculum vitae of the staff listed in the organization chart. This would allow the selection Board to evaluate whether the economic operator has a team with the characteristics of professional ability, experience, competence, efficiency and reliability, developed for the realization of receivers with characteristics similar to those required from INAF, necessary to perform the contract with the high quality standard and implementation times required by INAF.

The selection Board will carry out its evaluations and assign the scores on the basis of the information contained in documents 1T) and 2T). It is emphasized in the event of non-compliance with the declarations made in the Technical Report, the penalties provided for in this Disciplinary will be applied.

Economic

1E) Bid price requested for the overall supply

The economic operator must submit its **economic bid** (using the Platform's proper section) by means of the available form (file **PON-OR-01-TSP-01-Fase-3-All_2.docx**), which has to be properly signed by the legal representative of the economic operator. The economic bid must be of an amount lower than the value indicated as auction base by INAF, that is, lower than 2,300,000.00 euros.

The bid price must include all the items which have been listed at Article 5.1

2E) Additional information requested

The economic bid must include:

- the estimated cost for the manpower that will be used for the construction of the receiver and to guarantee any additional services which are requested by the contracting authority and/or included in the technical bid;
- company charges relating to compliance with health and safety provisions in the workplace.

Section 5 – Bids' evaluation

Art. 18 General remarks on bids evaluation

In the procedures for awarding contracts, if the contracting authority adopts the criterion of the most economically advantageous offer pursuant to art. 95 of the Code, due to the combined provisions of art. 77 paragraphs 1 and 2 of the Code, the technical and economical evaluation of the bids must be entrusted to a **selection Board**, composed by an odd (not more than five) number of expert members. These must have a specific knowledge in the technical and administrative areas to which the subject/goods to be procured belong.

Preliminary phase of bid's evaluation, the "**Administrative check**", will be carried out by the Procurement Officer in charge ("RUP"), supported by a Secretary. The session, or sessions, will take place on a date, time, place which will be communicated to the bidders via the **U-Buy** site. The electronic procedure guarantees full compliance with the EU principles of impartiality, publicity and transparency.

If necessary, this session will be shifted to a different date/time, provided that a notice will be sent to the bidders by means of the U-Buy platform.

Upon request by the RUP, the contracting authority will proceed to the exclusion of the bidder:

- if the documentation does not comply with the requirements of the Invitation Letter or of this Disciplinary;
- if the failure to meet one or more of the requirements is ascertained;
- if it is ascertained that the competitor has made false statements.

After the administrative check it is over, the selection Board will carry out the evaluation of the technical and economic bids.

Art. 19 Amendments to bidding documents

Pursuant to art. 83, paragraph 9 of the Code, the deficiencies of any formal element of the application, and in particular, the lack, the incompleteness and any other essential irregularity of the elements and of the single European tender document (ESPD), ***with the exclusion of those pertaining to the economic and the technical bids***, can be remedied.

The formal non-compliance can be remedied if it is not accompanied by a substantial deficiency of the requirement for which the omitted or irregularly produced documentation was finalized. The subsequent amendment of the document(s) will be allowed where it allows to certify the existence of pre-existing circumstances, i.e. requirements for participation and documents / elements accompanying the offer. The following rules apply:

- failure to meet the prescribed requirements for participation cannot be remedied by means of preliminary investigation and determines the exclusion from the tender procedure;
- the omitted or incomplete and irregular submission of declarations about the possession of the participation requirements and any other lack, incompleteness or irregularity of the ESPD and of the application, including the underwriting defect, can be remedied, with the exception of false declarations;

- the failed production of the declaration of reliance or the related contract may be subject to the present procedure only if the aforementioned elements were pre-existing and provable with documents of a certain date prior to the deadline for submission of the offer;
- failure to submit elements accompanying the bid (e.g. provisional guarantee and commitment of the guarantor) or conditions of tender participation (e.g. special collective mandate or commitment to grant collective mandate), both relevant in the tender phase, can be remedied, only if pre-existing and provable with documents of a certain date, **prior to the deadline for submission of the bid**;
- failure to submit statements and/or elements accompanying the bid, which are relevant in the executive phase, can be remedied.

