



MINISTRY OF DEFENSE  
AIR FORCE COMMAND  
BRAZILIAN AERONAUTICAL COMMISSION IN WASHINGTON

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**REVERSE AUCTION No. 230670/CABW/2023**  
**PAG No. 67102.230670/2023-86**

Approved on: Nov. 27<sup>th</sup>, 2023.

*electronically signed*  
WILSON PAULO CORRÉA MARQUES, Col Av  
Commanding Officer, BACW

It is made public that the Brazilian Federal Government – Ministry of Defense – Air Force Command, through the Brazilian Aeronautical Commission in Washington (BACW), with its main offices located at 1701 22nd St. N.W., Washington, DC, USA, Zip Code 20008, will carry out a Bidding Process, on the basis of indirect execution, to be adjudicated based on the **LOWEST PRICE PER ITEM**, in accordance with the principles of isonomy, selection of the most advantageous proposal for Federal Administration, legality, impersonality, morality, advertising, efficiency, equality, public interest, planning, transparency, effectiveness, segregation of functions, motivation, administrative probity, binding to the summons instrument, objective judgment, legal certainty, reasonableness, competitiveness, proportionality, speed and resource saving, the requirements established in this Notice, and according to the Ordinance GM-MD No. 5,175 of 2021.

**Session Date:** December 12<sup>th</sup>, 2023

**Time:** 10:00 a.m. (US-EST)

**Location:** 1701 22nd St. N.W., Washington, D. C., USA, Zip Code: 20008

**Judgment Criterion:** LOWEST GLOBAL PRICE

**Implementation Regime:** Fixed by UNIT Price

## 1. OBJECT

- 1.1. The purpose of this Bidding Process is to select the most advantageous proposal for contracting the rental service of 280 "DRY" hours of simulator and flight training for the VC-2 aircraft (EMB 190/195), in order to meet the needs of COMAER, in accordance with the characteristics described in the TERM OF REFERENCE, in accordance with the conditions, quantities and requirements set out in this Public Notice and its annexes.
- 1.2. The judging criteria adopted will be the LOWEST PRICE PER ITEM, subject to the requirements contained in this Public Notice and its Annexes regarding the specifications of the object.

## 2. BUDGETARY RESOURCES

- 2.1. The expenses to meet this Bid are scheduled in its own budget allocation, provided for in the Union budget for the financial year 2023, in the classification below:

Management/Unit: 120090

Action: 2916

Expense Element: 33.90.39

### 3. ACCREDITATION AND OPENING OF THE SESSION

- 3.1. Bidders who wish to have a representative during the Bidding procedure phases must present the following:
  - 3.1.1. Corporate name of the company/consortium;
  - 3.1.2. Bidder's address;
  - 3.1.3. Name of its legal representative;
  - 3.1.4. Power of attorney for the legal representative;
  - 3.1.5. Legal representative's identification document number (eg, General Registry identity document number, National Driver's License number, Passport number, or any other government-issued photo identification document); and
  - 3.1.6. Legal representative's address.
- 3.2. Each accredited member may represent only one Bidder.
- 3.3. At this stage, the representative shall deliver:
  - a) Envelopes with the price proposal and the qualification documents, separated and closed, containing on their external and frontal parts, in highlighted characters, the following information:

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BIDDER: [COMPANY NAME]  
**ENVELOPE No. 01 - PRICE PROPOSAL**

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BIDDER: [COMPANY NAME]  
**ENVELOPE No. 02 - QUALIFICATION DOCUMENTS**

- 3.4. Interested bidders have the right to send the Price Proposal and Qualification Document envelopes by post with acknowledgement of receipt AR or other similar delivery services, provided that they are filed with the Brazilian Aeronautics Commission in Washington, with full identification of the bidder and data pertinent to the bidding procedure in question, and not later than the time set for the opening of the aforementioned public session.
- 3.5. The Price Proposal and the Qualification Documents can be submitted or made available electronically by the participating company, through the [chf.dlc.cabw@fab.mil.br](mailto:chf.dlc.cabw@fab.mil.br).
- 3.6. The entire procedure for sending and regularizing the information and content of the documents referred to in item 3.4 is the sole responsibility of the Bidder.

