

BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.



**INVITATION FOR BID (IFB) No. 220004/BACW/2022
PAG No. 67102.220004/2022-59**



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

INVITATION FOR BID (IFB) No. 220004/BACW/2022
PAG No. 67102.220004/2022-59

Approved on: January, 25th, 2022.


Roberto Marfire Pires Col
Commanding Officer, BACW

Legal Support: The Brazilian Federal Government, through the Brazilian Aeronautical Commission in Washington D.C. ("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**, in accordance with this Invitation for Bid and its Annexes. This Bidding Process will follow the principles of the Brazilian Federal Law No. 8,666/1993, according to the terms contained in the Art. No. 123 of the referred law, its related legislation, as well as the recommendations contained on the MCA 176-1, updated on August 31, 2020. Furthermore, Bids submitted to the BACW will be evaluated and considered according to the principles of the Art. No. 3 of the Brazilian Federal Law No. 8,666/1993, following the principles of legality, impartiality, objective evaluation, morality, equity, and transparency.

Date of Opening of Envelopes:	March, 7 th , 2022
Time:	09:00 a.m. (Eastern Standard Time)
Address: 1701 22nd St N.W. Washington D.C 20008	Phone: +1(202) 518-7354
	Fax: +1 (202) 483-4684
	E-mail: chf.dlc.cabw@fab.mil.br
Accreditation:	March, 7th, 2022
Time:	09:00 a.m. (Eastern Standard Time)



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1. TIME, DATE AND PLACE FOR DELIVERY OF ENVELOPES CONTAINING DOCUMENTATION AND PROPOSALS:

1.1. Until 9 am of March, 7th, 2022, at 1701 22nd St NW Washington DC 20008, for delivery of Envelopes no. 01, with the qualification documents, and n. 02, with the proposal and the complementary statements.

2. TIME, DATE AND PLACE FOR THE BEGINNING OF THE PUBLIC SESSION

2.1. At 9 am of March, 7th, 2022, in BACW's noble hall, located at 1701 22nd St NW Washington DC 20008, the session will begin, proceeding with the accreditation of participants and the opening of envelopes containing the qualification documentation.

2.2. Each bidding participant shall present two envelopes, one containing qualification documents and the other the price proposal. 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. 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. 220004/BACW/2022
[NAME OF THE COMPANY]

ENVELOPE No. 02 – PRICE PROPOSAL
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON
INVITATION FOR BID No. 220004/BACW/2022
[NAME OF THE COMPANY]

2.3. Bidders interested in participating in the bidding do not need to send their legal representatives to deliver the envelopes with the documentation and proposals, and may even send them through the postal service or other similar means of delivery capable of traceability and proof of receipt, paying attention to the final dates and times for receiving them, contained in this Notice. Correspondence must be addressed with acknowledgment of receipt to the Bidding Commission at the address indicated in this Notice and contain the two aforementioned envelopes, in addition to the supplementary declarations, at least 1 (one) hour before the time set for the opening of the public session.

2.4. 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 – IFB # 220004/BACW/2022
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON
1701 22nd Street N.W. Washington, DC 20008

SESSION ON MARCH, 7TH, 2022 at 09:00 a.m. (EST)
[NAME OF THE COMPANY]

- 2.5.** 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.
- 2.6.** Envelopes delayed to be delivered to the BIDDING COMMISSION due to carrier issues or improper envelope identification shall not be considered.
- 2.7.** BACW shall not be responsible for mistakes due to envelopes improper identification.
- 2.8.** 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.)
- 2.9.** Envelopes may also be presented in person to the Bidding Commission in the public session.

3. LEGAL REPRESENTATIVE & ACCREDITATION

3.1. Bidders who wish to express themselves during the phases of the bidding process must be duly represented by:

3.1.1. Holder of the bidding company, and must present an identity card or other official identification document, accompanied by: commercial registration in the case of an individual company, articles of association or statute in force, in the case of commercial companies and, in the case of joint-stock companies, of the documents for the election of its administrators; registration of the constitutive act, in the case of civil companies, accompanied by proof of the current directorate; and minutes of founding and bylaws in force, with the minutes of the meeting that approved it, duly filed with the Board of Trade or registered in the Civil Registry of Legal Entities of the respective headquarters, in the case of cooperative societies; and such documents must express powers to exercise rights and assume obligations as a result of such investiture;

3.1.2. Representative appointed by the bidding company, who must present a private power of attorney or equivalent document, with powers to manifest on behalf of the bidding company at any stage of the bidding, accompanied by an official identification document and commercial registration, in the case of an individual company; articles of association or bylaws in force in the case of commercial companies and in the case of corporations, accompanied, in the latter, of documents for the election of their managers; registration of the constitutive act, in the case of civil companies, accompanied by proof of the current directorate; and minutes of founding and bylaws in force, with the minutes of the meeting that approved it, duly filed with the Board of Trade or registered in the



Civil Registry of Legal Entities of the respective headquarters, in the case of cooperative societies.

3.2. The non-presentation of any of the registration documents or the incorrect presentation of the documents does not prejudice the bidder's participation. However, this will prevent your representative from expressing an opinion on behalf of the company/consortium.

3.3. Each legal/accredited representative must represent only one bidding company.

4. OBJECT

4.1. The purpose of this bidding is to choose the most advantageous proposal for the **acquisition of 02 (two) A330-200 model aircrafts, manufactured on a date after January 01, 2014, compatible with the conversion to the Military A330 MRTT Flight Resupply Version**, as specified in the BASIC PROJECT and its Annexes, in compliance with ROP EMAER 118, according to the conditions, quantities and requirements established in this Invitation for Bid and its Annexes.

