

BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.



**INVITATION FOR BID No. 215083/CABW/2021
PAG No. 67102.215083/2021-03**



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MINISTRY OF DEFENSE
AERONAUTICAL COMMAND
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.

INVITATION FOR BID No. 215083/CABW/2021
PAG No. 67102.215083/2021-03

Approved on: October 15, 2021

Roberto Martire Pires, Col
Commanding Officer, BACW

Legal Support: The Brazilian Federal Government, through the Brazilian Aeronautical Commission in Washington (“BACW”), lets it be known to all who may be interested, that on the date, time and place indicated below, the BACW will carry out a Bidding Process on the basis of indirect execution, to be adjudicated based on the **LOWEST GLOBAL PRICE** (Letter A, Sub-item VIII of Article 6 of the Brazilian Federal Law No. 8,666/93), in accordance with this Invitation for Bid and its Annexes. This Bidding Process will follow the guidelines contained in the Brazilian Federal Law No. 8,666/93, its related legislation, and any other requirements in this Invitation for Bid and its Annexes. Furthermore, Bids submitted to the BACW will be interpreted, evaluated and judged according to the principles of the articles 3 and 123 of the Law No. 8,666 from 06/21/1993, regarding legality, impartiality, moral, equality, transparency.

Date of delivery and opening of envelopes:	October 28, 2021
Time:	10:00 a.m. (Eastern Standard Time)

Address:	1701 22nd St N.W. Washington D.C. 20008	Phone:	+1 (202) 518-7348
		Fax:	+1 (202) 483-4684
		E-mail:	chf.dlc.cabw@fab.mil.br

Accreditation:	October 28, 2021
Time:	10:00 a.m. (Eastern Standard Time)



1. DEFINITIONS

1.1. In order to facilitate the comprehension of terminology and to simplify text composition, the following abbreviations and expressions were adopted, followed by their definitions hereafter:

1.1.1.1. COMAER – Brazilian Aeronautical Command;

1.1.1.2. COMREC - Goods and Services Receiving Commission;

1.1.1.3. CONTRACTOR – the natural person or legal entity contracted to perform the services;

1.1.1.4. CONTRACTING PARTY- Brazilian Aeronautical Commission in Washington, DC (BACW);

1.1.1.5. EXPENSE CONTRACT or CONTRACT- The Agreement which the Public Administration (CONTRACTING PARTY), acting as such, signs with a private person or other Administrative Entity (CONTRACTOR), for the performance of the services in question and under the conditions set forth by the Public Administration itself.

1.1.1.6. EXPENSES SUPERVISOR- Administration Agent with the authority to perform acts resulting in funds citations, authorize payment, supply of funds, estimate approval, among other actions.

1.1.1.7. FAB – Brazilian Air Force

1.1.1.8. ICA – Aeronautical Command Directive;

1.1.1.9. INVOICE – Commercial document formalizing an act of purchase and sale abroad, which must contain- among other information- the following data: supply quantity, supply unit, price, payment terms, taxes, duties and FAB Purchase Order Number.

1.1.1.10. MO - Military Organization;

1.1.1.11. MONITOR- the individual or commission representing the CONTRACTING PARTY before the CONTRACTOR, appointed to systematically monitor the fulfillment of contractual terms and complementary orders issued by the Government, in all their aspects;

1.1.1.12. PAAI – Formal internal administrative procedure which consists in the registration of all acts to determine the administrative facts necessary to clarify and review judgments of the competent authority, allowing due process, which will culminate in the implementation or not of the administrative sanctions provided for in the Law (ICA 12-23);

1.1.1.13. PAG – Administrative Management Process;

1.1.1.14. TECHNICAL SPECIFICATION- As per Brazilian Law 8.666, dated June 21, 1993, the set of necessary and sufficient elements, with the necessary degree of precision, to define the project, service or body of work, which will constitute the Bid Subject. It is drafted based on the suggestions drawn from preliminary technical studies, which ensure technical feasibility and adequate treatment of the project's environmental impact, as well as evaluating the project or service's costs, defining the methods and terms for its performance.

1.1.1.15. TERM OF RECEIPT – Document issued by the COMREC attesting and accepting services performed.



2. OBJECT

2.1. The objective of this bidding process is the contracting of **75 hours of (DRY) Flight Simulator training** services outside Brazil, for the airplane **HAWKER 800XP**, according to terms, quantities, price limit and other applicable requirements established in item 3 of the Technical Specifications, Annex I.

2.2. The following annexes are integral parts of this contract, regardless of whether or not they are herein transcribed:

ANNEX I – TECHNICAL SPECIFICATION;

ANNEX II – PRICE PROPOSAL MODEL;

ANNEX III – CONTRACT DRAFT.

2.3. The estimates detailed in this INVITATION FOR BID do not imply any obligation by the CONTRACTING PARTY.

2.4. The services that are object of this INVITATION FOR BID shall be performed on the basis of indirect execution, at the Lowest Global Price.

3. PARTICIPATION REQUIREMENTS

3.1. Interested companies, registered with BACW or not, that are related to the object of this bidding may participate in this Bidding Process pursuant to the provisions of the respective acts that established the bidding. The BACW will select and invite at least three (3) companies.

