

MARKET BULLETIN

From	Director, Worldwide Markets (extn 6677)
Date	June 23 2006
Reference	Y3837
Subject	Italy: Revised procedures for Lloyd's Underwriters' participation in Italian Public Tenders
Subject areas	Italian public tender business
Attachments	Appendix 1: Public Tenders in Italy – New Procedure June 2006
Action points	Underwriters, brokers, coverholders and correspondents must ensure they observe the attached procedures when participating in public tenders through the Lloyd's Italian Office.
Deadlines	With immediate effect

Background

Since the implementation into Italian national law of the relevant EU directives concerning the procurement of services (which includes insurance purchases) of public and quasi-public bodies in Italy, the Lloyd's Italian Office (LIO) has been involved in the tendering process for Lloyd's underwriters who seek to underwrite such contracts.

Revised procedures

The procedures for Lloyd's underwriters' participation in Italian public tenders have been revised and are attached to this bulletin. The revised procedures are divided into 3 stages:

- 1) expression of interest in the bidding procedure and the application to participate in public tenders;
- 2) application to submit an offer;
- 3) awarding of the contract and subsequent obligations.

These procedures are detailed in Appendix 1: Public Tenders in Italy
The procedures are also available in Italian at:

http://www.lloyds.com/Lloyds_Worldwide/Country_guides/Italy/Public+tenders.htm?country=Italy

Further information

If you have any queries relating to participation in public tender contracts in Italy or the revised procedures, please contact:

Antonio Tomasone in Lloyd's Italian Office
Tel: 0039 02 551 93121;
Email antonio.tomasone@lloyds.it).

Or in London, Lloyd's Worldwide Markets

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This bulletin is being sent to all members' agents, direct corporate members, managing agents, recognised accountants, market associations, underwriters and Lloyd's brokers.

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Director, Worldwide Markets
Worldwide Markets

LLOYD'S

**PUBLIC TENDERS IN ITALY
NEW PROCEDURE
JUNE 2006**

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INTRODUCTION

Under the Italian legal framework, procedures relating to the awarding by public bodies of contracts for insurance services are regulated primarily by the provisions set forth in Legislative Decree 157/95 (public contracts for services) and Legislative Decree 158/95 (contracts in the so-called “formerly excluded sectors”, i.e., for example, water, electricity, gas and transport) and subsequent amendments.

The award of an insurance service by a public body usually follows the completion of a formal tender bidding procedure, such as (i) a “*licitazione privata*”¹ (ii) the “*appalto concorso*”² or (iii) the “*trattativa privata*”³ referred to below as “public tenders”.

The Lloyd’s Italian Office (“LIO”) assists underwriters, Lloyd’s brokers, coverholders and correspondents to participate in public tenders. The General Representative is authorised to submit bids in Italy in response to public tenders in the name of and on behalf of underwriters. Where a tender is awarded to underwriters, the General Representative will sign the insurance policy in the name of and on behalf of the underwriters.

As part of the tender process the LIO may be asked by the public body to provide declarations and explanations as to Lloyd’s ability to provide the service in question. This sometimes requires statements from the UK insurance supervisor (the FSA) confirming that Lloyd’s has the EEC required margin of solvency and is not in breach of article 29 of EEC directive 92/50 which concerns solvency, payment of taxes, etc. Such information must be relevant to the insurer and the service to be provided and, on occasion, a public body may request information about other, similar Lloyd’s insureds. Such requests are compiled with – on the basis of strict confidentiality – even though those listed may not be insured by precisely the same syndicates. Similarly, when declarations of minimum premium income are called for, the figures usually relate to Lloyd’s as a whole.

¹ “*Licitazione privata*” is a restricted bidding procedure in which only the companies invited by the public bodies can take part.

² “*Appalto concorso*” is a restricted bidding procedure in which only the companies invited by the public bodies can take part and they have to submit to the same body the project of the service and the terms and conditions offered.

