



POLITECNICO
MILANO 1863

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POLITECNICO DI MILANO

THE RECTOR

HAVING REGARD TO Italian Law No 168 of 09.05.1989, "Establishment of the Ministry of Universities and Scientific and Technological

Research" and subsequent amendments;

HAVING REGARD TO Italian Law No 241 of 07.08.1990, "New rules on administrative procedure and right of access to administrative documents", and subsequent amendments;

HAVING REGARD TO Italian Presidential Decree No 445 of 28.12.2000, laying down the legal provisions on administrative documentation, and subsequent amendments;

HAVING REGARD TO Italian Leg. Decree No 165 of 30.03.2001, 'General labour regulations for employees of public administrations', and subsequent amendments;

HAVING REGARD TO Italian Leg. Decree No 196 of 10.08.2018 laying down the 'Personal Data Protection Code' as amended by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and the free circulation of such data and repealing Directive 95/46/EC (General Data Protection Regulation);

HAVING REGARD TO Italian Law No 240 of 30.12.2010, 'Regulations on the organization of universities, academic staff and recruitment, as well as delegation to the Government to encourage the quality and efficiency of the university system', and subsequent amendments;

HAVING REGARD TO Italian Law No 190 of 06.11.2012, 'Provisions for the prevention and repression of corruption and illegality in public administration';

HAVING REGARD TO Italian Presidential Decree No 62 of 16.04.2013, 'Regulations on the code of conduct for public servants, pursuant to Article 54 of Legislative Decree No 165';

HAVING REGARD TO Italian Leg. Decree No 50 of 18.04.2016, 'Implementation of Directives 2014/23/EU, 2014/24/EU and 2014/25/EU on the award of concession contracts, on public procurement and on procurement by entities operating in the water, energy, transport and postal services sectors, and for the reorganization of the regulations in force on public contracts for works, services and supplies', and subsequent amendments;

HAVING REGARD TO Art. 2222 'Work contract' of the Fifth Book - Title III of Self-employment - Chapter I General Provisions of the Civil Code;

HAVING REGARD TO Italian Leg. Decree No 81 of 15.06.2015, 'Organic framework of employment contracts and revision of the regulations on duties, pursuant to Article 1, paragraph 7 of Law No 183 of 10 December 2014', and subsequent amendments;

HAVING REGARD TO Italian Leg. Decree No 75 of 25.05.2017, 'Amendments and additions to Legislative Decree No 165 of 30 March 2001 pursuant to Articles 16, paragraphs 1 a), and 2 b), c), d) and e) and 17, paragraph 1 a), c), e), f), g), h), l) m), n), o), q), r), s) and z) of Law No 124 of 7 August 2015 on the reorganization of public administrations', in particular Art. 5 'Amendments to Article 7 of Legislative Decree No 165 of 30 March 2001;

HAVING REGARD TO the Statute of the Politecnico di Milano in force;

HAVING REGARD TO the Politecnico di Milano Regulation for Administration, Finance and Accounting in force;

HAVING REGARD TO Decree No 3894/AG of 18.12.2008 issuing the 'Regulations on the comparative procedures for the award of individual freelance assignments

, in implementation of the provisions of Art. 7, paragraphs 6 and 6 bis of Legislative Decree No 165 of 30.03.2001' and subsequent amendments;

HAVING HEARD the opinions expressed by the Academic Senate and the Board of Governors, in their respective meetings of 16 and 17 December 2019, regarding the approval of the revised text of the 'Regulations on the comparative procedures for the award of individual freelance assignments, in implementation of the provisions of Art. 7, paragraphs 6 and 6 bis of Legislative Decree No 165 of 30.03.2001' and subsequent amendments;

HAVING RECOGNIZED the need to issue the aforementioned Regulations;

HEREBY

DECREES

ART. 1

- 1) For the reasons cited in the premises, the 'Regulations on the comparative procedures for the award of individual freelance assignments, in implementation of the provisions of Art. 7, paragraphs 6 and 6 bis of Legislative Decree No 165 of 30.03.2001' and subsequent amendments and additions, issued with Director's Decree No 3894/AG of 18.12.2008 and amended with Director's Decree No 2933 of 4 November 2013, is further amended according to the text given below in full.
- 2) The changes are marked in ***bold italics***.