3.2. Companies that are under the following conditions may not participate in the bidding:

3.2.1. Bankruptcy, legal restructuring, or extrajudicial reorganization;

3.2.2. Dissolution or liquidated;

3.2.3. Suspended from participating in bidding processes or have a note of failure on the execution of a contracting in its registration in BACW in the last 3 months;

3.2.4. Barred from participating in bidding processes and entering into a Contract agreement with the Brazilian Federal Government;

3.2.5. That are declared not to be in good standing to enter into an agreement with the Public Administration (Brazil);

3.2.6. That are part of a consortium, or joint venture that is separately participating in the bidding, or control or are controlled by another entity participating in the bidding process.

4. ACCREDITATION

4.1. The bidder, or its representative shall report to the Bidding Commission at the place, date and time indicated in the preamble to this Invitation to Bid for the purpose of conducting the registration of the participants in this Bidding Process, with his/her ID card, or other identification document, along with the document granting him/her powers to express opinions during the bidding procedures (such documents shall be made available outside of the Envelopes containing the Qualification Documents and Commercial proposals).

4.1.1. Failure to present any of the documents for registration or presentation of incorrect documents shall not preclude participation of the bidder. However, it will prevent its representative from expressing an opinion on behalf of the bidder.



4.2. The representative of a bidder shall be any qualified individual under the terms of its incorporation papers, public power of attorney document, private and notarized power of attorney document, or equivalent document.

4.2.1. Incorporation papers or registration as a proprietorship shall describe the authority of the representative of the bidder to represent it before third parties.

4.2.2. A power of attorney document shall describe all the required powers to present proposals and carry out all acts pertaining to the bidding process, and should be accompanied with incorporation papers or proprietorship registration.

4.3. A registered representative may only represent one bidder.

5. ENVELOPES WITH QUALIFICATION DOCUMENTATION AND PROPOSAL

5.1. Each bidding participant shall present two envelopes, one containing qualification documents and the other the price proposal.

5.2. The sets of documents pertaining to qualification and price proposal shall be delivered separately, inside sealed envelopes, with an initial on the flap and identified with the name of the bidder.

5.3. Bidders are strongly urged to use the following identification label format in order to identify their bids.

ENVELOPE No. 01 – QUALIFICATION DOCUMENTS
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON
INVITATION FOR BID No. 215083/CABW/2021
[NAME OF THE COMPANY]

ENVELOPE No. 02 – PRICE PROPOSAL
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON
INVITATION FOR BID No. 215083/CABW/2021
[NAME OF THE COMPANY]

5.4. The ENVELOPE No. 01 – QUALIFICATION DOCUMENTS, and the ENVELOPE No. 02 – PRICE PROPOSAL **must be included in an oversized envelope, sealed and addressed to the BIDDING COMMISSION.** The name and address of the bidder must be shown in the upper left corner of the bid envelope, and the invitation number, the date and hour of bid opening must be shown in the envelope in accordance with the following model:

C/O BIDDING COMMISSION – BID # 215083/CABW/2021
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON
1701 22nd Street N.W. Washington, DC 20008

SESSION ON **October 28, 2021 at 10:00 a.m. (EST)**
[NAME OF THE COMPANY]



5.4.1. The envelope may be forwarded by Postal Service or other similar delivery services, with tracking capabilities, and proof of delivery receipt. The envelope must be delivered at least by the opening of the public session at **10:00 a.m.** (Eastern Standard Time) of **October 28, 2021**

5.4.1.1. Bidders are strongly advised to inform the tracking number of their envelopes to the BIDDING COMMISSION by means of the e-mail chf.dlc.cabw@fab.mil.br prior to the date and time of the opening of the public session.

5.4.1.2. Envelopes delayed to be delivered to the BIDDING COMMISSION due to carrier issues or improper envelope identification shall not be considered.

5.4.1.3. BACW shall not be responsible for mistakes due to envelopes improper identification.

5.4.1.4. When sending envelope by Postal Service, the bidder must include the bid number on the outside envelope, so the package can be identified when arrived at BACW. (e.g. Some carriers permit the inclusion of the Bidding Number in the REFERENCE field.)

5.4.2. Envelopes may also be presented in person to the Bidding Commission in the public session.

6. QUALIFICATIONS (ENVELOPE # 01)

6.1. Companies must deliver the following documents in its qualification envelope.

6.2. Legal Qualification:

6.2.1. Present evidence of the **Company's Federal Tax Identification Number/EIN;**

6.2.2. Proof that the Company has, in its Articles of Incorporation, other governing document, or Commercial License, **the description that it is specialized in Training Flight Simulators;**

6.2.3. Updated proof that the **company properly maintains the flight Simulator equipment;**

6.2.4. Present a valid **Certificate of Liability Insurance** of the Company (proof of insurance);

6.3. The required certificates and/or statements shall be valid in cases where there are expiration dates.

6.4. No delivery slip or official request for documents will be accepted in lieu of the documents required in this Invitation for Bid and its Annexes.

