



Criteria for the sale of land in the *"Banca delle terre agricole"*

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1. Introduction

Article 16 of Italian law no. 154 of 28 July 2016 set up the "**Banca delle Terre Agricole**" - hereinafter referred to as the "Bank" or "BTA" - at ISMEA, with the aim of compiling a comprehensive inventory of the demand for and supply of agricultural land that becomes available following the abandonment of production and early retirement, collecting, organising and advertising the necessary information on the natural, structural and infrastructural characteristics of such land, and on the terms and conditions for its sale and purchase.

The Bank may be supplied with land both deriving from **land operations carried out by ISMEA** and belonging to Regional Governments, Autonomous Provinces or other public entities, including non-territorial entities, interested in selling their own land through the Bank, subject to the signing of specific agreements with the Institute.

The Bank can be accessed free of charge by the users interested in buying, who can in this way view the technical sheets describing the land on sale, and send their expression of interest in participating in the public bidding procedure referred to in Article 13(4 *quater*) of Italian Decree Law no. 193 of 22 October 2016, converted, with amendments, by Italian Law no. 225 of 1 December 2016.

Pursuant to the aforementioned Decree - which, among other things, amended Article 14 of Italian Law no. 590 of 26 May 1965 - **agricultural pre-emption is not** applied to the sale of land by ISMEA.

2. Criteria for the Bank to access land

The Bank's updating/acceptance of land is normally carried out **every six months**.

ISMEA land that meets the following conditions falls within the scope of the Bank sale procedure:

- Land for which a final judgment on terminating the contract has been given;
- Land for which the certificate of breach of contract pursuant to Article 13(4-bis) of Italian Legislative Decree no. 193/2016 has been noted;
- Land for which a consensual resolution deed has been executed upon a motivated request of the assignee;
- Land for which a definitive measure of revocation/extinction of facilities has been taken.

The Institute reserves the right to remove land from the Bank at any time.

In addition to the successful outcome of the competitive sale procedure, the land may be taken from the Bank also in the following special cases:

- Waiver of judgement and payment of the amount due, with or without redemption, by the former assignee¹;
- Another possibility of return to "better fortunes", with or without redemption, actionable after the provision of evidence as per Article 13(4-bis) of Italian Legislative Decree 193/2016²;
- Unsuccessful outcome of the auction procedure.

¹ Payment - an integral cause of taking the land from the Bank - may be made, for each attempt to sell, **no later than** the deadline for the submission of the relevant expression of interest.

² The return to "better fortunes" - an integral cause of taking the land from the Bank - may take place, for each attempt to sell, **no later than** the deadline for the submission of the relevant expression of interest.

3. Requirements to participate in the public procedure

The bidding procedure is open to **all subjects** who:

- a) have not been convicted of offences entailing the additional penalty of being banned from dealing with the public administration (Article 32 quater of the Italian Criminal Code);
- b) are not subject to the prevention measures referred to in Article 67 of Italian Legislative Decree no. 159 of 6 September 2011;
- c) are not in the conditions pursuant to Article 68 of Italian Royal Decree no. 827 of 23 May 1924 (exclusion from participation in previous award procedures or contractual relations due to negligence or bad faith) with reference to the land to be sold;
- d) are not bankrupt or under compulsory liquidation, have not entered into an arrangement with creditors or any proceedings to declare such situations;
- e) have not been convicted with a definitive sentence, have not received a penalty order that has become irrevocable, have not been sentenced to the application of the required penalty (pursuant to Article 444 of the Italian Code of Criminal Procedure) for serious offences against the State or the Community that affect my professional conduct; have not been convicted with definitive sentences for one or more offences of participation in a criminal organisation, corruption, fraud or money laundering, as defined by the Community legislation referred to in Article 45(1) of Directive 2004/18 (EC).

In the case of legal persons, the requirements to participate must be met not only by the person who signs the expression of interest but **also by the following persons in office on the date of publication of the Notice or taking office until the date of submitting the bid:**

- in the case of a *sole trader*: the owner and technical director;
- in the case of *general partnerships*: partners and technical director;

- in the case of *limited partnerships*: active partners and technical director;
- in the case of *other types of companies or consortia*: members of the board of directors who have been granted legal representation, including officers and public attorneys, members of the bodies with management or supervision powers (e.g. Board of Statutory Auditors, Supervisory Body) or of the subjects vested with powers of representation, management or control, the technical director, the natural person sole shareholder or the majority shareholder, in the event of companies with less than four shareholders. In the case of companies with only two shareholders holding 50% of the shares each, the declarations must be made by both of the shareholders mentioned above;
- public attorneys and officers of companies vested with decision-making powers.

