

**MINISTRY OF FOREIGN AFFAIRS**  
**BRAZILIAN FINANCIAL OFFICE IN NEW YORK**  
**BIDDING N° 01/2019**  
(Administrative Process No.° 09009.000172/2019-96)

This is a public notice that the Ministry of Foreign Affairs, through the Brazilian Financial Office in New York, located at 1180 Avenue of the Americas, Floor 17, New York, NY 10036, United States, will carry out a bidding, of the COMPETITIVE modality, **with the least-price judgment criteria**, under the form of indirect execution, in the regime of contract work for *global* price, within the terms, **as applicable**, of Law No. 10.520, of July 17, 2002, of Decree No. of 10.024, of September 20, 2019, of Decree 9.507, of September 21, 2018, of Decree No. 7.746, of June 05, 2012, of the Normative Instructions SEGES/MP No. 05, of May 26, 2017 and No. 03, of April 26, 2018 and of the Normative Instruction SLTI/MP No. 01, of January 19, 2010, of the Complementary Law No. 123, of December 14, 2006, of Decree No. 8.538, of October 06, 2015, applying, in a subsidiary manner, Law No. 8.666, of June 21, 1993 and the requirements established in this notice and respecting the North-American federal law and the law of the State of New York.

Date of the session: 16<sup>th</sup> March, 2020

Time: 11 pm

Location: Brazilian Financial Office

## **1. THE OBJECT**

1.1 The object of the present bidding is the selection of the proposal that is most advantageous for the *contracting* of services of medical insurance, dental insurance, life insurance and insurance against dismemberment and death by accident, for serving the necessities of the Complementary Plan of Medical Assistance of the Foreign Service (PCAMSE), according to conditions, quantities and demands established in this notice and its appendices.

1.2 The bidding will be held in the single group, made up of 4 items, according to the chart in the terms of reference, and the bidder must make an offer for all items that compose it.

1.3 The adopted judgment criteria shall be the lowest total price of the group, while observing the demands contained in this Notice and its Appendices regarding the specifications of the object.

## **2. THE BUDGETARY FUNDS**

2.1 The expenses to meet this bid are determined in its own dedicated budgetary category, stipulated in the budget of the Union to be exercised in 2021, according to the annual budgetary law.

### **3. PARTICIPATION IN THE BIDDING**

3.1 Interested parties whose line of business is compatible with the purpose of this bidding process may participate in the bidding

3.2 The following interested parties will not be able to participate in this bidding:

3.2.1 those prohibited from participating in bidding or entering into administrative contracts, in accordance with prevailing law;

3.2.2 those who cannot fulfill the terms of this publication and its appendices(s);

3.2.3 those who are prohibited from doing so pursuant to Article 9 of Law no. 8.666 (1993);

3.2.4 those who are bankrupt, the subject of collective insolvency proceedings, in the process of insolvency or liquidation;

3.2.5 business entities gathered in a consortium;

3.2.6 Public Interest Non-Governmental Organizations - OSCIP, acting as such;

3.2.7 non-profit institutions

3.2.7.1 Participation of social organizations is permitted as qualified in arts. 5 to 7 of Law 9637/1998, provided that the services object of this bidding are included among the activities provided for in the management contract signed between the Government and the social organization, upon presentation of the Management Contract and the respective acts of incorporation.

3.2.8 cooperative societies, taking into account the restrictions included in Article 10 of Normative Ruling no. 5 (2017) of the Secretariat of Management/Ministry of Planning, Development and Management.

3.3 Within the terms of Article No. 5 of Decree No. 9.507, of 2018, the contracting of legal entities having an administrator or partner with management authority, who is related to someone is prohibited:

A. holder of a committee position or a position of trust in the sector responsible for recruiting or hiring; or

B. who holds a higher ranking in the organization that is hiring.

3.3.1 For the purposes set forth in this item, relatives include the spouse, companion, or relatives in straight or diagonal line, by blood or affinity, to the third degree;

3.4 Within the terms of article 7 of Decree No. 7.203, of 2010, it's additionally prohibited the utilization in the execution of contracted services, an employee of the future Contracted Party that is related to a public agent who sits on a committee or holds a position of trust in this contracting agency.