For the purposes of the procedure, the contracting authority will assign the competitor a deadline, not exceeding ten days, in order for the necessary amendments to be made.

If the bidder produces declarations or documents that are not perfectly consistent with the request, the contracting authority may request further clarifications, setting a final deadline under penalty of exclusion.

In the event of unnecessary expiry of the deadline, the contracting authority might exclude the competitor from the procedure.

Outside the hypotheses referred to in Article 83, paragraph 9 of the Code, the contracting authority is entitled, if necessary, to invite competitors to provide clarifications regarding the content of the certificates, documents and declarations presented.

Art. 20 Appointment of the selection Board

Once the deadline for the submission of the Bids has expired and pursuant to paragraph 3 art. 77 of the Code (*The commissioners are chosen among the experts listed in the Register established at the ANAC referred to in Article 78*), the contracting authority will appoint (three or five) experts which will be the selection Board committed to evaluate the technical and economic bids.

The legislative framework just outlined above was indeed revised by the law decree 18 April 2019, n. 32 (Legislative Decree 32/2019), converted, with amendments, by Law 14 June 2019, n. 55 (L. 55/2019), published in the Official Gazette of the Italian Republic - General Series of 17 June 2019, n. 140, and entered into force from the 18 June 2019. Law 55/2019 has amended art. 1 of Legislative Decree 32/2019, which now reads "... until 31 December 2020, the following provisions of the public contracts code, pursuant to Legislative Decree 18 April 2016, n. 50 ... "letter c)" Article 77, paragraph 3, as regards the obligation to choose the commissioners among the experts registered in the Register established at the National Anti-Corruption Authority (ANAC) referred to in Article 78, without prejudice to the obligation to identify the commissioners according to the rules of competence and transparency, previously identified by each contracting station ". The provisions of Law 55/2019 are coordinated with paragraph 12 art. 216 of the Code, entitled "Transitional and coordination provisions", which reads "**Up to the adoption of the discipline regarding registration in the Register referred to in Article 78, the selection Board will continue to be appointed by the contracting authority**".

The selection Board will therefore be formed in compliance with the rules defined by the General Director of the National Institute for Astrophysics, Circular note prot. 5862/19 of 5



September 2019, concerning "Criteria and methods of appointment of the members of the Selection Boards in public contracts for the assignment of works and supplies of goods and services".

As far as compatible with the availability of staff, due to the concurrent tender procedures and the strict timing, the majority of the members of the selection Board will be different from the technical working group that operated during Phase 2.

Art. 21 Tender operations - Evaluation of technical and economic bids

All tender phases and the operations performed by the selection Board will be recorded in specific minutes. The selection Board, in a public session, will proceed to the "digital opening" of the technical bids and to verify that all the requested documentation has been uploaded.

In one or more reserved sessions, the Board will examine and evaluate the technical bids and assign the relative scores by applying the below listed criteria and formulas.

Pursuant to art. 64, paragraph 10, of the Code, the Board may solicit the bidders, through the contracting authority or the RUP, to clarify or improve the final bids. However, the clarifications and/or amendments of the information cannot have the effect of modifying the essential aspects of the bids or of the contract, if the amendments can break the general principles about competition and/or have a discriminatory effect.

Art. 22 Award criteria and scoring methods

The final evaluation of the offers will be the result of the discretionary evaluation and/or on the basis of tabular scores, in accordance with the criteria chosen by the contracting authority

	Maximum score (points)
Technical Bid	95
Economic Bid	5
TOTAL VALUE	100

Award criteria – Technical score, criteria and sub criteria

The score of the technical bid is attributed on the basis of the evaluation criteria and sub-criteria listed in the table below, with the relative distribution of the scores. **For a detailed description of the criteria reference is due to the PON-OR1-01-SOW-01-Phase_3.pdf document.** The evaluation and attribution of the score will be carried out even if only one bid will be submitted.