³ “*Trattativa privata*” is a negotiated procedure in which the public body consults the companies chosen and negotiates the terms of the contract with one of more of them.

More difficult aspects of complying with the criteria for certain tenders are explaining that Lloyd's is a market of competing insurers, and as such it may submit more than one offer, and convincing the inviter to accept that Lloyd's offer will entail the use of an intermediary (two, in most cases).

Sometimes different syndicates submit different bids for the same tender, through different Lloyd's brokers. Despite explanations to public bodies, there have been instances in these circumstances when all Lloyd's bids have been excluded on the grounds that more than one bid per insurer is not permitted. With the support of a written statement from the FSA, the General Representative argues, where appropriate, that Lloyd's is a market of competing insurers, and as such it may submit more than one offer. If there is no alternative, the European Commission has agreed (as a temporary arrangement until firmer legal precedents are available in Italy) that, if Lloyd's internally is able to judge which is the best quotation, then that quotation alone may be put forward.

The LIO requires parties to observe the procedures set out below when participating in public tenders through the LIO regardless of the type of tender being conducted by the public body.

The procedures are divided into the following 3 stages:

- Stage 1 the expression of interest in the bidding procedure and the application to participate in public tenders;
- Stage 2 the application to submit an offer; and
- Stage 3 the awarding of the contract and subsequent obligations.

These procedures envisage any resulting business being handled on an establishment's basis. If an offer is to be made which would entail the risk being placed on a service basis, LIO can help prepare the documentation but it must be signed and issued in the UK through Lloyd's Worldwide Markets.

This is a user-pays service provided by the LIO and the relevant fees are set out in the attached Appendix 4.

A specific website is also available to parties involved in public tenders (<http://www.lloyds.com/italy/servizi>) for the download of information and documents relating to tenders. The relevant syndicates, Lloyd's broker, Lloyd's coverholder, and correspondents may access the website by completing and submitting to the LIO the Form set out in appendix 5.

Definitions

For the purposes of these procedures the following definitions will apply⁴:

“correspondent”: a firm that produces business to a Lloyd's broker for placement with a syndicate on an open market basis. Correspondents in Italy must be approved by the LIO before they can produce Italian insurance business to a Lloyd's broker.

“coverholder”: a firm authorised by a managing agent under a binding authority to enter into contracts of insurance to be written by members of a syndicate.

“Lloyd's broker”: a firm that is permitted by the Council of Lloyd's to place insurance and reinsurance risks with syndicates.

“syndicate”: one or more members at Lloyd's underwriting insurance business through the agency of a managing agent and to which a unique syndicate number has been assigned by the Council of Lloyd's.

“underwriter”: an individual who is responsible for underwriting a particular insurance or reinsurance contract on behalf of the members of the syndicate.

⁴ Definitions are intended for guidance in this document only. They do not override or qualify any definition that appears in any Lloyd's byelaw or regulation, in any contract or in any other document.

FIRST STAGE

Expression of interest in the bidding procedure and application to participate in public tenders

- 1) Underwriters, Lloyd's brokers, coverholders and correspondents (any or all of them the "interested parties") are requested to notify the LIO of their interest in a public tender.
- 2) The LIO will contact the relevant public body to ascertain whether the LIO is entitled to participate on behalf of interested parties in the public tender. If the LIO is entitled to participate in the public tender, it will obtain details of the public tender and forward this information and any procedures for participating in the public tender to the interested parties.
- 3) The interested parties are required to keep confidential and not to divulge or disclose any information received from LIO about the tender (including the bidding procedure, the offer and the quotation), except for information which they are bound to disclose by law or which is requested by regulatory authorities or which is disclosed to their professional advisers where reasonably necessary for the performance of their advisers' professional services.
- 4) If required, the LIO will make a formal application to the public body on behalf of the interested parties for the LIO to participate in the public tender. The interested parties are required to provide the LIO with such information as is specified by the relevant public body and the LIO to enable the LIO to submit an application to participate in the public tender. The interested parties must ensure that the information provided to the LIO is complete and accurate.
- 5) The interested parties are required to provide the information to the LIO at least five working days before the deadline for the submission of the application to participate in the public tender. If the information is incomplete or the LIO does not receive it by the relevant deadline, the LIO will not be obliged to submit the application.