3.5 It is forbidden to hire the same company for two or more biddinged services, when, by their nature, these services require the segregation of functions, such as execution and inspection assistance services, ensuring the possibility of participation of all bidders in both items and following the order of award among them indicated in the following sub-item.

3.6 As a condition of participation in the bidding process, the bidder must declare:

3.6.1 they are aware of and agree to the conditions contained in the publication and its appendices(s);

3.6.2 who fulfills the qualification requirements defined in the Notice and whose presented motion is in conformity with the demands of the Notice;

3.6.3 that there are no existing facts that hinder qualification in the contest, keeping in mind the obligation to declare posterior occurrences;

3.6.4 they do not employ those under the age of 18 in work that is nocturnal, dangerous or unhealthy or those under the age of 16, except for, from the age of 14, as an apprentice, in terms of article 7, XXXIII, of the Constitution;

3.6.5 that the motion was drafted in an independent fashion;

3.6.6 that does not have in its production chain employees performing degrading or forced labor, observing the provisions of items III and IV of article 1 and item III of article 5 of the Federal Constitution;

3.7 A false declaration, relative to the fulfillment of any condition, shall subject the bidder to the sanctions stipulated by law and in this Notice.

#### **4 QUALIFICATION**

4.1 The qualification phase will take place through filling of the form contained in Attachment F1 of the "Request for Proposal" by the contractor, in which the following will be analyzed:

- A. Mandatory requirements to be fulfilled by the bidder
- B. Project of the Plan
- C. Financial Model of the Plan
- D. Non-Financial Questionnaire
- E. Structure of the contract
- F. Certificate and Declaration of possible supplier

4.2 The detailed description of the items above is supplied in section 3 to 7 of this notice.

4.3 The Non-Financial responses will be evaluated by EFNY's Special Bidding Committee. The minimum requirements to be reached for this phase are:

- A. Conformity with compulsory requirements
- B. Signature of the Certificate and Declaration
- C. Agreement with the structure of the contract
- D. Timely response to the notice, in conformity with the required format
- E. Complete, satisfactory answers to the non-financial questionnaire which show, among other things, the capacity to administrate the program according to the requirements by the Brazilian Financial Office in New York.

4.4 Failure to comply with any of the above minimum requirements, or submitting an incomplete or inaccurate proposal, will automatically disqualify the applicant from the bidding process.

4.5 Only bidders who meet all qualification criteria according to the above evaluation system will be eligible to participate in the Financial Evaluation Phase.

## **5. PROPOSAL**

5.1 The details on the format of the proposal can be found on the document named "Request for Proposal n 1/2019".

## **6. ACCEPTABILITY OF THE WINNING BID**

6.1 The bidding Committee shall examine the proposal ranked first regarding the suitability to the object and compatibility of the price in relation to the maximum stipulated for contracting in this Notice and its appendices, pursuant to the provisions of the sole paragraph of article 7 and paragraph 9 of article 26 of Decree no. 10024/2019.

6.2 The feasibility of the price proposal must be analyzed using the Cost and Pricing Spreadsheet, to be filled by the bidder in relation to its final proposal, according to the attachment to this Notice.

6.3 The non-feasibility of the values referring to isolated items of the Cost and Pricing Spreadsheet is not sufficient reason to disqualify the proposal, provided they do not go against legal requirements.

6.4 The winning bid or proposal will be disqualified, pursuant to the terms of Item 9.1 of Appendix VII-A of the Secretariat of Management/Ministry of Planning, Development and Management Normative Ruling no. 5/2017, if it:

6.4.1 is not in compliance with the requirements established in this notice;

6.4.2 includes irreconcilable or illegal defects;

6.4.3 does not fulfill the technical specifications required by the Terms of Reference;

6.4.4 presents a final price that is higher than the fixed maximum price, or that presents a price that is clearly unattainable.