AC	Description	Reference ¹	Maximum score
AC ₁	Assessment of test and measurement plan	Art. 9	8
AC ₂	Number of feed (N)	Art. 10.1	14

¹ Reference document is PON-OR1-01-SOW-01-Phase_3.pdf



AC ₃	Minimum RF frequency (f_{\min})	Art. 10.4.1	4
AC ₄	Frequency range for Solar observations	Art. 10.4.2	1
AC ₅	Number of IF ports	Art. 10.5	3
AC ₆	Solar flare observing mode	Art. 10.6	1
AC ₇	Receiver noise temperature for “standard” observation	Art. 11.1	8
AC ₈	Receiver noise temperature for solar observing, “quite Sun”	Art. 11.1	1
AC ₉	Receiver noise temperature for solar observing, “Solar flare”	Art. 11.1	1
AC ₁₀	Image band suppression for “standard” observation	Art. 11.1	6
AC ₁₁	Image band suppression for solar observation in “solar flare” observing mode	Art. 11.1	1
AC ₁₂	Ratio between beam spacing and HPBW	Art. 11.3.1	8
AC ₁₃	Aperture efficiency	Art. 11.3.2	12
AC ₁₄	LO system with YTO-PLL or synthesizer	Art. 11.9	2
AC ₁₅	Receiver mechanical flexure modeling	Art. 11.15	1
AC ₁₆	Receiver mechanical flexure test	Art. 11.15	1
AC ₁₇	Extension of warranty beyond the terms of law	Art. 12.8	3
AC ₁₈	Spare parts in addition to the compulsory ones	Art. 12.10	4
AC ₁₉	Delivery timeline	Early delivery wrt M2 (20/12/21) and M3 (10/02/22)	2
AC ₂₀	General assessment of the technical offer	Discretionary criteria (accuracy, completeness and reliability of the proposal)	14

In order to homogenize the evaluation operations and improve the accountability of the motivation, the Board will proceed to express for each discretionary evaluation criterion a synthetic judgment corresponding to one of five predetermined judgments. Each of these, according to the below reported evaluation grid, will automatically correspond to a mathematical coefficient, to be used for the actual attribution of scores.

EVALUATION	COEFFICIENT
Level 5. Top level. The proposal presents a mix of elements, specifications and conditions such as to guarantee high quality standards in the pursuit of aims, objectives and expected results defined with the tender documents.	1



Level 4. More than adequate. The proposal has elements, specifications and conditions that guarantee the achievement of a level that is more than adequate for what concerns finality, objectives and expected results defined with the tender documents	0,75
Level 3. Partially Adequate. The proposal has elements, specifications and conditions that appear to be partially adequate to guarantee the pursuit of objectives, objectives and expected results defined with the tender documents	0,5
Level 2. Partially inadequate. The proposal has elements, specifications and conditions that appear partially inadequate to guarantee the pursuit of objectives, objectives and expected results defined with the tender documents.	0,3
Level 1. Totally inadequate. The proposal appears totally inadequate for the pursuit of objectives, objectives and expected results defined with the tender documents	0

The definitive coefficient of each evaluation criterion is given by the average of the coefficients assigned by each Board's member ("commissioner"). The score assigned for each criterion is given by the product between the final coefficient and the score of the specific criterion. The overall score is given by the sum of the scores assigned to each criterion.

Award criteria - Economic Bid – score attribution algorithm

The selection Board has a **5 points** score to assign to the bidder according to the bid price, which is obtained from the application of the discount offered with respect to the amount based on the tender. The economic score of the offer "a" will be calculated by associating a coefficient, which is bounded in the interval [0,1], $P(a)$, according to the following linear interpolation formula:

$$P(a) = \frac{R(a)}{R_{max}}$$

Where

- $R(a)$ is the discount value (percentage) for the bidder "a";
- R_{max} is the the maximum discount value (percentage) offered

The score for the tenderer's economic bid "a", $E(a)$, will be computed as $E(a) = 5 * P(a)$.

