

Rome, 7TH December 2016

Ref. no. 29478/2016

Sent by e-mail

FAO

**SOFTWARE ENGINEERING OF AMERICA
INC.**

1230 Hempstead Turnpike

Franklin Square

11010 New York

E mail: jday@seasoft.com

Subject:

Negotiated procedure pursuant to paragraph 2 letter b) of art. 63 of Italian Legislative Decree no. 50/2016, for the purposes of the conclusion of a contract for "SOFTWARE MAINTENANCE OF PRODUCT \$AVRS-YEAR 2017 FOR SOGEI".

CIG: ZBD1C61F1E

Request for Proposals.

This Company has declared, by means of notice dated January 27, 2016 that it has exclusive rights for the following products \$AVRS.

By means of this Request for Proposals, Consip S.p.A. intends to award the Contract – the subject of which is "SOFTWARE MAINTENANCE OF PRODUCT \$AVRS-YEAR 2017 FOR SOGEI" detailed in annex "Bozza contratto 2017" and in annex "Capitolato Tecnico" to this Request for Proposals.

By signing this Contract, the successful company is undertaking to provide the service(s) and or goods referred to above. The Contract will be entered into by Sogei S.p.A.

The Contract will not contain an arbitration clause.

In accordance with art. 31 of Italian Legislative Decree 50 of 18 April 2016, Ms Floriana Milisenda is appointed as the person responsible for the procedure.

Sogei reserves the right to negotiate the payment terms with the successful bidder, pursuant to and in accordance with paragraph 4 of art. 4 of Italian Legislative Decree no. 231/02 as subsequently amended and supplemented. You are kindly invited to take this into consideration when formulating the bid.

Consip S.p.A., single-member joint stock company

Registered Office: Via Isonzo 19/E – 00198 Rome

T +39 06 85449.1 – F +39 06 85449 281 – www.consip.it

Fully paid-in share capital of €5,200,000.00 Tax Code and VAT no. 05359681003

Listed on the Companies' Register at the Chamber of Commerce, Industry, Trades and Agriculture of Rome under no. 05359681003 - REA (Economic and Administrative Index) no. 878407



The Supplier may not claim any right to other compensation or adjustment or increase of the contractual consideration, except as provided for by art. 106 of Legislative Decree 50/2016 for periodic and continuous contracts.

* * * *

In view of the considerations above, the company is therefore required to send Consip S.p.A., **by December 17, 2016**, its Bid Declaration, complete with all the documentation indicated hereinafter to the **e-mail address: floriana.milisenda@consip.it**.

Please note that, for the sending of the documentation indicated hereinafter, necessary for participating in the procedure, a certified e-mail address attributable to the economic operator must be used.

In particular, the competing company must insert the following data into the subject line of the e-mail: ***"Initiative no. 173/16- Purchase request no. 47180 – CIG ZBD1C61F1E"***

The e-mail containing the bid must contain the following:

a) **Annex 1 - ESPD – European Single Procurement Document of the competing company** drafted in accordance with the form attached to this Request for Proposals digitally signed by the legal representative of the competing company vested with the powers necessary to commit the company in this procedure.

The ESPD must be completed in accordance with the Guidelines issued by the Ministry of Infrastructure and Transport (MIT), as well as any guidelines adopted by the ANAC or, potentially, the following instructions.

By means of this document, the competing company must, among other things, issue a self-declaration, pursuant to Italian Presidential Decree no. 445/2000, declaring:

- registration in the Business/Companies' Register and the requirements laid down in art. 80 of Italian Legislative Decree no. 50/2016,
- the non-applicability of the grounds for incompatibility stipulated in par. 16-ter of art. 53 of Italian Legislative Decree no. 165/2001 vis-à-vis the contracting authority (Consip S.p.A.);

As regards the (anti-mafia) hypotheses set forth in paragraph 2 of art. 80, the reference to the parties provided for by Italian Legislative Decree no. 159/2011 must be indicated in the relevant box in the ESPD (Part III, section D).

The grounds for exclusion pursuant to art. 80 of Italian Legislative Decree no. 50/2016 do not apply to companies or businesses subject to seizure or confiscation in accordance with article 12-sexies of Italian Legislative Decree no. 306/1992, converted, with amendments, by Law no. 356/1992 or arts. 20 and 24 of Italian Legislative Decree no. 159/2011, and entrusted to a custodian or court-appointed receiver or liquidator, solely for the period preceding the aforementioned award.

- All the declarations concerning the absence of the grounds for exclusion, in accordance with paragraph 1 of art. 80 of Italian Legislative Decree no. 50/2016, must be submitted by the legal representative of the competing company or a person with suitable powers for all the parties holding the offices in accordance with paragraph 3 of art. 80 of Italian Legislative Decree no. 50/2016 (i.e. the owner or technical director, if a single-member company; the partners or technical director, if a partnership; the managing partners or

Procedure in accordance with art. 63,2,b) for the purposes of the conclusion of a contract for SOFTWARE MAINTENANCE OF PRODUCT \$AVRS-YEAR 2017 FOR SOGEI .



technical director, if a limited partnership; the members of the board of directors vested with powers of legal representation, management or supervision or parties vested with powers of representation, management or control, the technical director or the sole natural person shareholder, or the majority natural person shareholder in the case of a company with fewer than four shareholders, if another type of company or consortium, persons who left office during the year preceding the date of publication of the call for tenders and, in any event until the submission of the bid).

