



The BACW's Bidding Commission hereby present questions made by companies with their respective answers.

REMARK: The questions presented in this "Questions and Answers" shall be numbered as they are received by the Bidding Commission and may not match the numbering provided by the companies.

Therefore, the Bidding Commission has answered previous questions on July 6, 2017, July 25, 2017 and July 26, 2017 and they are published on BACW's website.

75. **Question** - Question and Answer # 25 (*Answer: This Bidding Commission understands that the terms presented on the Section 24.1.14 of the Contract Draft, Annex III of the IFB are self-explanatory and do not require confirmation.*)

Clause 24 of the Contract Draft, Annex III of the IFB describes the circumstances for the contract rescission. Section 24.1.14 states that a delay greater than 90 days in payments owed by the Contracted Party would lead to the contract rescission. The Contracting Party owes payments for services under the contract and the Contracted Party will be entitled to rescind the agreement in the case of a delay in such payments greater than 90 days. Although the clause is self-explanatory, it seems to have a typo, which shall be corrected. **Please make the appropriate change in the clause.**

**Answer** – The BIDDING COMMISSION appreciates the pointed mistake and hereby states to all interested parties that the correction is made and must reflect the following text:

*"24.1.14. A delay greater than 90 (ninety) business days in payments owed by the **CONTRACTING PARTY** for services, supply or labor that have already been received or performed, except in case of disaster, civil unrest or war. The **CONTRACTED PARTY** shall be entitled to suspend the fulfillment of its obligations until normalcy is restored;"*

Furthermore, since the correction does affect the proposal formulation, the deadline for submitting proposal remains the same, as per Art. 21, § 4º of the Brazilian Law 8.666/1993.

76. **Question** – Question and Answer # 24 (*Answer: This Bidding Commission understands that the terms presented on the Section 24.1.13 of the Contract Draft, Annex III of the IFB are self-explanatory and do not require confirmation.*) Clause 24 of the Contract Draft, Annex III of the IFB describes the circumstances for the contract rescission. Section 24.1.13 states that the suspension of services by a written order of the Contracting Party for over 120 days would lead to the contract rescission and the Contracted Party would be required to pay an indemnification. If the Contracting Parties orders the suspension of the services for over 120 which leads to the Contract rescission, the Contracted Party shall not be subjected to the payment of any indemnification. Although the clause is self-explanatory, it



seems to have a typo, which shall be corrected. **Please change the obligation to pay indemnification in this circumstance to the Contracting Party.**

**Answer** – As per item 24.1, the circumstances for Contract Rescission are in accordance with Art. 78 of the Brazilian Law 8.666/93. Based on that, the item 24.1.13 states the following:

*“24.1.13. Suspension of services, by written order from the CONTRACTING PARTY, for over 120 (one hundred-twenty) days, except in cases of natural disaster, civil unrest or war, or repeated suspensions adding up to the same extent. In addition to the payment required for indemnification from the CONTRACTED PARTY, it shall also be entitled, in these cases, to suspending the fulfillment of its obligations until normalcy is restored;”*

*Therefore, the understanding of the text is that the CONTRACT shall be rescinded if suspended by the CONTRACTING PART for over the period of 120 days. In addition the CONTRACTED PARTY is entitled to indemnification and shall suspend the performance of the CONTRACT until normalcy is restored.*

77. **Question** - Question and Answer # 28 (*Answer: The requested provision cannot be inserted as the Contract Draft cannot be altered. Notwithstanding, the requested provisions are foreseen in the solicitation package.*) **Please specify in which Sections/Clauses/items the requested provision is foreseen in the solicitation package.**

**Answer** – For contextualization purposes, this Bidding Commission includes the Question for the Answer #28

*“Contract Draft: Please insert a provision to the contract stating that (i) the aircraft shall be returned to the Contracted party in the same condition they have been delivered, such condition being reflected in a technical report executed by both parties and (ii) no part or equipment shall be removed from the aircraft.”*

Based on that, the requirements for the aircraft return can be found on item 4.2.1.3 of the Basic Project, Attachment I of the IFB.