Method for computing the total score

The selection Board, once done the allocation of the coefficients to the qualitative elements (even if expressed in tabular form) and quantitative elements, will proceed, in relation to each offer, to the attribution of the scores for each single criterion according to the aggregative-compensator method. The calculation of the total technical and economic score to be attributed to the individual tenderers will therefore be made using the following formula:

$$C(a) = \sum_{i=1}^n [W_i * V_{(a)i}] + E(a)$$

$V_{(a)i}$ is the technical performance coefficient, variable in the interval [0,1], of the tenderer's bid "a" with respect to the i-th criterion (see previous criteria table). The calculation of $V_{(a)i}$ is done according to a table criterion.



W_i is the weight chosen by the contracting authority for each of the evaluation criteria included in the technical score's table.

$C(a)$ is the total score, sum of the overall technical and economic score, obtained by the competitor "a", which defines the final ranking used for the award proposal.

Art. 23 Tender operations – Evaluation of the offer / bid price anomaly

To the occurrence of the assumptions of the art. 97, paragraph 3, of the Code, and in any other case in which, on the basis of specific elements, the tender proposed as the successful bidder appears to have an abnormally low bid price, the contracting authority / RUP, using the technical support of the selection Board, assesses their congruity, reliability, sustainability and feasibility.

The RUP

- will proceed to verify the first best offer abnormally low. If this offer is found to be abnormal
- will proceed in the same way with the subsequent offers, until the best offer deemed non-anomalous is found
- has the right to proceed simultaneously with the verification of the adequacy of all abnormally low bids.

The RUP requests in writing the tenderer who submitted the offer that is considered potentially anomalous, the presentation, in writing, of the explanations, if necessary indicating the specific components of the offer deemed anomalous. To this end, it assigns the bidder deadline for the transmission of explanations not less than fifteen days from the receipt of the request sent by the contracting station.

The RUP examines in a confidential session the explanations provided by the bidder and, if it deems them insufficient to exclude the anomaly, it can request, also through face-to-face meeting, further clarifications, assigning a maximum deadline for feedback.

The RUP excludes, pursuant to articles 59, paragraph 3 letter. c) and 97, paragraphs 5 and 6 of the Code, the offers which, based on the examination of the elements supplied with the explanations are, on the whole, unreliable and proceeds to formulate the award proposal for the first non-anomalous offer present in the ranking.

Section 6 – Contract Award phase

Art. 24 Award - Checking the grounds for exclusion

Based on the outcome of the evaluation of the offers and after verification and approval of the award proposal submitted by the RUP, pursuant to articles 32, paragraph 5 and 33, paragraph 1 of the Code, the contracting authority awards the contract. It is understood that, if no offer is suitable or appropriate in relation to the object of the contract, the contracting authority reserves the right not to proceed with the awarding pursuant to art. 95, paragraph 12 of the Code.



Pursuant to art. 32 co. 7 of the Code, the awarding becomes effective only after verification of the inexistence of the grounds for exclusion provided for by art. 80. In the event of a negative outcome of the checks, the contracting authority will proceed with the revocation of the award, the report to the ANAC and the forfeiture of the provisional guarantee (if requested). The contracting authority will therefore award the second on the list, proceeding also to the verifications in the terms indicated above.

Art. 25 Award - Final guarantee – Performance Bond

Pursuant to art. 103 of the Code, at the time of stipulating the contract ***the contractor must compulsorily establish a guarantee of a minimum amount equal to 10% of the net allotment price*** but in any case related to the percentage discounted, pursuant to the aforementioned art. 103 of the Code. Failure to provide the guarantee will result in the forfeiture of the award. The guarantee will be given through a bank or insurance policy, issued by an authorized institution, attached to the Ministerial Decree n. 123 of 2004, in compliance with the clauses set out in the standard model 1.2 attached to the aforementioned decree, supplemented by the explicit waiver clause pursuant to Article 1957, paragraph 2, of the Civil Code, in accordance with Article 103 of the Code with a duration of not less than six months beyond the deadline for completing the activities. The guarantee is presented in original form to the contracting authority before the formal submission of the contract, even limited to the technical sheet. The bank guarantee or the insurance policy must therefore be unconditional and expressly provide for the renunciation of the benefit of the preventive enforcement of the principal debtor and its operation within 15 days by simple written request of the contracting authority.