**REGULATIONS ON THE COMPARATIVE PROCEDURES FOR THE AWARD OF INDIVIDUAL
FREELANCE ASSIGNMENTS, IN IMPLEMENTATION OF THE PROVISIONS OF ART. 7,
PARAGRAPHS 6 AND 6 BIS OF LEG. DECREE NO 165 OF 30.03.2001,
AND SUBSEQUENT AMENDMENTS AND ADDITIONS**

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Art. 1

Purpose and definitions

- 1) These Regulations define and govern ***the criteria, requirements and*** comparative procedures to be adopted for the award of occasional, professional or coordinated and continuous individual freelance assignments to proven qualified experts, including with university specialization, according to the provisions of Art. 7, ***paragraphs 6 et seq.*** of Legislative Decree No 165 of 30 March 2001 ***and subsequent amendments.***
- 2) These provisions apply to all types of self-employment ***that do not fall within the scope of application of the Code of Public Contracts referred to in Leg. Decree No 50 of 18 April 2016 and subsequent amendments. All other exclusions provided for by current legislation continue to apply.***
- 3) For the purposes of these Regulations the following terms are understood to mean as follows:
 - a) “coordinated and continuous collaboration”: a relationship in which the professional service, for highly qualified ***activities***, with the exclusion of ordinary needs or needs involving no specific expertise, ***has the following characteristics:***
 - ***no employer-employee relationship with or submission to the organizational, managerial and disciplinary authority of the awarding department;***
 - ***operational independence in terms of the method and place of execution of the assignment;***
 - ***organizational coordination carried out by the conferring department, understood to mean the functional links, harmonization of the activities carried out by the collaborator with the institutional purposes and verification of the compliance of the service with the objectives;***
 - ***service provided continuously;***
 - ***predominantly individual nature of the work performed, meaning that the assignment activities may not be exclusively carried out personally by the individual collaborator.***
 - b) “occasional collaboration”: ***a relationship in which the professional service is carried out*** in an occasional and independent manner, with no employer-employee relationship and with no

coordination **by the awarding department**. This relationship has a defined time and ends when the established result is reached.

- c) **“professional service”**: a relationship in which the services are predominantly intellectual, rendered by persons holding a VAT number who regularly provide professional services connected with the subject of the assignment.
- d) **“awarding departments”**: the university departments that, based on requirements, express the need to award an individual assignment for the achievement of specific institutional purposes, outlining the type and profile of the collaborator.
- e) **“profile”**: the specification of the professional skills and cultural qualifications required in relation to the activities envisaged by the assignment.
- f) **“professional skills”**: all the elements, including cultural qualifications proving the expertise, including university specialization and/or experience gained in the sector.
- g) **“comparative procedure”**: the set of operations that, **having identified the most suitable selection criteria and methods, compare the skills possessed by the candidates, in order to verify the profiles most consistent with the necessary requirements.**

Art. 2

Scope of application

- 1) **The assignments referred to in these Regulations can only be awarded on an extraordinary basis, for exceptional reasons and temporary needs, and never for ordinary functions.**
- 2) **The use of self-employment contracts is permitted:**
 - a) **for the assignment of tasks not falling within the institutional tasks of employees;**
 - b) **for the assignment of tasks to support research activities and seminars and guidance activities;**
 - c) **for the assignment of technical-scientific consultancy tasks that require specific skills or enrolment in professional registers;**
 - d) **for entrusting the use of particularly complex scientific and educational equipment to people with proven experience;**
 - e) **for conferences, conventions, seminars, study days, training courses and similar activities that require the services of external experts.**
- 3) **The use of coordinated and continuous collaboration contracts for the performance of ordinary functions or the use of collaborators as employees is cause for tax liability for the persons authorized to stipulate the contract, referred to in Art. 9 below.**

