

PUBLIC CALL

PUBLIC CALL FOR EXPRESSIONS OF INTEREST FOR ACQUIRING AN EXCLUSIVE LICENCE AGREEMENT TO PROPAGATE IN ORDER TO COMMERCIALIZE THE APPLE VARIETY NAMED "CREA 105"

Purpose

Call open to Companies located in the European Union for sending preliminary expressions of interest for acquiring an exclusive licence for the rights to propagate in order to commercialize the apple variety whose proposed denomination to CPVO is "**CREA 105**";

"CREA 105" is an apple variety obtained by CREA Centro di ricerca Olivicoltura, Frutticoltura e Agrumicoltura – Forlì for which CREA applied for the Community Plant Variety Rights (application n. 20183478 of the 11/01/2019) at CPVO (Community Plant Variety Office) of Angers, France.

The variety description and technical characteristics are reported in the file enclosed to this Public Call.

The Companies interested in acquiring the licence are called to send an expression of interest following the terms and the ways here following.

This Call is not an offer to the public (ex art. 1336 of the Italian Civil Code), nor an investment solicitation following the art. 94 and followings of the Legislative Decree n. 58 of 24.2.1998 and subsequent amendments or additions, but a simple market research. Therefore CREA has no obligation in giving information on the offer results nor in negotiating or concluding an Agreement.

Application

The expression of interest shall be sent in writing by International Registered Mail with return receipt or Certified E-mail **by 12:00 pm (midday) of 28/01/2020**. Expressions of interest received beyond the above-mentioned term will not be accepted.

The address of certified e-mail you shall send the expression of interest to is ofa@pec.crea.gov.it.

In case of sending by International Registered Mail, the documentation, sent in closed envelope with the heading "Expression of interest for acquiring an exclusive licence to propagate and commercialize the apple variety CREA 105", shall be addressed to:

CREA Centro di ricerca Olivicoltura, Frutticoltura e Agrumicoltura, Via La Canapona, 1 bis, 47121 Forlì (FC), Italia

The expression of interest shall be preferably written in Italian (English is however accepted) using the form attached to this Public Call. It shall be signed by the legal representative of the Company and sent together with the copy of his/her valid ID card.

The expression of interest shall include the following information:

- a) Details of the Company with name, registered office, Tax code, VAT number, personal data of the legal representative, address and e-mail address for any further communication;
- b) Short description of the Company expertise and business in the sector of the plant variety;
- c) Plan of development that the Company intends to implement for the first five-year period (indicating the amount of plants that the Company expects to produce, propagate and commercialize annually) with actions aiming to promote, enhance and protect the variety;

- d) Economic offer for acquiring the exclusive licence for the rights of propagation aiming at commercialization, taking into account what is stated in the following paragraph "Contractual Conditions";
- e) Declaration of accepting a further delegated person or body charged by CREA with the collection of sums due by the licensed company and with inspections on papers, accounting, fields and storehouse;
- f) Declaration of being available to take care, at the Company's own expenses, of the import procedures of base material, quarantine practices and variety protection by patent, in the name of CREA, in the extra EU territory where the Company intends to operate;
- g) Declaration of accepting early termination of the licence agreement in case of failure to respect the plan of development for the first 5-year period;
- h) Declaration of not being defaulting in the respect of the terms of the licence agreements made previously with CREA, and/or CRA, and/or other delegate by CRA/CREA, particularly of not being defaulting with the payment of sums already invoiced for any reason by CREA and/or CRA and/or CRA/CREA's delegate;
- i) Declaration of not being in bankruptcy, liquidation, receivership, composition with creditors; of not being subject to measures of interdiction to negotiate with the Public Administration; of being in compliance with the payment of social security contributions, under the law of the State of residence.

Selection criteria

The expressions of interest received in the frame of this Public Call shall be evaluated by a Commission appointed by the Director of Centro di ricerca Olivicoltura, Frutticoltura e Agrumicoltura.