The deposit is presented to guarantee the exact fulfilment of all the obligations of the contract and the compensation for damages deriving from the possible non-fulfilment of the obligations in the phases of carrying out the service.

The Contracting authority has the right to avail itself of the bail for the possible greater expense, sustained for the execution of the contract, in the case of termination of the contract arranged to the detriment of the Contractor; he also has the right to use the deposit to pay the amount owed by the Successful Bidder for non-compliance resulting from the non-observance of the rules and provisions of collective agreements, laws and regulations on protection, protection, insurance, assistance and security physical labour. The Contracting authority also has the right to use the security for the compensation of the penalty due in case of deviation of the company's time commitments with respect to the Technical Offer.

The Contracting authority has the right to ask the contractor for the reinstatement of the security if it has failed in whole or in part. The costs relating to the provision of the security and any reinstatement are the responsibility of the contractor. The forfeiture of the security does not prejudice the further actions to which the non-fulfilment of the obligations assumed by the contractor may give rise to.

Art. 26 Award - Signature of the Contract

Pursuant to art. 32, paragraph 8 of the Code the stipulation will take place within 60 days from the effective date of the award. Pursuant to art. 32 paragraph 9 of the Code, the contract cannot however be stipulated before thirty-five days from the sending of the last of the notices of the award decision.



Pursuant to art. 93, paragraphs 6 and 9 of the Code, the provisional guarantee will be automatically released to the successful tenderer at the time of signing the contract; to the other competitors, will be released promptly and in any case within thirty days from the communication of the successful award.

The contract will be signed electronically, by private deed, and is subject to the obligations regarding the traceability of financial flows pursuant to Law of 13 August 2010, n. 136.

In the cases referred to in art. 110 paragraph 1 of the Code, the contracting authority will progressively consult the parties that participated in the tender procedure, resulting from the relative ranking, in order to enter into a new contract for the assignment of the execution or completion of the supply.

The contractor will have to pay the following contractual costs:

- tax and fee charges, including public registration fees where due. The contract stamp fee is 16,00 (sixteen) euro every four standard pages;
- pursuant to art. 5 paragraph 2 of the Ministry of Infrastructure and Transport Decree, 2 December 2016, the costs for the mandatory publication of the notices and calls for tenders.

Art. 27 Award - Starting activities before signing the contract

Pursuant to art. 32 paragraph 8 of the Code, and without prejudice to the provisions of art. 32 paragraph 7 of the Code regarding the effectiveness of the award, due to the binding and strict timing of execution of the contract, **the contracting authority**, having assessed that the failure to immediately execute the service object of the tender would cause serious damage to the public interest, including the loss of EU funding, **believes that the conditions exist to start the execution of the contract urgently.**

Art. 28 Change in the bid price

The **price bid** is set as the maximum amount which can be paid by the contracting authority, and **cannot be increased**. That price will remain valid for not less than six months from the date of presentation of the offer.

Art. 29 Advance Payment

Pursuant to art. 35 paragraph 18 of the Code, the contracting authority will grant, within fifteen days of the actual start of the activities, an advance payment which is equal to the 20 percent of the economic bid (i.e. the value of the contract). In order to get this payment, the winner must preliminary submit to the contracting authority a bank or insurance guarantee for an amount equal to the advance, plus the legal interest rate applied to the period necessary for the recovery of the advance itself according to the schedule of the activities. The amount of the guarantee is gradually and automatically reduced during the activities. Regulations and limits about the guarantor are the same listed in the Article 13 of this document.

