

**Direzione Acquisti**

*Il Direttore*

MIR/GPN(PT)/304\_2023/MI of 26/06/2023

**Object:** MIR/GPN(PT)/304\_2023/MI of 26/06/2023 - Call for expressions of interest in relation to the purchase of locomotives intended for operation on electrified networks – Italy use area.

## 1. Introduction.

Mercitalia Rail S.r.l., a company with sole shareholder subject to the direction and coordination of Mercitalia Logistics S.p.A. with registered office in Rome, Piazza della Croce Rossa 1, 00161 Rome, share capital of Euro 164,884,293 fully paid-up, Tax Code and VAT number 06473711007 registered in the Rome Companies Register under number 06473711007, REA 969509 (hereinafter the "Proceeding Company" or "MIR") intends to proceed with the purchase of the following service:

**Purchase of n. 70 (seventy) locomotives intended for railway operation on electrified networks (Italy use area) with attached full-service maintenance service for the duration of 30 years with multi-year renewals such as to guarantee maintenance for the entire duration of the useful life of the locomotives (30 years); plus option for the purchase of an additional 30 (thirty) locomotives.**

It should be noted that this procedure is not subject to the Code of Public Contracts (Legislative Decree 50/2016) except for the provisions referred to therein by way of self-regulation; Consequently, that procedure is of a private nature.

## 2. Call for expressions of interest

Interested economic operators are therefore invited to express their interest in participating in a possible subsequent competitive comparison procedure, by sending a specific declaration of interest in Italian. In the case of an operator established in a country other than Italy, he has the right to submit the declaration of interest in English attaching a translation of the same in Italian. In the event that it avails itself of this faculty, it is understood that the Italian version will be considered the official and prevailing one in case of doubts and discrepancies of any kind and signed in digital format by means of a qualified electronic signature pursuant to art. 3 n. 12 and 25 of EU Regulation 910/2014



by a legal representative or person in any case able to validly commit the company, by uploading on the Mercitalia Purchasing Portal the documentation required in correspondence with the prot. MIR/GPN(PT)/304\_2023/MI.

Declarations of interest must contain:

1. the express and unequivocal affirmation of the interest in contracting for the purchase covered by this notice;
2. the express acceptance of all the conditions underlying this notice and the documents referred to therein;
3. the declarations and any other documents required in paragraph 5 below.

Any subsequent contacts with the Proceeding Company will take place through the messaging function of the Mercitalia Rail Purchasing Portal.

### **3. Presentation mode**

#### **COMPUTER EQUIPMENT TO PARTICIPATE IN THE PROCEDURE**

Participation in this procedure carried out electronically is open, after identification, to interested operators in possession of the IT equipment indicated in this paragraph, as well as a Certified Electronic Mail address (PEC) or e-mail

It is mandatory for the legal representative to possess a valid digital signature certificate generated by a device for the creation of a secure signature, pursuant to the provisions of Article 38, paragraph 2, of Presidential Decree no. 445/2000 and art. 65 of Legislative Decree no. 82/2005.

Digital signature certificates issued by Certifiers operating on the basis of a license or authorization issued by a Member State of the European Union in compliance with the provisions of EU Regulation no. 910/2014 are allowed.<sup>1</sup>

They are also admitted, in accordance with the provisions of art. 24 paragraph 4-ter of Legislative Decree 82/2005, digital signature certificates issued by a certifier established in a State outside the European Union, when one of the following conditions is met:

1. the certifier meets the requirements of EU Regulation no. 910/2014 and is qualified in a Member State;
2. the qualified certificate is guaranteed by a certifier established in the European Union, in possession of the requirements of the same Regulation;
3. the qualified certificate, or certifier, is recognised under a bilateral or multilateral

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<sup>1</sup> The verification of the validity of the digital signature can be carried out directly on the website of the Agency for Digital Italy (<http://www.agid.gov.it/>) by downloading one of the software listed in the Electronic Signature Verification Software section (in particular the DSS - Digital Signature Service also available in WebApp mode) <http://www.agid.gov.it/identita-digitali/firme-elettroniche/software-verifica>.



agreement between the European Union and third countries or international organisations.

