

**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON D.C.**



**BIDDING PROCESS No. 222031/CABW/2022**  
**PAG No. 67102.222031/2022-66**



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

**Bidding Process IFB No. 222031/CABW/2022**  
(Administrative Process No. 67102. 222031 / 2022-66)

Approved on: June, 20<sup>th</sup>, 2022

Wilson Paulo Corrêa Marques Col  
Commanding Officer, BACW

Legal Support: It is hereby made public, for the knowledge of all interested parties, that the Brazilian Federal Government, through the Brazilian Aeronautical Commission in Washington (BACW), headquartered in the United States of America, 1701 22nd St. NW Washington DC 20008, 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 Bidding and its Attachments. The bidding procedure will follow the principles of the Brazilian Federal Law No. 8,666/1993, according to art. 123 of the referred law, and related legislation, as well as the recommendations contained on the MCA 176-1, updated on August 31, 2020. Proposals submitted to BACW will be interpreted, evaluated, and judged under the principles contained in Article 3 of Law No. 8,666, of 1993, related to legality, impartiality, morality, objective judgment, binding to the summons, equality, and transparency.

Date of Delivery and Opening of Envelopes:	July, 21 <sup>st</sup> , 2022		
Time:	10:00h (US East Coast time)		
Address:	1701 22nd St NW Washington DC 20008	Telephone:	+1 (202) 518-7354
		Fax:	+1 (202) 483-4684
		Email:	chf.dlc.cabw@fab.mil.br
Accreditation:	July, 21 <sup>st</sup> , 2022		
Time:	10:00h (US East Coast time)		

## SUMMARY

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

1.1. Until 10h00 a.m. of July, 21<sup>st</sup>, 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 complimentary statements.

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

2.1. At 10h00 a.m. of July, 21<sup>st</sup>, 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 related to the qualification and the price proposal must be delivered separately, in closed and sealed envelopes, initialed at the closing and identified with the name of the bidder and containing in their external and frontal parts, in highlighted characters, the following words:

ENVELOPE No. 1  
QUALIFICATION DOCUMENTS  
**MINISTRY OF DEFENSE  
AERONAUTICS COMMAND**  
**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON  
DC**  
IFB No. 222031/CABW/2022  
(NAME OF THE COMPANY)

ENVELOPE No. 2  
PROPOSAL  
**DEFENSE MINISTRY  
AERONAUTICS COMMAND**  
**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON  
DC**  
IFB No. 222031/CABW/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 with 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 statements, until the opening of the public session at **10:00** (U.S. Standard Time) of July, 21<sup>st</sup>, 2022.

2.4. ENVELOPE No. 01 – QUALIFICATION and ENVELOPE No. 02 — PRICE PROPOSAL must necessarily be inserted in a larger envelope, which in turn must be sealed and addressed to the BIDDING COMMISSION. The name and address of the bidder must be visible in the upper left corner of the envelope containing the bid number, the date and time of the public session, according to the following model:

**A/C BIDDING COMMISSION - IFB # 222031/CABW/2022**  
**BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON**  
1701 22nd Street NW Washington, DC 20008  
**SESSION ON July, 21<sup>st</sup>, 2022, AT 10:00**  
(US East Coast time)

2.5. Bidders should inform the BIDDING COMMISSION of the tracking number of their envelopes via the e-mail [chf.dlc.cabw@fab.mil.br](mailto:chf.dlc.cabw@fab.mil.br) before the public session starts time.

2.6. Envelopes delivered to the BIDDING COMMISSION after the time established for the start of the public session or that contain identification flaws capable of preventing the proper identification of bidders or between proposal and documentation envelopes will not be considered.

2.7. BACW is not responsible for errors due to improper identification of envelopes.

2.8. If the envelope is sent by Postal Service, the bidder must include the Bidding Document number on the outside of the envelope so that the package can be identified when it arrives at BACW.

2.8.1. It should be noted that some Postal Service companies allow the inclusion of of the bid number in the REFERENCE field.

2.8.2. Envelopes may also be hand-delivered to the BIDDING COMMISSION at the start of the public session.

### **3. REPRESENTATIVE AND 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; inscription 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 the case of joint-stock companies, accompanied, in the latter, of documents for the election of their managers; inscription 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. Failure to submit any of the registration documents or incorrect submission of documents does not affect 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. THE OBJECT**

4.1. The purpose of the present bidding is to choose the most advantageous proposal for the acquisition of Loader Transporter equipment, Type I and Type II, in compliance, mainly, with the KC-X3 project, and the KC-390, C-130, and C- 105, intended for the Brazilian Air Force's logistical transport activities, according to the conditions, quantities, and requirements established in this Notice and its annexes.