Art. 3

Conditions for awarding the assignment

- 1) **The assignments referred to in Art. 1 are awarded only if all of the following conditions are met, which must be verified with the results shown in the request for authorizing the award:**
 - a) **correspondence of the subject of the service to the competences attributed by the law to the Politecnico di Milano;**
 - b) **correspondence to specific and determined objectives and projects, the achievement of which requires specific skills and professional qualifications;**
 - c) **consistency with the functional needs of the proposing department;**
 - d) **preliminary internal investigation to ascertain the objective impossibility of entrusting the assignment to suitable professionals within the University as foreseen in Article 5;**
 - e) **temporary and highly qualified nature of the service;**

- f) **prior determination of the duration, the subject and the remuneration of the service, as well as the methods and criteria for carrying out the assignment and possibly the place where the assignment is to be carried out;**
 - g) identification and prior determination of the selection criteria and the most suitable procedure;
 - h) compliance with the financial limits established by the regulations in force.
- 2) **For the stipulation of collaboration contracts**, the requirement of proven university specialization may be disregarded in the case of activities that must be carried out by professionals enrolled in orders or registers **or by persons operating in the field of art, entertainment, crafts or IT activities**, as well as in support of **research and guidance services**, without prejudice to the need to ascertain the experience gained in the sector.

Art. 4 Procedure

- 1) **The procedure for identifying the collaborator**, which is adequately publicized in accordance with the provisions of Art. 7 of these Regulations, is conducted in such a way as to guarantee impartiality and transparency and ensure cost-effectiveness and speed of completion.
- 2) The procedure **consists** of the evaluation of the candidates' curricula vitae and/or the completion **of an interview** and/or tests to ascertain they meet **the profile requirements**. Candidates residing or domiciled over 600 km from the selection venue may ask the Selection Committee to hold the interview remotely using audio and video computer media, provided that their identity can be proven with certainty. The same option is also foreseen for candidates with particular and justified needs.
- 3) The most suitable procedure is chosen by the persons referred to in Art. 6, in compliance with the procedures defined in these Regulations.

Art. 5

Methods for identifying the person to be awarded the assignment

- 1) **One essential condition for the stipulation of self-employment contracts with persons outside the university is the verified impossibility of managing the assignment activities with the staff in service at the university. Therefore, before starting the procedure for awarding an assignment externally, the awarding department must perform a careful survey to demonstrate the absence of professionals within the university capable of fulfilling the need underlying the assignment.**
- 2) **The notice for the internal survey must include the name of the department awarding the assignment, a description of the activities to be carried out and a description of the required professionals. This notice shall be published for at least 3 days in the 'Internal Calls' section of the university intranet. All the permanent staff at the university have access to the section of the intranet containing the survey notice.**
- 3) **Should this internal survey be unsuccessful, external persons shall be identified by comparing the candidates with the required profile.**
- 4) **The use of adequately publicized comparative procedures may be waived with direct assignment in the following cases:**
 - a) **uniqueness of the service from a subjective point of view, in the sense that** services for which the required skill or activity is so professionally specific as to render comparative assessment inapplicable may be excluded from the comparative procedures;
 - b) **seminars, training and research support that involve modest expenditure up to a maximum of EUR 1,000.00 before tax.**
- 5) **The assessment of the reasons for which the direct assignment is used and the related responsibilities are delegated to the Manager of the Area concerned in the case**

of University Administration and the competent body for starting the procedure in the case of Departments and Campuses.

Art. 6

Start of the procedure

- 1) The requests for activation of the individual assignments referred to in Art. 1 above, to be performed within the University Administration, are forwarded by the Head of the Department concerned to the Head of the Human Resources Department, who authorizes the start of the procedures.
- 2) The requests for activation of the individual individual assignments referred to in Art. 1 above, to be performed in other departments, are forwarded by the candidate to the Head of the Department, who, having acquired **the approval** of the competent board where required, initiates the comparative procedure.
- 3) The activation of the collaboration by the departments whose expenditure goes to the Ordinary Operating Fund (FFO), requires the prior authorization of the Head of the Human Resources Department.
- 4) The proposer must include:
 - a) the details of the collaboration to be undertaken in relation to a specific project, activity programme or phase thereof, identified by its characteristic content;
 - b) the temporary and highly qualified nature of the required services;
 - c) the specific cultural and professional requirements related to the requested service and certifying the particular and proven specialization, including university specialization and/or the experience gained in the sector;
 - d) The possible assignment place and the assignment methods;
 - e) the names of the experts in the subjects pertaining to the professional required, who will perform the evaluation;
 - f) the duration of the contract;
 - g) the maximum total expense to be borne by the Administration and any proposed compensation before tax;**
 - h) the methods of execution of the service and payment of the compensation, the contact person or person responsible for the results and the forms of verification of the accurate execution of the service.