7. PRICE PROPOSAL (ENVELOPE # 02)

7.1. The proposal, which should be typed and written in English, must be clear and have no amendments or erasures, duly dated and signed, with all pages initialed by the bidder's representative, according to the model in ANNEX II and the TECHNICAL SPECIFICATION, ANNEX I. The proposal shall include:

7.1.1. The UNIT PRICES of training in flight simulator and the GLOBAL PRICE of training in flight simulator.



- 7.1.1.1.** In order to achieve the GLOBAL PRICE, the UNIT PRICE shall be multiplied by the maximum number of hours estimated for flight simulator, in accordance with item 2.1. of this IFB)
- 7.1.2.** The service quoted shall include all costs arising from the performance of the services, whether direct or indirect, including but not limited to what is described below: all inputs such as fees and/or taxes of invoice, social contributions, duties and taxes, administrative fees, permits, and all other fees necessary for full compliance with the object of the INVITATION, in accordance with the TECHNICAL SPECIFICATION.
- 7.1.3.** Costs identified as funding or other non-specific terms shall not be accepted in the price proposal.
- 7.1.4.** Tax rates quoted by the bidder shall not exceed the limits established under applicable tax legislation.
- 7.1.5.** The validity of the proposal shall not be less than sixty **(60) days** from the day the bidding process is officially initiated.
- 7.2.** Under no circumstances shall the content of the submitted proposals be changed, neither with regard to price nor any other terms or conditions that imply any alteration to the original proposal. Exceptions are allowed only when these are formal changes intended to resolve immaterial errors or mistakes, without any alteration to the substantive content of the proposal or the aforementioned terms and conditions, and provided they will not cause any adverse impact to the other bidders.
- 7.3.** Errors in filling out the proposal should not warrant disqualification of the proposal when it is possible to make adjustments without the need to increase the prices offered, and provided it is demonstrated that the amount will be sufficient to cover all costs of the Contract.
- 7.3.1.** In case errors are noticed, the Bidding Commission will perform a diligence in order to assure that the adjustments to be made do not constitute need to increase the offered prices, and/or the offered price covers the cost of the CONTRACT.
- 7.3.2.** Any correction in proposals shall be duly recorded in the open session's meeting minutes.
- 7.4.** The changes addressed under this item shall be submitted to the Bidding Commission for review.
- 7.5.** The Bidding Commission may perform the correction of any of the above-described errors, or it can request the Bidder to submit the corrected proposal. No complaints with regard to the proposals will be admitted after they are duly recorded in the minutes.
- 7.6.** After qualification, it is not possible to withdraw a proposal, unless for cause due to a supervening fact as accepted by the Commission.
- 7.7.** The award will be made to the lowest responsive bid after qualification phase and price proposal acceptance.
- 7.8.** The service value is estimated to be a maximum of **US\$ 70,312.50** (seventy thousand, three hundred and twelve U.S. dollars and fifty cents) for the 12 month-period.



8. PROCEDURE FOR OPENING ENVELOPES

8.1. On the date, time and place indicated in this Invitation to Bid, in a public act, before the bidders present, the Permanent Bidding Commission will receive the oversized sealed envelopes (referenced in item 5.4) containing **Envelopes No. 01** and **No. 02**, and will proceed to initiate the bidding process.

8.1.1. These public acts may be attended by any person, but only the bidders and their registered representatives will be allowed to engage the Bidding Commission in conversation.

8.2. Once the deadline for delivering the documents has passed, no other documents will be received, nor will there be accepted any addendum or clarifications regarding the documentation or price proposal submitted.

8.3. After the bidders are identified, the Bidding Commission will proceed to opening Envelopes No. 01 – Qualification Documents.

8.3.1. The content of the envelopes shall be initialed by the members of the Bidding Commission and the representatives of all of the bidders present.

8.4. The qualification of the bidders will be verified, in accordance with this Invitation to Bid.

8.4.1. Should the Bidding Commission deem necessary, it could adjourn the public session, so as to analyze the documents presented by the bidders, setting, at that time, a new date and time when a new public meeting will take place, informing all bidders.

8.4.1.1. Considering the above hypothesis, all the qualification documents already initialed, and the Envelopes No. 2 – Price Proposals – initialed on the outside by the present bidders and the Bidding Commission members, will be kept by the Bidding Commission, until the qualification phase is concluded.

8.5. Disqualified bidders will have the Envelope No. 2 returned unopened after the legal period has transpired without appeal or its withdrawal, or an adverse decision on its appeal.

8.6. In case there are not 3 (three) participating bidders at the bidding meeting, the Bidding Commission will inquire to the present bidders about safeguarding their envelopes for a republishing of the IFB to be announced at later date.

8.7. After the analysis of the QUALIFICATION DOCUMENTS, it will be granted the deadline of 2 (two) business days, for the bidders to present any appeals. After that, a date for new meeting for opening the PRICE PROPOSAL will be announced.

8.7.1. The opening of PRICE PROPOSAL may occur at the same meeting in the following cases:

8.7.1.1. All bidders are declared QUALIFIED by the BIDDING COMMISSION, and the present bidders waive their right to appeal.

8.7.1.2. All the bidders are present and waive their right to appeal.

8.7.1.3. If the Bidding Commission consults the bidders that are not present at the meeting and they waive their right to appeal together with all bidders present.

8.8. In the event that one of the bidders does not withdraw the right to appeal the qualification phase, Envelopes No. 2 – Price Proposals – will be initialed by the bidders, and kept in a safe until a date is set for their opening.



8.9. After the qualification phase is finished and all the proposals have been opened, bidders cannot be disqualified by any reason related to the qualification process, with the exception of any supervening facts, or facts only known after the judging of the proposals.

8.10. The price proposals from the qualified bidders will be judged according to the requirements set forth in this Invitation to Bid.

8.11. If all the participants are disqualified for reason of their QUALIFICATION DOCUMENTS or otherwise, the Bidding Commission may establish a term of three (3) business days for new documentation or proposals to be submitted.

8.12. During all public acts, detailed minutes will be prepared and signed by the members of the Commission and the bidders' legal representatives in attendance.

