

National Quantum Science and Technology Institute
Missione 4, Componente 2, Investimento 1.3 – Spoke 5
Codice progetto MUR PE00000023 – CUP UNINA E63C22002190007



OPEN PROCEDURE WITH APPLICATION OF THE CRITERION OF THE MOST ECONOMICALLY ADVANTAGEOUS OFFER IDENTIFIED ON THE BASIS OF THE BEST QUALITY/PRICE RATIO, PURSUANT TO ARTICLES 71 AND 108 OF LEGISLATIVE DECREE NO. 36/2023 AND SUCH AMENDMENTS IN ONE LOT HAVING AS ITS OBJECT THE SUPPLY OF MICROWAVE MEASUREMENT ELECTRONICS FOR THE CHARACTERIZATION OF SUPERCONDUCTING QUANTUM DEVICES FOR THE NQSTI PROJECT IN THE UNIVERSITY CAMPUS OF MONTE SANT'ANGELO, NAPLES

Model 02

Gara [MEPA]

FAC SIMILE SUBSTITUTE DECLARATIONS PURSUANT TO ARTICLES 46 AND 47 OF PRESIDENTIAL DECREE 445/2000 MADE BY THE COMPETITOR

(In the case of a temporary grouping and/or consortium and/or aggregation of companies adhering to the network contract: a model for each economic operator grouped and/or consortium member and/or adhering to the network)

Object: Gara [MEPA] Titolo "

Substitute declarations pursuant to articles 46 and 47 of Presidential Decree 445/2000 and subsequent amendments (to be signed by the subjects indicated in note 1 of this form)

The undersigned _____ born in _____ on
_____ resident in _____ street
_____ n. _____, domiciled in _____ (fill in
if different from residence), street _____, as
_____ of the Company (name/business
name) _____ aware of the criminal sanctions
provided for in the event of falsity in documents and false declarations, as well as of the forfeiture of
any benefits obtained as a result of the provision issued on the basis of the false declaration (articles
75 and 76 of Presidential Decree 445/2000) under his/her own responsibility

DECLARES

the non-existence of the causes for exclusion from participation in a procurement or concession procedure listed in art. 94 of Legislative Decree no. 36/2023, and in particular:

1. that no final sentence of conviction has been pronounced against him or against the subjects indicated above or a criminal decree of conviction has been issued that has become irrevocable for one of the following crimes:
 - a) crimes, committed or attempted, referred to in Articles 416, 416-bis of the Criminal Code or crimes committed by taking advantage of the conditions provided for in the aforementioned Article 416-bis or in order to facilitate the activity of the associations provided for in the same Article, as well as for crimes, committed or attempted, provided for in Article 74 of the Presidential Decree of 9 October 1990, no. 309, in Article 291-quater of the Presidential Decree of 23 January 1973, no. 43 and in Article 260 of the Legislative Decree of 3 April 2006, no. 152, as they can be traced back to participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/GAI;
 - b) crimes, committed or attempted, referred to in Articles 317, 318, 319, 319-ter, 319-quater, 320, 321, 322, 322-bis, 346-bis, 353, 353-bis, 354, 355 and 356 of the Criminal Code and Article 2635 of the Civil Code;
 - c) false corporate communications referred to in Articles 2621 and 2622 of the Civil Code
 - d) fraud pursuant to Article 1 of the Convention on the Protection of the European Communities' Financial Interests of 26.07.1995;
 - e) crimes, committed or attempted, committed for the purpose of terrorism, including international terrorism, and subversion of the constitutional order, terrorist crimes or crimes connected to terrorist activities;
 - f) crimes referred to in Articles 648-bis, 648-ter and 648-ter.1 of the Criminal Code, money laundering or terrorist financing, as defined in Article 1 of Legislative Decree 22 June 2007, no. 109;
 - g) exploitation of child labor and other forms of human trafficking as defined in Legislative Decree 4 March 2014, no. 24;
 - h) any other crime resulting in, as an accessory penalty, the inability to contract with the public administration¹

¹ Exclusion is ordered if the judgment or decree or interditory measure indicated therein has been issued against:

- a. the economic operator pursuant to and within the terms of Legislative Decree no. 231 of 8 June 2001;
- b. the owner or the technical director, if it is a sole proprietorship;
- c. a managing partner or the technical director, if it is a general partnership;
- d. the general partners or the technical director, if it is a limited partnership;
- e. the members of the board of directors who have been granted legal representation, including the managers and general attorneys;
- f. the members of the bodies with management or supervisory powers or the persons with powers of representation, management or control;
- g. the technical director or the sole partner;
- h. the de facto director in the cases referred to in the previous letters.