The offers that do not contain all the information and the declarations requested above from letter a) to i) will be rejected. In the event of comparable offers, guaranteeing impartiality and transparency, the offers being more advantageous for CREA with the more promising and well-founded plans of development, together with an appropriate level of reliability of the contracting party - evaluated on the basis of the given information - will be selected.

CREA reserves the right to start the negotiation also with more than one subject in the event that the elements given by the expression of interest are not enough for choosing only one partner or in the event that acquiring more than one licence is considered as more advantageous.

Agreement conditions

The Agreement shall take effect as of the date of signature until the expiry date of the Community Plant Variety Rights, upon respect of the contractual conditions of the Agreement, especially of the proposed plan of development for the first 5-year period, of the annual minimum amounts and the fixed payment terms.

The Agreement shall terminate immediately in the event that CPVO – at the end of the technical exams now in progress– decides not to grant for any reason the Community Plant Variety Rights (CPVR). In the event that the CPVR is not granted by CPVO, CREA shall not be held responsible, in any case, for the lack of CPVR grant nor for any further damage the Company may suffer from.

CREA reserves the right not to consider the offers proposing **for the first 5-year period** an annual minimum amount lower than 6,000 Euros the Company shall pay yearly to CREA, including the further due royalties calculated on sold plants.

The royalty fee cannot be lower than 0.80 Euros per sold plant.

For each of the five years, if the due royalties for sold plants should exceed the annual minimum amount, the Company shall remit the exceeding sum to CREA.

Every five (5) years, the royalty fee per plant shall be increased by 5%, safe from different renegotiation agreed by the Parties.

Starting from the 6th year, the Company shall not pay the annual minimum amount anymore, but the Company shall still pay for any further sold plant according to the royalty fee.

The Company can grant sublicenses to other EU and extra EU companies in order to reach the greatest valorization and diffusion of the variety, giving notice to CREA.

In case of comparable offers, the offer contained in the expression of interest could become a basis for a further negotiation. All other terms of a further Agreement shall be object of negotiation between the Parties.

Privacy Note

The Privacy Note concerning the processing of personal data – following the EU Regulation n. 679/2016 for the protection of data - is enclosed to this Public Call and is intended as read and understood.

Information

This Public Call is published on the website www.crea.gov.it, in the section “Transparent Administration”.

For any further information, please contact CREA Centro di ricerca Olivicoltura, Frutticoltura e Agrumicoltura, dott. Gianluca Baruzzi Tel. + 39 0543 89566 (int. 6) e-mail address brevettifrutta.frf@crea.gov.it.

Direttore del Centro di ricerca
Dott. Paolo Rapisarda

Approved by Decree n. 8-D1 of the 06/12/2019

CREA 105

Origin

Selection obtained in 1989 by CRA-FRF (ex Istituto Sperimentale per la Frutticoltura - SOP di Forlì), now CREA Centro di ricerca Olivicoltura, Frutticoltura e Agrumicoltura from Forum x Lady Williams cross.

Selected in 1997 in Magliano, Forlì (FC).

CPVR application n. 20183478 of 11/01/2019



Strong points

The fruits are very attractive, similar to Fuji; fruit production is regular; the variety has good storability in cold stored rooms.

Weak points

The vigour tree is strong.

Breeders

Walther Faedi, Mauro Bergamaschi, Gianluca Baruzzi



Description

The tree vigour is medium with spreading growth habit and high and consistent productivity. The blooming time is intermediate (similar to Golden Delicious). The fruit size is medium-high, with flat and regular shape; the skin color is green with red overcolour, from striated to uniform. Its red color increases delaying the harvest; the pulp is very crunchy, rather firm and medium juicy, sweet and acid, with good flavour and medium aroma; The harvesting time is late October (3rd week of October; 2 weeks after Fuji in Romagna region); its harvest calendar is rather extended.