4.2. The specifications must follow the provisions of the Basic Project and the Technical Specifications attached to this Notice.

4.3. The bidding will be divided into items, according to the table in the Basic Project, allowing the bidder to participate in as many items as are of interest.

4.4. The judgment criterion adopted will be the Lowest Price of the Item, observing the requirements contained in this Notice and its Annexes regarding the specifications of the object.

#### **5. BUDGET RESOURCES**

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

Management/Unit: 00001/120071

Source: 0180120320 / 0150120320

Summary Work Program: 204079



Action: 15XX (Acquisition of Aircraft for Strategic Logistics Transport)

Nature of Expense: 449052

IP: FAQM02KX301

## 6. PARTICIPATION REQUIREMENTS

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

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

6.2.1. That are prohibited from participating in bids and entering into administrative contracts with the Brazilian Government, under current legislation;

6.2.2. That do not meet the conditions of this Notice and its annexes;

6.2.3. That fall within the prohibitions provided for in article 9 of Law No. 8,666, of 1993;

6.2.4. That are under bankruptcy, creditors contest or insolvency, in the process of dissolution or liquidation;

6.2.5. business entities that are joined in the consortium;

6.2.6. Civil Society Organizations of Public Interest - OSCIP, acting in this capacity (Rule No. 746/2014-TCU-Plenary);

6.2.7. cooperative societies, considering the prohibition contained in art. 10 of SEGES/MP Normative Instruction No. 5, of 2017.

6.3. As a condition for participation, the bidder must send the following statements in the qualification envelope (Envelope 01):

6.3.1. that it is aware of and agree with the conditions contained in the Notice and its attachments;

6.3.2. that it complies with the qualification requirements defined in the Public Notice and that the submitted proposal complies with the public notice requirements;

6.3.3. that there are no impediments to their qualification for the event, aware of the obligation to declare subsequent occurrences;

6.3.4. that the proposal was prepared independently, according to Normative Instruction SLTI/MP nº 2, of September 16, 2009;

6.4. Any false declaration regarding the fulfillment of any condition will subject the bidder to the sanctions provided for by law and in this Notice.

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

6.5.1. The corporate name of the company/consortium;

6.5.2. The bidder's full address;



- 6.5.3. Full name of your legal representative;
- 6.5.4. Power of attorney of the legal representative;
- 6.5.5. 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);
- 6.5.6. Legal representative's address.

## 7. QUALIFICATION (ENVELOPE 01)

7.1. All documentation related to the Bidding Process must be presented in **ENGLISH**. Documents issued in a language other than English must present certified and certified translations.

7.2. In the envelope containing the qualification documentation, the bidder must present the legal representative's identification data.

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

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

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

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

7.3.4. For Brazilian companies, the documents contained in the previous sub-items may be replaced by the SICAF (Unified Supplier Registration System), with valid dates or the documents prescribed in articles 27 to 32 of Law 8666/93.

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

7.3.4.2. If the Brazilian company is not registered with the SICAF, it must present all the necessary documentation to prove legal qualification, economic-financial qualification, and fiscal and labor regularity required for full registration with the SICAF.

7.3.4.3. The SICAF will be used to analyze the other qualifications provided for in this Notice, when applicable, without prejudice to the supplementary statements required in this instrument.

7.4. Bidders must submit the following documents in ENVELOPE 01 for their technical qualifications:

7.4.1. A declaration that it will have adequate technical personnel and the necessary infrastructure to carry out the PURPOSE of the CONTRACT; and





- 7.4.2. 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 items that you submit a proposal, the company must prove that it has delivered the sale of at least:
- a) 01 (one) "loader" military carriers with a minimum capacity of transport and loading of 5 coupled aeronautical pallets, supporting at least 22,000 kg; and
  - b) 01 (one) "loader" carriers with a minimum load capacity on the bridge and the platform of 6,500 kg.
- 7.5. Bidders must submit the following documents in ENVELOPE 01 for their economic and financial qualifications:
- 7.5.1. Statement about the company's financial availability signed by the company's legal representative;
  - 7.5.2. DUNS & BRADSTREET consultation demonstrating the company's history (this consultation may be carried out by BACW);
  - 7.5.3. 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.;
  - 7.5.4. A declaration that it can receive payment in US dollars in the US banking system (USA), being prohibited to pay in accounts held by third parties;
- 7.6. The statements contained in item 6.3 must be presented.
- 7.7. All pages of the ENVELOPE 01 must be numbered and initialed by the legally accredited representative without erasures or corrections.
- 7.8. 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.
- 7.8.1. If there is a discrepancy between the scanned and physical documents, only the printed documents will be considered for qualifying the company.
- 7.9. If the documentation presented has an expiration date, the documents must be valid.
- 7.10. The documents must be accompanied by all amendments or the respective consolidation.
- 7.11. 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 published in an official press.
- 7.12. Documents with a different CAGE CODE or CNPJ/CPF or Company's Federal Tax Identification Number will not be accepted, except for those legally permitted.
- 7.12.1. 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 those documents that, by their very nature, are demonstrably issued only in array name.