No bids may be submitted for persons to be appointed within the terms provided for in Article 1402 of the Italian Civil Code.

4. Operating procedures for the sale of land entered submitted in the Bank

Land is **sold as a whole and not on a per unit of measure basis**, in the **de facto and de jure state it is found to be in**, with the relative accessions and appurtenances, rights and receivable and payable easements, charges, rents and existing restrictions, even if unknown and not transcribed, with the express obligation on the part of the successful bidder to ensure, at its own expense, than the necessary regularizations are carried out in good time before signing the deed of sale.

In order to ensure maximum participation in the bidding procedure, a Public Notice is given, containing an indication of the land up for sale and the starting bid price. The Notice is published on the official website in the section dedicated to the BTA and, in excerpt, in the Official Gazette of the Italian Republic and in two of the main national newspapers.

From the publication of the Notice, **90 calendar days** will be given to receive **expressions of interest**. The right to express interest in more than one plot of land is permitted. In this case, interest must be expressed for each individual plot.

The Institute may publish a Notice of sale also referring to one or more plots of land.

Expressions of interest must only be sent electronically using BTA's dedicated portal. Pursuant to Article 16(3) of Italian Law no. 154 of 28 July 2016, the ways to access the portal are given on the official website.

All those who have expressed an interest and meet the subjective participation requirements will be invited to participate in the bidding procedure (**letter of invitation**) with the system of sale with no auction.

All communications required by the sales procedure process will be sent exclusively by certified email (PEC). Therefore, when expressing an interest, participants must state a certified email address - **under penalty of exclusion**.

The bids, together with the security deposit, must be received in a sealed envelope **no later than 45 days** from sending the letter of invitation.

Participants in the procedure will be bound by their bid for 180 calendar days from the submission date.

If not excluded, the **security deposit** to participate in the bidding procedure is set at **10% of the starting bid price** of each plot of land or lot in which interest has been expressed and is paid by **banker's draft**

Only bids for an amount no lower than the starting bid price will be allowed, with the exception of land at the fourth attempt of sale for which reference is made to point 5.

When the deadline to submit the bids has passed, a specially appointed committee will open the received bids in public.

Once the procedure has been completed, the winner for the first three plot of land will be the bidder who offered the highest price in relation to the starting bid price; For the land at the fourth attempt of sale, reference is made to point 5 of the Criteria.

In the case of **higher bids of the same amount**, the respective participants will be invited to submit a new secret bid, raising the previous bid (**raising**), also indicating the decimal numbers of the new amount offered.

The procedure will be awarded to the bidder making the highest raised bid.

After the opening procedure, the Commission will draw up, for each plot and/or lot, the ranking of the bids received, and the General Manager will arrange the final award at his/her own discretion.

The successful bidder may relinquish the award, without any claim or request other than the return of the deposit, if, **12 months** after receipt of the award notice, concluding the final sale agreement has not been possible for reasons the successful bidder has no control over. In any case, ISMEA will not be required to return the deposit if the successful bidder has already taken possession of the land.

Awarding the contract does not imply any transfer of title for the property, which only occurs at the time of the notarial deed and the full payment of the price.

ISMEA reserves the right to award the contract even if only one valid bid has been received or decide not to proceed with the award, notifying all participants accordingly.

At the end of the procedure, all the checks aimed at proving the satisfaction of the subjective requirements declared during the participation phase will be carried out in relation to the successful bidder.

In the event of relinquishment by the successful bidder or of forfeiture, the subjects duly placed in the ranking may be contacted by rank order. The ranking list is valid for **2 years** from the date of approval.

5. New Notice of Sale

If no expressions of interest are received or in the event of an unsuccessful outcome of the first attempt to sell, a new Notice of Sale will be published.

Except for the lands at the fourth auction attempt, each sale attempt is held at a base price **reduced by a quarter** of the value set for the previous attempt. In this case, only bids greater than the base auction value are permitted.

For plots of land **at the fourth auction attempt**, the base auction value is not reduced compared to the previous (third) auction attempt. In this case, **bids are admitted both upwards and downwards** with respect to the base auction value, with **a minimum value**, below which the sale cannot take place, **set at 35% of the base auction value**. The bidder offering the highest price compared to the minimum value will be awarded the contract.