9. REVIEWING QUALIFICATION DOCUMENTS

9.1. Participants will be **disqualified** if:

9.1.1. They submit documents required in this Invitation to Bid that are expired and/or not duly updated and/or not responsive to the requirements set forth in the Invitation to Bid.

9.1.2. They include the price proposal inside Envelope No. 01.

9.2. Bidders will be notified of their qualification or otherwise through publication. In the event that bidder representative attends the public meeting in which the decision was made, it will be communicated directly to the representative and recorded in the minutes.

10. REVIEWING THE PRICE PROPOSAL

10.1. The criterion for reviewing the proposal will be the **LOWEST GLOBAL PRICE**.

10.2. It will be **DISQUALIFIED** the proposal which:

10.2.1. Does not comply with Item 7 (Price Proposal) of this Invitation for Bid;

10.2.2. Is flawed or illegible, it is not specific or presents with irregularities and flaws that hinders its review;

10.2.3. It is not in compliance with any requirement set forth in this Invitation for Bid or the TECHNICAL SPECIFICATION;

10.2.4. It includes advantages that are not provided for in the Invitation for Bid, including subsidized financing, lack of any required due dates, or prices or advantages that are based on offers presented by another bidder;

10.2.5. It presents prices that are unrealistic in the sense that their viability cannot be appropriately demonstrated through documentation that proves that the costs of input are consistent with market prices and that productivity is consistent with the performance of the object;

10.2.5.1. Under these circumstances, the bidder will have **two (2) business days** to demonstrate the feasibility of the prices included in its proposal, in accordance with Article 48, item II, of Law No. 8,666/93 (Brazil), under the penalty of being disqualified.

10.3. If there are signs of unrealistic prices in the proposal, or if it is necessary to provide additional clarification, a due diligence may be carried out by the Bidding Commission, in accordance with §3 of Article 43, Law No. 8,666/93 (Brazil).



10.4. Once the price proposal which does not meet the requirements of the foregoing items is disqualified, the remaining proposals will be qualified from lowest to highest.

10.4.1. Should there be a tie among the proposals, a draw will be conducted. The names of the bidders that are tied will be placed in a sealed box, from which they will be drawn and classified on the basis of the order in which they were drawn.

10.4.2. After thirty minutes, the draw will be conducted, regardless of whether the companies or their representatives are in attendance.

10.5. Bidders will be notified of the results of bidding through either publication in a U.S. newspaper of national circulation, BACW's website, or other means, at sole discretion of BACW.

10.5.1. In the event that bidder representative attends the public meeting in which the decision was made, it will be communicated directly to the representative and recorded in the meeting minutes.

11. HOMOLOGATION AND ADJUDICATION

11.1. The bidding process will be submitted to the appropriate authority, who will proceed to ratify it and adjudicate the object to the winning bidder.

11.2. The adjudication will be based on the **LOWEST GLOBAL PRICE**.

12. CONTRACT

12.1. After the bidding is approved, the winning bidder (the "CONTRACTOR") shall have **05 (five) business days**, from the date it is notified, to sign the Contract attached hereto as ANNEX III, under the penalty of losing the right to be hired as well as being subject to the sanctions set forth in this Invitation to Bid and any other penalties or damages available under applicable law.

12.1.1. The term provided for in the previous sub-item may be renewed for an additional five business days if requested by the CONTRACTOR with good reason and accepted by the Administration (BACW) in its sole discretion.

12.2. The Administration (BACW) shall have the option to contact the remaining participants if the winning bidder does not sign the CONTRACT under the terms and conditions established, in accordance with the order of classification. It may do so under the same terms and conditions proposed by the winning bidder, including with regard to updated prices, pursuant to the Invitation for Bid.

12.3. The BACW may also revoke the bidding process without penalty, notwithstanding anything else provided for in this Invitation to Bid.

12.4. By signing the CONTRACT, the CONTRACTOR declares its express agreement with the adequacy of the TECHNICAL SPECIFICATION.

12.5. The CONTRACTOR shall maintain all the conditions for qualification required in the bidding process, throughout the performance of the Contract, in accordance with the obligations assumed.

12.6. The CONTRACTOR shall be responsible for any and all expenses arising from the Contract.



13. SUBCONTRACTING

13.1. Sub-contracting is not authorized under this INVITATION FOR BID.

14. TERMS

14.1. Term of Validity

14.1.1. The Contract's period of validity shall be 12 (twelve) months, starting on the date of its Signature, including its performance time, acceptance time and term established for the final payment.

14.1.2. The validity may be extended by mutual agreement between the parties for an additional equal period of 12 months, if it is in the CONTRACTING PARTY's interest, up the overall limit of 60 months.

14.2. Term of Execution

14.2.1. The period of execution of the CONTRACT shall be 11 months for the first 12 months period, starting at the SERVICE ORDER issuance.

14.3. Acceptance Timeframe

14.3.1. The services shall be definitively received by COMREC, through a TERM OF RECEIPT, signed by the parties within 10 (ten) days of written notification by the CONTRACTOR.

14.3.2. Final acceptance does not exclude civil responsibility for the reliability and safety of the service, or ethical/professional responsibility for the perfect performance of the contract.

14.4. Payment Processing Time

14.4.1. Payment processing time for Commercial Invoices shall not exceed 30 consecutive days, starting on the date on which the TERM OF RECEIPT is issued, signed by COMREC.

14.4.2. This term shall renew automatically for 10 (ten) business days if there is any discrepancy noted by the MONITOR and mandatorily notified in writing to the CONTRACTOR.

