



BRAZILIAN AERONAUTICAL COMMISSION
1701 22nd Street, NW, Washington D.C. 20008

MEETING MINUTES No 005/CPL/2023
INVITATION FOR BID NO. 230150/CABW/2023

APPEAL ANALYSIS

DECISION

At 10:00 a.m. (EST) on May 10, 2023, the Brazilian Aeronautical Commission in Washington met to discuss the Bidding Process - Invitation for Bid No. 230150/CABW/2023, regarding the analysis and decision of the Permanent Bidding Commission (CPL) of the CABW regarding the Administrative Appeals handled by the Appellants ALLIED INTERNATIONAL N.A., INC AND TRUST LOGISTICS LLC under the Invitation for IDB n. 230150/CABW/2023, which has as its object the treatment of a specialized company for the transportation of UNACCOMPANIED BAGGAGE of Domestic Objects (HHE), door to door, by sea, for the MILITARY PERSONNEL of the Air Force Command on the return to Brazil at the end of their missions abroad, according to the conditions, quantities and requirements established in the Notice and its annexes.

OF THE REPORT AND ANALYSIS

As published in the Meeting Minutes No. 004/CPL/2023, a period of two business days was given to the receipt of administrative appeals, referring to the qualification and disqualification of bidder, according to item 8.7 of the Bidding Notice. Once the appeals were received on May 9, 2023, the Permanent Bidding Commission analyzed the election.

In honor of the principle of procedural economy, this analysis will cover the two administrative appeals brought.

In summary, below is the report of the reasons for appeal:

1. Appellant ALLIED INTERNATIONAL N.A., INC files in its appeal the application for reconsideration of the reason for its disqualification. The company alleges that the documents presented in item 6.2.4 (SIRVA Structure Chart – 2021 and SIRVA Structure Chart – 2021 – Appendix) demonstrated the structure of the SIRVA Group Inc, owner of the companies ALLIED INTERNATIONAL N.A., INC, Concept Mobility Serviços de Mobilidade Ltda and

SIRVA Worldwide Relocation & Moving. It points out that documents have been submitted from companies in the same group operating the same type of business, countries and governance to meet all requirements and provide solid evidence of the ability to handle this contract.

2. The appellant CONFIANCA LOGISTICS LLC filed the appeal on the non-submission of the declaration provided for in item 6.3.3 of the Notice. The company claims that the statement was not sent, since Confiança Logistics LLC has its own "Bond" that guarantees financial responsibility with the FMC and that every company to obtain its FMC must have its bond registered, under penalty of not obtaining the license. The company understands that the FMC, sent in the documentation of envelope 01, proves that the company has the financial conditions requested in item 6.3.3. In addition, the company points out that the company EXACT MOVERS is not listed as a company with a license from the FMC.

6.3.3. Present DECLARATION from its Chief of Financial Officer (CFO) or equivalent company's official stating that the BIDDER has adequate financial resources to perform the services and that it complies with the Financial Responsibility Requirements presented on 46 CFR Part 515.21 to insure Financial Responsibility for the U.S. Federal Maritime Commission (FMC).

6.3.3. Apresentar DECLARAÇÃO de seu Diretor Financeiro (CFO) ou representante de empresa equivalente afirmando que o LICITANTE possui recursos financeiros adequados para realizar os serviços e que cumpre os Requisitos de Responsabilidade Financeira apresentados no 46 CFR Parte 515.21 para garantir a Responsabilidade Financeira para o US Federal Comissão Marítima (FMC).

Once the report is made, it is analyzed in accordance with the procedures and deadlines provided for in item 8.7 of the Tender Protocol.

Initially, the CPL notes that, according to item 23.13 of the BID Notice, the rules governing the present bidding process shall be interpreted in favor of increasing competitiveness among the participants, without prejudice to the interests of the Administration, the principle of isonomy and the purposes and security of the contracting, as follows:

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

In addition, the Permanent Bidding Commission is responsible for carrying out due diligence when there is a need for clarification or complementation, according to item 23.7 of the Notice, in line with Federal Law 8666/93, in its article 43, paragraph 3.