In the event that the member is a legal person, exclusion must be ordered if the sentence or decree or interdiction measure has been issued against the directors of the latter.

or

of having received the following convictions: (indicate the subject(s) specifying role, charge, conviction)

2. that there is no cause for forfeiture, suspension or prohibition provided for in Article 67 of Legislative Decree No. 159 of 6 September 2011 or an attempt at mafia infiltration as per Article 84, paragraph 4, of the same decree;

3. that the economic operator has not committed serious violations, definitively ascertained, with respect to the obligations relating to the payment of taxes and duties or social security contributions, according to Italian legislation or that of the State in which they are established² and indicates the following data for this purpose:

- Local Office of the competent Revenue Agency:
- Address: _____;
- Telephone _____ number: _____;
- Certified _____ email, _____ fax _____ and/or _____ e-mail: _____;

4. that the economic operator has not committed serious violations not definitively ascertained of the obligations relating to the payment of taxes and duties or social security contributions³

5. that the economic operator has not committed any serious infringements duly ascertained to the rules on health and safety at work or to the obligations in environmental, social and labour matters established by European and national legislation, collective agreements or international provisions listed in Annex X to Directive 2014/24/EU of the European Parliament and of the Council of 26.02.2014;

²Serious violations are those that involve a failure to pay taxes and duties exceeding the amount referred to in art. 48-bis, paragraphs 1 and 2-bis, of the Presidential Decree of 29 September 1973, no. 602. Definitively ascertained violations are those contained in sentences or administrative acts in the field of contributions and social security, those that prevent the issuing of the Single Document of Contribution Regularity (DURC), referred to in the decree of the Ministry of Labour and Social Policies 30 January 2015, or the certifications issued by the relevant social security institutions that do not adhere to the one-stop social security desk system. The violation is considered serious when it involves failure to comply with an obligation to pay taxes and duties for an amount that, excluding penalties and interest, is equal to or greater than 10 percent of the value of the contract, taking into account the value of the lot and lots for which the economic operator is competing. The exclusion does not apply when the economic operator has fulfilled its obligations by paying or by making a binding commitment to pay the taxes or social security contributions due, including any interest or penalties, or when the tax or social security debt is in any case fully extinguished, provided that the extinction, payment or commitment was perfected before the deadline for submitting the offer.

³ Serious violations are those that involve a failure to pay taxes and duties exceeding the amount referred to in art. 48-bis, paragraphs 1 and 2-bis, of the Presidential Decree of 29 September 1973, no. 602. The seriousness must in any case be assessed also taking into account the value of the contract. The exclusion does not apply when the economic operator has fulfilled its obligations by paying or committing itself in a binding manner to pay the taxes or social security contributions due, including any interest or penalties, or when the tax or social security debt is in any case fully extinguished, provided that the extinction, payment or commitment was perfected before the deadline for submitting the offer, or in the event that the economic operator has offset the tax debt with certified credits claimed against the public administration.

6. that the economic operator is not the recipient of the interdictory sanction referred to in art. 9, c.2, letter c), of Legislative Decree 8 June 2001, n. 231, or of another sanction that involves the prohibition of contracting with the public administration including the interdictory measures referred to in art. 14 of Legislative Decree 9 April 2008, n. 81;

7. that the economic operator is not subject to judicial liquidation or is in a state of bankruptcy, compulsory liquidation, preventive composition, except in the case of composition with business continuity, or in respect of which there is no ongoing procedure for the declaration of one of these situations, without prejudice to the provisions of Article 124 of Legislative Decree no. 36/2023;

8. that the economic operator has not been guilty of serious professional misconduct, such as to cast doubt on its integrity or reliability⁴;