Section 7 – Contract execution

Art. 30 IPR - Intellectual property rights

With the presentation of the offer, the bidder relieves the contracting authority of any responsibility and possible consequences deriving from the infringement of industrial and / or intellectual property rights committed with the execution of the contract.

The contractor must supply goods and services on which there are no private rights, by way of example and absolutely not exhaustive, rights to designs or models, patents or trademarks, trade names.

The contracting authority, without any further charges, is therefore recognized the set of rights of economic use and the intellectual property rights that the laws in force recognize to the author and to the owner of the copyright, however inherent, consequential or connected to the object of this tender procedure.

The system that is the subject of the supply will also remain the exclusive property of the INAF, for which the contractor cannot claim rights, for parts or for the whole of the goods supplied. The contractor also guarantees that the goods supplied do not contain hardware and / or software elements subject to exclusive rights and that they entail the establishment of a technical lock-in for the contracting authority and a consequent future constraint for its ordinary and extraordinary maintenance.

Art. 31 Use of pictures, logos and images by the contractor

It is **expressly forbidden** to the contractor, single or associated according to the different methods provided for by the Code, including its subcontractors, the use of images and / or videos, with references to the contract awarded, for advertising purposes and / or marketing.

It is expressly forbidden, remaining excluded the possible obligations connected with the safety signs or other constraints imposed by normative disposals, to exhibit, by way of non-exhaustive example, panels, banners, banners, labels, on elements, parts, buildings, facilities owned by INAF subject of the contract to be awarded.

If the contractor wants to include images and / or photos and / or buildings and / or spaces belonging to INAF in his / her portfolio of activities that have as subject the images and / or buildings and / or spaces, he / she must request for use, also after the regular execution of the contract, express authorization to the contracting authority.

Art. 32 Payments – General information

The contracting authority will make the payment (payments) of the contractual value in accordance with the adopted general timetable. Payment(s) of the partial amounts will be made according to the milestone / *in itinere* verification of the expected construction progress of the receiver.

Actual payment will be carried out only after the authorization of the Director of the execution of the contract as confirmed by the Officer in charge of the tender procedure. The

supplier may issue the invoice only upon explicit authorization by the Director of the execution of the contract or of the RUP.

If the supplier is a Temporary Grouping of Companies, the contracting authority, the billing is carried out, for the entire amount due on account and in full, by the agent alone, against whom the commitment will be taken relative expense.

Pursuant to Legislative Decree 192/2012 the payment will be executed provided that the supplier has carried out regular payment of social and security taxes. .

Since the contracting authority is one of the public administrations subject to split payment, the contractor based in Italy must issue an invoice with the words "Operation subject to split payment with VAT not collected by the transferor pursuant to Article 17- ter of Presidential Decree 633/1972 "and will collect only the taxable amount, while VAT will be paid to the Treasury by the same contracting authority, instead of to the supplier.

Art. 33 Payments – Sequence

Reference is due to the document PON-OR1-01-SOW-01-Phase_3.pdf, Article 12.

Art. 34 Disputes - Defaults - Penalties

General - Penalties for breaches

If the contractor fails to comply with the obligations set forth in the SOW/Technical Specifications, will incur in penalties in the measure specified below, without prejudice, in any case, to the indemnification of further damage (Article 1382 of the Italian Civil Code.

Findings – Communications

Penalties will be applied and the relative amounts will be debited in accounting with the simple ascertainment of the RUP or its appointee, in the presence of the contractor or his appointee. If the Successful Bidder or his representative is not present, the notice of the RUP will still be valid.

Charge of penalties

All the penalties listed below are accounted for as a deduction on the payment immediately following the event occurrence.

