

Rome, 17 July, 2018

Ref. no. 23008/2018

Sent by e-mail

FAO

**Alkacon Software GmbH**

**An der Wachsfabrik, 13**

**50996 - Cologne**

**GERMANY**

**E mail: m.alger@alkacon.com**

**Subject: Direct award pursuant to art. 36, paragraph 2, letter a) of Legislative Decree no. 50/2016 aimed at stipulating a contract for “Product Maintenance Service Software OPENCMS” - RDA 48546 - SMART CIG: ZF024603EE**

By means of an Agreement concluded on 12 April 2013, Sogei S.p.A. has entrusted Consip S.p.A. to perform the activities related to the procurement process for the acquisition of goods and services, also including any ancillary and instrumental activities.

Consip proceeds for the present acquisition to the assignment to Alkacon Software GmbH & Co. KG, “Alkacon Software GmbH & Co. KG is a software manufacturer and an exclusive economic operator for the marketing, provision of maintenance and assistance services in the member countries of the European Union.”

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This proposal is an offer from Alkacon Software for an OpenCms commercial support option, combined with an update subscription extension for an additional software package for OpenCms, called the Alkacon OpenCms Enterprise Extensions (OCEE).

The following support option / update subscription has been requested by the customer:

- 12 Months of Alkacon OpenCms Premium Support [Alkacon item SUP-PREMIUM-12]
- Alkacon OCEE Update subscription extension for 12 months [Alkacon Item OCEE-UP12]

The OCEE license terms and the terms of the selected support option are described in full detail in the document titled “Alkacon OpenCms Products & Services”, which is available from the Alkacon website.

**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](http://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

Document classification: Consip Public

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The duration of the service, June 26, 2018 to June 25, 2019.

The software products referred to in letter a) above, must be accompanied by the following documentation:

- Relevant technical documentation and user manuals, drafted primarily in Italian;
- Exclusive non-transferable and perpetual licences granted to the Contracting Authority.

Furthermore, the duration of time-bound licences for the provided software will be calculated from the date of signature, expiring after 12 (from June - 26 - 2018 to June - 25 - 2019.) months starting from the "Delivery acceptance date" and at least until the expiry of the service provision period referred in the previous points. Licenses for installed software that are not time-bound are understood to be provided in perpetuity.

By signing the Contract, the successful company is undertaking to provide the good(s) and/or service(s) 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 no. 50 of 18 April 2016, Mr. Massimo Tosques is appointed as the person responsible for the procedure.

Please note that Art. 106 co. 11 of Legislative Decree no. 50/2016 will be applied, so that the duration of the contract may be extended for the time strictly necessary to complete the procedures necessary for the identification of a new supplier. In such a case, the supplier will be required to carry out the performance of the contract at the same prices, terms and conditions stipulated in the contract. Amendments are only possible if they favour the contracting authority.

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In light of the considerations above, the company is therefore required to send to Consip S.p.A., 26/07/2018, its Bid Declaration, complete with all the documentation indicated hereinafter to the e-mail address: [pietro.corbo@consip.it](mailto:pietro.corbo@consip.it).

Please note that, in order to send the documentation indicated hereinafter, which is mandatory in order to participate in the procedure, a certified e-mail address attributable to the supplier has to be used.

In particular, the competing company must insert the following data into the subject line of the e-mail:

***"Initiative no. 198/2017- Purchase request no. 48546 – attn. Pietro Corbo"***.



The e-mail containing the proposal must include the following:

- a) **mandatory declaration in accordance with the facsimile in Annex 1**, i.e. a document/declaration to be issued in accordance with Italian Presidential Decree no. 445/2000, containing the certification of possession of the requirements established by art. 80 of Italian Legislative Decree no. 50/2016, the absence of the grounds for prohibition laid down in paragraph 16-ter of art. 53 of Italian Legislative Decree no. 165/2001, as well as the further declarations included in the facsimile in Annex 1 to this Request of Proposal (to this end, the said facsimile must be used). The aforementioned declaration 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>.
- b) a copy of the power of attorney in the case of a statement made by a person with power of attorney whose name and powers are not reported at the Chamber of Commerce
- c) the **Bid declaration**, which, in accordance with the facsimile attached to this Request for Proposal, must specify the maximum overall contractual amount and all fixed and variable payments, which must not exceed the maximum amount of EUR 4.950,00 (four thousand nine hundred and fifty /00) .