It will be the responsibility of the Company to indicate which of the above hypotheses is applicable to the authority that issued the signature, attaching supporting documentation, and also indicate the instrument by means of which it will be possible to carry out the verification (software, links, etc.).

N.B. Please note that on the portal there is a digital signature verification tool that is able to check the validity of the signature if the file size is less than 10 MB.

MIR will verify the validity of digital signatures using the automatic verification tool on the portal, and in the case of negative verification, once the file(s) has been downloaded locally, it will use the free software made available to the Italian Certification Authorities (as required by the relevant regulations).

Therefore, it is suggested to companies to carry out, for digitally signed files, preventive checks with these tools.

For each digitally signed document, the digital signature certificate must be valid on the date of insertion of the document to the portal.

It should be remembered that a document with an expired or revoked digital signature is valid only if the document is associated with a time reference that can be relied on against third parties (timestamp issued by a certifier registered in the public list of certifiers) affixed during the period of validity of the signature certificate.

Please note that the only digital signature formats accepted will be those of CADES and PADES.<sup>2</sup>

It should be noted that all documents digitally signed by the Head of the MIR purchase procedure in the following mode:

1. **PADES**, i.e. digitally signed files with pdf extension: they must be digitally countersigned by the Competitor in the same way and inserted in the relative reply package. The competitor will therefore not have to print and scan the file itself to produce it in other types of files other than the original one. In this way, the presence in the file itself of the signature of the Manager of the purchase procedure of the Proceeding Company will be preserved;
2. **CADES**, must be filled in appropriately, digitally countersigned by the Competitor in CADES mode and included in the relative reply package. The competitor must maintain the type of file thus produced by MIR, without having to print and scan

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<sup>2</sup> The verification of the validity of the digital signature can be carried out directly on the website of the Agency for Digital Italy (<http://www.agid.gov.it/>) by downloading one of the software listed in the Electronic Signature Verification Software section (in particular the DSS - Digital Signature Service also available in WebApp mode) <http://www.agid.gov.it/identita-digitali/firme-elettroniche/software-verifica>.



the file itself to produce it in other types of files other than the original one. Therefore, a file produced by the Proceeding Company with the extension .doc digitally signed and transformed with CADES into a file with the extension p7m, must necessarily be digitally countersigned by the competitor in CADES mode (that is, it must be the same file with the extension .doc digitally signed by the competitor). The latter .doc. will present the digital signature of the Competitor only. In this way, the Proceeding Company will be able to verify – through the file protection verification – that the file produced is actually an elaboration of the one originally signed by the Manager of the purchase procedure of the same.

It is not allowed to digitally sign a compressed folder (e.g. zip) containing one or more documents without a digital signature (where required).

## **METHODS OF ACCESS TO THE TELEMATIC PROCEDURE**

To participate in the procedure, interested economic operators must first register on the Portal. To this end, they must follow the instructions available on the home page of the Portal itself on the <https://acquisitionline.mercitaliarail.it/> web page.

The registration and subsequent authorization allow the economic operator to access the section dedicated to this procedure.

By accessing this section, each economic operator may:

1. inspect the documentation relating to the procedure in question;
2. send requests for clarification;
3. submit the expression of interest.

Upon completion of the registration operations, economic operators will be able to digitally sign the files necessary for participation in the expression of interest and insert them on the Portal according to the instructions available on the portal itself.

The Competitor may modify the data previously transmitted no later than the date and time of expiry of the deadline set for the submission of the expression of interest. In this case, the Competitor must proceed again with the operations of transmission and subscription of the files, according to the methods indicated above.

The operations of insertion to the System of all the required documentation, as well as transmission and confirmation, remain at the sole risk of the competitor.

Competitors are therefore invited to start these activities well in advance of the deadline in order to avoid the incomplete and therefore non-transmission of the response after this deadline.

With the electronic transmission of the documentation in digital format, the Competitor accepts all the documentation referred to in this Notice, attachments and clarifications



included.

Finally, please note that for information or support in the insertion and transmission of documentation and offer, Competitors have the right to contact the System Manager who can be contacted at the email address [mirhelpportale@mercitaliarail.it](mailto:mirhelpportale@mercitaliarail.it).