SECOND STAGE

Application to submit an offer

- 6) If the LIO is entitled to participate in a public tender on behalf of underwriters it will only submit a formal offer where requested to do so by an interested party. The LIO will submit a formal offer to the relevant public body (or where specified by the tender documents, to the broker appointed by the public body) only if the offer is received on behalf of the underwriter(s) through a Lloyd's broker or from a coverholder authorised to place risks under a relevant binding authority. The offer must be received in the form required by the LIO as set out below.

Form of Offer

- 7) The offer should be submitted by the Lloyd's broker or coverholder to the LIO on the Offer Form attached at Appendix 1.
- 8) The LIO will not submit any offer to a public body unless it receives the Offer Form completed in accordance with the procedures set out below. The completed Offer Form and accompanying documents must be signed by the Lloyd's broker or coverholder. By signing the form the Lloyd's broker or coverholder declares that the offer corresponds to the terms and conditions proposed by the underwriters.
- 9) In those public tenders where the public body has issued standard forms for the submission of the bid, these should be duly completed in accordance with the procedures provided by the public body and signed by the Lloyd's broker or coverholder. These standard forms must be submitted to LIO together with the completed Offer Form. Any variations or alterations required to be made to the forms should be clearly set out on the Offer Form.
- 10) The LIO will prepare the formal offer by transposing the contents of the standard forms onto Lloyd's headed paper for signature by the General Representative. The LIO will not make any alteration to the contents of these forms unless amendments are expressly stated on the Offer Form. Any amendments should be drafted in Italian in the form which they are to be submitted to the public body.

- 11) Where the public body has not issued standard forms for the submission of the offer, the LIO will prepare a letter of offer to the public body on the basis of information contained in the Offer Form.
- 12) The Offer Form and any standard forms required by the public body should be received by the LIO at least 5 working days before the deadline for submitting the offer to the public body. If the LIO does not receive these documents at least 5 working days prior to the submission deadline, the LIO cannot guarantee that it will submit the offer to the public body.
- 13) The LIO will also prepare any declarations and/or other documents that are required to be submitted to the public body in accordance with the tender specifications/terms and conditions.
- 14) The LIO reserves the right to deliver the offer to the public body (or, where specified by the tender documents, to the broker appointed by the public body) in the most appropriate manner (depending on e.g. the urgency of the delivery and the location of the public body). If the delivery cost exceeds the ordinary cost of a national courier, the LIO reserves the right to charge the party for the additional cost.
- 15) Where an offer has not been made by the LIO to the public body or an offer has been made but the public body does not make any award, the Lloyd's broker or coverholder may request the LIO to notify the public body that the relevant Lloyd's syndicate is interested in participating in any further procedure instigated by the public body. The Lloyd's broker or coverholder should provide the LIO with confirmation of the syndicate's consent to register an interest. If the LIO considers it appropriate, it may register an interest by submitting a letter to the public body in one of the forms prescribed for this purpose in Appendices 2 and 3.