78. **Question** - Question and Answer # 29 (*Answer: The requested provision cannot be inserted as the Contract Draft cannot be altered. Therefore, the situation exposed in the question will be interpreted in accordance with the clauses of the Contract and the legislation that applies.*)

**Please specify which clauses of the Contract and which legislation shall be applicable.**

**Answer** – For contextualization purposes, this Bidding Commission includes the Question for the Answer #29

*“Contract Draft: Please insert a provision to the contract stating that, in the event of a partial loss of any aircraft during the term of the contract, the Contracting Party shall continue paying the monthly amounts for Module 1 and 2 even if such*



*aircraft is unavailable for flights due to maintenance services and/or until the insurance proceeds are received by the Contracted Party.”*

In case of damages to the aircraft, please refer to item 4.2.2 of the Basic Project, Attachment I of the IFB. Furthermore, since the cost for Module 1 and 2 are fixed, the monthly payment shall be made in accordance with the terms of the Contract.

79. **Question** - Question and Answer # 30 (*Answer: The requested provision cannot be inserted as the Contract Draft cannot be altered. Therefore, the situation exposed in the question will be interpreted in accordance with the clauses of the Contract and the legislation that applies.*)

**Please specify which clauses of the Contract and which legislation shall be applicable.**

**Answer** – For contextualization purposes, this Bidding Commission includes the Question for the Answer #30

*“Contract Draft: Please insert a provision to the contract stating that, in the event of a total loss of any aircraft during the term of the contract, the parties will terminate the agreement in respect to such aircraft without any sanction or penalty”*

In case of damages to the aircraft, please refer to item 4.2.2 of the Basic Project, Attachment I of the IFB. In regards to termination, please refer to Clause 24 of the Contract Draft, Annex III, of the IFB, and Art. 78 of the Brazilian Law 8.666/93.

80. **Question** - Please confirm that the bidder is correct in assuming that the price presented as “BIDDER’S UNIT PRICE” in attachment II must be the sum of all the costs in the 36 month period of the contract, as follows:

- 1) 36 monthly payments of aircraft lease;
- 2) 36 monthly payments of insurance;
- 3) 24 initial trainings for pilots;
- 4) 6000 Flight hours of integrated logistic support, considering the weighted average as per item 7.12.5 of the invitation for bid.

As such, the proportionality of the modules would be assured and the presented value could be used as a reference for the Administration to determine the most advantageous proposal.

**Answer** – As per Price Proposal Model, Attachment II of the IFB, the Bidder’s Unit Price shall be calculated as: “(UPMD1)+(UPMD2)+(UPMD3)+(UPMD4)” In order to achieve the Unit Price per Module (UPM), the bidder shall follow the requirements of Clause 7 of the IFB. For MODULES 1 and 2, the BIDDER must present the Unit Price, which is the monthly price per module, as per item 7.10 of the IFB. For MODULE 3, The UPMD3 regards to the cost per trainee, as per Item 7.11.1 (table) For MODULE 4, The Weighted Average of the COST PER FH shall be the UNIT PRICE for MODULE 4 to be considered as



per the mathematical demonstration on item 7.12.5. of the IFB. Therefore, as per item 7.16 of the IFB, in order to achieve the UNIT PRICE, the BIDDER must add the Unit Prices for Module 1, Module 2, Module 3 and the Weighted Average for Module 4. Finally, in accordance with item 12.2 of the IFB, the bid shall be awarded to the bidder who offers the LOWEST UNIT PRICE.

Furthermore, the Brazilian Aeronautical Commission appreciates the question, and stands available to clarify and explain any doubts or concerns in order to increase the BID quality. Any questions or concerns must be submitted to [\*\*con@cabw.org\*\*](mailto:con@cabw.org)

*Note: This information has been made available at BACW website in the publishing for the related Bidding Process.*  
<http://www.cabwnews.com/index.php/solicitations.html>