The electronic package containing the expression of interest, with the indications and wording referred to in paragraph 2 above, must be received by the proceeding Company, by uploading to the portal, no later than (under penalty of ineligibility) on 19/07/2023 at 12:00.

#### **4. Services to be entrusted**

The general technical and performance requirements, as well as the essential legal-administrative conditions of the purchase, including the terms and place of performance of the services themselves, which will be placed on the basis of any contract, are specified and described below.

Purchase of n. 70 (seventy) locomotives intended for railway operation on electrified networks (Italy use area) with attached full-service maintenance service for the duration of 30 years with multi-year renewals such as to guarantee maintenance for the entire duration of the useful life of the locomotives (30 years); plus option for the purchase of an additional 30 (thirty) locomotives.

The locomotives must be suitable for use for traction/freight transport services on electrified railway networks in the Italian operating area.

The suitability of locomotives for cross-border rail transport (France, Switzerland) will be taken into account.

Reference should also be made to the attached documents:

1. Extract of the contract scheme;
2. Guarantee schemes (provisional and definitive) on first demand according to the FS Group model.

The presumed total amount of all services to be entrusted is estimated at Euro 320,000,000.00 (Euro three hundred and twenty million/00) for the purchase of locomotives; is estimated at € 307,000,000.00 (Euro three hundred seven million / 00) for the maintenance service in full-service for the duration of 30 years.

It should be noted that, with the presentation of the expression of interest, the aforementioned technical-administrative requirements and conditions are understood to be fully understood and accepted by the interested parties, so that no objections or exceptions can be raised subsequently in this regard.



## 5. Candidate Requirements

For the purpose of proving the requirements of previous professional experience, the following documents and/or declarations must be attached to the expression of interest:

- i. **declaration of submission of the qualification request** - complete in its entirety - to the Supplier Qualification System of the FSI Logistics Pole ([https://acquisitionline.mercitalia.it/web/sistema\\_qualificazione.html](https://acquisitionline.mercitalia.it/web/sistema_qualificazione.html)) for registration in the product category **BEN-MR-01 “Acquisto di locomotive”**;
- ii. **declaration** of having achieved in the last 3 years (or during the period of validity of the economic operator, whichever is lower), a **specific total turnover** of at least 45,000,000.00 (forty-five million euros/00), generated by maintenance services on electric locomotives;
- iii. consistent with the declared amount referred to in point ii), **list of maintenance services carried** out in the last 3 years (or during the period of validity of the economic operator, whichever is lower), with an indication of the clients and the relative amount;
- iv. Certificate of conformity of the Entity in Charge of Maintenance confirming the acceptance of the maintenance system (ECM) within the European Union in accordance with Directive 2016/798 and Regulation 2019/779;
- v. Declaration to be aware of and undertake to comply with the rules of ANSFISA applicable to the maintenance of rolling stock performed in Italy (Rules for the qualification of personnel, referred to in Annex C of ANSF Decree no. 4/2012, Guidelines for the qualification and certification of personnel involved in Non-Destructive Testing (NDT) in railway maintenance, Guidelines for the certification of companies operating in the welding sector of railway rolling stock or parts of them in accordance with the standards of the UNI EN 15085 series);
- vi. a declaration that it may intend to perform the entire contractual service itself, or that it wishes to use other undertakings specialised in the relevant sector, as subcontracting;
- vii. Indication of any certifications held by the economic operator (e.g. in environmental, social, etc.).

The declarations and documents made in the expression of interest may be subject to verification or request for clarification by the Proceeding Company, at any stage of the procedure. In the event that the checks reveal the falsity of what has been declared, the economic operator will be excluded from this selection procedure and from subsequent ones.



## 6. Contact points

For any requests for information, you can contact, no later than 12:00 on 12/07/2023, the Proceeding Company exclusively through the appropriate messaging function of the Purchasing Portal.