THIRD STAGE

Award of contract and subsequent obligations

- 16) If the LIO is notified of the decision regarding the award of the contract it will notify the Lloyd's broker promptly and in any event within 7 days of receiving notification.
- 17) If the correspondent and/or the Lloyd's broker is notified of the decision regarding the award of the contract (other than by the LIO), it will notify the LIO promptly and in any event within 7 days of receiving notification.
- 18) The correspondent and/or the Lloyd's broker is responsible for any costs and expenses that may be charged to the LIO in connection with the LIO's participation in the public tender. The correspondent and/or Lloyd's broker should ensure that payment is made to the public body by the relevant deadline.
- 19) The correspondent and/or the Lloyd's broker must provide the LIO promptly with any additional information and/or documents (e.g. clarifications/cover notes/certificates) or confirmation about the effectiveness of cover that may be requested by the public body (or, where specified in the tender documents, by the broker appointed by the public body) in order to enable the LIO to supply the information and/or documents to the public body (or, where specified by the tender documents, to the broker appointed by the public body).
- 20) The correspondent must ensure that a copy of the policy and/or a copy of the contract signed by the LIO is sent to the public body by the deadline specified in the tender documents or, if no deadline is specified, within 60 days of the contract being formally awarded.
- 21) The correspondent must ensure that a copy of the policy and/or a copy of the contract signed by the public body is then returned to the LIO in accordance with the terms of the Lloyd's Italian co-operation agreement (within 30 days thereafter).

Contract Renewal

- 22) The Lloyd's correspondent will immediately forward any request to renew or extend a contract that it receives from the public body (or, where specified by the tender documents, from the broker appointed by the public body) to the LIO, together with any documentation regarding the request itself. For the purposes of the renewal of a contract, the Lloyd's correspondent will also ensure that the LIO is duly provided with the proposal form completed by the party concerned, the content of which shall be set out in a new Offer Form.

- 23) Within 45 days following the renewal of a contract, the Lloyd's correspondent will ensure that the public body is sent a copy of the policy or contract or any addendum signed by the LIO. By the same deadline, the Lloyd's correspondent will also ensure that the LIO is provided with the relevant document duly signed by the public body.

APPENDIX 1)

OFFER FORM

To: Lloyd's – Office of the General Representative for Italy

For the attention of: Antonio Tomasone

Fax: 02 55193107

E-mail: antonio.tomasone@lloyds.it

Re.: **Tender** _____

With regard to the above tender, we confirm the following:

- 1) The leading syndicate is: _____;
- 2) The following syndicates are: _____;
- 3) The Lloyd's correspondent charged with managing the contract is: _____;
- 4) The broker consultant of the public body is: _____;
- 5) The following persons are authorised to attend the opening of the envelopes, on behalf of and in the interest of Lloyd's, without of course being vested with any negotiating powers:
_____;
- 6) The risk relating to this offer is _____% placed with Lloyd's⁵;
- 7) The offer is valid until _____(date)

The Offer

The LIO is requested to submit an offer to the public body on the following terms:

1. Premium (please note that premiums and rates are inclusive of the LIO tender fee amount) (tick as applicable)

as per the standard tender form herewith attached

OR

as specified here below

.....

⁵ Indicate the percentage of risk underwritten by Lloyd's (the so-called "retention share"). Where not 100%, please indicate the names of the insurance companies involved in coinsurance. Please note that where the tender documents require the coinsurance companies to submit specific documentation, said companies shall fulfil this requirement by providing the documents specified in the procedures thus established.

2. Tender wording and conditions (tick as applicable):

The unconditional acceptance of the tender wording and conditions

OR

The acceptance of the tender wording and conditions subject to the following amendments:

Amendments required⁶:

1)XXXXXXXXXXXXXXXXXXXXXXXXXX;

2)XXXXXXXXXXXXXXXXXXXXXXXXXX;

3) XXXXXXXXXXXXXXXXXXXXXXXXXXXX:

4) XXXXXXXXXXXXXXXXXXXXXXXXXXXX

5) XXXXXXXXXXXXXXXXXXXXXXXX

Total number of amendments: []

In order to complete this offer, please also find herewith enclosed the following documentation (tick as applicable):

Standard forms required by the public body

Original of the temporary guarantee specified by the tender conditions, drawn up in the name of and on behalf of Lloyd's Representative for Italy - [Syndicate xxxxx]

The undersigned, (name), in his capacity as (role/position), hereby declares that the content of this Offer Form corresponds to the terms and conditions of the insurance offer upon which the above mentioned syndicates wish to make to the public body.