COURTESY TRANSLATION

EXPRESSION OF INTEREST

**FOR ACQUIRING AN EXCLUSIVE LICENCE AGREEMENT TO PROPAGATE IN ORDER TO
COMMERCIALIZE THE APPLE VARIETY NAMED "CREA 105"**

*CREA – Centro di ricerca Olivicoltura,
Frutticoltura e Agrumicoltura*

*To the attention of Responsible for the
procedure*

via La Canapona, 1 bis

4121 Forlì (FC)

Italy

The undersigned _____
born in _____ on the _____,
resident in (city) _____ (address) _____
in quality of legal representative of the Company (name) _____,
with _____ registered _____ office _____ in
(city) _____ (address) _____
Country _____
Tax Code _____ VAT number _____
Registration at the Chamber of Commerce (or other Register for foreign countries)
N. _____

With this EXPRESSES his/her INTEREST in acquiring an exclusive licence agreement to propagate in
order to commercialize the apple variety named "CREA 105".

For this purpose, declares:

that the field of expertise of the Company is the following:

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that the economic offer, in Euros, is the following:

that the plan of development that the Company proposes for the variety in object is the following:

Plan of development of the variety				
(amounts of plants that the Company expects to plant, propagate and commercialize in each season)				
Season 2020/21	Season 2021/22	Season 2022/23	Season 2023/24	Season 2024/25

that the activities for promoting and control the apple variety CREA 105 that the Company intends to carry out are the following:

-----;

that the territory or the territories where the Company intends to propagate and commercialize the plants of the variety is/are -----

-----;

to accept a further delegated person or body charged by CREA with the collection of sums due by the licensed company to CREA and with inspections on papers, accounting, fields and storehouse;

to be available to take care, at the Company's own expenses, of the import procedures of base material, quarantine practices and variety patent protection, in the name of CREA, in the extra EU territory where the Company intends to operate;

to accept the conditions listed in the "Public Call for expressions of interest for acquiring an exclusive licence agreement to propagate in order to commercialize the apple variety named CREA 105" published on the institutional website of Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria www.crea.gov.it;

not to be defaulting in the respect of the terms of the licence agreements made previously with CREA, and/or CRA, and/or other delegate by CRA/CREA, particularly of not being defaulting with the payment of sums already invoiced for any reason by CREA and/or CRA and/or CRA/CREA delegate;

not to be in bankruptcy, liquidation, receivership, composition with creditors or any other equivalent situations, following the law of the Country of residence;

of not being subject to measures of interdiction to negotiate with the Public Administration following the regulations in force in the Country of residence;

of being in compliance with the payment of social security contributions, under the law of the Country of residence;

to have read and understood the enclosed Privacy Note on the processing of personal data, following the EU Regulation n. 679/2016 on data protection.

_____, the _____
(Place) (Date)

(Signature and Stamp)

Please send together with a photocopy of the valid ID card of the signing person

SELF-CERTIFICATION DECLARATION

The undersigned (first name, surname),
born in.....on the.....,
tax code....., in the quality of legal
representative of the Company.....
with registered office in
VAT number, Tax Code.....,
phone number.....
fax, e-mail address.....;

Pursuant to Articles 46 and 47 of Presidential Decree n. 445/2000 and aware that anyone who makes untruthful statement or statement containing data that are not in accordance with the truth incurs penalties in accordance to Article 76 of the above mentioned Presidential Decree 445/2000