4.2. This Bidding Process will be carried out in a single lot, according to Basic Project No. 001/CELOG/2022. The aircrafts must be "sisterships", that is, similar in all equipment and configuration, as specified in Basic Project No. 001/CELOG/2022.

4.3. The evaluation criterion adopted will be the **Lowest Global Price**, observing the requirements contained in this Notice and its Annexes regarding the specifications of the object.

4.4. The aircraft must be delivered in accordance with the conditions established in Basic Project 001/CELOG/2022, with special attention to the Annex 02 – Aircraft Delivery and Acceptance Procedures.

5. BUDGET RESOURCES

5.1. The expenses to meet this bidding are programmed in its own budget allocation, provided for in the Union budget for the year 2022, in the classification below:

Management/Unit: 00001/120090

Source: Aeronautical Fund

Programmatic Functional: 05 151 6012 15XX 0001

Expense Elements: 449052

6. PARTICIPATION REQUIREMENTS

6.1. Interested companies, registered with the BACW or not, whose field of activity is compatible with the object of this Bidding can participate in this Bidding Process, as provided for in the respective act that established it.

6.2. Companies gathered in a consortium may participate in this Bidding Process, provided that they are duly framed in the provisions of item 7 of this Notice.

6.3. Companies that meet the conditions listed below will not be able to participate in this bidding process:



- 6.3.1. That are prohibited from participating in bids and signing administrative contracts with the Brazilian Government, in accordance with the current legislation;
 - 6.3.2. That do not meet the conditions of this Notice and its annexes;
 - 6.3.3. That fall within the prohibitions provided for in art. 9 of the Brazilian Federal Law No. 8,666/1993;
 - 6.3.4. That are under bankruptcy, creditors contest, or any ongoing process of dissolution or liquidation;
 - 6.3.5. Civil Society Organizations of Public Interest – OSCIP, when acting in this condition (Rule No. 746/2014-TCU-Plenary).
- 6.4. As a condition for participation, the bidder must send the following statements in the Qualification Envelope:
- 6.4.1. That it is aware of and agree with the conditions contained in this Invitation for Bid (IFB) and its Annexes;
 - 6.4.2. That it complies with the qualification requirements defined in this Invitation for Bid and that the submitted proposal complies with all the requirements contained in this Invitation for Bid;
 - 6.4.3. That there are no impediments to their qualification for the Bidding Process, and that it is fully aware of the obligation to declare subsequent occurrences;
 - 6.4.4. That the proposal was prepared independently, pursuant to the Normative Instruction SLTI/MP No. 2, of September 16, 2009;
- 6.5. Any false declaration regarding the fulfillment of any condition required in this Invitation for Bid will subject the bidder to the sanctions provided by law and in this Notice.

7. PARTICIPATION OF COMPANIES WHEN IN A CONSORTIUM

- 7.1. In the case of a consortium, participation is conditioned, in addition to the requirements contained in this Notice, to the fulfillment of the conditions provided for in art. 33 of Law No. 8.666/1993 and the following requirements:
- 7.1.1. There will be no limit on the maximum number of participants to form the consortium;
 - 7.1.2. Presentation, by each of the consortium companies, of the respective qualification documents required in this Notice, except when the notice itself expressly allows the delivery of the document by only one of the members of the consortium;
 - 7.1.3. Inclusion, in ENVELOPE 1, of the instrument of commitment to form a consortium, the Term of Public or Private Commitment, signed by the consortium members, through their legal representatives vested with powers to perform the act, with due recognition of their signatures in a notary's office, defining the participation of each company in the consortium, containing at least:
 - 7.1.3.1. The name of the consortium;
 - 7.1.3.2. The consortium address;
 - 7.1.3.3. The participating companies;
 - 7.1.3.4. The leading company;



- 7.1.3.5. The duration of the consortium, which must be equal to or greater than the duration of all clauses of the contract;
- 7.1.3.6. Form of consortium administration;
- 7.1.3.7. Way of sharing future expenses and results;
- 7.1.3.8. Mode of deliberation of common interests.
- 7.1.4. Indication, in the consortium constitution instrument, of the leading company of the consortium;
- 7.1.4.1. If there is a consortium formed with the participation of Brazilian companies, the leadership will necessarily be entrusted to them.
- 7.1.5. Indication of the percentage of participation of each consortium member, fully meeting the requirements of art. 33 of Law No. 8,666/93;
- 7.1.6. Prohibition of the participation of the same company (including its affiliates, subsidiaries, controlling companies or other companies under common control) or of the same investment fund (including its managers) in more than one consortium, as well as any other business arrangement that results in the submission of more than one proposal by the same company or investment fund.
- 7.2. The companies that are part of the consortium will be jointly and severally liable, before the government, for the acts performed within the scope of the consortium or the commitment of its constitution, both in the bidding process and in the execution of the contract, if the bidder is declared the winner.
- 7.3. The winning bidder must promote, before the execution of the contract, the constitution and registration of the consortium with the competent commercial board, as provided for in this public notice, considering that the participations remain identical to those contained in the instrument of constitution of the consortium, regarding the composition of its capital Social.
- 7.4. The inclusion, substitution, removal or exclusion of consortium members will not be allowed until the date of signature of the contract.
- 7.5. The disqualification or disqualification of any consortium member will result in the disqualification or automatic disqualification of the consortium of this bidding.
- 7.6. The requirements for proof of technical qualification and technical-professional qualification must be met by the consortium, as recommended in the public notice.
- 7.7. In the case of application of an administrative sanction, related to the obligations assumed by virtue of participating in the bidding, the joint and several liability of the consortium members will cease:
- 7.7.1. In the event that the consortium has been declared the winning bidder, after the date of signature of the contract;
- 7.7.2. In the event that the consortium is not the winner of the competition, within 30 (thirty) days from the date of signature of the contract.
- 7.8. The change in the constitution or composition of the winning consortium during the execution of the contract, to protect exceptional situations in which the public interest recommends the change, will be subject to the cumulative proof of the following requirements:
- 7.8.1. That there is evidence by the consortium of supervening facts, which occurred after the signing of the contract, justifying the change;