This must be submitted in electronic format, complete with the digital signature of the legal representative of the company, or, in any event, a party vested with proven power of attorney;

1938 cod. civ., arising from the Contract.

The amount of the final guarantee is reduced by fifty percent for competitors who are issued by accredited bodies, in accordance with European standards UNI CEI EN 45000 and UNI CEI EN ISO / IEC 17000 series of system certification for quality conforming to the European standards of the EN ISO 9000 series, ie the declaration of the presence of significant and related system elements.

The 50 percent reduction, which cannot be cumulated with the one foreseen for the certification of the quality system in accordance with the European standards of the UNI CEI ISO 9000 series, also applies to micro, small and medium-sized enterprises and groupings of suppliers, as well as ordinary consortia constituted exclusively by micro-enterprises, small and medium-sized enterprises.

The reductions in Art. 93 paragraph 7 of Legislative Decree no. 50/2016.

The text of the final guarantee must conform to what is stated in the Annex "Facsimile Final Assurance".>

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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.

\* \* \*



## DATA PROCESSING

Pursuant to art. 13 of Legislative Decree no. 196/2003 "Code regarding the protection of personal data" (hereinafter also the "Privacy Code") and pursuant to art. 13 of the EU Regulation n. 2016/679 on the protection of individuals with regard to the processing of personal data, as well as the free circulation of such data (hereinafter also "EU Regulation" or "GDPR"), Consip S.p.A. provides the following information on the processing of personal data.

### **Purpose of the treatment**

In relation to the activities carried of respective competence carried out by Consip and the Client, it should be noted that:

- the data provided by the competitors are collected and processed by Consip S.p.A. to verify the existence of the requisites required by law for the purposes of participation in the tender and, in particular, for the purpose of verifying the administrative and technical-economic capacities of these parties, as well as for the purpose of awarding, in fulfillment of specific legal obligations deriving from the legislation on public procurement and contracts;
- the data provided by the winning bidder are acquired by Consip and transferred to the Client for the purposes of drafting and signing the Contract, for the fulfillment of the legal obligations connected to it, as well as for the management and economic and administrative execution of the contract itself.

All the data acquired by Consip S.p.A. and by the Client may also be processed for study and statistical purposes in compliance with and the rules laid down in the EU Regulation.

### **Nature of the conferment**

The Competitor is obliged to provide the data to Consip S.p.A., due to the legal obligations deriving from the legislation on public procurement and contracts. The refusal to provide the data requested by Consip S.p.A. could determine, depending on the case, the impossibility to admit the competitor to the participation in the competition or its exclusion from this or the expiry of the award, as well as the impossibility to stipulate the contract. The competitor is aware that the data supplied to Consip will be communicated, in the event of an award, to the Customer for the purposes related to the signing and execution of the contract and for the related legal obligations.

### **Sensitive and judicial data**

As a rule, the data provided by the competitors and by the contractor are not classified as "sensitive" according to article 4, paragraph 1, letter d) of the Privacy Code, nor in the "particular categories of personal data" of which art. 9 EU regulation. The processing of "judicial" data referred to in Article 4, paragraph 1, letter e) of the Privacy Code and "personal data relating to criminal convictions and offenses" pursuant to art. 10 EU Regulation, on the other hand, is limited to the sole purpose of evaluating the possession of the requisites and qualities required by the current applicable regulations for the purposes of participation in the tender and award.



### **Methods of data processing**

Data processing will be carried out by Consip S.p.A and by the Client (Sogei S.p.A.) in order to guarantee the necessary security and confidentiality and can be implemented using manual, paper, IT and telematic means suitable to process the data in compliance with the security measures set out in the Privacy Code and from the EU Regulation.