DECLARES

- To the best of his/her knowledge, pursuant the supervision provided for by art. 1 c.9 letter e) of the L. 190/12 and following the art. 7 of the Presidential Decree n. 62/13, no kinship nor relationship, by the second degree, exist between the owners, administrators, associates and employees of(name of the contracting party) and the managers and employees of CREA;
- following the art. 6 of the Presidential Decree n. 62/13, that for..... (name of the contracting party) no employment bond or professional bond, in progress or in the three previous years, exist with the administrators and managers of the organizational units of CREA;
- not to be in the conditions stated in art. 53, comma 16-ter, of the Legislative Decree n. 165/2001 providing that : “the employees who, in the last years of office, have exercised authoritative or negotiation powers for public administrations referred to art. 1, comma 2 cannot perform in the three years following the termination of their public contract, any working or professional activity for private subjects benefiting from the activity of the public administration carried out by means of these powers. Contracts entered and assignments bestowed in violation of the provisions of this paragraph shall be nul and void, and private subjects who entered or bestowed them are prohibited from negotiating with public administrations for the following three years, with the obligation to return any ascertained related compensation received”;
- following the art. 2, c.3 of the Presidential Decree 62/13, to be aware of the duties provided by the Code of Conduct of CREA employees, adopted with Deliberation of the Governing Body n. 66 of the 14/12/2017 published on CREA institutional website on the following link <http://trasparenza.crea.gov.it/?q=node/30> and to commit to observe and make the employees and collaborators of(name of the Company) respect, as far as applicable, the above mentioned Code;

- *to be informed that, pursuant to and in accordance with the art. 13 of the Legislative Decree n. 196 of the 30/06/2003, the personal data will be treated, also with IT tools, exclusively for purposes of the procedure for which it is requested and for any further consequent administrative and jurisdictional proceeding; the undersigned authorizes the communication only to executives and CREA in-company or external appointees and to further other parties to the above-mentioned proceedings who will make an explained request for following the regulations in force and especially the law n. 241/1990*

Date

Signature.....

A photocopy of a currently valid identification document of the reporting party must be attached

NOTE TO NATURAL PERSONS FOLLOWING ART. 13 AND 14 OF THE EU REGULATION 2016/679 OF THE EUROPEAN PARLAMENT AND COUNCIL OF THE 27TH APRIL 2016 (GDPR).

1. CONTROLLER

The Council for Agricultural Research and Economics (hereinafter CREA) with legal address in via Po 14 in quality of “controller” legally represented by its Special Commissioner exercises the processing of personal data in the exercise of their public duties for the purposes stated at point 3.

2. CONTACT DETAILS OF THE DATA PROTECTION OFFICER (DPO)

CREA has appointed the “Data Protection Officer” has provided for by the Regulation.

For all matters concerning the processing of personal data and/or for exercising the rights set out in the Regulation, listed at point 7 of this Note, please contact the DPO at the following e-mail address: responsabileprotezionedati@crea.gov.it.

3. CATEGORIES OF PERSONAL DATA DEI DATI PERSONALI, SOURCES, PURPOSES AND LEGAL BASIS OF PROCESSING

Categories of personal data

The personal data processed by CREA (and specifically by Centro di Ricerca Olivicoltura, Frutticoltura e Agrumicoltura and by Ufficio Trasferimento tecnologico, brevetti e rapporti con le imprese) concern exclusively the Legal Representative of the Company (Name and Last Name, Place and Date of Birth, Tax Code) and the data of the Company (legal address, VAT number, phone number, e-mail).

Sources of personal data

CREA uses the personal data of the data subject communicated by the data subject or gathered by other Controllers (in the latest case, after verifying the respect of the conditions of lawfulness by third parties) or public sources, (for example other public administration) in accordance with the reference regulations.

Purposes and legal basis of processing

The data gathered will be processed without need of consent exclusively for the purposes of the Public Call for expressions of interest for acquiring an exclusive licence agreement to propagate and commercialize the apple variety named “CREA 105” and for the further conclusion and management of the Agreement.

Providing personal data is discretionary. However, if the subject does not provide personal data, this will cause the impossibility to conclude a Licence Agreement.