7.12.2. For Brazilian Companies, CNPJ registrations of parent and subsidiary 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.

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

## **8. PRICE PROPOSAL (ENVELOPE 02)**

8.1. The price proposal, presented in ENVELOPE 02, which must be written in ENGLISH, 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 must contain:

8.1.1. the bidder's corporate name and CNPJ;

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

8.1.3. The unit prices and global value of the proposal, in Arabic numerals, expressed in US dollars, following market prices, considering the model of the Price Proposal, attached to the Public Notice;

8.1.3.1. 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;

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

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

8.1.4. Physical-financial schedule, according to the model attached to Basic Project No. 001/STRL/2022;

8.1.4.1. The physical-financial schedule proposed by the bidder must observe the maximum disbursement schedule per period contained in the Basic Project;

8.2. Costs identified as financing or other unspecified terms will not be accepted in the price proposal.

8.3. The tax rates quoted by the bidder cannot exercise the limits established by applicable tax legislation.

8.4. All object specifications contained in the proposal are binding on the Contracted Party.



- 8.5. 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 the allegation of error, omission, or any other pretext.
- 8.6. The validity period of the proposal will not be less than 60 (sixty) days, counting from the opening date of the competition.
- 8.7. Under no circumstances shall the content of submitted proposals be altered, neither concerning prices nor any other terms nor 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.
- 8.7.1. The changes addressed in the item above must be submitted to the Bidding Commission for review.
- 8.7.2. The Bidding Commission may proceed with the correction of the errors listed or may require the Bidder to submit a corrected bid.
- 8.8. The submission of proposals implies the obligation to comply with the provisions contained therein, by the Basic Project, with the proposer assuming the commitment to execute the object in its terms, as well as to provide the equipment in adequate quantities and qualities for perfect execution. the contractual execution, promoting, when required, their replacement.
- 8.9. Bidders must respect the maximum prices established in the federal public procurement rules when participating in public tenders;
- 8.9.1. The non-compliance with the aforementioned rules by the Administration by the Contracted Party may give rise to the inspection of the Federal Audit Court and, after the 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 overpricing in the execution of the contract.
- 8.10. No claims concerning 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.
- 8.11. The Price Proposal must be prepared by the model in Annex III of this Notice.
- 8.12. 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.
- 8.12.1. If there is a discrepancy between the scanned and physical documents, only the printed documents will be considered for judging the company's proposal.
- 8.13. To analyze the proposal regarding compliance with the object's specifications, a written statement from the area specialized in the object may be collected.



## 9. OPENING THE ENVELOPES

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

9.1.1. The public acts 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.

9.2. 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.

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

9.3.1. 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.

9.4. 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 6.2 of this Notice.

9.5. A bidder will be considered disqualified if:

9.5.1. 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;

9.5.2. include the price proposal in Envelope nº 01.

9.6. If the Bidding 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.

9.7. 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.

9.8. 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.

9.8.1. 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.



9.8.2. 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.

9.9. The price proposals of qualified bidders will then be judged, as per item 10 of this Bidding Process.

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

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

9.12. The intimations of the acts of qualification or disqualification of the bidders will be made through publication in the official press and on the BACW website, as well as by receiving the Bidding Minutes in the e-mail of the legal representative of the bidder unless the bidder's 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.

## 10. THE PRICE PROPOSAL JUDGEMENT

10.1. The judging criterion will be the lowest price per item.

10.2. 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 Bidding Commission, if it deems it necessary, may suspend the meeting for analysis.

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

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

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

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

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

10.5.1.2. Public lottery on a date and time established by the Administration, for which all bidders will be summoned.

10.6. The proposal presents a final price higher than the maximum price fixed (Judgment no.

10.6.1. A proposal that presents symbolic, negligible, or zero-value global or unit prices, incompatible with market prices, plus the respective charges, is considered to be unfeasible, even if the bidding activity has not established minimum limits.