For the manner in which the sale procedure is carried out, please refer to the provisions under paragraph 4 above.

6. Sale of land

According to Law no. 160 of 27 December 2019 art. 1, paragraph 510, to the acts resulting from the procedures of sale through the Bank of Agricultural Lands are applied, with regard to the modalities of urban regularizations to be carried out in relation to the transfer of ownership of the properties, the special provisions of Article 46, paragraph 5, of Presidential Decree of 6 June 2001, no. 380 and 40, paragraph 6, of Law no. 47 of 28 February 1985.

Before proceeding with the conclusion of the contract, the successful bidder, within the period (in any case not less than 60 days) which will be assigned by Ismea following formalization of the award of the contract, must, before signing the contract, carry out the required regularizations at his own expense, failing which the contract will be revoked and the security deposit withheld.

The price of the land will be paid by the successful bidder in a single payment, net of the security deposit, at the time when the sale contract is concluded.

All costs relating to and resulting from the execution, without exception, shall be borne by the purchaser in full.

The Notary will be appointed by ISMEA and selected in Rome.

7. Facilities for young farmers

Pursuant to Article 13(4-quater), second sentence, of Italian Legislative Decree 193/2016, in case of award to young farmers, the payment of the price may be made in instalments, with a legal mortgage application equal to 100% of the value of the land used as the starting bid price, for the first three attempt of sale or, for the fourth attempt at sale, at the price offered if lower.

In this case, the price of the land, up to 100% of the starting bid price net of the security deposit, may be paid in six-monthly or annual instalments and the related repayment schedule plan will be arranged for a **maximum period of 30 years**³.

The payment of the individual pre-amortisation and amortisation instalments shall be made, by the successful bidder, exclusively via SDD (Sepa Direct Debit), with direct debit to the current account of the successful bidder, as indicated in the relevant contract.

Pursuant to the European Commission Communication of 19 January 2008 (2008/C 14/02), the maximum annual benchmark rate applicable to the sale corresponds to the base rate - available at https://ec.europa.eu/competition-policy/state-aid/legislation/reference-discount-rates-and-recovery-interest-rates/reference-and-discount_en - in force at the time of the award decision, increased by **up to 220 basis points**.

³ **Example land from first to third attempt:** given 100 as the base auction value:
10 security deposit (10% of the base auction value)
115 amount offered

115 awarded price that, in case of young farmer, can be paid as follows:

10, equal to the security deposit, withdrawn as payment in advance on the moment of the award

90 amount payable in instalments (equal to the base auction value, net of the deposit) in case of sale with payment in instalments

15, equal to the increase, to be paid upon conclusion of the definitive deed

Legal mortgage for the value of 100 (i.e. 100% of the base auction value)

Example land at the fourth attempt: given 100 as the base auction value:
Minimum value (35% of the base auction price)
10 security deposit
50 offered amount

50 awarded price that, in case of young farmer, can be paid as follows:

10, equal to the security deposit, withdrawn as payment in advance on the moment of the award

40 amount payable in instalments (equal to the base auction value, net of the deposit) in case of sale with payment in instalments

Legal mortgage for the value of 50 (i.e. 100% of the awarded price)

In order to access the facilities, **at the time of expressing interest** the subject must meet the following requirements:

If a **sole trader**, it must be:

- run by a person aged between 18 and no older than 41;
- registered in the companies' register of the Chamber of Commerce;
- holder of an agricultural VAT registration number;
- registered in the agricultural social security system.

If a **company**, it must be:

- registered in the companies' register of the Chamber of Commerce;
- holder of an agricultural VAT registration number;
- with corporate purpose regarding the exclusive execution of the activities referred to in Article 2135 of the Italian Civil Code;
- have the wording "società agricola" ("agricultural company") stated in the name or business name;
- have the absolute majority, in numerical and shareholding terms, of shareholders aged between 18 and no older than 41;
- administered by subjects aged between 18 and no older than 41.

If the young farmer is awarded two or more plots of land, he may, at his option, request payment in instalments for only one plot of land.

8. Auction procedure with an unsuccessful outcome

Pursuant to Article 13(4-quater), second sentence, of Italian Legislative Decree 193/2016, in the event of an unsuccessful outcome, the Institute may proceed to private negotiations.