15. FINANCIAL GUARANTEE

15.1. The provision of a performance guarantee is not required for this contracting.

16. CHANGES TO THE CONTRACT

16.1. Pursuant to Article 65, § 1, of the Brazilian Federal Law No. 8.666/93, a CONTRACTOR is required to accept, under the same terms and conditions, any changes involving addition or subtraction the amount of the demand for the services, that may be necessary, at the discretion of BACW, up to the limit of twenty-five percent (25%) of the original total amount of the Contract.

16.1.1. Since the demands are estimated due to the characteristics of the OBJECT of this CONTRACT, reductions in the amount that exceeds the limit of twenty-five percent (25%) of the Contract may occur during the performance of the CONTRACT at CONTRACTING PARTY'S sole discretion.



16.1.2. The set of increases and the set of decreases shall be calculated based on the original shipments of, or services to be provided under, the Contract, on a case-by-case basis, without any sort of compensation up to the limits established above.

17. PRICE ADJUSTMENT

17.1. After the first 12 (twelve) months of contract performance, in case of being renewed for additional 12 (twelve) months, an adjustment may be applied, to reestablish the financial relation initially agreed upon between the parties at contract signature, thus ensuring adequate compensation for services, if and only if the increase in input costs associated with BID Object is proved to the satisfaction of the BACW Chief.

17.2. When requesting the price adjustment, after 12 (twelve) months period, the CONTRACTOR must supply within a rationale proving the cost variation by means of cost analysis and appropriated spreadsheets individually by each service of operation with supporting documentation.

17.3. The deadline for requesting price adjustment is aligned with the contract expiration date.

17.4. If the contract period has been extended, new price adjustment can only be pleaded after the new course of twelve (12) months.

17.5. Inclusion of unanticipated benefits not foreseen in the initial proposal at the bidding process is forbidden, except when they become compulsory under legal instrument.

17.6. The CONTRACTING PARTY may perform diligences in order to assure the cost variation proposed by the CONTRACTOR.

17.7. Should the CONTRACTOR not submit other factors without proper justification, the maximum adjustment amount shall be equivalent to CPI variation (*Customer Price Index, issued by the Bureau of Labor Statistics – BLS*).

17.8. Submission of an adjustment proposal by the CONTRACTOR does not imply its acceptance by the CONTRACTING PARTY, which may choose not to renew the contract for the next 12-month period.

18. PAYMENT

18.1. The deadline for payment shall be within thirty (30) calendar days from the date the term of receipt is issued by the Receipt Commission

18.2. An Invoice shall be issued by the CONTRACTOR in accordance with the following procedures:

18.2.1. Payment shall only be made, after the appropriate official's "approval" of the Invoice provided by the CONTRACTOR.

18.2.2. The "approval" of the Invoice is contingent upon verification of compliance of the Invoice submitted by the CONTRACTOR with the services that were actually performed;

18.2.2.1. The CONTRACTOR must submit with its invoice, the proof of training containing at least:

18.2.2.1.1. The Equipment in which the training was performed;

18.2.2.1.2. Amount of training hours;

18.2.2.1.3. Squadron which performed the training



18.2.2.1.4. Date and Time of training;

18.2.2.1.5. Signature of the officers who performed training;

18.3. In the event of any mistake in submitting any of the documents required under the previous sub-items or of a situation that prevents fees from being paid, the payment shall remain pending until the CONTRACTOR takes steps to remedy the situation. In this case, the deadline for payment shall take effect after it is verified that the situation has been solved, without any costs to the CONTRACTING PARTY.

18.4. Payment shall be made through a bank order of credit, deposit in a bank account, at the branch or bank agency indicated by the CONTRACTOR, or through any other means provided for under the legislation in effect.

18.5. The date of payment shall be considered the date when the bank order of payment is actually made.

19. CONTRACT MONITORING

19.1. The CONTRACT MONITOR must be a Federal Employee or Federal Agents of the Brazilian Federal Administration, specifically appointed by the Upper Administration, in accordance with the precepts established by Law No. 8.666/1993 (Brazil), ICA No. 65-8/2009 (Attributions of MONITOR and Receiving Commission), and of ICA No. 12-23/2014 (Inspection and Receiving Goods, Services and Administrative Sanctions Application), so as to monitor and inspect the fulfillment of the contract to be executed.

19.2. Monitoring of contractual fulfillment consist in verifying the conformity of the services and the allocation of the necessary resources.

19.3. Verification of adequate contractual fulfillment must be performed based on the criteria established in the TECHNICAL SPECIFICATION and in accordance with contractual terms.

19.4. Contractual performance must be monitored and inspected through oversight instruments including monitoring of the fulfillment of the obligations arising from this CONTRACT.

19.5. The MONITOR shall note in his records all events related to the performance of the Contract.

19.6. The monitoring of contractual performance carried out by the CONTRACTING PARTY does not eliminate the CONTRACTOR'S responsibility, also before third parties, due to any irregularity, even if arising from technical imperfections, flaws or inadequate use of equipment, and when these incidents occur, they do not imply shared responsibility by the CONTRACTING PARTY, its representatives or employees.

19.7. For the purposes of this INVITATION FOR BID, events shall be considered unforeseeable or caused by force majeure if they fit to legal description provided in single paragraph of article 393 of the Brazilian Civil Code, or terms of line II, §1º, Art. 57 of Federal Law No. 8.666/93 (Brazil).