### 4. PARTICIPATION

- 4.1. This Reverse Auction will be open to interested parties whose line of business is compatible with the object of this Public Notice may participate in this Bidding Process.
- 4.2. The following may not participate in this Bidding Process:
  - 4.2.1. Those that have entered into an arrangement with creditors or are in the process of going bankrupt, being wound up, judicial reorganization, out-of-court reorganization, merger, spin-off, incorporation or liquidation;

- 4.2.2. Participants who right to bid or contract with BACW has been suspended, or who have been declared unfit to bid or contract with the Federative Republic of Brazil;
- 4.2.3. Participants whose partners, directors or technical managers of any organization or entity linked to the Ministry of Defense/Aeronautics Command;
- 4.2.4. Participants whose line of business does not specify an activity that is pertinent and compatible with the object of this bid;
- 4.2.5. Legal entity in which there is a director or partner with management power, family member of a holder of a commission or position of trust who works in the area responsible for the demand or contract, or of a hierarchically superior authority within the contracting body.
  - 4.2.5.1. For the purposes of this item, a family member is considered to be a spouse, partner or relative in a direct or collateral line, by consanguinity or affinity, up to the third degree.
- 4.3. The use of any employee of the future CONTRACTED PARTY who is a family member of a public official holding a commissioned position or a position of trust in this contracting body is also prohibited in the performance of the contracting services.

## 5. PRICE PROPOSAL AND QUALIFICATION DOCUMENTS

- 5.1. The price proposal, issued by computer, written in English, clearly, without amendments, erasures, additions or between the lines, duly dated and signed, as also initialed on all its sheets by the Bidder or his representative, shall contain:
  - 5.1.1. The characteristics of the object clearly and accurately, in line with the specifications contained in the attached Reference Term.
  - 5.1.2. The Total Price per Item according to the model of Price Proposal, ANNEX II of this Public Notice.
  - 5.1.3. The Total Price per Item shall be in U.S. dollars, according to the prices charged on the market, taking into account the quantities contained in the Term of Reference, ANNEX I of this Public Notice.
- 5.2. The presentation of a Proposal implies full acceptance, by the Bidder, of the conditions set out in this Notice and its Annexes.

## 6. THE COMPLETION OF THE PROPOSAL

- 6.1. The submission of the Proposals implies mandatory compliance with the provisions contained therein, in accordance with the provisions of the Term of Reference, and the bidder undertakes to perform the services in accordance with the terms of the Term of Reference, as well as to supply the necessary materials, equipment, tools and utensils, in quantities and qualities suitable for the perfect execution of the contract, and to replace them when required.
- 6.2. The prices offered, both in the initial proposal and in the Bidding stage, shall be the sole responsibility of the Bidder, not assisting him or her with the right to submit any changes, on the grounds of error, omission or any other pretext.
- 6.3. The validity period of the price proposal shall not be less than **60 (sixty)** days from the date of submission.
- 6.4. All specifications of the object contained in the proposal bind the CONTRACTED PARTY.
- 6.5. The proposal shall include all operating costs, social security, labor, tax, commercial and any other charges that directly or indirectly affect the provision of services, determined by completing the Price Proposal Model, as annexed in this Public Notice.

## 7. OPENING OF THE SESSION, CLASSIFICATION OF PROPOSALS AND FORMULATION OF BIDS

- 7.1. The opening of this Bid will take place in a public session, on the date, time and place indicated in this Public Notice.
- 7.2. The Contracting Officer will check the proposals submitted, disqualifying those that do not comply with the requirements established in this Notice.
- 7.3. The disqualification of the proposal will always be based and recorded in Meeting Minutes.
- 7.4. The Contracting Officer will classify the accepted Proposals, and only these will participate in the Bidding phase.

- 7.5. Once the competitive stage has begun, Bidders must, in order, submit their Bids to the Contracting Officer, being the Proposals duly registered.
  - 7.5.1. The Bid must be offered for the total amount of the item.
- 7.6. Bidders may offer successive Bids, observing the time set for the opening of the session and the rules set out in the Notice.
- 7.7. The Bidder may only Bid less than the last Bid offered and registered by the Contracting Officer and his support team.
- 7.8. The judgment criteria adopted will be the LOWEST GLOBAL PRICE PER ITEM, as defined in this Notice and its Annexes.
- 7.9. If the Bidder does not offer a lower Bid, he will compete with the value of his original proposal.
- 7.10. The Contracting Officer will invite the ranked bidders individually, in sequence, to submit verbal bids, starting with the highest ranked bidder and the others, in descending order of value.
- 7.11. The withdrawal in presenting verbal Bid, when summoned by the Contracting Officer, will imply the exclusion of the Bidder from the Bidding stage and the maintenance of the last price presented by him, for the purpose of ordering the proposals.
- 7.12. In the event of a tie between two or more Bids, the following tiebreaker criteria will be used in this order:
  - 7.12.1. Final dispute, hypothesis in which the tied Bidders may submit a new proposal in continuous act to the classification; and
  - 7.12.2. Public draw, on a date and time established by the Administration, for which all Bidders will be summoned.
- 7.13. If there are no accredited companies or no representatives appear for the bidding phase, the Contracting Officer will conduct the Bid by ordering the bids received, bids received in ascending order from the lowest to the highest value.
- 7.14. After the final proposal of lower price, the Contracting Officer can negotiate with the Bidder to obtain a better price, observing the judging criteria, not being admitted to negotiate conditions other than those provided for in this Notice.