⁴Pursuant to paragraph 3 of art. 98 of Legislative Decree 36/2023, professional misconduct can be inferred when at least one of the following elements occurs:

a) executive sanction imposed by the Competition and Market Authority or by another sector authority, relevant in relation to the specific object of the contract;

b) conduct of the economic operator who has attempted to unduly influence the decision-making process of the contracting authority or to obtain confidential information to his own advantage or who has provided, even through negligence, false or misleading information likely to influence decisions on exclusion, selection or award;

c) conduct of the economic operator who has demonstrated significant or persistent deficiencies in the performance of a previous procurement or concession contract which have caused its termination for non-fulfilment or the order to pay damages or other comparable sanctions, resulting from particularly serious breaches or the repetition of which is indicative of persistent professional deficiency;

d) conduct of the economic operator who has committed serious breach of contract with one or more subcontractors;

e) conduct of the economic operator who has violated the prohibition of fiduciary registration pursuant to Article 17 of Law No. 55 of 19 March 1990, where the violation has not been removed;

f) failure to report to the judicial authority by the economic operator who is the injured party to the crimes provided for and punished by Articles 317 and 629 of the Criminal Code aggravated pursuant to Article 416-bis.1 of the same Code unless the cases provided for by Article 4, first paragraph, of Law No. 689 of 24 November 1981 apply. This circumstance must emerge from the evidence underlying the request for indictment formulated against the accused for the crimes referred to in the first period in the year preceding the publication of the notice and must be communicated, together with the personal details of the person who failed to make the aforementioned report, by the Public Prosecutor to the ANAC, which shall ensure its publication;

g) contested commission by the economic operator, or by the persons referred to in paragraph 3 of Article 94, of one of the committed or attempted crimes referred to in paragraph 1 of the same Article 94;

h) contested or confirmed commission, by the economic operator or by the persons referred to in paragraph 3 of Article 94, of one of the following committed crimes:

1) abusive exercise of a profession, pursuant to Article 348 of the Criminal Code;

2) simple bankruptcy, fraudulent bankruptcy, failure to declare assets to be included in the bankruptcy inventory or abusive recourse to credit, pursuant to Articles 216, 217, 218 and 220 of Royal Decree 16 March 1942, no. 267;

3) tax crimes pursuant to Legislative Decree no. 74 of 10 March 2000, corporate crimes pursuant to Articles 2621 et seq. of the Civil Code or crimes against industry and commerce pursuant to Articles 513 to 517 of the Criminal Code;

4) urban planning crimes pursuant to Article 44, paragraph 1, letters b) and c), of the consolidated text of legislative and regulatory provisions on construction, pursuant to Presidential Decree no. 380 of 6 June 2001, with reference to contracts for architectural and engineering works or services;

5) crimes pursuant to Legislative Decree no. 231 of 8 June 2001.

With reference to these types of crimes, exclusion is not provided for and the prohibition on awarding does not apply when:

a. the crime has been decriminalized;

b. rehabilitation has occurred;

c. in cases of conviction to a perpetual accessory penalty, this has been declared extinguished pursuant to Article 179, seventh paragraph, of the Criminal Code;

d. the crime has been declared extinguished after conviction;

9. that their participation does not give rise to a conflict of interest pursuant to Article 16 of Legislative Decree no. 36/2023, which cannot be resolved otherwise;
10. in relation to the procedures relating to public investments financed, in whole or in part, with the resources provided for by Regulation (EU) no. 240/2021 of the European Parliament and of the Council of 10 February 2021 and Regulation (EU) no. 241/2021 of the European Parliament and of the Council of 12 February 2021, the economic operator has drawn up the report on the situation of the staff, pursuant to Article 46 of the Code of Equal Opportunities between Men and Women, pursuant to Legislative Decree no. 11 April 2006. 198, has produced, at the time of submitting the application for participation or the offer, a copy of the latest report drawn up, with certification of its conformity with the one sent to the company trade union representatives and to the regional equality advisor pursuant to paragraph 2 of the aforementioned Article 46, or, in the event of non-compliance with the terms set out in paragraph 1 of the same Article 46, with certification of its simultaneous transmission to the company trade union representatives and to the regional equality advisor;
11. that its participation does not cause a distortion of competition resulting from its previous involvement in the preparation of the procurement procedure that cannot be resolved with less intrusive measures;
12. that the economic operator is not registered in the computerised register kept by the ANAC Observatory for having submitted false declarations or false documentation in the tender procedures and in the awarding of subcontracts and/or for the purposes of issuing the qualification certificate, for the period during which the registration lasts;
13. that the economic operator has not violated the prohibition of fiduciary registration pursuant to Article 17 of Law 19 March 1990, no. 55; 14. che, ai sensi dell'art. 17 della legge 12.03.1999, n. 68:

(Check the box of interest)