10.6.2. The declaration of unenforceability of a proposal will be preceded by its analysis, through the granting of an opportunity to the bidder to demonstrate the feasibility



and security of the prices offered. To this end, the Bidding Commission shall endeavor with the bidders to present the cost and price formation spreadsheet, the detailing of brands or products to be delivered, the presentation of conditions or reasons that led to the peculiar formation of prices, or other measures deemed necessary. After analyzing such information, the justification for accepting or not the proposal presented will be presented, with a formal record of the reasons for the decision.

- 10.7. The submitted Proposals will be disqualified if:
  - 10.7.1. Do not comply with the requirements established in this notice;
  - 10.7.2. Contain irremediable vice or illegality;
  - 10.7.3. Do not present the technical specifications required in the basic project and/or its annexes.
- 10.8. When all bidders are disqualified, the Bidding Commission may set 8 (eight) working days for the submission of new proposals, without the causes of disqualification.
- 10.9. 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;
- 10.10. The bidder will be given 24 (twenty-four) hours to prove the feasibility of the prices contained in its proposal, as per item 10.6, under penalty of disqualification.
- 10.11. If the price bid is not acceptable, the Bidding Commission will examine the subsequent bid, and so on in ranking order.
- 10.12. 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.
- 10.13. 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.
- 10.14. 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 appeal it within the same period.
- 10.15. 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, afterward, award the bid object to the winning bidder.
- 10.16. The notification of the final result of the judgment of the proposals will be made through publication in the official press and on the BACW and FAB website, as well as by receiving the Bidding Minutes in the e-mail of the legal representative of the bidder, unless the representatives of the bidders 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.
- 10.17. The result of the competition will be announced on the BACW and FAB websites.



## 11. ADMINISTRATIVE RESOURCES

11.1. 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 Brazilian Federal Law No. 8,666, of 1993.

11.2. 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.

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

11.4. The funds must be forwarded to the Brazilian Aeronautical Commission in Washington, located at 1701 22nd St. NW Washington DC 20008.

11.5. 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 5 (five) business days, counted from the receipt of the appeal, under penalty of liability.

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

## 12. AWARD AND APPROVAL (HOMOLOGATION AND ADJUDICATION)

12.1. Once the proposal judgment phase is over and after the appeal period has expired, the bidding process will be presented to the competent authority, which will proceed with the approval of the bidding process and awarding the object to the bidder holding the lowest price proposal that meets to all requirements of the Notice.

## 13. PERFORMANCE GUARANTEE

13.1. There will be no requirement for a performance guarantee for this contract.

## 14. CONTRACTUAL GUARANTEE OF THE GOODS

14.1. A contractual guarantee will be required for the goods provided in this contract, complementary to the legal guarantee, according to minimum terms and other rules contained in the Basic Project.

## 15. TERM OF CONTRACT

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

15.2. The contracted company, before signing the Contract, must register with SISCAB, at the request of the Administration, if it does not yet have the registration record in the BACW system.



15.3. 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.

15.3.1. As an alternative to the summons to appear before the body or entity to sign the Term of Contract, the Administration may forward it for signature, by postal correspondence with acknowledgment of receipt (AR), providing access to an electronic process system for this purpose or another electronic means, so that it is signed and returned within 5 (five) days, counting from the date of receipt or the access to the electronic process system.

15.3.2. 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, counted from the signing of the Agreement and following the specifications contained in the Basic Project.

15.5. Before 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 Government, as well as indirect impeding occurrences.

15.6. Upon signing the contract, proof of the qualification conditions set out in the public notice will be required, which must be maintained by the winner during the term of the contract.

15.7. If the winner of the bidding does not prove the qualification conditions set out in the notice or refuses to sign the contract, the Administration, without prejudice to the application of the sanctions of the other legal commissions applicable to that bidder, may call another bidder, respecting the order of classification, so that, after proving the qualification requirements, the proposal and any additional documents are analyzed and, once the negotiation is concluded, the contract is signed.

## **16. CONTRACT VALUE ADJUSTMENT**

16.1. The prices initially contracted are firm, fixed, and non-adjustable.

16.2. 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. RECEIPT OF THE OBJECT AND INSPECTION**

17.1. The criteria for receiving and accepting the object and for inspection are provided in the Basic Project and the Contract Term.

## **18. OBLIGATIONS OF THE CONTRACTING PARTY AND THE CONTRACTED PARTY**

18.1. The obligations of the Contracting Party and the Contracted Party are those established in this Bidding Process and its annexes, in the proposal presented, in the contract to be signed, and in the Basic Project.