19.8. The MONITOR should, additionally, abide by the following processes:

19.8.1. Observe and perform, when applicable, all procedures established in ICA 65-8/2009 and ICA 12-23/2014;

19.8.2. Monitor the development of all services requests issued to the CONTRACTOR;



19.8.3. Submit for evaluation by the EXPENSE SUPERVISOR all proposals, questioning, discrepancies and difficulties encountered during contractual performance or those requiring approval and/or decision;

19.8.4. Receive INVOICES, compare them with the amounts established in the CONTRACT, certify them and forward them to the EXPENSE SUPERVISOR for approval;

19.8.5. All INVOICES must be service invoices, detailing- at the very least- unit and total amounts for each cost, duty amounts charged, PROCESSING costs and discounts offered. All supporting documentation must be attached to the INVOICE for validation by COMREC;

19.8.6. If there are other inputs which may influence cost, these must be detailed;

19.8.7. Issue, until the fifth day of the following month, a Contract Status Report, in accordance with 65-8/2009 and ICA 12-23 for the Administration.

20. RECEIPT OF THE OBJECT

20.1. The services that are the object of the CONTRACT shall be received by the Receiving Commission in accordance with the specifications set forth in the TECHNICAL SPECIFICATION, Annex I of this Bid Announcement.

20.2. It is the responsibility of the RECEIVING COMMISSION (COMREC) to:

20.2.1. Ensure that the CONTRACTOR will follow the description of all the services that are the object of the TECHNICAL SPECIFICATION;

20.2.2. Receive services or reject them according to the specifications set forth in the TECHNICAL SPECIFICATION, in up to ten (10) calendar days;

20.2.3. Once approved, the invoices are sent to BACW's Contract Department, and

20.2.4. All proposals, questions, discrepancies and difficulties encountered during the execution of the CONTRACT, or that require an evaluation shall be presented to the CONTRACT MONITOR for approval and/or a determination must be approved by the Chief of BACW.

21. ACTS OF GOD OR FORCE MAJEURE

21.1. Acts of God or force majeure events shall be notified in writing to the Chief of the BACW, through the MONITOR, so that he may decide appropriate course of action, provided it has been proven that such events affect the services performed in connection with the object of this CONTRACT.

21.2. For the purposes of this CONTRACT, events shall be considered unforeseeable or caused by force majeure if they fit to legal description provided in single paragraph of article 393 of the Brazilian Civil Code, or terms of line II, §1º, Art. 57 of Federal Law No. 8.666/93 (Brazil).

22. OBLIGATIONS OF THE CONTRACTING PARTY AND THE CONTRACTOR

22.1. The obligations of the CONTRACTING PARTY and the CONTRACTOR are established in the, TECHNICAL SPECIFICATION, Annex I, CONTRACT DRAFT, Annex III, and other obligations provided for in this Invitation to Bid.



23. TERMINATION OF THE CONTRACT

23.1. The causes for termination of the Contract, as well as appropriate steps in that case, are provided for in the Contract.

24. BUDGETARY ALLOCATION

24.1. Financial resources shall be drawn from Program 2916 or similar, Expenditure Item 339039.

25. VIOLATIONS AND ADMINISTRATIVE SANCTIONS

25.1. For the application of administrative sanctions, it should be considered the following: the seriousness of the offense; recidivism; damage to the public interest; and the injury to the Administration.

25.2. Failure to comply with the CONTRACT in whole or in part or any breach of the obligations contained in the CONTRACT and in this Bidding document will subject the CONTRACTOR, without prejudice to other civil and criminal penalties, to any and all damages and remedies available to CONTRACTING PARTY under the CONTRACT or applicable law, ensure due process, the following penalties:

25.2.1.1. Warning is the administrative penalty imposed when the CONTRACTOR infringes, for the first time, obligations related to delayed contractual terms or invoice presentation for mistakes, or for breach of supervision guidelines within 48 (forty-eight) hours from the date of notification of the MONITOR. For the purposes of warning one PAAI should be instructed.

25.2.1.2. The warning should not be proposed for recurrence in the same kind of failure cases.

25.2.1.3. Fines referred to in item II of Art. 87 (fine for total or partial non-performance of CONTRACT) of Federal Law No. 8.666 / 93 (Brazil) may be defined and implemented as follow:

25.2.1.4. A fine may be applied for partial non-performance in the amount of 0.2% of the total amount of the CONTRACT if the CONTRACTED PARTY fails to comply with any condition set in the CONTRACT; and

25.2.1.5. If the CONTRACTOR causes termination of the contract, a fine will be imposed, for non-performance, in the amount of 10% (ten percent) of the current value of the CONTRACT, subject to late-payment penalty or other sanctions pursuant to art. 87 of Federal Law 8.666/93 (Brazil).

25.3. Provided prior defense of the person concerned within five (5) business days, the fine for the total or partial non-performance of the CONTRACT, referred to in item II of art. 87 of Federal Law No. 8.666/93 (Brazil), may be applied along with other administrative sanctions provided for in items I, III and IV of art. 87 of Federal Law No. 8.666/93 (Brazil).

25.4. BACW must inform the CONTRACTOR the amount to be collected, exhausted all administrative remedies and the right to legal defense, should the CONTRACTOR discount the value of future payments.

25.5. After the actions mentioned in the previous items, if it persists the denial of payment of the fine, the Expenses Authority (holder or delegate) of BACW, as appropriate, will be forward the



process to the Brazilian Attorney General of the National Treasury (PGFN) for analysis and description of the company sanctioned in Active Debt of the Union (DAU) and / or initiate the judicial execution, depending on the amount involved.