Art. 7

Call for applications

- 1) The comparative procedure is governed by a special call for applications for the award of the specific assignment.
- 2) **The call for applications** must be advertised, for at least 10 days, by publication in the Official Notice Board of the Politecnico, accessible to the public online, and on the website of the proposing department.
- 3) **The call** is drawn up according to the facsimile **published in the special section of the university website.**

Art. 8

Evaluation methods and criteria

- 1) In relation to the chosen procedure, the evaluation is carried out by means of a **comparative procedure** by a Selection Committee composed of at least **three** experts in the field, **appointed** by the head of the department. **The procedure is documented by a** report showing the evaluation criteria, the list of suitable candidates **and the relative ranking.**
- 2) **The ranking is valid only for the purposes of the procedure for the call for applications**
- 3) **The Committee may use telematic tools for formal meetings and carry out all its sessions remotely.**
- 4) **The decree approving the documents is signed by the Head of the Department and is published in the Official Notice Board of the Politecnico and on the website of the proposing department.**

Art. 9

Persons entitled to sign the contract

- 1) *For the University Administration*, the collaboration agreement is stipulated *by the Managers of the Divisions concerned*.
- 2) For Departments and Campuses, the agreement is stipulated *by the Director of the Department or by the Vice Rector of the Campus and* by the Department Manager, *as delegated by the Director General*, within the expenditure limits set by the Board of Governors.

Art. 10

Obligations of publication and communication of the assignments

- 1) The assignments referred to in these Regulations must be published on the Politecnico di Milano website complete with details of the persons awarded the assignment, the reason for the assignment and the amount paid.
- 2) *When paying compensation for an assignment awarded to employees of another Public Administration, the university administration must notify this public body of the amount paid, within the legal deadlines.*
- 3) *The provisions shall apply according to Art. 15 of Legislative Decree No 13 of 14.3.2013, and subsequent amendments, on the obligations of communication concerning persons awarded collaboration and consultancy assignments.*

Art. 11

Verification of the execution and success of the assignment

- 1) *Before authorizing each payment, the Manager in charge or the Head of the Department, having verified the obligations established by the legislation in force, shall ascertain with the project manager the correct performance of the assignment and the consistency of the results achieved with respect to the foreseen objectives. The final balance shall be paid only upon delivery of a final report where required by the contract.*
- 2) Should the results of the services provided by the external collaborator fail to comply with the requirements according to the assignment contract or are completely unsatisfactory, the Manager or Head of the Department shall adopt the measures provided for in the contract.

Art. 12 Renewals and extensions

- 1) The renewal of assignments is not permitted.
- 2) The possible extension of the original assignment is permitted, exceptionally, for the sole purpose of completing the project and for delays not attributable to the collaborator, without prejudice to the amount of the compensation agreed when awarding the assignment.

Art. 13

Checks

- 1) The Administration reserves the right to carry out random checks through internal audits on the procedure methods independently implemented by the departments.
- 2) *The awarding department reserves the right to carry out random checks on the truthfulness of the declarations in lieu produced by the collaborators.*

Art. 14

Filing and Archiving

- 1) All the documentation relating to the procedures for collaboration assignments referred to in these Regulations is filed and archived in the *awarding* department.

Art. 15

Final and referral provisions

- 1) These Regulations are issued by decree of the Rector, entering into force on 1 January 2020 and are published on the university website: <http://www.normativa.polimi.it/>.**
- 2) For all aspects not expressly provided for in these Regulations, Articles 2222 et seq. of the Italian Civil Code shall apply, as well as all the legal provisions on occasional, professional or coordinated and continuous self-employment contracts applicable to Public Administrations.**

THE RECTOR
Prof. Ferruccio Resta

Digitally signed in accordance with the Digital Administration Code