6.4.4.1 When the bidder cannot demonstrate that they have or will have the necessary resources to satisfactorily meet the goals, the price proposal will be considered unattainable if:

6.4.4.1.1 is insufficient to cover the costs of the contract, shows symbolic prices, that are incompatible with the market price of supplies and salaries, accrued of the respective financial costs, even if the invitation to bid did not specify minimum limits.

6.4.4.1.2 present one or more costs that are lower than those set forth in mandatory regulatory instruments, such as laws, provisional measures and collective bargaining agreements in force.

6.5 If there are indicators of non-executability of the price proposal, or if there's a need for complementary clarifications, due diligence may be put into effect, in the form of paragraph 3 of article 43 of Law No. 8.666, of 1993 and by example of the list in item 9.4 of Appendix VII-A of IN SEGES/MP N. 5, of 2017, so that a company may prove the executability of the proposal.

6.6 When the bidder presents a final price lower than 30% (thirty percent) of the average of prices offered for the same item, and the non-executability of the proposal is not flagrant and evident from analysis of the costs spreadsheet, its immediate disqualification is not possible, due diligence will be obligatory to gauge the legality and executability of the proposal.

6.7 Any concerned party may request that proceedings be carried out in order to ascertain the feasibility and legality of the proposals, needing to present proof or indications upon which the suspicion is founded

6.7.1 In case of the need to suspend the public session in order to conduct diligence aimed at rectifying the proposals, the public session may only be resumed by means of prior notice at least twenty-four hours in advance, and the occurrence shall be recorded in the minutes.

6.8 The bidding Committee may call the bidder to send a complementary document within 24 hours, under penalty of non-acceptance of the proposal.

6.8.1 The established period may be extended by a written, justified request of the bidder, formulated before termination of the period, and formally accepted by the bidding Committee.

6.8.2 Among the documents liable to solicitation by bidder Committee, the cost spreadsheets revised with the final offered value stand out.

6.9 All information provided by the bidder in a spreadsheet must faithfully reflect the specified costs and the intended profit margin.

6.10 The bidding Committee will analyze the compatibility of the unit prices presented on the Cost and Price Formation Sheet with those practiced in the market in relation to the supplies and also pursuant to the salaries of the categories involved in the contracting;

6.11 Errors in filling out the spreadsheet do not constitute a motive for disqualification of the proposal. The spreadsheet may be adjusted by the bidder, within the period indicated by the bidding Committee, as long as there is no increase in the proposed price.

6.11.1 Indicating tax and contribution payment under the Simplified Tax System will be considered an error in the filling of the spreadsheet, except for service activities provided for in paragraphs 5-B and 5-E of article 18 of LC ('Complementary Law') 123, of 2006.

6.11.2 Under no circumstances may the contents of the presented proposal be altered, whether regarding the price or any other conditions that cause modifications to their original terms, excepting only absolutely formal alterations, designed to remedy evident material error, with no alteration of the content or the referred conditions, as long as they will not come to cause damages to bidders;

6.12 For purposes of analyzing the proposal with regard to fulfillment of the specifications of the object, a written opinion may be collected from the sector soliciting the service or from the field specializing in the object.

## **7 WINNING BID**

7.1 The bidder's final proposal shall

7.1.1 be composed in English, typed, in, at least, one copy, without amendments, markings, writing between the lines or notes, and the last sheet should be signed and the others initialed by the bidder or their legal representative.

7.1.2 present the financial and non financial questionnaires;

7.2 The final proposal shall be documented in the records and will be taken into consideration throughout the execution of the contract and application of possible sanctions to the Contacted Party, if such is the case.

7.2.1 All the specifications of the object contained in the proposal bind the Contracted Party.

7.2.2. All prices must be expressed in United States dollars, the unit value in numbers and the total value in numbers and written out in full.

7.3.1 If there is a difference between the unit price and the overall price then the first price will prevail; where there is a difference between the numeric values and the values written out in full then the last values will prevail.