## 8. ACCEPTANCE OF THE WINNING PROPOSAL

- 8.1. After the negotiation stage, the Contracting Officer will examine the proposal classified first as to the suitability of the object and the compatibility of the price in relation to the maximum stipulated for contracting in this Notice and its annexes.
- 8.2. If there is only one offer and provided that it meets all the terms of the Public Notice and its price is compatible with the estimated value of the contract, it can be accepted.
- 8.3. If the proposal of lower value is not acceptable, or is disqualified, the Contracting Officer will examine the subsequent proposal, and so on, in the order of classification, until the match of a proposal that meets the Public Notice requirements.
- 8.4. In this situation, the Contracting Officer can negotiate with the Bidder to obtain a better price.
- 8.5. In the judgment of the Proposals, the Contracting Officer may fix errors or failures that do not alter its substance, by reasoned order, recorded in Meeting Minutes and accessible to all, attributing to them validity and effectiveness for classification purposes.
- 8.6. If the Proposal of the Bidder holding the lowest price is acceptable, the Bidder must prove his/her condition of qualification, in the form determined in this Public Notice.
- 8.7. The winning bid or Proposal will be disqualified if:
  - 8.7.1. contains insanitary defects;
  - 8.7.2. does not comply with the technical specifications contained in the Term of Reference;
  - 8.7.3. present unfeasible prices or remain above the maximum price defined for the contract;
  - 8.7.4. the final price is higher than the maximum price set; and
  - 8.7.5. does not comply with any of the other requirements of this Public Notice or its annexes, provided that it is insanitary.

- 8.8. If there are indications of the price proposal unenforceability, or in the case of the need for further clarification, steps may be taken to ensure that the undertaking proves the feasibility of the tender.
- 8.9. In the case of goods and services in general, it is an indication of the unfeasibility of bids that they are less than 50% (fifty percent) of the amount budgeted by the Administration.
- 8.10. The Contracting Officer may summon the Bidder to present a new price spreadsheet readjusted to the final value amount offered.
- 8.11. After the analysis regarding the acceptance of the Price Proposal, the Contracting Officer will verify the qualification of the Bidder, in accordance with the provisions of this Public Notice.

## 9. QUALIFICATION

- 9.1. As a precondition for examining the qualification documents of the bidder with the first-place bid, the Contracting Officer will verify any non-compliance with the conditions for participation, especially as regards the existence of a sanction that prevents participation in the event or future contracting.
  - 9.1.1. Once a sanction is found, the Contracting Officer will repute the unqualified Bidder, for lack of conditions to participate.
- 9.2. If the Bidder is the parent company, all documents must be in the name of the parent company, and if the Bidder is the subsidiary, all documents must be in the name of the subsidiary, except for certificates of technical capacity, and in the case of those documents that, by their very nature, are proven to be issued only on behalf of the parent company.
- 9.3. The company's corporate name can be consulted on the [www.opencorporates.com](http://www.opencorporates.com) website, in order to identify any data in common with other corporate entities participating in the same bid, since this situation may characterize links detrimental to competitiveness in bids.
  - 9.3.1. If situations are detected that could affect competitiveness, the qualification will not be carried out, and the business entity will be guaranteed the right to an adversarial hearing and a full defense.
- 9.4. If the conditions of participation are met, the qualification of the Bidders will be verified by the submitting by the following documents in envelope 02:

### 9.4.1. Legal Qualification:

- a) Document indicating the Company's Federal Tax Identification Number (e.g., National Registry of Legal Entities - CNPJ, Federal Identification Number - FEIN, and/or Tax Identification Number - TIN);
- b) Present the Company's Basic Business License to operate in the relevant jurisdiction and in the relevant field, issued by a United States Government Agency or equivalent country, certifying that the company **specializes in flight simulator training**; and
- c) Present a valid Certificate of Liability Insurance of the Company (proof of insurance).

### 9.4.2. Economic-Financial Qualification:

- a) The BACW will consult the Dun & Bradstreet (D&B) website/report, and only participating companies with a D&B risk indicator not above the "Moderate-High" level will be considered qualified. This risk indicator has a direct correlation with the "Failure Score" and will be used for the purpose of assessing the company's financial capacity; and
- b) If it is not possible to verify the status, the bidder will be asked for a DECLARATION from its Chief Financial Officer (CFO) or representative of an equivalent company stating that the BIDDER has adequate financial resources to carry out the services.

