



**MINISTRY OF DEFENSE**  
**AERONAUTICAL COMMAND**  
**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON**

**TERM OF REVOCATION OF BIDDING PROCESS**

**PAG N. 67102.191948/2019-14**

**INVITATION FOR BID N. 191948/CABW/2019**

Considering the guidelines issued by the Brazilian Air Force Staff, contained in the Official Notice N. 103/7SC1/48553, of August 3, 2020 (COMAER Protocol N. 67050.048074/2020-64), in order for this Brazilian Aeronautical Commission in Washington, D.C., to proceed with the revocation of the bidding process for the lease of a BOEING 767-300ER aircraft, the motivation of the administrative act is as follows:

- 1) The receiving of the KC-390 - Millennium aircraft by COMAER provided a considerable increase in its transportation capacity, reducing the pressure for immediate receipt of the aircraft in the leasing that is the object of this bidding process;
- 2) The present bidding process was a measure in order to overcome the impossibility of obtaining a transportation aircraft in the short term, and not to become a final solution for the ROP EMAER 76 (Project C-X2) object;
- 3) The COVID-19 pandemic impacted the aeronautical marketplace, causing strategic changes and closing of several air transportation companies, with a probable implication in the number of aircraft available for acquisition and lease, due to the slowdown in national and international air travels, a reality quite different from the one experienced in the year of 2019, when the bidding process had been started;
- 4) The budgetary scenario for the next fiscal year may present itself degraded due to the impacts caused by the measures adopted to restrain the COVID-19 pandemic; and
- 5) The results of such projections may limit the investment capacity of the Brazilian Air Force in the short term, so that it is necessary to adopt measures in order to reduce the impact on strategic projects in progress, given the importance for increasing and preparing capacity, and use of the Brazilian Air Force.

Considering the provisions of Article 49 of the Brazilian Federal Law N. 8.666/93: **“The competent authority for the approval of the procedure may only revoke the bidding process for reasons of public interest resulting from a supervening fact duly proven, pertinent and sufficient to justify such conduct, and must annul it for reasons of illegality, ex officio or by provocation of third parties, by means of a written and duly substantiated opinion”**;

Considering the provisions of Precedent 473 of the Brazilian Supreme Court: **“The administration can annul its own acts, when they are riddled with vices that make them illegal,**

**because rights do not originate from them; or revoke them, for reasons of convenience or opportunity, respecting the acquired rights, and in all cases, subject to judicial review”;**

Considering that it is duty of the Head of the Brazilian Aeronautical Commission in Washington D.C., as a superior authority to the Permanent Bidding Commission (CPL), to deliberate on administrative acts related to the opening, approval and revocation of bidding processes underway in this CABW.

I determine the following:

- 1) The revocation of the INVITATION FOR BID N. 191948/CABW/2019 (PAG N. 67102.191948/2019-14) bidding process, whose object is to lease a BOEING 767-300ER aircraft;
- 2) The publication of this revocation in the BRAZILIAN FEDERAL GAZETTE, Section 3, and on the official website of this Brazilian Aeronautical Commission in Washington D.C., as a way to guarantee the full publicity of the administrative acts practiced in the course of the bidding process;
- 3) The Bidding and Contracts Division of this BACW to adopt the due administrative procedures resulting from this revocation.

Washington, D.C., August 5, 2020.

ROBERTO MARTIRE PIRES, Col Av  
Head of BACW