25.6. The fine will not relieve the CONTRACTOR of repairing the damages caused to the Administration, nor rule out the possibility of the imposition of other administrative penalties.

25.7. The application of the fines provided for in the preceding items may be appealed within 5 (five) business days, as provided in item "f", I, art. 109 of Federal Law No. 8.666/93 (Brazil).

25.8. The temporary suspension of participation in bidding processes and the prohibition to contract with the Administration, pursuant to subsection III of Article 87 of Federal Law No. 8.666/93 (Brazil), combined with Article 9 of Federal Law No. 10.520/2002 (Brazil), will be applied in MOs under the jurisdiction of the COMAER, with the following:

25.8.1. For up to 30 (thirty) days:

25.8.1.1. In noncompliance of the deadline for taking corrective measures during the application of the warning sanction; and

25.8.1.2. The disruption of any act of public bidding session.

25.8.2. For up to three 3 (three) months:

25.8.2.1. The withdrawal of the proposal, without just cause due to supervening fact;

25.8.2.2. The complaint of the unenforceability of the prices presented; and

25.8.2.3. In presentation of frivolous appeal.

25.8.3. For up to six (6) months:

25.8.3.1. The refusal of the winning bidder, convened within the period of validity of its proposal, to sign or accept the contract or withdraw any equivalent instrument;

25.8.3.2. The absence of financial guarantee submission under this Invitation for Bid, if applicable;

25.8.3.3. The recurrence of punishable illicit practice in the form of letters "25.8.1" and "25.8.2" of this item, in less than 24 (twenty-four) months;

25.8.3.4. The application of the second administrative sanction accompanied by a fine;

25.8.3.5. The implementation of two administrative sanctions warning and a fine under the COMAER within 12 (twelve) months, unless the supplier has taken corrective action within the period determined by the Administration; and

25.8.3.6. The implementation of two administrative sanctions fine under the COMAER with in 12 (twelve) months, unless the supplier has taken corrective action within the period determined by the Administration;

25.8.4. For up to twelve (12) months:

25.8.4.1. When the CONTRACTOR delays unreasonably the execution of the service, which implies termination;

25.8.4.2. When the CONTRACTOR does not pay the fine within the period prescribed in situations where you cannot discount the value of collateral or receivables from performed installments; and

25.8.4.3. The recurrence of punishable default practice in the form of the letter "25.8.3" of this item, within less than 36 (thirty-six) months.

25.8.5. Up to 24 (twenty-four) months:



- 25.8.5.1.** In the commission of an unlawful act, seeking to frustrate the objectives of this Bidding, such as the formation of collusion or cartel;
- 25.8.5.2.** In the presentation of "fraudulent" documents "adulterated", "false" or "fake";
- 25.8.5.3.** In the issue of "false declaration";
- 25.8.5.4.** In the definitive conviction for willful practice of tax fraud in the collection of taxes related to the CONTRACT;
- 25.8.5.5.** In the shutdown of the service without good cause and without prior notice to the Administration;
- 25.8.5.6.** In the delivery of material "fake" or "adulterated", using trickery to deceive the Administration;
- 25.8.5.7.** In the contractual non-performance resulting in serious damage to the Administration; and
- 25.8.5.8.** In the recurrence of punishable default practice in the form of item "25.8.4" term of less than 48 (forty-eight) months.
- 25.9.** For the purposes of this INVITATION FOR BID, as regards to the application of the administrative penalty of temporary suspension of participation in bidding and obstruction to CONTRACT with the Administration, the term "Administration" refers to the COMAER.
- 25.10.** It is understood by failure in the performance of the CONTRACT, means to not complete the provision of the service in accordance with the technical specifications contained in this CONTRACT.
- 25.11.** It is understood by disreputable behavior, means the intentional conduct of trying to deceive or corrupt the Administration, or any of its agents, to obtain undue advantage.
- 25.12.** The PAAI application of declaration of unfitness will be forwarded to the State Defense Minister, through the chain of command and the opinion of COJAER, given the exclusive competence of the sanction by the Minister of State. The application of this penalty will occur in any of the situations below:
- 25.12.1.** The CONTRACTOR has suffered definitive conviction for tax fraud;
- 25.12.2.** A business or professional committed unlawful act aimed at frustrating the objectives of the tender;
- 25.12.3.** The Administration may find that the company or professional does not have competence to be hired because of committed unlawful acts; or
- 25.12.4.** Finding, by the Court of the Union, the occurrence of fraud in connection with the Bid.
- 25.13.** The criteria to revoke the Certificate Good Standing, which may not exceed 5 (five) years under the current legislation, will be defined by the Ministry of Defense. Rehabilitation for this sanction may be required by the person concerned after the expiry of two (2) years of its application.
- 25.14.** In the event the Certificate of Good Standing is revoked, it will be suggested the application of the penalty which should indicate in their PAAI to the purpose of to provide rehabilitation of the amount to be reimbursed, with due legal charges and any obligations.



26. APPEALS

26.1. The actions of the Administration (BACW), during this Bidding Process, may be appealed as follows:

26.1.1. Appeal to BACW's Chief within **two (2) business days**, from the date of notification or registration of the minutes of the meeting/session, in the cases of:

26.1.1.1. Qualification of the bidder or lack thereof;

26.1.1.2. Judgment of the proposals;

26.1.1.3. Annulment or revocation of the bidding process;

26.1.1.4. Denial of a request for application or registration, alteration or cancellation;

26.1.1.5. Termination of the CONTRACT, unilaterally by the Administration (BACW) for cases provided for under item I, Article 79 of Federal Law No. 8.666/93 (Brazil);

26.1.1.6. Issuance of a warning, suspension or compensatory fine.

26.2. Once a request for appeal has been filed, it will be communicated to the other bidders, which may present counter-arguments within **two (2) business days**.