23.7. In any stage during the bidding process, the Bidding Commission or the BACW's Chief may promote diligence intended to clarify or

complement the process, provided it does not involve the later inclusion of any document or information that should be made available at the public bidding session.

In this sense, the Brazilian Federal Court of Auditors, in its judgment (Acórdão) 1.182/2004, recommends the performance of diligence by the Permanent Bidding Commission, aimed at clarifying or complementing the instruction of the bidding process, whenever it proves necessary, as provided for in article 43, paragraph 3, of Law 8.666/93.

Thus, with respect to the request for reconsideration of the company ALLIED INTERNATIONAL N.A. INC, the CPL analyzed the documents that had already been delivered during the qualification phase and ratified the company's claims that the information was in the documents of item 6.2.4 (SIRVA Structure Chart – 2021 and SIRVA Structure Chart – 2021 – Appendix) . As described in Minutes 004/CPL/2023, the Commission disqualified the company for not having understood the relationship of the group now clarified, requiring such clarification and diligence. It is noteworthy that the CPL did not consider any document of the company presented after the bidding, because it understood that the facts of composition of the SIRVA Inc group were available in the files of envelope 01. Therefore, CPL reconsiders its decision and grants the appeal filed by the company ALLIED INTERNATIONAL N.A., INC, considering it QUALIFIED.

About the company CONFIANCA LOGISTICS LLC, the Bidding Commission carried out diligence in the regulation presented in item 6.3.3 of the Notice, that is, the 46 CFR Part 515.21.

https://www.ecfr.gov/current/title-46/chapter-IV/subchapter-B/part-515/subpart-C/section-515.21

Code of Federal Regulations
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Displaying title 46, up to date as of 5/08/2023. Title 46 was last amended 4/26/2023. view historical versions

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Title 46 / Chapter IV / Subchapter B / Part 515 / Subpart C / § 515.21

ECFR CONTENT

EDITORIAL NOTE ON PART 515
Editorial Note: Nomenclature changes to part 515 appear at 67 FR 39860, June 11, 2002, and 70 FR 7669, Feb. 15, 2005.

§ 515.21 Financial responsibility requirements.

(a) **Form and amount.** Except as otherwise provided in this part, no person may advertise, hold oneself out, or act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility. The bond, insurance, or other surety covers the transportation-related activities of an ocean transportation intermediary.

(1) Any person in the United States advertising, holding oneself out, or acting as an ocean freight forwarder as defined in § 515.2(m)(1) shall furnish evidence of financial responsibility in the amount of \$50,000.

(2) Any person in the United States advertising, holding oneself out, or acting as an NVOCC as defined in § 515.2(m)(2) shall furnish evidence of financial responsibility in the amount of \$75,000.

(3) Any registered NVOCC, as defined in § 515.2(r), shall furnish evidence of financial responsibility in the amount of \$150,000. Such registered NVOCC shall be strictly responsible for the acts and omissions of its employees and agents, wherever they are located.

It was found that the company's claim proceeds, since to have registration in the FMC, the company presents evidence of financial liability, in the case of NVOCC, of \$150,000.00. In addition, in the qualification phase, CPL had already confirmed the validity of the FMC registration of CONFIANCA LOGISTICS LLC, as shown in the following figure:

FEDERAL MARITIME COMMISSION
OCEAN TRANSPORTATION INTERMEDIARIES (OTI) LIST

OTI List Download
Click here to download the list of all active freight forwarders and non-vessel operating common carriers.
This list is refreshed daily at 1:30 PM EST

Click for News Alert Regarding Foreign-Based, Unlicensed Non-Vessel Operating Common Carriers (NVOCC).
Note:
Commission regulations permit foreign-based NVOCCs to be licensed, or unlicensed, providing certain regulatory requirements are met (See 46 CFR §515.11 and 46 CFR §515.21 by clicking on the [Statutes and Rules](#)). Unlicensed (Registered) foreign-based NVOCCs will not have a License No. and can be searched by entering "*" in the Search query for License box.