7.4 The offer shall be firm and precise, limited, strictly, to the object of this Notice, without containing price alternatives or any other condition that leads to more than one result, under the penalty of declassification.

7.5 The proposal must comply with the terms of this document and the RFP Appendices, and will not take into account anything that does not comply with the specifications contained therein or that is connected to the bid of another bidder

## **8. APPEALS TO THE BIDDING COMMITTEE**

8.1 The bidding Committee shall declare the winner and, if applicable, shall grant a period until 5 pm of same day for any bidder to state its intention to appeal, with supporting arguments, i.e., indicating against which decisions it intends to appeal and the reasons thereof, which can be done by e-mail.

8.2 If anyone declares the intention to appeal, the bidding Committee shall verify the timeliness and existence of motivation of the intention to appeal, to decide whether or not to accept the appeal, with reasonable grounds.

8.2.1 At this time, the bidding Committee will not go into the merits of the appeal, but will only verify the conditions of its acceptability.

8.2.2 The lack of justified manifestation by the bidder as to the intention to appeal will be reason for denying it.

8.2.3 Once the appeal has been accepted, the appellant will have three days to present the reasons, by email to [compraslicitacoes.efny@itamaraty.gov.br](mailto:compraslicitacoes.efny@itamaraty.gov.br).

8.3 The acceptance of the appeal invalidates only the acts not likely to be used.

8.4 Viewing of the case records will remain open to interested parties, in what does not contradict local legislation, at the address contained in this Notice.

## **9. REOPENING OF THE PUBLIC SESSION**

9.1 The public session may be reopened:

9.1.1 In the event of resource provision that leads to the annulment of the acts prior to the holding of the preceding public session or in which the public session itself is annulled, situation in which the annulled acts and those depending on it will be repeated.

9.1.2 When there is error in the acceptance of the best classified price or when the bidder declared winner does not sign the contract, does not withdraw the equivalent instrument or does not prove the fiscal and labor regularization in their headquarter country, the procedures immediately prior to the closing of the bid step will be adopted.

9.2 All the remaining bidders shall be summoned to accompany the reopened session.

9.2.1 The summoning will be done through e-mail, or, also, fax, according to the bidding processing phase.

## **10 AWARDING AND APPROVAL**

10.1 The bid object will be awarded to the bidder declared winner, by act of the bidding Committee, if there is no appeal interposition, or by the competent authority, after the regular decision of the presented appeals.

10.2 Following the appeals process, once the good standing of the process has been determined, the relevant authority will approve the bidding procedure.

## **11 PERFORMANCE SECURITY**

There will be no requirement for performance security for the present contracting.

## **12 CONTRACT TERM**

12.1 After approval of the bidding, upon carrying out the contracting, the Contract Term will be signed.

12.2 The awardee has the period of 5 (five) business days, counted from the date of invitation, to sign the Contract Term or accept an equivalent instrument, as the case may be (Funds Citation/Contract Letter/Authorization), under penalty of losing the right to contract, without prejudice to the sanctions stipulated in this notice.

12.2.1 Instead of an invitation to appear before the agency or entity to sign the Term of Contract, the Administration can send it for signature, via mail with delivery confirmation (DC) or electronically, to be signed and return within 10 (ten) days, counted from the day of receipt.

12.2.2 The period provided for in the previous sub-item may be extended, for an equal period, by a solicitation from the awardee that is justified and accepted by the Administration.

12.3 The term of the contract is 12 months, extendable according to projections in the contractual instrument or in the term of reference, from April 1, 2020, and may be extended by interest of the parties up to 60 months, as provided in the contractual instrument.

12.4 When signing the contract or minutes of price registration, proof of the qualification conditions consigned in the notice will be required, which shall be maintained by the bidder during the term of the contract or the minutes of price registration.

12.5 In the event of the bid winner not proving the qualification conditions consigned in the notice or if they refuse to sign the contract or minutes of price registration, the Administration, without prejudice to the application of sanctions of the other legal actions applicable to this bidder, may summon another bidder, respecting the classification order, so that, after proof of the requirements for qualifications, analysis of the proposal and possible additional documentation, and after negotiation, sign the contract.