26.3. The appeal will be addressed to the BACW Chief, through the Bidding Commission, which may reconsider its decision within **five (5) business days**.

26.3.1. If the appeal is rejected, the CONTRACTING PARTY must forward the appeal to the higher authority, for an additional **five (5) business days**, all of which will be duly notified.

27. GENERAL PROVISIONS

27.1. Any doubts arising from the provisions of this Invitation to Bid may be the subject of consultation, in writing, with the Bidding Commission in charge of this bidding process, up to 48 hours before the delivery of the proposals.

27.1.1. All questions will be consolidated and answered in writing after the deadline for consultation has elapsed. A circular communication will be posted by the Bidding Commission and forwarded to the interested parties that have provided an e-mail address.

27.2. The interested party shall carefully review the Invitation to Bid and its Annexes, as well as all the instructions, terms and conditions, and technical specifications presented, and become familiar with all circumstances or details that may affect the assessment of costs and the terms involved in performing the object of this bidding process.

27.3. The bidders shall be responsible for all costs associated with the preparation and presentation of their proposal. The Administration (BACW) shall not in any way be responsible for those costs, regardless of the proceedings and outcomes of the bidding process.

27.4. Participation in this bidding process implies full acceptance of the terms and conditions established in this Invitation to Bid and its Annexes, as well as with the requirement to comply with the provisions herein.

27.5. Any changes or amendments to this Invitation for Bid will require its dissemination in the same publication that the original Invitation was posted, with the initial term being postponed, except when the changes do not in any way affect the formulation of proposals.

27.6. If it is not a business day or if there is any event that prevents the bidding process from being held on the scheduled date, the session will be automatically rescheduled to the following



business day at the same time and place previously indicated, unless communicated otherwise by the Bidding Commission.

27.7. In any stage during the bidding process, the Bidding Commission or the BACW's Chief may promote diligence intended to clarify or complement the process, provided it does not involve the later inclusion of any document or information that should be made available at the public bidding session.

27.8. The approval of the outcome of this bidding process does not imply a right to being contracted.

27.9. The BACW reserves the right to revoke or annul the Bidding Process in cases clearly in the public interest, e.g.:

27.9.1. Where there is no longer a requirement for the supplies or services; or

27.9.2. Where amendments to the invitation would be of such magnitude that a new invitation is desirable.

27.10. If this Invitation for Bid is cancelled, bids that have been received shall be returned unopened to the bidders and notice of cancellation shall be sent to all prospective bidders to whom invitations were issued.

27.11. Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation.

27.11.1. Invitations may be cancelled and all bids rejected before award but after opening, only when formally and in writing, by the BACW's Commanding Officer, in the following circumstances:

27.11.1.1. Inadequate or ambiguous specifications were cited in the invitation;

27.11.1.2. Specifications have been revised;

27.11.1.3. The supplies or services being contracted for are no longer required;

27.11.1.4. The invitation did not provide for consideration of all factors of cost to the Government;

27.11.1.5. For other reasons, cancellation is clearly in the Brazilian public's interest;

27.12. The terms established in this Invitation for Bid and its Annexes do not include the first day, but include the last day. Deadlines shall fall on regular business day for the Administration (BACW).

27.13. The rules which govern the bidding process shall always be interpreted so as to increase competition among the bidders, provided that it does not jeopardize the interest of the Administration (Brazilian Public Administration), or the principles of equal rights, the purpose and security of the contracting.

27.14. In the event of discrepancies between the provisions of this Invitation to Bid and the other documents of the bidding process, the Invitation to Bid will prevail, with the exception of the CONTRACT executed by the winning bidder (CONTRACTOR) shall govern its relationship with the BACW.

27.15. The invitation to Bid and its Annexes may be read and/or obtained at BACW at the address indicated below, during business days, from 07:15 a.m. to 03:15 p.m. (EST).



27.16. The records of this tender will remain available to all interested parties at the agency located at the address below, during business days from 07:15 a.m. to 03:15 p.m. (EST), after previously scheduled time.

1701 22nd St N.W.

Washington, D.C. 20008

Ph.: (202) 518 7348

Fax: (202) 483 4684

E-mail: chf.dlc.cabw@fab.mil.br

27.17. The United States District Court or the Superior Court in Washington, D.C., shall be the court in which any action or proceedings that might arise in connection with the bidding process must be filed and adjudicated, and the parties irrevocably submit to the exclusive jurisdiction of such court. This Invitation to Bid and the bidding process shall be construed and interpreted in accordance with the principles of Brazilian Law N° 8,666/93 and any other applicable laws and regulations of the Federative Republic of Brazil, and shall be governed by and enforced in accordance with the laws of the District of Columbia.

27.18. It is hereby agreed by the parties that the language of this Invitation to Bid, for the purpose of documentation, correspondence, and any other interests shall be **ENGLISH**.

Washington, D.C. – October 15, 2021.

Leandro Fernandes da Silva Roman, Lt Col
President of the BACW's Bidding Commission

Thiago Dellazari Melo, Lt Col
Head of the BACW's Bidding and Contracts Division