### 9.4.3. Technical Qualification:

- a) Proof that the flight simulator device is accredited by Aviation Agency, with qualification system for Flight Simulator Training Devices (FSTD). In this case, it can be ANAC (Brazil), FAA (USA), and/or EASA (Europe).

- 9.5. For Brazilian companies, the documents listed in the previous sub-items may be replaced by the SICAF (Unified Supplier Registration System), with valid dates, or the documents prescribed in articles 62 to 70 of Law No. 14,133/2021.

- 9.5.1. If the foreign company is registered with SICAF, the system may be consulted for legal qualification purposes.
- 9.5.2. If the Brazilian company is not registered with SICAF, it must submit all the documentation required to prove its legal qualification, economic-financial qualification and tax and labor compliance required for full registration with SICAF.
- 9.5.3. SICAF will be used for the purposes of analyzing the other qualifications provided for in this Public Notice, where applicable, without prejudice to the additional statements required herein.
- 9.6. The Award phase will take place immediately after the Qualifying phase.
- 9.7. If there is a need to thoroughly analyze the required documents, the Contracting Officer will suspend the session, informing a new date and time for its continuity.
- 9.8. Bidders who fail to prove their qualification, either by not submitting any of the documents required for this purpose, or by submitting them in disagreement with the provisions of this Public Notice, will be disqualified.
- 9.9. Once the qualification requirements set out in the Public Notice have been met, the bidder will be declared the winner and awarded the Contract.

## 10. FORWARDING THE CHOSEN PROPOSAL

- 10.1. The final Proposal of the declared winning Bidder must be submitted within 48 (forty-eight) hours, from the request of the Contracting Officer, reflecting the final value amount presented during the public session.
  - 10.1.1. The final proposal must be typed in English, without blurs, errors, erasures, between rows or reservations, and the last sheet must be signed and the others initialed by the Bidder or his legal representative.
- 10.2. The final proposal shall be documented in the case-by-case submission and shall be taken into account during the performance of the contract and the application of any sanction to the CONTRACTED PARTY, if applicable.
- 10.3. All specifications of the object contained in the proposal bind the CONTRACTED PARTY.
- 10.4. Prices should be expressed in U.S. dollars, the unit value in Arabic numerals and the overall value in numerals and in full.
  - 10.4.1. If there is divergence between unit prices and the global price, the former will prevail; in the case of divergence between the numerical values and the values expressed in full, the latter shall prevail.
- 10.5. The offer shall be firm and precise, strictly limited to the subject matter of this Public Notice, without containing price alternatives or any other condition that induces judgment to more than one result, under penalty of disqualification.

## 11. RESOURCES

- 11.1. Being declared the winner, any Bidder may, during the period granted in the public session, immediately express its intention to appeal.
- 11.2. The reasons for the appeal should be submitted within **03 (three) business days**.
- 11.3. The deadline for filing counter-reasons will be the same as the appeal and will begin on the date of personal notification about it or the disclosure of the appeal.
- 11.4. As for the appeal filed in reason of the judgment of the proposals and the decision of qualifying or disqualifying Bidders, the following provisions will be observed:
  - 11.4.1. The intention to appeal shall be expressed by the participant immediately, under penalty of impediment, and the deadline for filing the recursive reasons shall be initiated on the date of the notification or of the drafting of the minutes of the qualification process or, in the event of adoption of the phase reversal provided for in § 2, of article 80, of Ordinance GM-MD No. 5,175 of December 15, 2021, the minutes of judgment; and
  - 11.4.2. The assessment of it will take part in a single phase.
- 11.5. Acceptance of the appeal will invalidate only the act that cannot be taken advantage of.

## 12. PUBLIC SESSION REOPENING

12.1. The public session may be reopened:

12.1.1. In the event of an appeal which leads to the annulment of acts prior to the holding of the previous public session or in which the public session itself is annulled, a situation in which the annulled acts and those that depend on it will be repeated.

12.1.2. When there is an error in accepting the best-rated price proposal or when the declared winning Bidder does not sign the contract, the procedures immediately after the closing of the Bidding stage will be adopted.

12.2. All remaining Bidders must be summoned to accompany the reopened session.

12.3. The call will take place through e-mail and according to the Bidding procedure phase.

12.4. The call made by e-mail will take place according to the data contained in the accreditation or registration of SILOMS EXTERIOR (Brazilian Air Force system), being the Bidder's responsibility to keep its registration data updated.

## 13. AWARD AND HOMOLOGATION

13.1. The object of this Public Notice shall be awarded to the Bidder declared the winner, by act of the Contracting Officer, if there are no appeals, or by the competent authority, after the regular decision towards the submitted appeals.

13.2. After the appealing phase, once the regularity of the acts carried out is verified, the competent authority shall approve the Bidding procedure.

## 14. FINANCIAL GUARANTEE

14.1. There will be no requirement of a Financial Guarantee for this contracting.

## 15. CONTRACT TERM OR EQUIVALENT INSTRUMENT

15.1. Once the Bidding Process has been approved and the contract has been awarded, a Contract will be signed.

15.2. The CONTRACTED PARTY shall have a period of **10 (ten) business days** from the date of its invitation to sign the Contract, in accordance with the Purchase Order, under penalty of forfeiting the right to contract, without prejudice to the sanctions provided for in this Public Notice.

15.2.1. As an alternative to being summoned to appear before the body or entity to sign the Contract, the Administration may send it for signature by post with acknowledgement of receipt (AR), by providing access to the electronic process system for this purpose or by other electronic means, so that it can be signed and returned within a maximum of **10 (ten) business days** from the date of receipt or from the date of providing access to the electronic process system.

15.2.2. The deadline provided for in the previous sub-item may be extended for an equal period at the justified request of the successful bidder and accepted by the Administration.

15.3. Acceptance of the Contract issued to the successful company implies acknowledgement that:

15.3.1. The CONTRACTED PARTY is bound by its proposal and the items/clauses contained in the Public Notice and its Annexes;

15.3.2. Total or partial non-performance of the contract will result in its termination, with the contractual consequences and those provided for by law or regulation.

## 16. TERMS

### 16.1. Term of Validity

16.1.1. The term of validity of the CONTRACT will be 12 (twelve) months from the date of its signature, including the term of execution, the term of receipt and the period established for final payment.

**16.1.2.** The term of validity may be extended by mutual agreement between the parties for an additional period of 12 (twelve) months, if this is in the CONTRACTING PARTY interest, up to an overall limit of 60 (sixty) months.

#### **16.2. Term of Execution**

**16.2.1.** The period of execution of the CONTRACT shall be 12 (twelve) months, starting at the contract's signature date.

#### **16.3. Term of Receipt**

**16.3.1.** The services shall be definitively received by COMREC, through a TERM OF RECEIPT, signed by the parties within 15 (fifteen) calendar days of written notification by the CONTRACTED PARTY.

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

#### **16.4. Payment Processing Time**

**16.4.1.** Payment processing time for Commercial Invoices shall not exceed 30 (thirty) calendar days, starting on the date on which the TERM OF RECEIPT is issued, signed by COMREC.

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

### **17. PRICE READJUSTMENT IN GENERAL SENSE**

**17.1.** The prices initially contracted are fixed and non-adjustable, with the terms for readjustment established in the Contract Term.

### **18. RECEIPT OF THE CONTRACTUAL OBJECT AND INSPECTION**

**18.1.** The MONITOR must be an employee of the Administration, specifically appointed by the Administration, in accordance with the precepts established by Law No. 14,133/2021, ICA No. 65-8/2009 and ICA No. 12-23/2019, in order to monitor and inspect compliance with the contract to be executed.

**18.2.** The supervision of contractual execution consists of verifying the conformity of the services and the availability of resources, ensuring the perfect application of the adjustments, to be carried out by the MONITOR.

**18.3.** The CONTRACTING PARTY's representative must have the necessary experience to monitor and supervise the performance of the Contract.

**18.4.** Adequate verification of contractual performance must be carried out based on the criteria established in the Term of Reference and in accordance with the contractual terms.

**18.5.** Contract performance must be monitored and inspected, including monitoring compliance with the obligations arising from the contract.

**18.6.** The inspectorate must record in its records all events related to the execution of the contract, taking the necessary measures to ensure full compliance with the contractual clauses. Measures which exceed its remit must be notified to the competent authority in good time.

**18.7.** The CONTRACTING PARTY's monitoring and supervision of the contractual performance does not eliminate the CONTRACTED PARTY's liability, including to third parties, for any irregularities, even those arising from technical imperfections, faults or improper use of the equipment. In the event of such incidents, they do not imply shared responsibility on the part of the CONTRACTING PARTY, its representatives or employees.

**18.8.** The services may be rejected, in whole or in part, when they do not comply with the specifications contained in these Term of Reference and in the proposal, and must be corrected/repared/replaced within the period set by the contract supervisor, at the expense of the CONTRACTED PARTY, without prejudice to the application of penalties.

**18.9.** The services which are the subject of the contract must be received by COMREC in accordance with the specifications set out in the Term of Reference.

**18.10.** It is the responsibility of the RECEIPT COMMISSION (COMREC) to:



- 18.10.1.** Ensure that the CONTRACTED PARTY follows the description of all the services that are the object of the Term of Reference.
- 18.10.2.** Receive or reject the services according to the specifications described in the Term of Reference within 15 (fifteen) calendar days.
- 18.10.3.** Once approved, the invoices will be sent to the BACW Contracts Division, accompanied by the Term of Receipt within 5 (five) days. If there are any discrepancies, the invoice must be returned to the CONTRACTED PARTY so that the necessary corrections can be made, with a letter explaining the reasons for the return.
- 18.10.4.** All proposals, questions, discrepancies and difficulties encountered during the execution of the contract or which require evaluation must be submitted for inspection.

## **19. CONTRACTING AND CONTRACTED PARTIES LIABILITIES**

- 19.1.** The obligations of the CONTRACTING PARTY and the CONTRACTED PARTY are those set out in the Term of Reference and/or the Contract Term.

## **20. PAYMENT**

- 20.1.** Payment will be made within 30 (thirty) calendar days counting from the issue of the Term of Receipt, attested by the designated Commission.
- 20.2.** An Invoice shall be issued by the CONTRACTED PARTY in accordance with the following procedures:
  - 20.2.1.** Payment shall only be made, after the appropriate official's "approval" of the Invoice provided by the CONTRACTED PARTY.
  - 20.2.2.** The "approval" of the Invoice is contingent upon verification of compliance of the Invoice submitted by the CONTRACTED PARTY with the services that were actually performed.
    - 20.2.2.1.** The CONTRACTED PARTY shall submit, together with the invoice, proof of training containing at least:
      - 20.2.2.1.1.** the equipment on which the training was carried out;
      - 20.2.2.1.2.** the number of hours of training;
      - 20.2.2.1.3.** the squadron that carried out the training;
      - 20.2.2.1.4.** date and time of training; and
      - 20.2.2.1.5.** signature of the officers who carried out the training.
- 20.3.** In the event of any mistake in submitting any of documents required that prevents payment, the payment shall remain pending until the CONTRACTED PARTY takes steps to remedy the situation. In this case, the deadline for payment shall take effect after it is verified that the situation has been solved, without any costs to the CONTRACTING PARTY.
- 20.4.** Payment shall be made through a bank order of credit, deposit in a bank account, at the branch or bank agency indicated by the CONTRACTED PARTY, or through any other means provided for under the legislation in effect.
- 20.5.** The date of payment shall be considered the date when the bank order of payment is actually made.

## **21. ADMINISTRATIVE SANCTIONS**

- 21.1.** A bidder commits an administrative infraction, under the terms of the law, if he intentionally or culpably:
  - 21.1.1.** fails to deliver the documentation required for the tender or fails to deliver any document requested by the Contracting Officer during the tender process;
  - 21.1.2.** except in the case of a duly substantiated supervening event, fails to maintain the bid, in particular when:
    - 21.1.2.1.** fails to submit a bid that matches the last bid offered or after negotiation;
    - 21.1.2.2.** refuses to send the details of the proposal when required to do so; or
    - 21.1.2.3.** request to be disqualified when the competitive stage has ended.
  - 21.1.3.** does not sign the contract or does not deliver the documentation required for the contract, when summoned within the period of validity of its bid;

- 21.1.3.1.** refuses, without justification, to sign the contract, or to accept or withdraw the equivalent instrument within the period established by the Administration.
- 21.1.4.** submits a false declaration or documentation required for the tender or makes a false declaration during the Bidding Process;
- 21.1.5.** defraud the Bidding Process;
- 21.1.6.** behaves inappropriately or commits fraud of any kind, in particular when:
- 21.1.6.1.** acting in collusion or in breach of the law; or
- 21.1.6.2.** deliberately misleading in judgment.
- 21.1.7.** engage in unlawful acts with a view to frustrating the objectives of the bidding process;
- 21.1.8.** committing the harmful act provided for in Article 5 of Law No. 12,846 of 2013, namely:
- I- Promising, offering or giving, directly or indirectly, an undue advantage to a public official or a third party related to them;
- II- Proven to finance, fund, sponsor or in any way subsidize the practice of the illicit acts provided for in this Law;
- III- Proven use of an individual or legal entity to hide or conceal their real interests or the identity of the beneficiaries of the acts committed;
- IV- With regard to tenders and contracts:
- a) frustrate or defraud, by means of an arrangement, combination or any other expedient, the competitive nature of a public bidding procedure;
- b) prevent, disturb or defraud the performance of any act of a public bidding procedure;
- c) remove or seek to remove a bidder, by means of fraud or offering an advantage of any kind;
- d) defrauding a Public Bidding Process or contract arising from it;
- e) fraudulently or irregularly creating a legal entity in order to participate in a Public Bidding Process or enter into an administrative contract;
- f) fraudulently obtaining an undue advantage or benefit from modifications or extensions to contracts entered into with the public administration, without authorization by law, in the public bid invitation or in the respective contractual instruments; or
- g) manipulating or defrauding the economic and financial balance of contracts entered into with the public administration.
- V- Hindering the investigation or inspection activities of public bodies, entities or agents, or interfering in their activities, including within the scope of regulatory agencies and national financial system inspection bodies.
- 21.2.** Pursuant to Law No. 14,133 of 2021, the Administration may, with prior defense guaranteed, impose the following sanctions on bidders and/or successful bidders, without prejudice to civil and criminal liability:
- 21.2.1.** warning;
- 21.2.2.** fine;
- 21.2.3.** debarment from bidding and contracting; and
- 21.2.4.** being declared ineligible to bid or contract, for as long as the reasons for the sanction persist or until its rehabilitation is promoted before the authority that imposed the sanction.
- 21.3.** When imposing sanctions, the following will be taken into account:
- 21.3.1.** the nature and seriousness of the offense committed;
- 21.3.2.** the peculiarities of the specific case;
- 21.3.3.** the aggravating or mitigating circumstances;
- 21.3.4.** the damage caused to the Public Administration; and
- 21.3.5.** the implementation or improvement of an integrity program, in accordance with the rules and guidelines of the control bodies.

- 21.4.** The fine shall be between 0.5% and 15% of the value of the tendered contract, and shall be paid within a maximum of 5 working days of the official communication.
- 21.4.1.** For the infringements set out in items 21.1.1, 21.1.2 and 21.1.3, the fine shall be 0.5% of the value of the contract awarded.
- 21.4.2.** For the infringements set out in items 21.1.4, 21.1.5, 21.1.6, 21.1.7 and 21.1.8, the fine will be 15% of the value of the contract awarded.
- 21.5.** The sanctions of warning, impediment to bidding and contracting and declaration of ineligibility to bid or contract may be applied, cumulatively or not, to the penalty of a fine.
- 21.6.** When a fine is imposed, the interested party will be allowed to defend itself within 15 (fifteen) business days from the date of notification.
- 21.7.** The sanction of impediment to bidding and contracting will be applied to the person responsible as a result of the administrative infractions listed in items 21.1.1, 21.1.2 and 21.1.3, when the imposition of a more serious penalty is not justified, and will prevent the person responsible from bidding and contracting within the scope of the direct and indirect Public Administration of the federative entity to which the body or entity belongs, for a maximum period of 3 (three) years.
- 21.8.** The responsible party may be sanctioned with a declaration of ineligibility to bid or contract, as a result of committing the infractions set out in items 21.1.4, 21.1.5, 21.1.6, 21.1.7 and 21.1.8, as well as the administrative infractions set out in items 21. 1.1, 21.1.2 and 21.1.3 that justify the imposition of a more serious penalty than the sanction of impediment to bidding and contracting, the duration of which shall be a minimum of 3 (three) years and a maximum of 6 (six) years.
- 21.9.** The unjustified refusal of the successful bidder to sign the contract, or to accept or withdraw the equivalent instrument within the period established by the Administration, as described in item 21.1.3, will characterize total non-compliance with the obligation assumed and will subject the bidder to penalties.
- 21.10.** The determination of liability related to the sanctions of impediment to bidding and contracting and declaration of unfitness to bid or contract will require the initiation of an accountability process to be conducted by a commission composed of 2 (two) or more stable civil servants, who will evaluate known facts and circumstances and summon the bidder or successful bidder to, within fifteen (15) business days from the date of their summons, present a written defense and specify the evidence they intend to produce.
- 21.11.** An appeal may be lodged within 15 (fifteen) business days of the imposition of the sanctions of warning, fine and impediment to bidding and contracting, counting from the date of the summons, which shall be addressed to the authority that issued the decision appealed against, which, if it does not reconsider it within 5 (five) business days, shall forward the appeal with its reasons to the higher authority, which shall issue its decision within a maximum of 20 (twenty) business days, counting from receipt of the records.
- 21.12.** A request for reconsideration of the application of the sanction of declaration of ineligibility to bid or contract may be submitted within 15 (fifteen) business days, counting from the date of notification, and decided within a maximum of 20 (twenty) business days, counting from its receipt.
- 21.13.** Appeals and requests for reconsideration will have a suspensive effect on the act or decision appealed against until a final decision is taken by the competent authority.
- 21.14.** The imposition of the sanctions provided for in this notice does not, under any circumstances, exclude the obligation to make full reparation for the damage caused.

## **22. PUBLIC NOTICE DISPUTE AND REQUEST FOR CLARIFICATION**

- 22.1.** Up to 3 (three) business days before the date designated for the opening of the public session, any person may dispute this Public Notice.
- 22.2.** The dispute may be made electronically, by e-mail (chf.dlc.cabw@fab.mil.br) or by petition to be addressed or filed at 1701 22nd St. N.W., Washington, D.C., USA, Zip Code: 20008.
- 22.3.** It will be up to Contracting Officer, assisted by those responsible for the preparation of this Public Notice and its Annexes, to decide on the dispute within 2 (two) business days from the date of receipt of the dispute.
- 22.4.** If the dispute is accepted, a new date for the Public Notice will be set and published.

- 22.5.** Requests for Clarification stemming from this Bidding process must be sent to the Contracting Officer, up to 3 (three) business days prior to the date designated for the opening of the public session, exclusively by electronic means via the Internet, at the email address indicated in the Public Notice.
- 22.6.** The Contracting Officer will respond to requests for clarification within 2 (two) business days, starting from the date of the receipt of the request, and may request formal information from those responsible for the preparation of the Public Notice and its Annexes.
- 22.7.** The disputes and requests for clarification do not suspend the deadlines laid down in the Public Notice.
- 22.7.1.** The granting of suspensive effect to the dispute is an exceptional measure and should be motivated by the Contracting Officer in the Public Notice.
- 22.8.** Responses to requests for clarification will be disclosed by e-mail and will bind the participants and the Administration.

### **23. GENERAL PROVISIONS**

- 23.1.** Meeting minutes of the public session will be made available to participants.
- 23.2.** If there are no working hours or any supervening fact that prevents the performance of the Bidding Process on the scheduled date, the session will be automatically transferred to the first subsequent business day, at the same time previously scheduled, provided that there is no communication to the contrary by the Contracting Officer.
- 23.3.** All time references in the Public Notice, the notice and during the public session will be based on US Eastern Standard Time (US-EST).
- 23.4.** In the judgment of the proposals and the qualification documents, the Contracting Officer may rehabilitate errors or failures that do not alter the substance of the proposals, documents and their legal validity, by reasoned order, recorded in meeting minutes and accessible to all, attributing validity and effectiveness to them for the purposes of qualification and classification.
- 23.5.** The approval of the result of this Bidding Process will not imply the right to contract.
- 23.6.** The disciplinary rules of the Bidding Process will always be interpreted in favor of the expansion of the dispute between the interested parties, provided that they do not compromise the interest of the Administration, the principle of isonomy, the purpose and security of the contract.
- 23.7.** Bidders assume all costs of preparing and submitting their documentation and proposals, and the Administration will not, in any case, be liable for these costs, regardless of the conduct or outcome of the Bidding Process.
- 23.8.** In counting the deadlines set out in this Public Notice and its Annexes, the day of the beginning will be excluded and the expiration will be included. Only the deadlines begin and expire on business days in the Federal Administration.
- 23.9.** The non-compliance of non-essential formal requirements will not result in the removal of the Bidder, provided that it is possible to use the act, in compliance with the principles of isonomy and the public interest.
- 23.10.** In case of divergence between provisions of this Public Notice and its Annexes or other parts that make up the Public Notice, the provisions of this Public Notice shall prevail.
- 23.11.** This Public Notice is available in its entirety at <https://www2.fab.mil.br/cabw/index.php/en/ultimas-noticias/>, and it can also be read and/or obtained at 1701 22nd St. N.W., Washington, D.C., USA, Zip Code 20008, on weekdays, from 7:15 a.m. to 3:15 p.m. (EST-US), the same address and period in which the file of the administrative proceedings will remain available to the interested parties.
- 23.12.** The following Annexes are part of this Public Notice for all purposes:
- ANNEX I – Term of Reference;
  - ANNEX II – Proposal Model; and
  - ANNEX III – Draft of the Term of Contract.

Prepared by:

*electronically signed*  
ROBERTA GRAZIELLY COSTA SOUZA, Lt Col Int  
Contracting Officer

**Approved by:**

*electronically signed*  
WILSON PAULO CORRÊA MARQUES, Col Av  
Head of the BACW

**Checked by:**

*electronically signed*  
MICHELE DE SOUZA SIQUEIRA, Lt Col Int  
Head of the Fiscal Division, BACW



MINISTÉRIO DA DEFESA  
COMANDO DA AERONÁUTICA

CONTROLE DE ASSINATURAS ELETRÔNICAS DO DOCUMENTO

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Este documento foi assinado e conferido eletronicamente com fundamento no artigo 6º, do Decreto nº 8.539 de 08/10/2015 da Presidência da República pelos assinantes abaixo:

Assinado via ASSINATURA CADASTRAL por Ten Cel Int ROBERTA GRAZIELLY COSTA SOUZA no dia 27/11/2023 às 15:24:21 no horário oficial de Brasília.