- ☐ the economic operator is in compliance with the regulations governing the right to work of disabled people since it has complied with the provisions contained in Law 68/99 or _____ (indicate the foreign country law). The formalities were carried out at the Office _____ of _____, street _____ n. _____ fax _____ e-mail _____;
- ☐ the economic operator is not subject to the mandatory hiring obligations set out in Law 68/99 for the following reasons: [indicate the reasons for exemption]

- ☐ \

15. that the economic operator:

- ☐ has not been the victim of the crimes provided for and punished by articles 317 and 629 of the Criminal Code, aggravated pursuant to art. 7 of Legislative Decree no. 152 of 13 May 1991, converted, with amendments, by law no. 203 of 12 July 1991.
- ☐ has been a victim of the aforementioned crimes, but has reported the facts to the judicial authorities;

e. the conviction has been revoked.

- has been the victim of the crimes provided for and punished by articles 317 and 629 of the Criminal Code, aggravated pursuant to art. 416-bis of the Criminal Code and has not reported the facts to the judicial authority, as the cases provided for by art. 4, paragraph 1 of Law no. 689 of 24 November 1981 apply.

16. (Check the box of interest)

- that the economic operator is not in any situation of control as per Article 2359 of the Civil Code or in any relationship, even de facto, with any subject, if the situation of control or the relationship means that the offers are attributable to a single decision-making centre, and that it has formulated the offer autonomously

Or

- that the economic operator is not aware of the participation in the same procedure of subjects who are, with respect to it, in one of the situations of control referred to in Article 2359 of the Civil Code, or in any relationship, even de facto, with any subject, if the situation of control or the relationship implies that the offers are attributable to a single decision-making centre and that the offer has been formulated autonomously.

Or

- that the economic operator is aware of the participation in the same procedure of subjects who are, with respect to it, in one of the situations of control referred to in Article 2359 of the Civil Code or in any relationship, even de facto, with any subject, if the situation of control or the relationship means that the offers are attributable to a single decision-making centre of the civil code, and of having formulated the offer autonomously.

17. (Tick the box of interest)

if a participant in the tender exercises the right to "access to documents",

- to authorize the University to issue a copy of all the documentation submitted for participation in the tender;
- or
- to not authorize the University to issue a copy of the technical offer and of the explanations that may be requested during the verification of anomalous offers, as they are covered by technical/commercial secrecy (attach in this regard the reasons formulated in compliance with the requirements of the Tender Regulations at point 17.3.11).

Declares to be informed, pursuant to and for the purposes of art. 13 of Legislative Decree 196/03 that the personal data collected will be processed, including with IT tools, exclusively within the scope of the procedure for which this declaration is made.

_____, li _____
place (date)

(Signature of the declarant)

Attached photocopy of the identification document

Note:

Pursuant to art. 96 of Legislative Decree 36/2023, Contracting Authorities exclude an economic operator at any time during the procurement procedure, if it appears that the latter is, due to actions performed or omitted before or during the procedure, in one of the situations that constitute grounds for exclusion pursuant to arts. 94 and 95 of the Public Contracts Code. The economic operator who is in one of the aforementioned situations, except in cases where he has committed serious violations definitively ascertained pursuant to art. 94, paragraph 6 and/or not definitively ascertained pursuant to art. 95, paragraph 2, is not excluded:

-if the cause of exclusion occurred before the submission of the offer, at the same time as the offer, communicate it to the contracting authority and, alternatively:

a. proves that he has adopted sufficient measures to demonstrate his reliability;

b. demonstrates the impossibility of adopting such measures before the submission of the offer, complying with them and communicating them subsequently;

- if the cause for exclusion occurred after the submission of the offer, the economic operator adopts and communicates the measures sufficient to demonstrate its reliability.

If the measures adopted by the economic operator to demonstrate its reliability are considered sufficient and promptly adopted, it is not excluded from the procurement procedure. To this end, the economic operator demonstrates that it has compensated or has undertaken to compensate for any damage caused by the crime or offence, that it has clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigative authorities and that it has adopted concrete measures of a technical, organizational and personnel nature suitable for preventing further crimes or offences. The measures adopted by economic operators are assessed considering the seriousness and the particular circumstances of the crime or offence, as well as the timeliness of their adoption. If the contracting authority considers that the measures are untimely or insufficient, it shall communicate the reasons to the economic operator. An economic operator excluded by a final judgment from participation in procurement or concession procedures may not avail itself of the possibility described above during the period of exclusion resulting from such judgment.