### **Scope of communication and dissemination of data**

The data may be:

- treated by the personnel of Consip S.p.A. that takes care of the bidding process, from the staff of other offices of the same company that carry out activities related to it, as well as from the offices of the same company that deal with activities for study and statistical purposes;
- communicated to independent collaborators, professionals, consultants, who provide advice or assistance to Consip S.p.A. with regard to the bidding process, also for possible legal protection, or for sector studies or statistical purposes;
- communicated to any external parties, who are part of the awarding and testing commissions that will be established from time to time;
- communicated, subject to the conditions, to the Ministry of Economy and Finance or to another Public Administration for which Consip S.p.A. and the Client perform activities pursuant to the by-laws, to the Agency for Digital Italy , with regard to the data provided by the winning bidder;

The name of the competitor awarded the tender and the contract award price may be disseminated via the websites **www.consip.it**, **www.acquistinretepa.it** and **www.mef.gov.it**. In addition, the information and data concerning the participation of the Competitor in the tender, within the limits and in application of the principles and provisions on public data and the re-use of public sector information (Legislative Decree 36/2006 and art. 52 and 68, paragraph 3, of Legislative Decree 82/2005 and subsequent amendments), may be used by the MEF and by Consip, each for its own responsibility, also in aggregate form, to be made available to other public administrations, natural and legal persons, including open data. In addition to the above, in compliance with the legal obligations that impose administrative transparency (Article 1, paragraph 16, letter b, and paragraph 32 of Law 190/2012, article 35 of Legislative Decree No. 33/2012; as well as Article 29 of Legislative Decree No. 50/2016), the competitor / contracting party acknowledges and agrees that the data and documentation required by law to publish, be published and disseminated, using the conditions, via the website **www.consip.it**, section "Transparent Company" and the website of the Client **www.sogei.it** for the activities of their respective competences.

In fulfillment of legal obligations, the data could be transferred to an international organization.

### **Data retention period**

The data retention period is 10 years from the definitive awarding to the contracting authority and from the conclusion of the contract execution for the Customer>. Furthermore, the data may be kept, even in



aggregate form, for study or statistical purposes in compliance with articles 89 of the EU Regulation and 110 bis of the Privacy Code.

#### **Automated decision-making process**

There is no automated decision making process.

#### **Rights of the interested party**

"Interested" means any natural person whose data are transferred from the competitor to the contracting authority and through it to the Customer.

The interested party is granted the rights referred to in Article 7 of the Privacy Code and referred to in articles. from 15 to 22 of the EU Regulation. In particular, the interested party has: i) the right to obtain, at any time, confirmation that personal data concerning him is being processed; ii) the right of access to personal data to know: the purpose of the processing, the category of data processed, the recipients or categories of recipients to whom the data are or will be communicated, the retention period of the same or the criteria used to determine this period; iii) the right to request, and in the case to obtain, the correction and, where possible, the cancellation or, again, the limitation of the treatment and, finally, can oppose, for legitimate reasons, to their treatment; iv) the right to data portability that will be applicable within the limits of art. 20 of the EU regulation.

If in the event of exercise of the right of access and related rights provided for by art. 7 of the Privacy Code or by the articles from 15 to 22 of the EU Regulation, the response to the request does not arrive within the indicated time and / or is not satisfactory, the interested party can assert his rights before the judicial authority or by contacting the Guarantor for the protection of personal data through specific complaint, appeal or report.

Data controllers are, for the activities of their respective competences, Consip S.p.A. and Sogei S.p.a., with registered office respectively

- in Rome, Via Isonzo n. 19 / D-E e

- in Rome, Via Mario Carucci, 99 - 00143

For the exercise of the rights referred to in art. 7 of the Privacy Code and referred to in Articles from 15 to 23 of the EU Regulation and to request an updated list of data processors, companies can be contacted at the following addresses:

- Consip S.p.A.: [esercizio.diritti.privacy@consip.it](mailto:esercizio.diritti.privacy@consip.it)
- Sogei S.p.a.: SOGEI S.p.a. - "Director of Security, Safety and Industrial Relations" - Via Mario Carucci, 99 - 00143 Rome.

#### **Consent to the processing of personal data**

Once the above information has been acquired, with the submission of the offer and / or the signing of the Contract, the legal representative pro tempore of the Competitor / bidder acknowledges and consents expressly to the treatment as defined above of the personal data concerning him.



The competitor undertakes to comply with the obligations of disclosure and consent, where necessary, to natural persons (Interested parties) for whom personal data are provided in the custody procedure, with regard to the processing of their personal data by of Consip SpA or of the Customer for the purposes described above

\* \* \*

Yours sincerely,

Mr Stefano Tremolanti  
Goods and Services Sourcing Department  
(the Head of Department)  
Digital signature

**Annexes:**

Annex 1 - Facsimile of declaration

Annex 2 - Contract scheme/Contractual Addendum

Annex 3 - Bid declaration facsimile

Annex 4 - Supplier Data sheet and declaration on the traceability of financial flows