7.8.2. That the consortium continues to fulfill all the requirements required at the time of qualification in the bidding, under the terms of this notice;

7.8.3. That the new percentages of participation of the companies in the composition of the consortium do not harm the execution of the contracted object, nor constitute fraud in the bidding procedure;

7.8.4. The existence of a motivated decision by the Administration, which clarifies and accepts the reasons for the alteration and recognizes which are the new facts, not existing at the time of the bidding, which give rise to the approval of the alteration request after the award of the object;

7.8.5. The existence of manifestation in the sense that the new composition of the consortium would, at the time of the bidding, be able to become, alone, the winner of the event;

7.8.6. Legal analysis of the case.

8. QUALIFICATIONS (ENVELOPE # 01)

8.1. All documentation related to the Qualification must be presented in **ENGLISH**. Documents issued in a language other than English must present certified translations.

8.2. In the envelope containing the qualification documentation, the bidder must present the identification data of the legal representative.

8.3. In the ACCREDITATION FORM, the bidder must indicate at least the following information:

8.3.1. Corporate name of the company/consortium;

8.3.2. The bidder's full address;

8.3.3. Full name of your legal representative;

8.3.4. Power of attorney of the legal representative;

8.3.5. Legal representative's identification document number (eg, General Registry ID number, National Driver's License number, Passport number, or any other government-issued photo identification document);

8.3.6. Legal representative's address.

8.4. Bidders must submit the following documents in ENVELOPE 01 for their legal qualification:

8.4.1. Proof of the Company's Federal Tax Identification Number (Ex.: National Registry of Legal Entities - CNPJ, Federal Identification Number - FEIN, Tax ID Number - TIN);

8.4.2. Basic Business License or other evidence of competent authorization to operate in the jurisdiction issued by the relevant Government Agency;

8.4.3. The company must submit the following company documents:

8.4.3.1. Certificate of Incorporation or Certificate of Formation, or Articles of Incorporation, or Articles of Organization, or other similar organizational documents;

8.4.4. For Brazilian companies, the documents contained in the previous sub-items will be replaced by the SICAF (Unified Registration System for Suppliers), with valid dates or the documents prescribed in articles 27 to 32 of the Brazilian Federal Law No. 8,666/93.

8.4.4.1. If the foreign company is registered with the SICAF, the system can be consulted for legal qualification purposes.



8.5. Bidders must submit the following documents in ENVELOPE 01 for their technical qualification:

8.5.1. The formation of a consortium will be admitted, aiming to meet the technical qualification requirements in accordance with art. 33 of the Law 8666/93;

8.5.2. Proof of aptitude for the supply of goods in characteristics, quantities and terms compatible with the object of this bidding, or with the pertinent item, through the presentation of certificates provided by legal entities governed by public or private law. For the purposes of the evidence referred to in this sub-item, the certificates must refer to contracts executed with at least one of the characteristics below:

8.5.2.1. Supply or sale of at least one aircraft of similar or greater size; or

8.5.2.2. Possession or lease agreement with an option to purchase at least two aircraft of similar or greater size.

8.5.3. In the case of a consortium, the Technical Qualification documentation of the CONSORTIUM MEMBERS must reflect the responsibility of each one, as described in the commitment to constitute the Consortium.

8.5.4. Proof of certification by a competent aeronautical authority, according to FAR 145, EASA PART 145, RBAC 145 or equivalent regulations, to service an aircraft similar to the bidding object at the aerodrome where the aircraft are presented and in SBGL/GIG. If the bidder does not have such certification, it must submit a statement that it will hire a company with said certification to comply with the delivery and receipt procedures of the aircraft, in case it is the winner of the event, or present an instrument of commercial agreement with a subcontracted company, holder of the aforementioned certifications, to support the delivery and receipt of aircraft.

8.6. In addition to the cited documents, the statements contained in item 6.4 of this notice and the applicable criteria described in item 18 of Basic Project 001/CELOG/2022 must be inserted in ENVELOPE 01. In the case of a consortium, the document provided for in sub-item 7.1.3 must be included.

8.7. All pages that make up the documents in the ENVELOPE 01 must be numbered and initialed by the legally accredited representative without erasures or corrections.

8.8. The content of ENVELOPE 01 must be digitized and also presented in digital media, in PDF format. The digital files must be inserted in the ENVELOPE 01 through CD-ROM or PENDRIVE.

8.8.1. If there is a discrepancy between the scanned and physical documents, only the printed documents will be considered for the purpose of qualifying the company.

8.9. If the documentation presented has an expiration date, the documents must be valid.

8.10. The documents must be accompanied by all amendments or the respective consolidation.

8.11. The documents for qualification may be presented in original, by any process of copy authenticated by a competent notary or by a civil servant of the Administration, or publication in an official press.

8.12. Documents with a different CNPJ/CPF or Company's Federal Tax Identification Number will not be accepted, except for those legally permitted.

8.12.1. If the bidder is the parent company, all documents must be in the name of the parent company, and if the bidder is the branch, all documents must be in the name of



the branch, except for those documents that, by their very nature, are demonstrably issued only in array name.