4. CATEGORIES OF RECIPIENTS WHO CAN RECEIVE THE PERSONAL DATA

For the purpose mentioned above, it might be necessary that CREA communicates the personal data to the following categories of recipients:

- 1) Research Centres of CREA;
- 2) companies, freelance professional, etc.. CREA delegates, working in or outside the European Union, processing the personal data in the frame of the collection of the amounts due by the licensed Company, including any further controls on paper/accounting and or field/storehouse;
- 3) Authorities (for example, judicial, administrative, etc..) and the public information system of public administrations;
- 4) Public bodies working inside or outside the European Union.

5. FURTHER TRANSFER OF PERSONAL DATA TO A THIRD COUNTRY OR TO AN INTERNATIONAL ORGANIZATION OUTSIDE EUROPEAN UNION

The personal data are processed by CREA inside the territory of the European Union.

If necessary, for technical or operational reasons, CREA reserves to transfer the personal data outside the European Union or to International Organizations for which there are adequacy decisions of the European Commission or on the basis of appropriate safeguards given by the country where the data should be transferred or on the basis of specific derogation provided for by the Regulation.

6. HOW PERSONAL DATA ARE PROCESS AND STORAGE TIMES

The personal data processing is carried out by hand, IT and telematic tools by CREA employees involved in the procedure for work purposes, following the necessary measures to guarantee the security and confidentiality of the personal data in the aim of the procedure for selecting contracting parties.

The personal data are stored for the duration of the procedure for choosing the contracting party as referred to in the above-mentioned Public Call, and for the further consequent conclusion and management of the related Agreements and for their duration. If the procedure or the contractual activities are interrupted, the personal data will be stored following the terms provided for by the law.

7. RIGHTS OF THE DATA SUBJECT

The data subject could exercise, at any time, towards the Controller, the rights provided for by the Regulation listed here below, sending an appropriate written request to the e-mail address responsabileprotezionedati@crea.gov.it.

The further communications and actions carried out by CREA, following the exercise of the rights listed here below will be made free of charge.

However, where requests are manifestly unfounded or excessive, in particular because of their repetitive character, CREA may charge a reasonable fee taking into account the administrative costs, or refuse to act on the requests.

Right of access

The data subject shall have the right to obtain from CREA confirmation as whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and to the information provided for by art.15 of the Regulation, as for example, the purposes of the processing, the categories of personal data concerned, etc.

Where personal data are transferred to a third country or to an International organizations, the data subject shall have the right to be informed of the appropriate safeguards relating to the transfer as specified at point 5.

If requested, CREA could provide a copy of the personal data undergoing processing.

For any further copies, CREA may charge a reasonable fee based on a administrative costs. Where the request is made by electronic means, and unless otherwise requested, the information shall be provided by CREA in a commonly used electronic form.

Right of rectification

The data subject shall have the right to obtain from CREA the rectification of inaccurate personal data concerning him or her, taking into account the purposes of the processing, the data subject shall

have the right to have incomplete personal data completed, including by means of providing a supplementary statement.

Right of erasure

The data subject shall have the right to obtain from the Controller the erasure of personal data concerning him or her where one of the grounds of art. 17 of the GDPR applies.

However, the personal data cannot be erased if the processing is necessary, for example, for compliance with a legal obligation, for the performance of a task carried out in the public interest or in the exercise of official authority, for the establishment, exercise or defence of legal claims, for achieving purposes in the public interest, scientific or historical research purposes or statistical purposes.

Right of restriction of processing

The data subject shall have the right to obtain the controller restriction of processing where one of the events provided for by art. 18 of the GDPR.

Right to object

The data subject shall have the right to object at any time to processing of personal data concerning him or her unless the processing is carried out for the performance of an activity of public interest.

In case the data subject decides to exercise the right to object, CREA shall no longer process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defense of legal claims.

Right to lodge a complaint with a supervisory authority

Without prejudice to any other administrative or judicial remedy, if the data subject considers that the processing of personal data relating to him or her infringes the Regulation and/or the national law, every subject data shall have the right to lodge a complaint with a supervisory authority.