## **13. READJUSTMENT**

The rules relating to the readjustment of the contract value are those defined in the Terms of Reference, appended to this Public Notice.

## **14. ACCEPTANCE OF THE OBJECT AND OF THE INSPECTION**

The criteria for acceptance of the object and of inspection are defined within the Term of Reference.

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

The obligations of the Contracting Party and of the Contracted Party are those set forth in the Term of Reference.

## **16. PAYMENT**

The rules relating to payment are those defined by the Terms of Reference, appended to this Publication.

## **16. REQUEST FOR CLARIFICATION**

16.1 A prospective Vendor requiring any clarification about this RFP may notify the Brazilian Financial Office in writing at the following e-mail addresses: [compraslicitacoes.efny@itamaraty.gov.br](mailto:compraslicitacoes.efny@itamaraty.gov.br) and [admin2@efny.org](mailto:admin2@efny.org). All questions must be submitted within 1 week of the RFP release. The Committee, assisted by Mercer, will respond to all questions within 2 weeks of the RFP release.

## **17. GENERAL PROVISIONS**

17.1 If there are no business hours or if any supervening events occur that hinder the accomplishment of the bidding on the scheduled date, the session will automatically be transferred to the first following business day, at the same time as previously set, as long as there is no communication to the contrary, by the Bidding Committee.

17.2 All the time references in the Publication, in the notice and during the public session shall observe the time zone of the city of New York.

17.3 In the judging of the proposals and qualification, the Bidding Committee may solve errors or faults that do not alter the substance of the proposals, the documents and their judicial validity, through the founded dispatch, registered in minutes and accessible to all, attributing to them the validity and efficiency for purposes of qualification and classification.

17.4 The approval of the result of this bidding process does not imply a right to be hired.

17.5 The disciplinary rules of the bidding process will always be interpreted aiming to magnify the dispute between the interested parties, as long as this does not compromise: the interests of the Administration; the principle of equality; and the purpose and safety of the contract.

17.6 The bidders are responsible for all costs relating to the preparation and presentation of their proposals and the Administration will not, under any circumstances, be responsible for these costs, irrespective of the handling or result of the bidding process.

17.7 When counting the time limits defined by this Publication and its Appendices, the start day will be excluded and the finish day will be included. The time limits only start and finish on days that the Administration is working.

17.8 If any non-essential formal requirements are not met then the bidder will not be dismissed as long as they can take advantage of the occurrence, while observing the principles of equality and acting in the public interest.

17.9 Where there is a difference between the provisions of this document and the appendices or other items that form part of the process, the provisions of this document will prevail.

17.10 The Notice is available, in whole, at the electronic address <http://efny.org>, and may also be read and/or obtained at the address contained in the preamble, on business days, from



3 p.m. to 5 p.m., same address and period at which the administrative process records will remain with open visit for the interested parties.

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

Until 11 am, March 16<sup>th</sup> 2020 at Avenue of the Americas 1180, 17th floor, New York, NY for delivery of Envelopes no. 01, with the qualification documents, and n. 02, with the proposal, in addition to the supplementary documents.

**19. TIME, DATE AND PLACE FOR THE PUBLIC SESSION**

19.1 At 11:00 am on March 16<sup>th</sup> 2020 at the New York Financial Office at Avenue of the Americas 1180, 17th floor, New York, NY, the session will begin, and participants will be registered and envelopes will be opened.

19.2 The following appendices are part of this document, for all intents and purposes:

ANNEX I - Terms of Reference;

ANNEX II –Contract Draft;

ANNEX III – Request for Proposal N 1/2019

ANNEX IV – RFP Non-Financial Questionnaire

ANNEX V – RFP Financial Questionnaire

New York, February 14<sup>th</sup> , 2020.

**Sônia Regina Guimarães Gomes**  
**Chief of Brazilian Financial Office**