## 7. Warnings.

This notice simply represents an invitation to express interest for any purchase of the service in question by the undersigned Company, and does not in any way constitute an expression of negotiating will, contractual proposal or offer to the public pursuant to art. 1336 of the Italian Civil Code or invitation to offer, nor does it imply for the Proceeding Company and for its structures or managers the assumption of responsibilities of any kind, in particular on a pre-contractual basis. The call for expressions of interest does not in any way bind the undersigned Company to proceed with the selection and does not constitute a commitment to consult the economic operators who have expressed interest.

Therefore, the Proceeding Company, at its sole discretion, without obligation to give reasons and at any time, reserves the right not to follow up this market survey, without this implying any obligation to any service by way of compensation or other towards candidates who may have submitted the expression of interest.

It should be noted as of now that the economic operators who, following the sending of the expression of interest, will eventually be invited to participate in the next phase of the procedure (invitation to submit a binding offer), must be - by the date of submission of the offer - registered and qualified to the Supplier Qualification System of the FSI Logistics Pole to the product category “**BEN-MR-001 Acquisto di locomotive**”.

Furthermore, the Proceeding Company reserves the right not to admit to the subsequent selection those economic operators for whom it considers that there is no adequate professional reliability and adequate economic and financial solidity, as well as to admit to the selection the maximum number of operators deemed appropriate in consideration of the usefulness found to limit the number of subjects to be invited due to the need for speed or assessments related to the characteristics of the services to be procured.

It should be noted as of now that recourse to the institution of availment, pursuant to art. 89 of Legislative Decree 50/2016.

Minimum number of operators to invite: 1

Moreover, the Proceeding Company reserves the right to proceed with the assignment even in the presence of a single event or to interrupt the market investigation connected to the invitation to express interest at any time and regardless of the phase in which it has arrived.



In order to participate in the subsequent competitive comparison procedure, operators who are invited to submit a binding offer will be required to register on the online portal at the address <https://acquisitionline.mercitalia.it> according to the instructions contained therein and as will be further specified in the invitation letter to submit an offer.

The evaluation of binding offers, in the phase following the presentation of the expression of interest, will take place in the manner that will be indicated in the invitation letter.

This notice concerning the call for expressions of interest and its attachments are available on the <https://acquisitionline.mercitalia.it> website and in the "Tenders" section of the [www.mercitaliarail.it](http://www.mercitaliarail.it) website.

The publication takes place in Italian and English, it being understood that the Italian version will be considered the official and prevailing in case of doubts and discrepancies of any kind.

The presentation of the expression of interest implies the full acceptance of all the requirements and provisions referred to in this call or otherwise referred to therein. Documentation submitted in response to this call for expressions of interest may no longer be withdrawn.

The invitation and the subsequent procedure are entirely governed by Italian law, and will be subject to Italian jurisdiction.

The entire procedure, until its eventual conclusion, will also be governed and governed by the principles set out in the Code of Ethics of the Ferrovie dello Stato Italiane Group, published [www.fsitaliane.it](http://www.fsitaliane.it), Model 231 of the Proceeding Company and the Anti-Corruption Policy (documents that may be made available, in paper format, at the request of the economic operator).

The processing of any data provided will take place in compliance with current national and EU legislation on the protection of the confidentiality of personal data (EU Regulation no. 679/2016). The obligation to provide information is fulfilled by Mercitalia Rail through publication in the "Tenders" section of the institutional website [www.mercitaliarail.it](http://www.mercitaliarail.it) [[https://acquisitionline.mercitaliarail.it/attach/informativa\\_privacy.pdf](https://acquisitionline.mercitaliarail.it/attach/informativa_privacy.pdf)].

The Data Controller is Mercitalia Rail S.r.l. - represented by the Chief Executive Officer who can be contacted at the email address: [titolaretrattamento@mercitaliarail.it](mailto:titolaretrattamento@mercitaliarail.it) - with registered office in Rome, Piazza della Croce Rossa 1. Data Manager is the *pro tempore Manager* of the Purchasing Department who can be contacted at the e-mail address [direzioneacquisti@pec.mercitaliarail.it](mailto:direzioneacquisti@pec.mercitaliarail.it).

Digitally signed by

Rocco Maurizio Romano





Annex 1: Extract of the Draft Contract

Annex 2: First demand surety schemes according to the FS Group model