8.12.2. For Brazilian companies, CNPJ registrations of parent and branch bidders with differences in the numbers of documents relevant to the CND and the CRF/FGTS will be accepted, when the centralization of the collection of these contributions is proven.

8.13. Once the qualification requirements established in the Public Notice are met, the bidder will be qualified for the classification phase.

8.14. Bidders must submit the following documents in ENVELOPE 01 for their economic and financial qualification:

8.14.1. Statement on the company's financial availability signed by the company's legal representative;

8.14.2. DUNS & BRADSTREET consultation demonstrating the company's history (this consultation may be carried out by BACW)

8.14.3. Complementary documentation capable of demonstrating the company's financial situation, such as a statement from a financial institution, a statement from suppliers and/or customers, etc.

8.14.4. Declaration that you have the ability to receive payment in US Dollars in the US banking system.

8.14.5. Declaration that it has the capacity to obtain and present the financial guarantee, within the period provided for in the contractual instrument.

9. PRICE PROPOSAL (ENVELOPE # 02)

9.1. The price proposal, presented in ENVELOPE 02, which must be written in **ENGLISH** and with values presented in US dollars. It must be clear, without amendments, erasures between the lines or reservations, duly dated and signed, with all pages initialed by the bidder's legal representative, and it must contain:

9.1.1. The bidder's corporate name and CNPJ;

9.1.2. A clear description of the object, observing the specifications contained in the Basic Project and other attached technical documents;

9.1.3. The unit prices and global value of the proposal, in figures, expressed in dollar, according to the prices practiced in the market, considering the model of Price Proposal attached to the Public Notice;

9.1.3.1. In the composition of unit prices, the bidder must present in detail the portions related to labor, materials, equipment and services;

9.1.3.2. The quoted prices must include operating costs, social security, labor, tax, commercial charges and any others that directly or indirectly affect the execution of the object and all the inputs that compose them, such as expenses with taxes, fees, freight, insurance and any others that affect the contracting of the object;

9.1.3.3. All data provided by the bidder in its bid must faithfully reflect the specified costs and the intended profit margin;

9.1.3.4. Costs identified through the use of the expression "budget" or generic units will not be admitted in the price proposal.



- 9.1.4.** Physical-financial schedule, as per Annex 3 to Basic Project 001/CELOG/2022;
- 9.1.4.1.** The physical-financial schedule proposed by the bidder must observe the maximum disbursement schedule per period contained in the Basic Project;
- 9.2.** For the purpose of analyzing the proposal, compliance with the following object requirements will be observed:
- 9.2.1.** If the aircraft offered is subject to a leasing agreement with purchase option, the contractual instrument signed with the lessor must be presented, demonstrating the possibility of transferring ownership at the time of signing the contract, as well as the lessor's consent to the sale of the aircraft.
- 9.2.2.** Check conditions inserted in the Basic Project and in item 5.2 of Annex 1 - Technical Specification of Aircraft. Failure to prove the requirements will be subject to disqualification of the proposals.
- 9.2.3.** The bidder must be the owner or be competent to negotiate the aircraft on behalf of the aircraft owner (representative/power of attorney) at the time of signing the contract, and must prove its ownership or a document that assures that it will be the owner for the purpose of signing the term contract with the Administration;
- 9.3.** Costs identified as financing or other unspecified terms will not be accepted in the price proposal.
- 9.4.** The tax rates quoted by the bidder cannot exercise the limits established by applicable tax legislation.
- 9.5.** All object specifications contained in the proposal are binding on the Contracted.
- 9.6.** The prices offered, both in the initial proposal and in the bidding stage, will be the sole responsibility of the bidder, not having the right to claim any change, under allegation of error, omission or any other pretext.
- 9.7.** The validity period of the proposal will not be less than 60 (sixty) days, counting from the opening date of the competition.
- 9.8.** If the company's tax regime implies the collection of taxes in variable percentages, the appropriate quotation will be the one that corresponds to the average of the company's effective payments in the last twelve months, and the bidder or contracted must submit to the Bidding Commission or inspection, at any time, proof of the adequacy of the payments, for the purposes set out in the previous sub-item.
- 9.9.** Under no circumstances should the content of submitted proposals be altered, neither with regard to prices nor any other terms or conditions that imply any change to the original proposal. Exceptions are allowed only when these are formal amendments, intended to resolve material errors, without any substantial change to the content or said terms and conditions, and provided that they do not cause any adverse impact to other bidders.
- 9.9.1.** The changes addressed in the item above must be submitted to the Bidding Commission for review.
- 9.9.2.** The Bidding Commission may proceed with the correction of the errors listed, or may require the Bidder to submit a corrected bid.
- 9.10.** The submission of proposals implies the obligation to comply with the provisions contained therein, in accordance with the Basic Project, with the proposer assuming the commitment to



execute the object in its terms, as well as to provide the necessary materials, equipment, tools and utensils, in adequate quantities and qualities for perfect contractual execution, promoting, when required, their replacement.

9.11. Bidders must respect the maximum prices established in the federal public procurement rules when participating in public tenders;

9.11.1. The non-compliance with the aforementioned rules by the Administration by the contracted may give rise to the inspection of the Federal Audit Court and, after due legal process, generate the following consequences: signature of a deadline for the adoption of the necessary measures to the exact compliance with the law, in the terms of art. 71, item IX, of the Constitution; or condemnation of the responsible public agents and the contracted company to pay the losses to the treasury, in the event of overpricing due to overprice in the execution of the contract.