Signature of the Lloyd's Broker / Coverholder

.....

⁶ Please ensure that amendments are drafted in Italian in the form in which they are to be submitted to the public body

APPENDIX 2)

To:
XXXXXXX

Dear

Re.: [tender reference]

Lloyd's General Representative for Italy wishes to inform you that certain Lloyd's syndicates have not been in a position to make an offer in response to the invitation to tender dated, on the basis of the terms specified by the tender documents.

However, we wish to inform you that those Lloyd's syndicates are interested in being involved both in relation to any competitive bidding procedures for the awarding of insurance services that your organisation intends to hold in the future and to any subsequent developments that might be attributable to the selection process referred to herein.

Yours sincerely

The General Representative for Italy

APPENDIX 3)

To:
XXXXXXX

Dear

Re.: [tender reference]

With regard to the procedure referred to above, the undersigned, (name), in his capacity as Lloyd's General Representative for Italy (registered office and fiscal domicile: Via Sigieri 14, Milan; VAT no.:; fiscal code.:),

considering that:

- on the basis of your invitation dated (date), a proper offer dated was thus submitted on behalf of Lloyd's syndicate(s)
- the selection process was abandoned due to the exclusion of the bidders,

hereby declares that those Lloyd's syndicate(s) having taken part in the previous bidding procedure, wish to participate in further bidding procedures or in any negotiation process.

Yours sincerely,

The General Representative for Italy

APPENDIX 4)

FEES FOR LLOYD'S PARTICIPATION IN PUBLIC TENDERS

Application fee

An application fee of Euro 150 is payable by the Lloyd's correspondent in respect of any formal application by the LIO to participate in a public tender. This fee is not applicable if a quotation is subsequently submitted to the public body through the LIO.

LIO Tender fee

Where bids are successful a tender fee is payable by Lloyd's underwriters on the following sliding scale:

- For a tender which results in a gross premium of less than Euro 10,000 = Euro 500
- For a tender which results in a gross premium from Euro 10,000 to Euro 25,000 = Euro 1,000
- For a tender which results in a gross premium exceeding Euro 25,000 = Euro 1,500

This fee is charged at the outset of the insurance even if the premium is to be developed over a period of longer than one year.

For tender risks placed as "services" business, the fee is Euro 1,500 irrespective of the size of premium. If a bid requires significantly greater than normal work on the part of either the LIO or Worldwide Markets an additional fee on top of the standard scale is charged.

The LIO tender fee will not be charged on unsuccessful bids.

LIO has instructed intermediaries to ensure that Lloyd's brokers mark slips for such cases "Italian tender fee", so that underwriters are aware of the status of the proposed contract. If a tender is to be accepted under a binding authority, the coverholder must have the underwriters' authority to commit them to the payment of the fee.

This information is correct as at June 2006. Changes may occur from time to time. Please access www.lloyds.com/italy or contact the LIO for up-to-date information or clarification.

APPENDIX 5)

ONLINE APPLICATION FORM

APPENDICE 5)

MODULO DI RICHIESTA PER ACCESSO ON-LINE

Il sottoscritto:

in qualità di:

della Società:

Indirizzo:

Città: **CAP:**

Provincia:

Dichiara di aver letto i “Termini e le Condizioni per i Servizi ai Corrispondenti” che allega firmate per accettazione, e al fine di utilizzare tale servizio chiede l’attribuzione delle chiavi di accesso per le seguenti persone:

NOME	COGNOME	INDIRIZZO E-MAIL
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Ai sensi della Legge 31 dicembre 1996 n. 675 e successive modificazioni, ed in relazione ai dati personali sopra riportati esprime il consenso per il trattamento di dati strettamente necessario per le operazioni e i servizi richiesti

Data:

Firma: