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08016.013169/2020-14



Ministry of Justice and Public Security

SCN Quadra 03 Bloco B Lote 120, Edifício Victória, Bairro Asa Norte, Brasília/DF, CEP 70713-020

Telephone: (61) 2025-9528 - <https://www.justica.gov.br>**ELECTRONIC BIDDING SYSTEM****NATIONAL PENITENTIARY DEPARTMENT****ELECTRONIC BIDDING SYSTEM PUBLICATION NO. 03/2021 PROCEDURE NO.
08016.013169/2020-14**

It is hereby made public, for the knowledge of all interested parties, that the **NATIONAL PENITENTIARY DEPARTMENT**, through the Department of Tenders and Contracts, located at Commercial Sector North, Quadra 03, Block B, Edifício Vitória, postal code 70713-020, Brasília, DF, Brazil, will hold a call to tender through its ELECTRONIC BIDDING SYSTEM, with award criteria of **lowest bid per group** in accordance with Law No. 10.520 of July 17, 2002, Legislative Decree No. 10,024 of September 20, 2019, Decree 7.746 of June 5, 2012, Normative Ordinance SLTI/MP No. 01 of January 19, 2010, Normative Ordinance SEGES/MP No. 03 of April 26, 2018, Supplementary Law No. 123 of December 14, 2006, and Law No. 11.488 of June 15, 2007, Decree No. 8.538, 06 October 2015, and alternatively applicable Law No. 8.666 of June 27, 1993, and the requirements set out in this Notice.

Date of the session: 04/19/2021 time: 14h00

Location: Federal Government Procurement Portal – www.comprasgovernamentais.gov.br**1. OBJECT**

1.1. The object of the present call to tender is the choice of the most advantageous proposal for the acquisition of **light machine guns cal. 5.56x45mm NATO and light machine guns cal. 7.62x51mm NATO**, accompanied by the accessories detailed in the Term of Reference included herein, through bidding procedure of the INTERNATIONAL ELECTRONIC BIDDING SYSTEM, with the award criteria of "LOWEST BID", according to the conditions, quantities and requirements established in this instrument, in order to meet the needs of the National Penitentiary Department:

1.2. **The Call to Tender will be carried out in a single group, formed by 05 (five) items, according to the table provided in the Term of Reference, and the bidder must provide a proposal for all the items that compose it.**

1.3. The award criteria adopted will be the lowest total price bid for the group, subject to the requirements contained in this notice and its annexes regarding the specifications of the object.

1.4. The businesses must adhere to the specification of the unit value of the items, notwithstanding the total value. Companies with a total value within the maximum allowable value

will have their proposals disqualified if they do not comply with the unit value limits.

2. BUDGETARY RESOURCES

2.1. The expenditures incurred to meet this Call to Tender is programmed in individual budget allocation foreseen in the State Budget for the financial year of 2020, in the classification below:

Management/Unit: 00001 / 30907

Source: 0100

Work program: 06.421.5016.21 BP.0001 Expense Item: 449052

PI: DP99921BPMA

3. ACCREDITATION

3.1. Accreditation consists of the basic level of registration in SICAF, which allows the participation of interested parties in the Call to Tender procedure, in its electronic form.

3.2. Registration in SICAF must be done through the Procurement Portal of the Federal Government, on the website: www.comprasgovernamentais.gov.br through a digital certificate conferred by the Brazilian Public Key Infrastructure - ICP - Brazil.

3.3. Accreditation with the system provider implies the responsibility of the bidder or his legal representative and the presumption of his technical capacity to carry out the transactions inherent in this Call to Tender.

3.4. The bidder is solely and formally responsible for the transactions made by them or on their behalf, asserting as straightforward and true any proposals and bids issued, including any acts practiced directly or by a representative, excluding the responsibility of the system provider or the presiding body or entity of the Call to Tender for any damages arising from improper use of access credentials, even if by third parties.

3.5. It is the responsibility of the registrant to check the accuracy of their registration data in SICAF and keep them updated with the authorities responsible for the information and must proceed, immediately, to correct or change the records as soon as any incorrectness is identified or such information becomes outdated.

3.5.1. Failure to comply with the provisions of the previous sub-item may result in disqualification at the stage of the qualification procedure.

3.5.2. In order for foreign companies that do not operate in the country to participate in the Call to Tender procedures they may register with Sicafe by means of a specific identifier code provided by the system, subject to the following conditions:

3.5.2.1. The documents required for registry covered by art. 6 may be substituted by equivalent documents, **initially** presented in translated form;

3.5.2.1.1. The documents referred to in item I must be translated by a sworn translator of Brazil and apostilled in accordance with the provisions of Decree No. 8,660, of January 29, 2016, or other that replaces it, or consularized by the respective consulates or embassies; and

3.5.2.1.2. They have a legal representative in Brazil with express powers to receive summons and act at the administrative and legal levels.

3.5.2.2. In the event of non-submission of equivalent documents for the registration specifics covered by the previous item, the person or entity responsible must individually communicate the situation to Sicafe.

3.5.3. Foreign companies operating in Brazil, authorized by decree of the executive branch in the form of paragraph V, of Article 28, of Law No. 8,666, of 1993, must register with Sicafe and provide their National Register of Legal Entities identification number (CNPJ).

4. PARTICIPATION IN THE BIDDING

4.1. Interested parties may participate in this bidding session whose branch of activity is compatible with the object of this Call to Tender, and who are regularly accredited in the Unified Supplier Registration System – SICAF, as provided for in Article 9 of IN SEGES/MP No. 3, of 2018.

4.1.1. Bidders shall use the digital certificate to access the system.

4.2. Preferential treatment will be granted to micro-enterprises and small-scale enterprises, to cooperative societies mentioned in Article 34 of Law No. 11,488, of 2007, to family farmers, rural producers, natural persons, and to individual micro-entrepreneurs (MEI), within the limits provided for in complementary Law No. 123, of 2006.

4.3. Interested parties that meet any of the following conditions shall be considered ineligible to take part in the tender:

4.3.1. those prohibited from participating in Call to Tenders and administrative contracts, in the form of current legislation;

4.3.2. those who do not meet the conditions of this notice and its annex(es);

4.3.3. foreigners who do not have legal representation in Brazil with express powers to receive summons and act at the administrative and legal levels;

4.3.4. that fall within the restrictions provided for in Article 9 of Law No. 8,666, of 1993;

4.3.5. they have been declared bankrupt or are undergoing bankruptcy proceedings, are in concourse of creditors, in composition, or in the process of dissolution or liquidation;

4.3.6. business entities that are joined in a consortium;

4.3.7. Civil society organizations of public interest (OSCIP), acting in this condition (judgment No. 746/2014-TCU - Plenary Floor).

4.4. As a condition for participation in the bidding, the bidder must indicate " yes " or " no " in the electronic system fields, relating to the following statements:

4.4.1. that they comply with the requirements established in article 3 of complementary Law No. 123, of 2006, as being qualified to receive favored treatment as established in its arts. 42-49;

4.4.1.1. in the items exclusively relating to the participation of micro and small enterprises, the marking of the field "no" will prevent continuation in the Call to Tender procedure;

4.4.1.2. in the items in which the participation is not exclusive to micro-enterprises and small businesses, the marking of the field "no" will only produce the effect that the bidder is not entitled to the favored treatment provided for in complementary law No. 123, of 2006, even if they are a microenterprise or small business.

4.4.2. that they are aware of and agree to the conditions contained in the notice and its annexes;

4.4.3. that they meet the requirements for the qualification defined in the notice and that the proposal submitted complies with the requirements of the notice;

4.4.4. that there are no facts impeding their qualification in the Call to Tender procedure and are aware of the obligation to declare subsequent occurrences;

4.4.5. that they do not employ individuals under 18 years of age in night shifts, nor for dangerous or unhealthy activities and do not employ individuals under 16 years of age, except those under 14 years of age as an apprentice, in accordance with Article 7 XXXIII of the Federal Constitution of Brazil;

4.4.6. that the proposal was prepared independently, in accordance with the SLTI/MP normative Instruction No. 2 of September 16, 2009.

4.4.7. that they do not have employees in their production chain performing degrading or forced labor, observing the provisions of paragraphs III and IV of Article 1 and paragraph III of Article 5 of the Federal Constitution of Brazil;

4.4.8. that the services are provided by companies that prove compliance with the reservation of positions provided for by law for disabled persons or for those undergoing social security rehabilitation programs and that meet the accessibility to employment rules provided for in the legislation, as provided for in art. 93 of Law No. 8,213, of July 24, 1991..

4.5. Any false statement made regarding the fulfillment of any condition will subject the bidder to the sanctions provided for by law and this notice.

5. THE SUBMISSION OF THE PROPOSAL AND THE QUALIFYING DOCUMENTS

5.1. The bidders shall issue, exclusively through the system and written in the Brazilian Portuguese language, concomitantly with the qualification documents required in this notice, their proposal with the description of the object and the price offered, within the date and time deadline established for the opening of the public session, at which point the window for sending that documentation will automatically close.

5.2. The submission of the proposal, accompanied by the qualifying documents required by this notice shall occur through access code and password.

5.2.1. The documentation referred to in item 1.14.13 and sub-items of the Term of Reference attached to this notice must be attached to the proposal and to any other relevant joint documentation before the opening of the session.

5.3. Bidders may opt to not present the qualifying documentation as stipulated in the SICAF, with the right to access the data contained in the systems assured to the rest of the bidders.

5.4. In the event of technical problems in SICAF in accessing the documentation, they may be requested from the bidder by the Standing Commission for Bids, via chat.

5.4.1. Micro and small-scale companies must submit the authorization documentation, even in the event of restrictions of fiscal and labor regularity, in accordance with art. 43, § 1º of LC nº 123 of 2006.

5.5. The bidder will be responsible for monitoring the operations in the electronic system during the public session of the bidding and is responsible for any legal burden arising from the loss of business due to non-compliance with any messages issued by the system or its disconnection.

5.6. Up until the opening of the public session, bidders will be able to withdraw or replace their proposal and the qualifying documents previously entered in the system;

5.7. At this stage of the contest, the order of classification among the proposals presented shall not be established, and will only occur after the negotiation and awarding procedures of the proposal.

5.8. The bidder who fails to respond to messages sent by the Standing Commission for Bids within 30 minutes after notification via chat will be disqualified for abandoning the contest.

5.9. The comprising documentation of the proposal and qualification of the highest-ranked bidder will only be made available to the Standing Commission for Bids and for public access after the closing of the bidding session.

5.10. Bidders must comply with the maximum prices set out in the federal procurement rules when participating in public Call to Tenders.

5.10.1. Failure to comply with the above-mentioned rules by the administration due to the actions of the contractor can lead to inspection by the Court of Auditors of the Union, following the due process of law, and generate the following result: assignment of a deadline for the adoption of the measures necessary to comply with the law, in accordance with art. 71, section IX, of the Federal Constitution, indemnification by the public officials and the contractor for the payment of losses to the public treasury, in the case of verified occurrence of overpricing of the contract.

5.11. The bidder may submit their proposal in Brazilian real, euros or US dollars, however, for

the purpose of registration in the government procurement system, it is necessary to inform the value in Brazilian real.

5.12. The values proposed in foreign currency (Euro or US dollar) must be converted into Brazilian real at the Ptax exchange rate of sale in force on the business day immediately preceding the date of the opening of the session, for registration in the Electronic Government Procurement System, in which the Call to Tender will be processed.

5.13. The registration of proposals and bids for imported products in the Electronic Government Procurement System should consider the equalized unit value, according to column "J" of the price proposal model for imported materials, Annex I-D of the reference term.

5.14. For the purpose of awarding the bid, the proposals submitted by foreign bidders will be subject to the consequent requirements of the same tax obligations that burden the Brazilian bidders as it relates to the final sale operation.

5.15. Tax encumbrances will be considered, for the purpose of comparison of the proposals, as provided for in art.42, § 4º of law 8.666/93, where applicable, the percentages corresponding to the tax on circulation of goods (ICMS), PIS and COFINS.

5.16. The international trade term -INCOTERM - to be adopted will be the DAP - Delivered at Place / (delivered at the place of destination, designated place).

6. COMPLETION OF THE PROPOSAL

6.1. The bidder must submit his proposal by filling in the following fields in the electronic system:

6.1.1. Unit and total value of the item:

6.1.2. Brand name;

6.1.3. Manufacturer;

6.1.4. Detailed description of the object, containing the information similar to that specified in the Term of Reference: indicating, where applicable, *the model, validity or warranty period, registration number or inscription of the good in the competent governmental body, where applicable;*

6.2. All specifications of the object contained in the proposal bind the contractor.

6.3. The proposed prices will include all operational costs including social security, labor, tax, commercial and any other encumbrances and charges that directly or indirectly affect the supply of the goods.

6.4. The prices offered, both in the initial proposal and in the bidding stage, will be the exclusive responsibility of the bidder, without the right to plead any alterations, under the allegation of error, omission, or any other pretext.

6.5. The term of validity of the proposal will be 180 (one hundred and eighty) days, from the date of its submission.

6.6. Bidders must comply with the maximum prices set out in the federal procurement rules when participating in public calls to tenders;

6.6.1. Failure to comply with the above-mentioned rules by the administration due to the actions of the contractor can lead to inspection by the Court of Auditors of the Union, following the due process of law, and generate the following result: assignment of a deadline for the adoption of the measures necessary to comply with the law, in accordance with art. 71, section IX, of the Federal Constitution, indemnification by the public officials and the contractor for the payment of losses to the public treasury, in the case of verified occurrence of overpricing of the contract.

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

7.1. The opening of this tender will take place in public session, through the electronic system, on the date, time and place indicated in this notice.

7.2. The Standing Commission for Bids will verify the proposals presented, declassifying immediately those that do not comply with the requirements established in this notice or contain irremediable flaws or do not present the technical specifications required in the Term of Reference.

7.2.1. Any proposal that identifies the bidder will also be disqualified.

7.2.2. The declassification will always be substantiated and recorded in the system, with real-time monitoring by all participants.

7.2.3. Failure to declassify the proposal shall not preclude its definitive awarding, which can be given at the acceptance stage.

7.3. The system will automatically sort the classified proposals, and only those will participate in the bidding phase.

7.4. The system will provide its own field for the exchange of messages between the Standing Commission for Bids and the bidders.

7.5. Once the competitive stage has begun, bidders must submit bids exclusively through the electronic system, being immediately informed of their receipt and the amount entered in the register.

7.5.1. **The bid must be made for the full value of the item.**

7.6. Bidders may offer successive bids, observing the time set for the opening of the session and the rules established in the notice.

7.7. The bidder may only offer a bid of lower value or discount percentage superior to the last bid offered and registered by the system.

7.8. For the issuance of bids in the electronic bidding platform, the "open and closed" dispute mode will be used, in which bidders will submit public and successive bids, with final and closed bidding.

7.9. The bidding stage of the public session will have an initial duration of fifteen minutes. After this period, the system will provide notice of the imminent closure of bidding, after which the randomly determined time period of up to ten minutes passes, at which point the receipt of bids will be automatically closed.

7.10. After the closing period provided in the previous item, the system will open an opportunity for the bidder of the bid of lowest value and bidders of offers with values up to ten percent higher than that can bid a final and closed bid within five minutes, which will be kept confidential until the end of this period.

7.10.1. If there are not at least three bids under the conditions defined in this item, the bidders of the best subsequent bids, in order of ranking up to a maximum of three, may offer a final and closed bid within five minutes, which will be kept confidential until the end of this period.

7.11. After the expiration of the deadlines established in the previous items, the system will order the bids according to the ascending order of values.

7.11.1. If there is no final and closed bid classified in the manner established in the previous items, a restart will occur of the closing stage, so that the other bidders, up to a maximum of three, by order of classification, can offer a final and closed bid in up to five minutes, which will be confidential until the end.

7.12. The Standing Commission for Bids, assisted by the support team, can justifiably admit the restart of the closed stage, if no bidder classified in the closing bidding stage meets the qualification requirements.

7.13. Two or more bids of the same value will not be accepted. Whichever is received and registered in first place will prevail.

7.14. During the course of the public session, bidders will be informed in real-time of the value of the lowest bid registered, without identifying the bidder.

7.15. In the event of disconnection with the Standing Commission for Bids, during the competitive stage of the Call to Tender session, the electronic system may remain accessible to bidders for the reception of bids.

7.16. When the Standing Commission for Bids is disconnected from the electronic system for more than ten minutes, the public session will be suspended and restart only after twenty-four hours after communication of the fact is issued by the Standing Commission for Bids to the participants via the website used for such notices.

7.17. The award criteria adopted will be the **lowest price**, as stipulated in this notice and its annexes.

7.18. If the bidder does not submit bids, they will compete with the value contained in their proposal.

7.19. In relation to the non-exclusive items on the participation of micro and small-scale companies, once the bidding stage is closed, automatic verification by the IRS of the size of the business entity will be carried out. The system will identify in a specific column the participating micro-enterprises and small companies, proceeding comparison of the values of the first in place, if it is of a larger company, as well as the other classifications, in order to apply the provisions of arts. 44 and 45 of LC No. 123, of 2006, regulated by decree No. 8.538, of 2015.

7.20. Under these conditions, bids from micro and small businesses that are in the range of up to 5% (five percent) above the best bid or best proposal will be considered tied with the first-placed bidder.

7.21. The best ranked in the terms of the previous item will have the right to forward a last offer to achieve a tiebreaker, necessarily in a lower value than the first placed within 5 (five) minutes controlled by the system, counted after the automatic communication of such.

7.22. If the best-ranked micro-enterprise or small business withdraws or does not manifest within the established deadline, the other micro-enterprise and small business bidders that are in the above-mentioned range of 5% (five percent), by order of classification, will be summoned to exercise the same right, within the period established in the previous sub-item.

7.23. In the case of equivalence of the values presented by micro and small companies within the intervals established in the previous sub-items, an automatic random draw will be selected between them to identify the one that may first present the best offer.

7.24. There can only be a tie between equal bids (not a sequence of bids), or between final bids of the closing phase in the open and closed dispute mode.

7.25. In the event a tie occurs between bids or proposals, the tie-breaker criteria will be that provided for in art. 3º, § 2º, of Law No. 8.666, of 1993, ensuring preference, successively to goods produced:

7.25.1. in Brazil;

7.25.2. by Brazilian companies;

7.25.3. by companies that invest in research and technology development in Brazil;

7.25.4. by companies that prove compliance with the reservation of employment positions provided for by law for people with disabilities or those undergoing social security rehabilitation programs and that meet the accessibility rules provided for in the legislation.

7.26. If the tie persists, the winning bid will be randomly drawn by the electronic system from among the tied bids or proposals.

7.27. After the stage of submitting bids in the public session, the Standing Commission for Bids must forward, through the electronic system, a counterproposal to the bidder who has presented the best price, so that a better proposal is obtained, while all forms of negotiation are restricted under conditions different from those provided for in this notice.

7.27.1. The negotiation will be carried out through the system and can be accompanied by the other bidders.

7.27.2. The Standing Commission for Bids will ask the highest-ranked bidder to, within a minimum period of 2 (two) hours, submit the proposal corresponding to the last bid offered, accompanied by, if applicable, the complementary documentation, when confirmation of such previously presented documentation, per the requirements of this notice, is necessary.

7.27.2.1. If the bidder requires a longer period of time, they must make a request via chat to the Standing Commission for Bids, who will analyze the request, as the case may be.

7.28. After the negotiation phase of the price, the Standing Commission for Bids will begin the acceptance and awarding phase of the proposal.

8. ACCEPTABILITY OF THE WINNING PROPOSAL

8.1. After the negotiation stage, the Standing Commission for Bids will examine the proposal classified in first place as to the suitability of the object and the compatibility of the price in relation to the maximum values stipulated in this notice and in its annexes, observing the provisions of the sub paragraph of art.7º and § 9º of art. 26 of Decree No. 10.024/2019.

8.2. The bidder qualified as a natural person rural producer must include, in his proposal, the percentages of the contributions provided for in art.176 of the normative instruction RFB n. 971, of 2009, following the provisions of art. 184, paragraph V, under penalty of disqualification.

8.3. The winning bid or proposal will be disqualified if the final price is higher than the maximum fixed price (Judgment No. 1455/2018-TCU - Plenário), a discounted price lower than the minimum required or with a clearly unattainable price.

8.3.1. A proposal is considered unattainable when the total or unit prices are apparently symbolic, negligible, or of zero value, incompatible with the prices of inputs and market values, plus their respective expenses and taxes. Such cases are considered unattainable, even if the Call to Tender notice stipulates no minimum limits, except when they refer to materials and facilities owned by the bidder himself, in which case the owner renounces remuneration entirely or in part.

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

8.5. If the need arises to suspend the public session in order to perform diligence for the purpose of clarifying issues regarding a proposal, the public session can only be restarted by prior notice in the system at least twenty-four hours in advance, and the occurrence will be recorded in the minutes;

8.6. The Standing Commission for Bids may request the bidder to send complimentary digital documentation through functionality available in the system within 2 (two) hours, under penalty of non-acceptance of the proposal.

8.6.1. The Standing Commission for Bids is allowed to extend the established deadline in view of a reasoned request made via chat by the bidder, before the end of the deadline.

8.6.2. Among the documents that may be requested by the Standing Commission for Bids include those that provide characteristics of the material offered, such as brand, model, type, manufacturer and origin, as well as other relevant information, such as catalogs, brochures or proposals, sent by electronic means, or, if applicable, by other means within the deadlines indicated by the Standing Commission for Bids, without prejudice to subsequent submissions through the electronic system, under penalty of not accepting the proposal.

8.6.3. The bidder who submits the best proposal will be required to perform certain tests, which will necessarily be accompanied by CTMB/DEPEN, within 30 (thirty) calendar days from the request of the Standing Commission for Bids (this deadline represents the final term, not necessarily used in its totality) This period may be extended at the request of any of the parties, provided that it is duly justified and accepted by the authorising officer of expenditure (Directorate of the Federal Penitentiary System - DISPF).

8.6.4. The winning bidder must comply with the other complementary provisions established in item 5 and annexes of the Term of Reference.

8.6.5. The Company shall inform the administration, at least 15 (FIFTEEN) calendar days in advance of the availability of the weapons and accessories, in order to divulge the place where the proof of concept will be carried out to all interested parties, whereupon the date of application of the tests may be extended at the discretion of the designated committee.

8.6.5.1. By means of the system message board, the place and time for the evaluation of the samples will be disclosed, whereupon the presence of all interested parties is optional, including the other bidders.

8.6.5.2. The results of the assessments will be disclosed via the system message board.

8.6.5.3. Minimum acceptability requirements and standards will be evaluated, as specified in the reference term.

8.6.5.4. If the sample(s) presented by the bidder classified in first place is not accepted, the Standing Commission for Bids will analyze the acceptability of the proposal or bid offered by the one classified in second place. This is followed by verification of the sample(s) successively until one is verified that meets the specifications set out in the Term of Reference.

8.6.5.5. The samples made available to the administration will be considered prototypes, and can be handled and disassembled by the technical team responsible for the analysis, not subject to right to compensation, as established in the Term of Reference.

8.6.5.6. The bidders must make available to the administration all the conditions necessary to carry out tests, according to item 5 and Annex II of the Term of Reference, and provide, without charge, the printed manuals written in the Portuguese language, necessary for proper handling.

8.7. If necessary, the Standing Commission for Bids will suspend the session, informing in the *chat box* the new date and time for its continuity.

8.8. The Standing Commission for Bids may forward, through the electronic system a counterproposal to the bidder who submitted the most advantageous bid, in order to negotiate and reach the best price, with restrictions applied to negotiating under any conditions other than those provided in this notice.

8.8.1. Also in the event that the Standing Commission for Bids does not accept the proposal and move to the subsequent one, he can negotiate with the bidder in an effort to obtain a better price.

8.8.2. The negotiation will be carried out through the system and can be accompanied by the other bidders.

8.9. Regarding the non-exclusive items for the participation of micro-enterprises and small-scale companies, whenever the proposal is not accepted, and before the Standing Commission for Bids moves on to the subsequent one, a new verification will be carried out via the system of the possible occurrence of a tie, as provided for in articles 44 and 45 of LC No. 123 of 2006, following the rules previously established, if applicable.

8.10. After analysis is performed regarding the acceptance of the proposal, the Standing Commission for Bids will verify the qualification of the bidder, observing the provisions of this notice.

8.11. The best proposal will be accepted only after carrying out the tests pursuant to item 5 of the Term of Reference, attached to this notice, relating to the electronic bidding phase.

9. QUALIFICATION

9.1. As a precondition to the examination of the qualification documentation of the bidder holding the proposal ranked first in place, the Standing Commission for Bids will verify the existence of any non-compliance with the conditions of participation, especially as to the existence of a sanction that prevents participation in the bidding or contract, by consulting the following registries:

a) SICAF;

b) National Registry of inactive and suspended companies (CEIS), maintained by the Office of the Comptroller General of Brazil (www.portaldatransparencia.gov.br/ceis);(www.portaldatransparencia.gov.br/ceis);

c) National Registry of Civil Convictions for Acts of Administrative Impropriety, maintained by The National Council of Justice (www.cnj.jus.br/improbidade_adm/consultar_requerido.php).

d) List of Offenders and the Integrated Registry of Convictions for Administrative Offences (CADICON), maintained by the Court of Auditors of the Union - TCU.

9.1.1. For the inquiry of legal entity bidders, the consultations of the points “b”, “c” and “d” above may be substituted by the Consolidated Consultation of Legal Entities of the TCU (<https://certidoesapf.apps.tcu.gov.br/>)

9.1.2. A registration inquiry will be carried out on the bidding company and also on its majority shareholder partner, by virtue of article 12 of Law No. 8.429 of 1992, which provides, in addition to the sanctions imposed on persons who have committed acts of administrative impropriety, restrictions against entering into contract with the public authority, including through a legal entity of which they are majority shareholder.

9.1.2.1. If during the inquiry on the supplier, indirect preventative occurrences are found, the administrator will take steps to verify the existence of fraud by the companies indicated in the report of indirect preventative occurrences.

9.1.2.2. The attempted deception will be verified through business ties, similar supply lines, among others.

9.1.2.3. The bidder will be summoned to provide explanations prior to their disqualification.

9.1.3. If any sanction or restriction is found, the Standing Commission for Bids will consider the bidder deactivated due to lack of participation requirements.

9.1.4. In the case of deactivation, a new verification will be carried out by the system of the possible occurrence of a tie, provided for in arts. 44 and 45 of complementary Law No. 123, of 2006, following the rules previously established for the acceptance of the subsequent proposal.

9.2. If the conditions for participation are met, qualification of the bidders will be verified through SICAF based on the relevant documentation relating to legal qualification, tax and labor regularity, financial economic qualification and technical qualification, in accordance with the provisions of the normative instruction SEGES/MP No. 03, of 2018.

9.2.1. For the purposes of qualification provided for in normative instruction SEGES/MP No. 03 of 2018, the interested party, through the use of the system, must meet the conditions required for registration in SICAF by the third working day prior to the date provided for receipt of the proposals;

9.2.2. It is the duty of the bidder to update in advance the attestations from SICAF so that they are valid on the date of the opening of the public session, or submit jointly with the presentation of the proposal the respective updated documentation.

9.2.3. Failure to comply with the sub-item above will imply the disqualification of the bidder, except if the inquiry of the official websites made by Standing Commission for Bids succeeds in finding the valid attestations, according to art. 43, §3º, of Decree 10.024 of 2019.

9.3. If there is a need to submit additional qualifying documents necessary to confirm those required in this notice and those previously presented, the bidder will be summoned to provide them in digital form, via the system, within 2 (two) hours, under penalty of disqualification.

9.4. The need to present original non-digital documents will only be required in the event there is doubt regarding the integrity of the digital document.

9.5. Documents with divergent CNPJ/CPF numbers will not be accepted, except those legally permitted.

9.6. If the bidder is the parent company, all documents must be in the name of the same; if the bidder is the subsidiary, all documents must be in the name of same, except those documents which, by nature are demonstrably issued only in the name of the parent company.

9.6.1. CNPJ registrations of the parent company bidder and subsidiary with differences in document numbers relevant to the CND and CRF/FGTS will be accepted, when the centralization of such tax contributions is proven.

9.7. Foreign companies that do not operate in Brazil can meet the requirements of this notice inasmuch as possible by means of equivalent documents, authenticated by the respective consulates and translated by a sworn translator, and must have legal representation in Brazil with express powers to receive summons and respond administratively or judicially.

9.8. Subject to the provisions of item 5.3, bidders must submit, under the terms of this notice, the related documentation in the following items, for qualification purposes.

9.9. **Legal Qualification:**

9.9.1. In the case of individual entrepreneurs: registration in the Public Registry of Commercial Companies, by the Commercial Board of the respective head office;

9.9.2. In the case of individual Micro-entrepreneurs – MEI: Certificate of the condition of individual Micro-entrepreneur - CCMEI, the acceptance of which will be conditioned to verification of authenticity on the site www.portaldoempreendedor.gov.br;

9.9.3. In the case of a company or individual limited liability company - EIRELI: company statute or articles of incorporation in force, duly registered with the Board of Trade of the respective head office, accompanied by documental evidence of its directors;

9.9.4. Registration in the public registry of Mercantile Companies in the region where it operates, with ratification in the registry where the head office is located, whether it is a head office or branch;

9.9.5. In the case of a private company: registration of the articles of incorporation in the Civil Registry of Legal Entities at its head office, accompanied by proof of its board members;

9.9.6. In the case of a cooperative enterprise: founding articles and articles of association in force, with the minutes of the shareholders meeting that approved it, duly filed with the Board of Trade or registered in the Civil Registry of Legal Entities of the respective head office, as well as the registry requirements pursuant to art. 107 of Law No. 5,764 of 1971;

9.9.7. In the case of a foreign company or company operating in the country: authorization decree;

9.9.8. Due to the nature of weapons for controlled use, bidders who propose the supply of national or nationalized products must prove that they are authorized by the Brazilian Army (EB) to market, represent, import and export the product in Brazil, fulfilling the requirements established by Decree No. 10.030, of September 30, 2019.

9.9.9. The above documents must be accompanied by all alterations or consolidation thereof;

9.10. **Tax and labor regularity;**

9.11. Proof of registration in the National Registry of Legal Entities (CNPJ) or in the Register of Natural Persons (CPF), as the case may be;

9.11.1. Proof of fiscal regularity before the National Treasury, upon presentation of a certificate issued jointly by the Secretariat of the Federal Internal Revenue Service of Brazil (RFB) and by the Attorney General of the National Treasury (PGFN), concerning all federal tax credits and the Active Debt of the Union (DAU) administered by them, including those related to social security, in accordance with Joint Ordinance No. 1.751, of 02/10/2014 of the Federal Internal Revenue Service of Brazil and the Attorney General of the National Treasury;

9.11.2. Proof of regularity with the Government Severance Indemnity Fund for Employees (FGTS);

9.11.3. Proof of non-existence of defaulted debts before the labor court, by presenting a negative or positive certificate with negative effect, in accordance with Title VII-A of the consolidation of labor laws, approved by Decree-Law No. 5,452 of May 1, 1943;

9.11.4. Proof of registration in the state taxpayers registry relative to the domicile or headquarters of the bidder, relevant to their line of business and compatible with the contractual object;

9.11.5. Proof of regularity with the State Internal Revenue Service of the domicile or headquarters of the bidder, relating to the business activity respective to the intended contract and bidding object;

9.11.6. If the bidder is considered exempt from state taxes related to the bidding object, they must prove such status by declaration issued by the State Treasury Office of his domicile or headquarters, or other legally equivalent;

9.11.7. If the bidder with the lowest price is qualified as a micro-enterprise or small-scale business, they must present all the required documentation for the purpose of proof of tax regularity, even if this presents some restriction, under penalty of disqualification.

9.12. **Economic-Financial Qualification**

9.12.1. Negative bankruptcy certificate issued by the regional official of the head office of the legal entity;

9.12.2. Balance sheet and accounting statements of the last financial year, already attainable and presented in the form of the law, which prove the good-standing financial situation of the company. This cannot be replaced by balance sheets or provisional balance sheets, but can be updated by official indexes when closed more than 3 (three) months from the date of submission of the proposal;

9.12.2.1. In the case of supply of goods from off the shelf delivery, it will not be required of the bidder qualified as a micro-enterprise or small-scale business to presents the balance sheet of the last financial year. (Art. 3º of Decree No. 8.538, of 2015);

9.12.2.2. In the case of a company incorporated in the current financial year, the presentation of balance sheet and accounting statements relating to the period of existence of the company is allowed;

9.12.2.3. The interim balance sheet is admissible if it proceeds from law or articles of incorporation.

9.12.2.4. If the bidder is a cooperative enterprise, said documents must be accompanied by the last accounting-financial audit, as provided for in Article 112 of Law No. 5,764 of 1971, or a statement, under the penalties of the law, that such audit was not required by the inspector body;

9.12.3. The proof of the financial situation of the company will be verified by obtaining of general liquidity (GL), general solvency (GS) and current liquidity (CL) indexes, greater than 1 (one) resulting from the application of the formulas:

current assets + long-term realizable current

GL =

liabilities + non-current liabilities

Total Assets

GS =

current assets current

CL =

liabilities

9.12.4. Companies with a result of less than or equal to 1 (one) in any of the indexes of general liquidity (GL), General solvency (GS) and current liquidity (CL) shall, taking into account the risks to the public authorities, and, at the discretion of the competent authority, demonstrate the minimum capital or net worth of 03 (three) per cent of the estimated value of the contract or the relevant item.

9.13. Technical Qualifications

9.13.1. Attestation of aptitude for the supply of goods in characteristics, quantities and terms compatible with the object of this Call to Tender, or with the relevant item, through the presentation of certificates provided by legal entities of public or private law.

9.13.1.1. For the purposes of the attestation referred to in this sub-item, the attestations must reflect performance under contract with the following minimum characteristics:

9.13.1.1.1. Documents will be required to attest that the offered weapon model has an operational maturity of at least 01 (one) year, proven through the effective supply to public security and/or military institutions, in at least 3 (three) police or military bodies of at least 2 (two) different countries. The proof of operational maturity is required by submission of a declaration by the institution that has had the model in its weapons arsenal for the required period, copy of the supply contract or any other suitable means.

9.13.1.1.2. The bidder must present Certificate of Technical Capacity - ACT, issued by a legal entity under public or private law, which proves that it has already supplied at least 28% (Twenty-eight percent) of the quantity of each model of pistol.

9.13.1.1.3. In compliance with the provisions of the previous item, attestations of supply of products compatible with those specified in the Term of Reference, that is, attesting to the technical capability to perform the relevant activity and compatible with the object of the Call to Tender, the following minimum characteristics for each item will be accepted:

Item	Minimum similar characteristics	Quantity (28% of the quantity to be provided to the administrative body)
1	Machine gun firearm caliber 5.56x45 mm	5
2	Machine gun firearm caliber 7.62x51 mm	5

9.13.1.1.4. For the proof of technical capacity, the sum of attestations will be accepted, provided that each of the attestations meets the minimum characteristics required, as explained above, and are comprised in a period not exceeding 5 (five) years in order to ensure the production capacity of the manufacturer and supply of the products by the bidder.

9.13.1.1.5. If the attestations do not contain all the information necessary to prove the minimum requirements established for the item, they can be supplemented by other suitable means, such as registered contracts and invoices, with the option reserved by the Standing Commission for Bids to carry out due diligence.

9.13.1.2. For verification of the international standards of technical quality of the weapon that will be supplied, the highest ranked bidder will be required to submit jointly with the business proposal, the following documents:

9.13.1.2.1. The bidder must present a document/report containing certification issued by an internationally accredited test bench or independent laboratory(s) or governmental body, including FFAA, that has tested the firearm, with a description of the tests performed and standards used for the execution of the tests, as well as attesting to barrel life of 15,000 (fifteen thousand) shots.

9.13.1.2.2. To verify the regularity of sale and operability of the weapon that will be supplied, it will be required, at the stage of analysis of the samples, the submission of the following documents:

9.13.1.2.3. For Brazilian companies, proof of manufacture and sale authorization through Experimental Technical Report (RETEX) issued by the Brazilian Army;

9.13.1.2.4. For foreign companies, proof of manufacture and sale authorization, similar to the Experimental Technical Report (RETEX), by means of a document issued by a test bench or official body of the country of origin;

9.13.1.2.5. In both cases (national or foreign company), they must present proof of manufacture and sale authorization, issued at least 12 (twelve) months before the opening date of the bidding, of the same brand and model, issued by the Brazilian Army or by test bench or official body of the country of origin, as the case may be.

9.13.2. No weapon model will be accepted that has undergone a *recall* or replacement of parts process in the last 24 (twenty-four) months in order to remedy defects related to the safety mechanism, failures in the operating mechanism of the firearm, failures that compromise the durability or performance of the weapon, or any defect that compromises the safety of the operator or third parties. The contractor reserves the right of extensive research by all lawful means to verify the adequacy of the object of the proposal, and the omission as to non-conformities will imply the exclusion of the winning proposal and moving on to the next classified bidder.

9.13.3. No weapon model will be accepted that is attributed technical proof by official document issued in the last 24 (twenty - four) months of defects related to the safety mechanism, failures in the operating mechanism of the firearm or any defect that compromises the safety of the operator or third parties, and the admissibility of said document should be evaluated by the Brazilian Technical Committee for the Modernization of War Materials - CTMB, for the purpose of technical rigor and officiality. Official documents will only be considered that are issued from governmental bodies, government agencies or the equivalent, such as technical opinion of armourers, center of war materials or expert report issued by the Brazilian Institute of Official Expertise, for example.

9.13.4. Because it is a controlled use product, bidders who propose the supply of national or nationalized products must prove that they are authorized by the Brazilian Army (EB) to market, represent, import and export the product in Brazil, fulfilling the requirements established by Decree No. 10.030 of September 30, 2019.

9.14. The bidder classified as an individual micro-entrepreneur who wishes to obtain the benefits of the differentiated treatment provided for in Complementary Law n.123 of 2006 will be exempted from (a) the proof of registration in the state and municipal taxpayer registries and (b) the presentation of the balance sheet and the accounting statements of the last financial year.

9.15. The existence of restrictions regarding tax and labor regularity does not prevent the bidder qualified as a micro-enterprise or small business from being declared the winner once all the other requirements of the notice are met.

9.16. The declaration of the winner will take place at the moment immediately following the qualification phase.

9.17. If the most advantageous bid is offered by a bidder qualified as a micro-enterprise or small business, and once the existence of any restrictions regarding tax and labor regularity is established, they will be summoned to prove the respective regularization within 5 (five) working days after the declaration of the winner. This period may be extended for the same period, at the discretion of the public administration, when requested by the bidder, upon presentation of justification.

9.18. The non-regularization of tax and labor issues within the period provided for in the previous sub-item will result in the disqualification of the bidder, without prejudice to the sanctions

provided for in this notice, reserving the option of the Standing Commission for Bids to summon the remaining bidders, by order of classification. If, by order of classification, another micro enterprise, small-scale business or cooperative company is found to have restrictions on their tax and labor documentation, they will be granted the same period for regularization.

9.19. If the need arises to thoroughly analyze the required documents, the Standing Commission for Bids will suspend the session, thereby informing in the “chat box” the new date and time for its continuity.

9.20. The bidder who does not prove his qualification will be disqualified, either by not presenting any of the required documents, or by presenting them in nonconformity with the requirements established in this notice.

9.21. In the non-exclusive items for micro and small-scale companies due to lack of qualifications, a new verification procedure will be carried out automatically by the system as to the possible occurrence of a tie, as provided for in articles 44 and 45 of LC No. 123 of 2006, following the rules previously established for acceptance of the subsequent proposal.

9.22. The provisionally winning bidder for one item who is also competing for another item will be required to submit the qualification requirements cumulatively, that is, adding the requirements of the item for which they won to those of the item in which they are bidding for, and so on, under penalty of disqualification, in addition to the application of the applicable sanctions.

9.23. If there is no cumulative proof of the qualification requirements, the disqualification will fall on all the *proposed items*.

9.23.1. Once the qualification requirements set out in the notice are met, the bidder will be declared the winner.

10. SUBMISSION OF THE WINNING PROPOSAL

10.1. The final proposal of the declared winning bidder must be sent within 02 (two) hours by request of the Standing Commission for Bids in the electronic system and must:

10.2. be written in Portuguese and typed in one copy, without amendments, erasures, lines or caveats, and the last sheet must be signed and the rest initialed by the bidder or their legal representative;

10.3. contain the indication of the bank, account number and agency of the winning bidder, for payment purposes.

10.4. The final proposal must be provided in the documentation, which will be taken into account during the execution of the contract, followed by the application of any sanction to the contractor, if applicable.

10.5. All the specifications of the object contained in the proposal, such as make, model, type, manufacturer and provenance, bind the Contractor.

10.6. The values must be expressed in national currency, the unit value in numerical digits and the total value in numerical digits and spelled-out in full (art. 5º of Law No. 8,666/93).

10.7. If there is a divergence between the unit prices and the overall price, the former shall prevail. In the case of a divergence between the numerical values and the values spelled-out in full, the latter shall prevail.

10.8. The offer must be straightforward and precise, strictly limited to the object of this notice, without containing price alternatives or any other condition that induces the awarding of more than one result, under penalty of disqualification.

10.9. The proposal must comply with the terms of this notice and its annexes. One that does not correspond to the specifications contained therein or that establishes a link to the proposal of another bidder will be disregarded.

10.10. Proposals containing the description of the object, the values, and the additional documents shall be made available on the internet after approval.

11. APPEALS

11.1. Declared the winner and after the tax and labor regularization phase of the bidder qualified as a microenterprise or small business, if applicable, the period of at least thirty minutes will be granted so that any bidder may express the intention to appeal, in a reasoned manner, that is, indicating against which decision(s) they intend to appeal and for what reasons, in the system's own fields.

11.2. If there are those who manifest an appeal, it will be up to the Standing Commission for Bids to verify the timeliness and the motivations to appeal to decide whether or not to admit the appeal, on a reasoned basis.

11.2.1. At that time the Standing Commission for Bids shall not discuss the merit of the appeal, but will only check the conditions of admissibility of the appeal.

11.2.2. The lack of a reasoned statement by the bidder as to the intention to appeal will result in the forfeiture of that right.

11.2.3. Once the appeal has been admitted, the applicant will have, from then on, a period of three days to present their reasons through the electronic system, being the other bidders immediately summoned to present counter-reasons as they see fit, also through the electronic system, within three days time beginning from the end of the applicant's term for appeal, with their rights reserved of immediate access to the elements indispensable to the defense of their interests.

11.3. The reception of the appeal implies the invalidation of only unusable acts.

11.4. The records of the case will remain openly accessible to the interested parties, at the address contained in this notice.

12. REOPENING OF THE PUBLIC SESSION

12.1. The public session may be reopened:

12.2. In the event of the provision of an appeal leading to the annulment of acts prior to the holding of the previous public session or in which the public session itself is annulled, the acts annulled and those dependent on it will be repeated.

12.3. When an error has occurred in the acceptance of the best-ranked price or when the declared winning bidder does not sign the contract, does not claim the contract, or does not prove tax and labor regularization, in accordance with art. 43, §1º of LC No. 123/2006. In such cases, procedures will be adopted immediately after the closing of the bidding stage.

12.4. All remaining bidders shall be summoned to participate in the reopened session.

12.5. The call will be made through the electronic system (chat room), e-mail, or, even, facsimile, according to the phase of the bidding procedure.

12.6. Invitation by e-mail will be sent out in accordance with the data contained in SICAF, and it is the responsibility of the bidder to keep their registered data updated.

13. AWARDING AND APPROVAL

13.1. The object of the Call to Tender will be awarded to the winning bidder by Act of the Standing Commission for Bids, if there is no appeal, or by the competent authority, after the regular due processing of the appeals presented.

13.2. After the appeal phase, the competent authority shall homologate the Call to Tender procedure.

14. PERFORMANCE BOND

14.1. The performance bond for this contract will be required, according to the rules contained in the Term of Reference.

15. THE CONTRACTUAL GUARANTEE OF THE GOODS

15.1. Contractual guarantee of the goods provided in this contract is required, complementary to the legal instruments, according to the minimum stipulated terms and other rules contained in the Term of Reference.

16. TERM OF CONTRACT OR EQUIVALENT INSTRUMENT

16.1. After the approval of the Call to Tender, when the contracting is being entered into, the Term of Contract or equivalent instrument shall be signed.

16.2. The successful bidder will have the period of 10 (ten) business days, counted from the date of their summons, to sign the Term of Contract or accept an equivalent instrument, as the case may be (funds citation/letter of agreement/authorization), under penalty of forfeiture of the right to contract, without prejudice to the sanctions provided for in this notice.

16.2.1. Alternatively to the summons to appear before the body or entity for the signing of the Term of Contract or acceptance of equivalent instrument, the administration may forward it for signature or acceptance of the successful bidder by postal correspondence with notice of receipt (AR) or electronic means, so that it is signed or accepted within 10 (ten) days from the date of its receipt.

16.2.2. The term referred to in the previous subparagraph may be extended for the same period upon justified request by the successful bidder and accepted by the administration.

16.3. The acceptance of the funds citation or equivalent instrument issued to the awarded bidder implies recognition that:

16.3.1. said note effectively replaces the contract and the business relationship thereby established is applied the provisions of Law No. 8.666 of 1993;

16.3.2. the Contractor is bound by their proposal and the provisions contained in the notice and its annexes;

16.3.3. the Contractor acknowledges that the hypotheses for rescission are those provided for in Articles 77 and 78 of Law No. 8,666/93 and also acknowledges the rights of the administration provided for in articles 79 and 80 of the same law.

16.4. The term of the contract is 12 (twelve) months extendable as provided in the contractual instrument or the Term of Reference.

16.5. Prior to entering the agreement, the administration will consult with SICAF to identify any possible temporary suspensions from participation in Call to Tenders, within the scope of the respective governmental body or entity, including restrictions against entering contracts with public authorities, as well as indirect impediments, in accordance with the provisions of art. 29, of normative instruction No. 3 of April 26, 2018, and in accordance with art. 6º, III, of Law No. 10.522 of July 19, 2002, with prior consultation in CADIN.

16.5.1. In cases where the need arises to sign the primary contract instrument, and the supplier is not registered with SICAF, it must register, with no further cost, before entering the contract.

16.5.2. In the event irregularities arise in the registration at SICAF, the Contractor must regularize this registration situation within 05 (five) working days, under penalty of application of the penalties provided for in this notice and annexes.

16.6. Upon the signing of the contract, proof of the conditions of qualification as per the notice will be required, which must be maintained by the bidder during the term of the contract.

16.7. In the event that the winning bidder is unable to prove the qualification terms as per the notice, or if they refuse to sign the contract, the administration, without prejudice to the application of the legal sanctions to that bidder, may summon another bidder, in accordance with the ranking order, and after the verification of the qualification requirements, may review the proposal and any supporting documents, and upon completing negotiations, may proceed to sign the contract.

17. READJUSTMENT IN THE GENERAL SENSE

17.1. The rules regarding the readjustment in a general sense of the contractual value are those established in the Term of Reference, annexed to this notice.

18. RECEIPT OF THE OBJECT AND INSPECTION

18.1. The criteria for receipt and acceptance of the object and inspection are provided for in the Term of Reference.

19. OBLIGATIONS OF THE CONTRACTOR AND THE CONTRACTING PARTY

19.1. The obligations of the Contracting Party and the Contractor are those established in the Term of Reference.

20. PAYMENT

20.1. The rules regarding payment are those established in the Term of Reference, attached to this notice.

20.2. The assignment of credit arising from this contract is admitted, in accordance with the provisions of the contractual memorandum attached to this notice.

21. ADMINISTRATIVE SANCTIONS

21.1. In accordance with Law No. 10,520 of 2002, the successful bidder commits administrative infraction when:

21.1.1. they do not sign the Term of Contract, withdraw from, or do not accept the equivalent instrument when summoned within the term of validity of the proposal;

21.1.2. they do not sign the contract;

21.1.3. submit false documentation;

21.1.4. fail to deliver the required documents at the bidding;

21.1.5. cause delay in delivering the object;

21.1.6. do not maintain their proposal;

21.1.7. commit tax fraud;

21.1.8. behave disreputably;

21.2. The sanctions of the above item also apply to members of the reserve registry, who if summoned, do not honor the assumed commitment unjustifiably.

21.3. Disreputable behavior is defined as, among other things, false statement as to the requirements for participation regarding the framework as a micro or small business, or collusion between the bidders, at any time in the Call to Tender process, even after the closing of the bidding phase.

21.4. The successful bidder who commits any of the infringements described in the preceding subheadings shall be subject, without prejudice to civil and criminal liability, to the following sanctions:

21.4.1. Warning for minor offenses, if understood as those that do not cause significant damage to the object of the contract;

21.4.2. Fine of 2% (two percent) on the estimated value of the item(s) for damages or losses caused by the conduct of the bidder;

21.4.3. Suspension of bidding privileges and impediment to contract with the governmental body, entity or administrative agency by which the public administration operates, for a period of up to two years;

21.4.4. Restriction from bidding and entering into contracts with the Union and disqualification from SICAF for up to five years;

21.5. Declaration of ineligibility to bid or enter into contracts with the public administration, as long as the determining reasons for the penalty persist or until rehabilitation is promoted before the public administration authority that applied the penalty, which will be granted whenever the

Contractor compensates the Contracting party for the damages caused;

21.6. The penalty in the form of a fine can be applied cumulatively with the other sanctions.

21.7. If the Contracting Party determines, the fine must be collected within a maximum period of 10 (ten) days from the date of receipt of notification sent by the competent authority.

21.8. If, during the penalty application process, there are indications of an administrative infringement typified by Law No. 12,846 of August 1, 2013, as an act characterized as injurious to the national or foreign public administration, copies of the administrative procedure necessary for the determination of the company's liability should be sent to the competent authority in a reasoned court order, for the notification and decision concerning the possible initiation of a preliminary investigation or Administrative Procedure for Recognition of Liability of Legal Entities (PAR).

21.9. The determination and judgment of other administrative offenses not considered injurious to the national or foreign public administration under Law No. 12,846 of August 1, 2013, will follow its normal procedure in the administrative unit.

21.10. The processing of the PAR does not interfere with the regular follow-up of specific administrative procedures for determining the occurrence of damages and losses to the Federal Public Administration resulting from an injurious act committed by a legal entity, with or without the participation of a public official.

21.11. If the amount of the fine is not sufficient to cover the losses caused by the conduct of the bidder, the State Government or entity may order payment of the remaining amount judicially, according to Article 419 of the Brazilian Civil Code.

21.12. The application of any of the foreseen penalties will be carried out in an administrative procedure with assurance to the right to contest and due process of law of the bidder/successful bidder, observing the procedure provided for in Law No. 8,666 of 1993, and subsidiarily Law No. 9,784, of 1999.

21.13. When applying sanctions, the competent authority will take into account the gravity of the offender's conduct, the educational character of the penalty, as well as the injury caused to the administration, observing the principle of proportionality.

21.14. Penalties will be compulsorily registered with SICAF.

21.15. Penalties for acts committed in the course of the contract are provided for in the Term of Reference.

22. OBJECTIONS TO THE NOTICE AND REQUESTS FOR CLARIFICATION

22.1. Any person may object to this notice up to 03 (three) working days before the date designated for the opening of the public session.

22.2. Objections can be submitted electronically through e-mail licitadepen@mj.gov.br, or by petition addressed or filed at the address: Coordenação de Licitações e Contratos, Sector North, Quadra 03, Bloco B, Edifício Vitória, CEP 70713-020, Brasília / DF.

22.3. It will be up to the Standing Commission for Bids, assisted by those responsible for the preparation of this notice and its annexes, to issue a response on the impugnation within two business days from the date of receipt of the same.

22.4. Once the impugnation is received, a new date for the bidding session will be set and published.

22.5. Requests for clarification regarding this bidding procedure must be sent to the Standing Commission for Bids, no later than 03 (three) working days prior to the date designated for the opening of the public session, exclusively by electronic means via internet at the address indicated in the notice.

22.6. The Standing Commission for Bids will respond to requests for clarification within two working days, counted from the date of receipt of the request, and may request formal subsidies from those responsible for the preparation of the notice and annexes.

22.7. Impugnation and requests for clarification do not suspend the terms and deadlines provided for the event.

22.7.1. The granting of suspensive effect to the impugnation is an exceptional measure and must be motivated by the Standing Commission for Bids in the records of the bidding procedure.

22.8. Responses to requests for clarification will be disclosed by the system and are binding to participants and the administration.

23. GENERAL PROVISIONS

23.1. The memorandum will be published in the electronic system for the public session of the Call to Tender.

23.2. If it is a business day and there is no supervening event that prevents the bidding session from being held on the scheduled date, the session will be automatically transferred to the first subsequent business day, at the same time previously established, provided that no communication to the contrary is pronounced by the Standing Commission for Bids.

23.3. All references to time and date provided in the notice, notifications and during the public session will be according to the local time of Brasilia-DF.

23.4. During the judgment of the proposals and the qualification phase, the Standing Commission for Bids may correct errors or faults that do not alter the substance of the proposals or the documentation and their legal validity, by reasoned official letter registered in memorandum and made accessible to all, thus assigning them validity and capacity for the purposes of qualification and classification.

23.5. The homologation of the result of this Call to Tender shall not imply legal entitlement to the contract.

23.6. The rules governing the Call to Tender shall always be interpreted in favor of encouraging competition between the interested parties, provided that they do not compromise the interests of the administration, the principle of isonomy, the purpose and security of the Call to Tender procedure.

23.7. Bidders bear all the costs of preparing and submitting their bids and the administration shall not, in any case, be responsible for such costs, regardless of the conduct or outcome of the bidding process.

23.8. For counting the terms and deadlines established in this notice and its annexes, the first day shall be excluded and the last day included on the timeline. The terms only start and expire on administrative business days.

23.9. Failure to comply with non-essential formal requirements will not imply in the removal of the bidder, provided that the legal validity is still retained, observing the principles of isonomy and of public interest.

23.10. In any event of divergence between the provisions of this notice and its annexes or other parts that make up the procedure, those of this notice shall prevail.

23.11. This notice is available in full at the internet address <https://www.gov.br/compras/pt-br>, and may also be read and/or obtained at The address: Commercial Sector North, Block 03, Block B, Edifício Vitória, CEP 70713-020, Brasília / DF - Coordinator of Contracts and Call to Tenders - on business days, from 08:00 hours to 17:00 hours, where the records of the administrative procedure will remain fully accessible to all interested parties.

23.12. This Notice includes, for all purposes and effects, the following annexes:

23.12.1. ANNEX I - The Term of Reference (13269163);

23.12.2. ANNEX II - Term of Contract (13850640);

23.12.3. ANNEX III - Preliminary Technical Study (12549345);



Documento assinado eletronicamente por **Frankly Rodrigues Faria Sobral, Coordenador(a) de Licitações e Contratos - Substituto(a)**, em 06/04/2021, às 15:15, conforme o § 1º do art. 6º e art. 10 do Decreto nº 8.539/2015.



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