9.12. No claims with respect to the bids will be accepted once they have been duly recorded in the Minutes of the bidding meeting. After qualification, it is not possible to withdraw a proposal, except for reasons arising from supervening facts accepted by the Commission.

9.13. The Price Proposal must be prepared in accordance with the model in Annex III of this Notice.

9.14. The content of ENVELOPE 02 must be digitized and also presented in digital media, in PDF format. The digital files must be inserted in the ENVELOPE 02 through CD-ROM or PENDRIVE.

9.14.1. If there is a discrepancy between the scanned and physical documents, only the printed documents will be considered for the purpose of judging the company's proposal.

9.15. For the purpose of analyzing the proposal regarding compliance with the object's specifications, a written statement from the area specialized in the object may be collected.

10. PROCEDURE FOR OPENING THE ENVELOPES

10.1. On the day, time and place designated in this Notice, in a public act, in the presence of the bidders, the Special Bidding Commission will receive, at once, the Envelopes No. 01, the Qualification Documents e supplementary documentation, and Envelope No. 02, Price Proposals, and will proceed with the opening of the Bidding Session.

10.1.1. The public acts/meetings may be attended by anyone, but only the bidders or accredited representatives will actively participate in them, thus intercommunication between them, or disrespectful attitudes or attitudes that cause riots and disturb the smooth progress of the works are not allowed.

10.2. Once the time for receiving the envelopes has passed, no other document will be received, nor will any addendums or clarifications related to the documentation or price proposal presented be allowed.

10.3. Next, the bidders will be identified and the opening of Envelopes nº 01 - Qualification Documents will be carried out.

10.3.1. The contents of the envelopes will be initialed by the members of the Commission and by the bidders present or by their representatives, and consulted with the SICAF, if applicable.



10.4. As a prior condition to the examination of the bidder's qualification documentation, the Commission will verify any non-compliance with the conditions of participation, especially regarding the existence of a sanction that prevents participation in the event or future contracting, under the terms of sub-item 6.3 of this Notice.

10.5. A bidder will be considered disqualified if:

10.5.1. Failing to present the documents required by this Call for Applications within the validity period and/or duly updated, or failing to prove their qualification through the SICAF;

10.5.2. Include the price proposal in Envelope n° 01.

10.6. If the Commission deems it convenient, it may suspend the meeting to analyze the documents presented, setting, at the opportunity, a new date and time at which it will meet again, informing the bidders. In this case, all qualification documents already initialed and Envelopes No. 02 - Price Proposal, initialed externally by all bidders and by the members of the Commission, will remain in its possession until the qualification phase is completed.

10.7. The respective Envelope No. 02 will be returned to the disqualified bidder, without being opened, after the legal term has elapsed without filing an appeal or its withdrawal, or an unfavorable decision on the appeal.

10.8. After the procedure for verifying the qualification documentation, Envelopes No. 02 - Price Proposal of qualified bidders will be opened, in the same session, provided that all bidders have expressly given up the right to appeal, or in a public act specifically scheduled for this end, after the regular course of the appeal phase.

10.8.1. If all bidders do not expressly waive the right to appeal, Envelopes No. 02 - Price Proposal will be initialed by the bidders present at the act and kept inviolable until the subsequent opening.

10.8.2. Once the qualification phase is over and the proposals are open, it is not possible to disqualify the bidder for reasons related to the qualification, except for supervening facts or only known after the judgment.

10.9. The price proposals of qualified bidders will then be judged, as per item 11 of this Invitation for Bid.

10.10. If all bidders are disqualified or all proposals are disqualified, the Standing Bidding Commission may set a period of 08 (eight) business days for the submission of new documentation or proposal, without the causes that disqualified or disqualified them.

10.11. In all public acts, detailed minutes will be drawn up, signed by the members of the Commission and by the accredited representatives and bidders present.

10.12. The intimation of the acts of qualification or disqualification of the bidders will be made through publication in the official press and on the BACW's website, as well as by receiving the Bidding Minutes in the e-mail of the legal representative of the bidder, unless the bidders' representatives are present in the public act in which the decision was adopted, in which case the subpoena will be made by direct communication to the interested parties and recorded in the minutes.



11. PRICE PROPOSAL JUDGEMENT

11.1. The criterion for the proposal judgement will be the **LOWEST GLOBAL PRICE**.

11.2. On the opening date of the ENVELOPE 02 containing the proposals, the documents will be initialed by the members of the Bidding Commission and by the legal representatives of the bidding entities. The Commission, if it deems it necessary, may suspend the meeting for analysis thereof.

11.3. The Bidding Commission will verify the proposals submitted, immediately disqualifying those that do not comply with the requirements established in this Notice.

11.4. Any offer or advantage not provided for in this Notice will not be considered for the purpose of judging the proposal.

11.5. Bids will be ranked in ascending order of bid prices.

11.5.1. In the event of a tie between two or more proposals, the following tie-breaking criteria will be used, in this order:

11.5.1.1. Final dispute, in which case the tied bidders will be able to present a new proposal in a continuous act to the classification;

11.5.1.2. evaluation of the previous contractual performance of the bidders, for which registration records should preferably be used for the purpose of attesting to the fulfillment of foreseen obligations; and

11.5.1.3. public draw, on a date and time established by the Administration, for which all bidders will be summoned.

11.6. The proposal that presents a final price higher than the maximum price fixed, a discount lower than the minimum required or that presents a price that is clearly unfeasible will be disqualified. The proposal that presents a final price higher than the maximum fixed price (Judgment No. 1455/2018 -TCU – Plenary), a discount lower than the minimum required or that presents a price that is clearly unfeasible will be disqualified.