## 19. PAYMENT

19.1. The rules regarding payment are those established in the Term of Contract and the Basic Project, attached to this Notice.

## 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 commits an administrative infraction that:

- 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. Submits false documentation;
- 20.1.3. Fails to deliver the documents required in the contest;
- 20.1.4. Causes to delay of the 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. It is considered disreputable behavior, among others, the false declaration regarding the conditions of participation, regarding the classification as ME/EPP, or the collusion between the bidders, at any moment of the bidding, even after the closing of the bidding phase.

20.3. The bidder/ Contracted Party 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 10% (ten percent) on the estimated value of the item(s) harmed by the bidder's conduct;
- 20.3.3. Suspension of bidding and impediment of contracting with the body, entity, or administrative unit through which the Public Administration operates and acts concretely, for a period of up to two years;

20.3.3.1. The Sanction of the impediment to bidding and contracting provided for in this sub-item is also applicable in any of the cases provided for as an administrative infraction in this Notice.

20.4. Declaration of unsuitability to bid or contract with the Public Administration, while the reasons for the punishment persist or until rehabilitation is promoted before the very authority that applied the penalty, which will be granted whenever the Contracted Party reimburses the Contracting Party for the damages caused;

20.5. The fine penalty may be applied cumulatively with the other sanctions.

20.6. If, during the penalty application process, there are indications 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.

20.7. The investigation and judgment of other administrative infractions not considered 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.

20.8. 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.

20.9. If the amount of the fine is not sufficient to cover the damages caused by the conduct of the bidder, the Union or Entity may collect the remaining amount in court, according to article 419 of the Civil Code.

20.10. 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/Contracted Party, observing the procedure provided for in Brazilian Federal Law No. 9,784/1999.

20.11. 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.

20.12. Penalties must be registered with the SICAF, when applicable.

20.13. The administrative verification process, which may culminate in the application of administrative sanctions, will follow the procedures defined in ICA (Aeronautics Command Instruction) No. 12-23/2019.

20.14. The sanctions for acts performed during the contracting process are provided for in the Basic Project and Term of Contract.

## **21. IMPUGNMENT**

21.1. The bidder who fails to do so by the second business day before the opening of the qualification envelopes, due to failures or irregularities that would vitiate this Public Notice, will lapse from the right to impugn the terms of this Notice before this Administration, in which case such communication will have no effect. of resource.

21.2. The impugn made on time by the bidder will not prevent him from participating in the bidding process until the relevant decision becomes final.

21.3. Any citizen is a legitimate party to impugn this Notice for irregularities in the application of Law No. 8,666, of 1993, and must file the impugment 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 e-mail at [chf.dlc.cabw@fab.mil.br](mailto:chf.dlc.cabw@fab.mil.br), or by petition addressed or filed at the address 1701 22nd St NW Washington, DC 20008, at the Division of Bidding and Contracts.

## **22. SUBCONTRACTING**

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

22.1.1. The permitted cases are listed in item 8 of the Basic Project, Annex I of this 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 on the BACW website (<https://www2.fab.mil.br/cabw/index.php/en/>).

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, through 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 modification 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 qualifications, the Bidding Commission may remedy errors or failures that do not change the substance of the proposals, documents, and their legal validity, through 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, and the subsequent inclusion of documents 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 they do not compromise the interests of the Administration, the principle of isonomy, or 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, according 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 the electronic address (<https://www2.fab.mil.br/cabw/index.php/en/>) and at BACW's headquarters, located 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 (US East Coast Time), same address and period in which the records of the administrative process 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 under the principles of Brazilian Law No. 8,666/1993, being governed, further, following the laws of the District of Columbia.

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

## 24. ANNEXES

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

24.1.1. ANNEX I - Basic Project No. 001/STRL/2022;

24.1.2. ANNEX II – Draft of the Term of Contract;

24.1.3. ANNEX III – Proposal Model;

24.1.4. ANNEX IV – Model Declaration of Acknowledgment and Agreement with the Public Notice and its Annexes;



24.1.5. ANNEX V – Model Declaration of Inexistence of Supervening Fact Impeditive of Qualification;

24.1.6. ANNEX VI – Model Declaration for the Independent Preparation of the Proposal.

Washington, DC, June 20<sup>th</sup>, 2022.

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LEANDRO LUIZ DA SILVA VELOSO Lt. Col. Int  
President of the Permanent Bidding Commission of BACW

**reviewed by:**

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ROBERTA GRAZIELLY COSTA SOUZA Lt. Col. Int  
Head of BACW's Bidding and Contracts Division