- Please note that, in the event of sale/lease of a business or a business unit, incorporation or merger during the year before the date of publication of the call for tenders and, in any event, until the date of submission of the bid, the declarations set forth in art. 80 of Italian Legislative Decree no. 50/2016 must also be issued with reference to the parties indicated by the said article who have been working at the assignor/lessor, incorporated or merged companies during the year preceding the publication of the call for tenders and, in any event, until the date of submission of the bid and those who left office during the same period, who must be considered “parties who have left office” by the competing company.
- Lastly, please note that, in case of a company with only two natural person shareholders, each of whom holds fifty per cent (50%) of the company share capital, the declarations referred to in art. 80 of Italian Legislative Decree no. 50/2016 must be made by each of them.

In the event that the ESPD contains declarations of convictions or conflicts of interest or situations concerning resolutions or other circumstances likely to affect the integrity or reliability of the competing company (pursuant to paragraphs 1 and 5 of art. 80 of Italian Legislative Decree no. 50/2016, based on the information issued in the ANAC guidelines) and that self-cleaning measure have been adopted, all the relevant documents (including any convictions) must be submitted to enable the contracting authority, Consip, to carry out a suitable assessment.

In addition to the above, the Competing Company must submit:

- b) the **Annex 2. - “Procurement Procedure Participation Document”** in accordance with the attached form.

The participation document must be signed digitally by the legal representative of the competing company vested with the powers necessary to commit the company in this procedure.

The document contains declarations regarding the data of the party who signs the declaration, data concerning the competing company and the form of participation, acceptance of the procedure process and any further information provided therein, including that relating to:

- the non-applicability of the grounds for incompatibility pursuant to par. 16-ter of art. 53 of Italian Legislative Decree no. 165/2001 vis-à-vis the Procurer;
- knowledge of the **“Integrity Agreement” (annex 3)** attached to this Request for Proposals and a commitment to sign it when entering into the contract;
- c) a copy of the special power of attorney in case of a declaration made by a Special Attorney, whose name and powers are not filed with the Business/Companies’ Register;

- d) the **Bid declaration (annex 4)** which, in accordance with the facsimile attached to this Request for Proposals, must specify the maximum overall contractual consideration and all fixed and variable payments, which must not exceed the maximum amount of **EUR 26.000** (twenty-six thousand/00).

This must be submitted in electronic format, complete with the digital signature of the legal



representative of the competing company, or, in any event, a party vested with proven signatory powers;

The Bid Declaration must also contain a specific indication of the company's costs associated with compliance with the provisions governing health and safety in the workplace for the performance of this contract, in accordance with paragraph 10 of art. 95 of Italian Legislative Decree no. 50 of 18 April 2016.

e) **Declaration attesting the identification data of the current account(s) dedicated (annex 5)** even if not exclusively, to this contract, as well as the particulars (name and surname) and Tax Code of the persons appointed to conduct transactions on the said account(s), in accordance with the provisions of paragraph 7 of art. 3 of Law no. 136/2010.

More specifically, in this case, Consip shall allocate a time limit to the competing company, no greater than ten days, for the issuing, completion or regularisation of the said declarations, indicating the content and the parties which must issue them, at the same time as a document proving payment of the penalty (under pain of exclusion). In the event that the competing company should fail to produce what is requested within the allotted time frame, Consip will exclude it. Moreover, in case of multiple violations, a single penalty will be applied only in cases where the said violations concern the conduct of the same company.

In accordance with paragraph 9 of art. 83 of Italian Legislative Decree no. 50/2016 as subsequently amended and supplemented, should the administrative documentation be missing, incomplete or irregular, excluding that which refers <potentially to the technical and> economic offer, the competing company will be invited to complete or submit what was requested within a final deadline no greater than ten days, upon application of the financial penalty of EUR 26/00 as well as the consequences stipulated in par. 9 of art. 83.

Please note that the competing company must submit, together with the documentation necessary for the regularisation, the documentation certifying the payment.

Failure to pay within the allotted time limit will result in exclusion from the procurement procedure.

In the event that the competing company should fail to produce what is requested within the allotted time frame, Consip will exclude it and will not apply any penalty.

In case of multiple incomplete/irregular/missing declarations, a single penalty will be applied only in cases where the said violations concern the conduct of the same company.

In case of formal irregularities, or missing or incomplete non-essential declarations, the contracting authority will ask the competing company to regularise them within ten days, but will not apply any penalty.

Should this deadline elapse without the due regularisation, the competing company will be excluded from the procedure.

The provisions of art. 35 of Italian Legislative Decree no. 90 of 24 June 2014, as converted by Law no. 114 of 11 August 2014, shall apply.

Yours sincerely,

Procedure in accordance with art. 63,2,b) for the purposes of the conclusion of a contract for SOFTWARE MAINTENANCE OF PRODUCT \$AVRS-YEAR 2017 FOR SOGEI .



Mr Gaetano Santucci
ICT Sourcing Department
(the Head of Department)
Digital signature

Annexes:

Bozza contratto 2017

Capitolato Tecnico

Annex 1 – ESPD

Annex 2 – Participation document

Annex 3 – Integrity agreement

Annex 4 – Facsimile of Bid Declaration

Annex 5 – Declaration regarding the traceability of financial flows