For each discrepancy in the execution of the contract with respect to the technical offer (a non-compliance of one among the specification settings) the contracting authority will apply a penalty of 0.2% (0.2 percent) of the awarded contract amount. Upon application of the aforementioned penalty, a formal warning will be issued by the RUP; whenever in the event of non-fulfilment, the contracting authority will, in the absence of a plausible justification, proceed to the dispute in writing of the detected irregularity/irregularities.

The total amount of the penalties cannot exceed 10% (ten percent) of the awarded contract amount; if the discrepancies lead to a penalty for an amount exceeding the aforementioned percentage, the article regarding the termination of the contract applies.

In the event of reiteration of the failure to comply with the aforementioned parameters for more than three times, the Contracting authority reserves the right to terminate the contract.

Application of the penalties does not affect the compensation for any damages or additional charges incurred by the contracting authority due to delays.

The other cases of termination of the contract envisaged by current legislation, not covered here, remain unaffected.

Penalties are cumulative.

Payments to subcontractors

If the contractor entrusts subcontracted services and fails to transmit to the contracting authority the documentation of the payment made to the subcontractors within 20 days, a penalty of 100 € (one hundred euros) will be applied for each day and each subcontractor that will be subtracted from the due residual amount.

Art. 35 Withdrawal by the Administration for reasons of public interest

The contracting authority may unilaterally withdraw, for reasons of public interest, from the contract that will be stipulated, even if the activities have started. In this case, notwithstanding the art. 1671 of the Civil Code, the contractor will have the right to receive only the fraction of the awarded contract amount related to the services performed up to the moment of the communication of the withdrawal. The communication of the withdrawal will be formalized by registered letter with acknowledgment of receipt by observing a notice of at least thirty calendar days. In such an event, the contracting authority will give up any claim of compensation or reimbursement.

Art. 36 Bankruptcy of the contractor

In case of bankruptcy of the contractor, the contracting authority may refer and use the procedure envisaged by the art. 110 of the Code.

Art. 37 Termination of the contract

Automatic resolution

The Contracting authority may proceed to declare the automatic termination of the contract pursuant to art. 1456 of the Civil Code by communication via electronic certified mail PEC (or corporate e-mail) without formal notice or without the intervention of a Judge, and without prejudice, however, to the penalties to be imposed and all liability arising for the company, also if only one of the following cases occurs:

1. non-correspondence of the services to the technical specifications required by the tender or improved with the technical offer presented by the contractor;
2. for repeated non-compliance and contractual violations;
3. in cases of fraud, gross negligence in the performance of contractual obligations by the company or failure to reinstate the performance bond, if required;

4. in the event of termination of the company, cessation of activity, arrangement with creditors, bankruptcy or moratorium status;
5. in the event of death of the owner of the contractor, when the consideration of the contracting authority is a qualifying reason for the contract award;
6. in the event of death of some of the shareholders in companies set up in a de-facto or collective name; or of one of the general partners in limited partnerships, when in the judgment of the contracting authority is a qualifying reason for the contract award;
7. in case the contractor merges with another economic operator after contract award, when the contracting authority does not want to continue its contractual relationship with the new economic operator;
8. non-fulfilment of the provisions of the RUP for the correct execution of activities within the times and methods described in the tender documents;
9. non-compliance with the law on accident prevention, occupational safety, mandatory insurance for operators, failure to comply with safety regulations in the workplace or product safety regulations;
10. subcontracting or even partial transfer of the contract out of the cases not expressly permitted by the present specification or by the current legislation;

Irregularities - Delays

Any delays in the contract, with respect to the final timeline exceeding 30 (thirty) consecutive natural days will determine the termination of the contract, at the discretion of the contracting authority and without obligation of further motivation, pursuant to article 110 of the Code.

The termination of the contract will be applied after sending the formal notice to the contractor following a face-to-face meeting.

Art. 38 Execution in damage

Pursuant to art. 1456 of the Civil Code, the contracting authority has the right to terminate the contract by means of a registered letter without need of formal notice and without the intervention of a Judge.

Effects and consequences

With the termination of the contract, the Contracting authority is entitled to conclude the contract with third parties for the execution in damage of the defaulting contractor.