Search: Organization Name ▼ confianca My Location: US

Download/Print results here

#	Business	China Bond Rider Effective Date	Phone / International Phone	Distance (mi)
1	CONFIANCA LOGISTICS LLC MIAMI, FL 33166 Organization No. : 025104 License No. : 025104 Renewal Date : 04/30/2025 Trade Name(s) : N/A Full Address : 6700 NW 77TH COURT SUITE 140 MIAMI, FL 33166 UNITED STATES		(305) 635-4949	1295.1

CONFIANCA LOGISTICS LLC
Organization No. : 025104
License No. : 025104
Renewal Date : 04/30/2025
Trade Name(s) : N/A
Full Address : 6700 NW 77TH COURT SUITE 140 MIAMI, FL 33166 UNITED STATES

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In fact, it remains proven that the company's FMC registration, valid at the time of the bidding, has a requirement of financial responsibility, which is the objective of item 6.3.3. In this sense, applies the Judgment Judgment 891/2018 – Plenary of the TCU, the obligation to prove the economic and financial qualification "is not a mere formality and is always subordinated to a real utility, that is, it must be the minimum requirement capable of ensuring, with some degree of confidence, that the contracted company will be able to provide the goods or services purchased. Consequently, the documentation to be provided must be related to the intended object. (...) In line with this understanding, the Bidding Law itself, in its article 32, paragraph 1, modulates the requirements related to the qualification of bidders, allowing the exemption of documents, in whole or in part, in cases of invitation, tender, supply of goods for prompt delivery and auction".

That is, in the concrete case of this bid, it remains proven that the valid FMC of the company enables the positive analysis that the company "has adequate financial resources to perform the services and that it complies with the Financial Responsibility Requirements presented in 46 CFR Part 515.21 to ensure Financial Responsibility for the US Federal Maritime Commission (FMC)" as required in item 6.3.3 of the Notice. Therefore, CPL reconsiders its decision and grants the appeal filed by the company CONFIANÇA LOGISTICS LLC, considering it QUALIFIED.

It is important to note that the claim presented by the company CONFIANCA LOGISTICS LLC about the company EXACT MOVERS does not proceed, since the documentation presented

by the company appears EXACT SERVICES LLC dba EXACT MOVERS, being the same with the valid registration, as can be seen in the following figure:

FEDERAL MARITIME COMMISSION
OCEAN TRANSPORTATION INTERMEDIARIES (OTI) LIST

OTI List Download
Click here to download the list of all active freight forwarders and non-vessel operating common carriers.
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Click for News Alert Regarding Foreign-Based, Unlicensed Non-Vessel Operating Common Carriers (NVOCC).
Note:
Commission regulations permit foreign-based NVOCCs to be licensed, or unlicensed, providing certain regulatory requirements are met (See 46 CFR §515.11 and 46 CFR §515.21 by clicking on the [Statutes and Rules](#)). Unlicensed (Registered) foreign-based NVOCCs will not have a License No. and can be searched by entering "*" in the Search query for License box.

Search: exact My Location: , US

#	Business	China Bond Rider Effective Date	Phone / International Phone	Distance (mi)
1	EXACT SERVICES LLC GERMANTOWN, MD 20876 Organization No. : 025534 License No. : 025534 Renewal Date : 04/30/2026 Trade Name(s) : EXACT LOGISTICS Full Address : 21313 AUTUMN ROSE WAY GERMANTOWN, MD 20876 UNITED STATES		(202) 390-2999	1074.5

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In view of all the foregoing, CPL decides to grant the appeal filed by ALLIED INTERNATIONAL N.A. INC and CONFIANCA LOGISTICS LLC and consider it QUALIFIEDS and keep ALL BIDDERS QUALIFIED, submitting the process to the Superior Authority.

LEANDRO LUIZ DA SILVA VELOSO, Lt Col
President of Bidding Commission

ROBERTA GRAZIELLY COSTA SOUZA, Lt Col
Bidding Commission Member

RENATO RODRIGUES BRITO, 1S BSP
Bidding Commission Member

MARIA LUCIANA VILES
Bidding Commission Member