11.6.1. A proposal that presents symbolic global or unit prices, negligible or of zero value, incompatible with the prices of inputs and market wages, plus the respective charges, is considered unfeasible, even if the bidding act has not established minimum limits, except when referring to materials and installations owned by the bidder himself, for which he waives part or all of the remuneration.

11.6.2. The examination of unenforceability will observe the formula provided for in art. 48, §§ 1 and 2 of Law No. 8,666, of 1993.

11.6.3. When the bidder presents a final price lower than 30% (thirty percent) of the average of the prices offered for the same item, and its immediate disqualification due to unfeasibility is not possible, it will be mandatory to carry out steps to examine the proposal.

11.7. Proposals will be disqualified and not considered if they:

11.7.1. Do not comply with the requirements established in this notice;

11.7.2. Contain irremediable vice or illegality;

11.7.3. Do not present the technical specifications required in the basic project and/or its annexes;

11.7.4. Present, in the composition of their prices:



- 11.7.4.1. The cost of inputs at odds with current market prices;
- 11.7.4.2. Quantities of insufficient labor, materials or equipment to compose the service unit.

11.8. When all bidders are disqualified, the Bidding Commission may set a period of 8 (eight) business days for the submission of new proposals, without the causes of disqualification.

11.9. Any interested party may request that steps be taken to assess the feasibility and legality of the proposals, and must present the evidence or indications that support the suspicion;

11.10. The bidder will be given a period of 24 (twenty-four) hours to prove the feasibility of the prices contained in its proposal, according to the parameters of article 48, item II, of Law No. 8,666, of 1993, under penalty of disqualification.

11.11. If the price bid is not acceptable, the Bidding Commission will examine the subsequent bid, and so on in ranking order.

11.12. Formal errors in completing the proposal are not sufficient reason for disqualification of the proposal, when the spreadsheet can be adjusted without the need to increase the offered price, provided the other conditions of acceptability are met.

11.13. In the event of the need to suspend the public session for the analysis of proposals or to carry out diligences, with a view to cleaning up the proposals, the Bidding Commission shall inform all bidders of a date and time for holding a new meeting and the occurrence will be recorded in minutes. All proposal documents already initialed will remain with the Commission until the conclusion of the proposal judgment phase.

11.14. From the judgment of the proposals and the classification, the bidders will be informed to present an appeal within 5 (five) business days. Once the appeal is filed, it will be communicated to the other bidders, who will be able to challenge it within the same period.

11.15. Once the appeal period has elapsed, without an appeal being lodged, or the appeals filed having been decided, the Bidding Commission will forward the bidding procedure for approval of the result of the event by the competent authority and, after, award of the bid object to the winning bidder.

11.16. The notification of the final result of the judgment of the proposals will be made through the publication in the official press and on the BACW's website, as well as by receiving the Bidding Minutes in the e-mail of the legal representative of the bidder, unless the bidders' representatives are present at the time public in which the decision was made, in which case the subpoena will be made by direct communication to the interested parties and recorded in the meeting minutes.

11.17. The tender result will be published on the BACW's and FAB website.

12. APPEALS

12.1. The filing of an appeal referring to the qualification or disqualification of bidders and the judgment of the proposals will observe the provisions of art. 109, § 4, of the Brazilian Federal Law No. 8,666, of 1993.

12.2. After each phase of the bidding process, the records of the process will be open to interested parties, for the period necessary for the filing of appeals.



12.3. The appeal against the decision that qualifies or disqualifies bidders and that judges the proposals will have suspensive effect, and the competent authority may, with good reason and present reasons of public interest, attribute suspensive effect to the other appeals filed.

12.4. The funds must be forwarded to the Brazilian Aeronautical Commission in Washington (BACW), located at 1701 22nd St N.W., Washington, D.C., 20008.

12.5. The appeal will be addressed to the BACW's Commanding Officer, through the President of the Bidding Commission, who may reconsider its decision, within **5 (five) business days**, or, within the same period, send it up, duly informed, and, in this case, the decision must be rendered within a period of **5 (five) business days**, counted from the receipt of the appeal, under penalty of liability.

12.6. Appeals filed after the deadline provided above will not be accepted.

13. HOMOLOGATION AND ADJUDICATION

13.1. Once the proposal evaluation phase is over and after the appeal period has elapsed, the bidding process will be presented to the respective federal authority, which will proceed with the approval of the bidding process, returning it to the Bidding Commission, responsible for awarding the object to the bidder holding the lowest price proposal that meets to all requirements of the Notice.

14. CONTRACT PERFORMANCE GUARANTEE

14.1. A performance guarantee will be required, in accordance with the rules provided for in the Basic Project and in the Seventh Clause of the Contract Term, with the amount of 2% (two percent) of the contract's global value.

14.2. The release of the performance guarantee will take place at the end of the term of the contract or after release by the Contracting Party, by means of a document attesting to the complete performance of the contract.

15. CONTRACT TERM

15.1. After the end of the bidding process and the winner being declared, the Contract Term will be signed.

15.2. The winner bidder will have a period of 5 (five) business days, counted from the date of its summons, to sign the Term of Contract, under penalty of forfeiting the right to contract, without prejudice to the sanctions provided for in this Notice.

15.2.1. As an alternative to the summons to appear before the body or entity for the signature of the Term of Contract, the Administration may forward it for signature, preferably by electronic means or postal correspondence with acknowledgment of receipt (AR). It should be signed within 5 (five) days from the date of receipt.

15.3. The period provided for in the previous sub-item may be extended, for an equal period, at the justified request of the winner bidder and accepted by the Brazilian Administration.