If the contractor is in breach of any provision of the contract it will be notified, according to the agreed procedure. In this case, the defaulting contractor will be charged all the additional expenses incurred by the contracting authority by withdrawing that additional amount from the performance bond.

The execution in damage does not exempt the defaulting contractor from the civil responsibilities in which it incurs according to the law and according to the signed contract.

Art. 39 Express termination clause

Pursuant to art. 1456 cc, it is expressly agreed, and will be stipulated in this sense, that the contract will be terminated, on a simple unilateral act by the contracting authority, in



the event that the contract is delivered in advance and subsequently communicated by a Public Administration certifying the existence of a reason for exclusion pursuant to art. 80 of the Code. In this case the contractor will have the right to receive only the fraction of the awarded contract amount related to the services performed up to the moment of the communication of the withdrawal.

Art. 40 Definition of disputes – Place of jurisdiction / Competent Court

Disputes that may arise in connection with the interpretation and execution of the contract will be devolved to the ordinary judicial authority. In the event of a dispute, if the contractor wishes to take proceedings against INAF or if INAF wishes to take proceedings against the contractor, it should do so under the laws of Italy and through the Italian Court of Cagliari.

Art. 41 Appeals procedures

Any appeals in Court may be submitted, within 30 (thirty) days from the day in which the deed was fully known, to the Regional Administrative Court of Sardinia, via Sassari 17, I-090124 Cagliari, tel. +39 070 679751, according to the terms and conditions provided for the exclusion or award.

Art. 42 Confidentiality of information – Processing of personal data

1. Pursuant to article 13 of the "Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 concerning the protection of physical persons with regard to the processing of personal data, as well as the free circulation of such data, and repealing Directive 95/46 / EC ", also known as the " General Regulation on Data Protection ", as a data controller, the National Institute for Astrophysics informs that the processing of data personal data provided by the representatives and representatives of the Companies that will apply for participation in this tender procedure, or in any case acquired for this purpose by the Institute, is aimed solely at the completion of the tender activities and will be carried out by the persons in charge of the procedure, also by the selection committee, at the National Institute of Astrophysics. In relation to the aforementioned purposes, the provision of such data is necessary to verify the participation requirements and their failure to indicate it may preclude such verification.
2. The processing will take place with the use of computerized procedures, in the ways and within the limits necessary to pursue the aforementioned purposes, also in the event of any communication to third parties. The data may also be processed through the use of the "Google Drive" electronic platform of the company Google LLC, which, as a provider of IT services for the benefit of the National Institute for Astrophysics, has been identified as data controller, pursuant to Article 28 of the General Data Protection Regulation.
3. Data will be kept for the time strictly necessary for the completion of the tender activities, for the duration of the contractual relationship and, subsequently, for the time in which the National Institute of Astrophysics is subject to conservation obligations. for tax, contributory or other purposes provided for by law or regulation.



4. To the interested parties are recognized the rights referred to in articles 15 and following of the "General Regulation on Data Protection" and, in particular, the right to access their personal data, to request their correction, deletion, limitation of the treatment, as well as to oppose the processing, which may be exercised by sending a request to the "National Institute of Astrophysics", based in Rome, in Viale del Parco Mellini number 84, Postal Code 00136, in the manner defined in next paragraph.
5. Rights listed above may take place, without any formality, by sending a request to the Head of Data Protection of the National Institute of Astrophysics:
 - a) by registered letter with acknowledgment of receipt to the address: Viale del Parco Mellini, 84 - 00136 Rome;
 - b) by e-mail sent to the following address: rpd@inaf.it;
 - c) by certified e-mail sent to the following address: rpd-inaf@legalmail.it.
6. People who consider that the processing of personal data referring to them is in violation of the provisions of the Regulations have the right to lodge a complaint with the Guarantor for the protection of personal data, as envisaged by art. 77 of the same Regulation, or to take the appropriate judicial seats (art. 79 of the Regulation).