15.4. The term of validity of the contract is 12 (twelve) months from the signing of the contract, extendable in the form of arts. 57, §1 and 79, §5, of the Brazilian Federal Law No. 8.666/93.

15.4.1. Prior to contracting, the Administration will carry out a consultation to identify possible temporary suspension of participation in bidding, within the scope of the body or entity, prohibition of contracting with the Public Power of Brazil, as well as indirect impediments.

15.5. If the winner bidder, upon signing the Contract Term, does not prove that he maintains the same qualification conditions, or when, unjustifiably, he refuses to sign, another bidder may be called, provided that the order of classification is respected, to, after verifying the acceptability of the proposal, negotiating and confirming the qualification requirements, enter into the contract, without prejudice to the sanctions provided for in this Notice and other legal commissions.

16. CONTRACT VALUE ADJUSTMENT

16.1. The rules regarding the adjustment of the contractual value are those established in the Term of the Contract, whose draft is contained in Annex II of this Public Notice.

17. DELIVERY AND RECEIPT OF THE OBJECT AND INSPECTION

17.1. The criteria for receipt and acceptance of the object and inspection are provided for in the Basic Project and in the Contract Term, whose draft is included in Annex I and II of this Public Notice.

18. OBLIGATIONS OF THE CONTRACTING PARTY AND THE CONTRACTED PARTY

18.1. The obligations of the CONTRACTING PARTY and CONTRACTED PARTY are established in the, BASIC PROJECT, Annex I, CONTRACT DRAFT, Annex II, and other obligations provided for in this Invitation for Bid.

19. PAYMENT

19.1. The payment rules are those established in the Contract, whose draft is attached to this Invitation for Bid.

20. VIOLATIONS AND ADMINISTRATIVE SANCTIONS OF THE IFB

20.1. Under the terms of the Brazilian Federal Law No. 8,666 of 1993, the bidder/contracting commits an administrative infraction if it:

20.1.1. Does not sign the contract term or accept/withdraw the equivalent instrument, when summoned within the validity period of the proposal;

20.1.2. Submit false documentation;

20.1.3. Fails to deliver the documents required in the contest;

20.1.4. Causes the delay of the contractual execution of the object;

20.1.5. Does not maintain the submitted proposal;



- 20.1.6.** Commits tax fraud;
- 20.1.7.** Behaves in a disreputable way;
- 20.2.** Disreputable behavior, among others, is the false declaration regarding the conditions of participation, regarding the classification as ME/EPP or collusion between the bidders, at any time of the bidding, even after the end of the bidding phase.
- 20.3.** The bidder/contracting who commits any of the infractions described in the previous sub-items will be subject, without prejudice to civil and criminal liability, to the following sanctions:
- 20.3.1.** Warning for minor faults, understood as those that do not cause significant damage to the object of the contract;
- 20.3.2.** Fine of 5% (five percent) on the estimated value of the item harmed by the bidder's conduct;
- 20.4.** The fine penalty may be applied cumulatively with the other sanctions.
- 20.5.** If, during the penalty application process, there are indications of the practice of an administrative infraction typified by Law No. of the company must be sent to the competent authority, with a reasoned dispatch, for knowledge and decision on the possible initiation of a preliminary investigation or Administrative Accountability Proceeding - PAR.
- 20.6.** The investigation and judgment of other administrative infractions not considered as a harmful act to the national or foreign Public Administration under the terms of Law No. 12,846, of August 1, 2013, will follow their normal rite in the administrative unit.
- 20.7.** The PAR processing does not interfere with the regular follow-up of specific administrative processes to determine the occurrence of damages and losses to the Federal Public Administration resulting from a harmful act committed by a legal entity, with or without the participation of a public agent.
- 20.8.** If the amount of the fine is not sufficient to cover the damages caused by the bidder's conduct, the Union or Entity may collect the remaining amount in court, pursuant to article 419 of the Civil Code.
- 20.9.** The application of any of the penalties provided for will be carried out in an administrative process that will ensure the adversary system and the full defense of the bidder/contracting, observing the procedure provided for in the Brazilian Law No. 9,784/1999
- 20.10.** The competent authority, in the application of sanctions, will take into account the seriousness of the offender's conduct, the educational nature of the penalty, as well as the damage caused to the Administration, observing the principle of proportionality.
- 20.11.** Penalties must be registered with the SICAF, when applicable.
- 20.12.** The administrative verification process, which may culminate in the application of administrative sanctions, will follow the procedures defined in ICA (Instruction from the Air Force Command) 12-23/2019.
- 20.13.** The sanctions for acts performed during the contracting process are provided for in the Contract Term.

21. IMPUGNMENT

- 21.1.** The bidder who fails to do so by the second business day prior to the opening of the qualification envelopes, for failures or irregularities that would vitiate this Public Notice, will lose



the right to impugn the terms of this Notice before this Administration, in which case such communication will have no appeal effect.

21.2. The impugment made in a timely manner by the bidder will not prevent him/her from participating in the bidding process until the relevant decision becomes final.

21.3. Any citizen is a legitimate party to challenge this Notice for irregularities in the application of Law No. 8,666, of 1993, and must file the impugment request up to 5 (five) business days before the date set for opening the qualification envelopes, and the Administration must judge and respond to the impugment within 3 (three) business days, without prejudice to the option provided for in § 1 of art. 113 of the aforementioned Law.

21.4. The impugment may be made electronically, by email at chf.dlc.cabw@fab.mil.br, by fax (202) 483 4684, or by petition addressed or filed at 1701 22nd St. N.W., Washington, D.C., 20008, at the Bidding and Contracts Division (DLC).

22. SUBCONTRACTING

22.1. Subcontracting the entire or the principal portion of the obligation is prohibited.

22.2. The main part of the obligation is the supply of the aircraft.

22.3. The permitted cases foreseen are listed in item 9 of the Basic Project, Annex I of the Public Notice.

23. GENERAL PROVISIONS

23.1. Requests for clarification arising from the provisions of this Bidding Notice may be consulted, in writing, to the Bidding Commission, responsible for this bidding process, up to 48 hours before the delivery of the proposals.

23.2. All questions will be consolidated and answered in writing after the consultation deadline. The communication will be published by the Bidding Commission and transmitted to interested parties who have provided an email address.

23.3. The competent authority may revoke the bidding for reasons of public interest arising from a duly proven, relevant and sufficient supervening fact to justify such conduct, and must cancel it for illegality, ex officio or at the instigation of third parties, by means of a duly substantiated written opinion.

23.4. The approval of the result of this bidding will not imply the right to contract.

23.5. Bidders assume all costs of preparing and submitting their bids and the Administration will in no case be responsible for these costs, regardless of the conduct or outcome of the bidding process.

23.6. Participation in the bidding implies full acceptance, by the bidder, of the conditions established in this invitation to bid and its Annexes, as well as the obligation to comply with the provisions contained therein.

23.7. Any change in the invitation to bid requires publication through the same publication instrument in which the original text was published, reopening the period initially established, except when, unquestionably, the change does not affect the formulation of proposals.



23.8. If there is no office or any supervening event that prevents the holding of the event on the scheduled date, the session will be automatically transferred to the first subsequent business day, at the same time and place previously established, provided there is no communication from the Commission to the contrary.

23.9. In judging the proposals and qualification, the Commission may remedy errors or failures that do not change the substance of the proposals, documents and their legal validity, by means of a reasoned dispatch, recorded in the minutes and accessible to all, attributing them to validity and effectiveness for purposes qualification and classification.

23.10. The Commission or Higher Authority, at any stage of the bidding process, is allowed to carry out due diligence aimed at clarifying or complementing the instruction of the process, the subsequent inclusion of document or information that should be included in the act of the public session is prohibited.

23.11. The rules governing this event will always be interpreted in favor of expanding the dispute between interested parties, provided that they do not compromise the interests of the Administration, the principle of isonomy, the purpose and security of the contract.

23.12. In the event of a charge for providing a copy of the entirety of this Notice and its annexes, the amount will be limited to the effective cost of the graphic reproduction of such documents, pursuant to article 32, § 5, of Law No. 8,666, of 1993.

23.13. When counting the deadlines established in this Notice and its Annexes, the start day will be excluded and the expiration date will be included. Deadlines only begin and expire on business days in the Administration.

23.14. Failure to comply with non-essential formal requirements will not cause the bidder to withdraw, as long as it is possible to take advantage of the act, observing the principles of equality and public interest.

23.15. Omissions will be resolved by the Commission based on the provisions of Law no. 8,666, of 1993, and other applicable legal diplomas.

23.16. The Public Notice is available, in full, at 1701 22nd St NW Washington, DC 20008, where it can be read and/or obtained, on weekdays, from 8:30 am to 11:30 am and from 1:30 pm to 3:00 pm (East Coast US time), the same address and period in which the records of the administrative proceeding will remain open to interested parties.

23.17. The venue for settling matters relating to this Notice shall be that of the United States District Court in Washington, DC, to the exclusion of any other. The acts related to this contract shall be interpreted in accordance with the principles of Brazilian Law No. 8,666/1993 and other applicable regulations of the Federative Republic of Brazil, being also governed in accordance with the laws of the District of Columbia.

23.18. The official language of the intended engagement, for the purposes of documentation, correspondence and any other interests, will be **ENGLISH**.

24. ANNEXES

24.1. The following annexes are part of this Invitation for Bid, for all purposes and effects:

24.1.1. ANNEX I – Basic Project No. 001/CELOG/2022 and its Annexes;



- 24.1.2. ANNEX II – Contract Draft;
- 24.1.3. ANNEX III – Price Proposal Model;
- 24.1.4. ANNEX IV – Declaration of Acknowledgment and Agreement Model for the Invitation for Bid and its Annexes;
- 24.1.5. ANNEX V – Declaration of Inexistence of Supervening Facts Impeding the Qualification Model;
- 24.1.6. ANNEX VI – Declaration of Independent Preparation of the Proposal Model.

Washington, D.C., January, 25th, 2022.

LEANDRO LUIZ DA SILVA
VELOSO:05217669748

Digitally signed by LEANDRO LUIZ DA SILVA VELOSO:05217669748
DN: c=BR, ou=CP Brazil, ou=premio, ou=402016000103, ou=Secretaria de
Requerimento do Brasil, ou=ANACORDEOS, ou=FFB e OFE AJ, ou=LEANDRO
LUIZ DA SILVA VELOSO:05217669748
Date: 2022.01.27 09:31:05-05'

LEANDRO LUIZ DA SILVA VELOSO Lt Col
Chairman of the Special Bidding Commission

Revisado por:

VALDINEI FAGUNDES DE SOUZA:03759238610 Digitally signed by VALDINEI
FAGUNDES DE SOUZA:03759238610
Date: 2022.01.27 09:58:10 -05'00'

VALDINEI FAGUNDES DE SOUZA Lt Col
Internal Control Agente, BACW

Aprovado por:



ROBERTO MARTIRE FIORES Col
Commanding Officer, BACW