

## **ADMINISTRATIVE SPECIFICATIONS FOR THE CONTRACTING OF AIR CONDITIONER EQUIPEMENT SUPPLIES**

### **1. BACKGROUND**

FIIAPP F.S.P is a foundation of the national public-sector, whose activities are characterized for the lack of profit motive and the search for the general interest, and which aim is the modernization of institutions, the reform of public administrations, fostering democratic governance, within the framework of the International Cooperation.

Which, with the purpose of its foundational objectives, FIIAPP F.S.P. foundation has an agreement of delegated cooperation (PAGODA 2) for the implementation of the project: "Action Against Trafficking in Persons and Smuggling of Migrants in Nigeria (ATIPSOM)", funded by the European Union.

The main objective of the project is to contribute to a more preventive, balance and professional approach of the law enforcement agencies, based on the best international practices and respect of human rights.

### **2. CONTRACTING AUTHORITY**

The contracting authority may be, according to the bidding budget, in the case of fixed price contracts of up to €100.000, of the General Secretary of International and Ibero-American Foundation for Administration and Public Policies (FIIAPP) F.S.P

### **3. LEGAL SYSTEM AND COMPETENT JURISDICTION**

This contract is private in nature and the civil courts shall have jurisdiction to hear any disputes that may arise from the execution thereof.

However, this contract will be governed by Title I of Book III of Law 9/2017 of 8 November, on Public Sector Contracts (LPSC), which transposes European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, into Spanish law as a public foundation, due to its legal nature and the contracts it concludes. Also, for the purposes of this law and in application of articles 3.1.e) and 3.3.b) thereof, as a foundation of the public sector, it holds the status of a contracting authority.

These Specifications are contractual in nature and contain the detailed conditions with which execution of the contract will comply.

#### 4. CAPACITY TO CONTRACT

All natural or legal persons, Spanish or foreign, who have the full capacity to act, and who are not subject to the prohibitions, as listed in section 1 of Article 71 of the Public Sector Contracting Law and who are economically, financially, technically and professionally solvent may opt for the award of this contract. They must also hold the business or professional qualification that, if applicable, may be required to perform the activity or provide the service that constitutes the purpose of the contract. For these purposes, the regulations contained in Chapter II of Part II of Book I of the LPSC will be taken into consideration.

Before formalising any contract, FIIAPP F.S.P. will access the EU's Central Exclusion Database to verify the eligibility of the contractor, in accordance with the provisions of Commission Regulation (EC, Euratom) no. 1302/2008 of 17 December 2008, regarding the central exclusion database (OJ, L 344, 20 December 2008 p. 12).

#### 5. PURPOSE OF THE CONTRACT

FIIAPP F.S.P. requires the contracting of supplies associated with the equipment of AIR CONDITIONER for the project "Action Against Trafficking in Persons and Smuggling of Migrants in Nigeria" (A-TIPSOM NIGERIA).

FIIAPP F.S.P. reserves the right of request additional products of the same typology and/or different amounts of the one described in this Administrative Specifications, to meet the needs of A-TIPSOM project.

#### 6. DESCRIPTION OF THE SERVICE

It is required the contracting of supplies and installation associated with the equipment of an air conditioner equipment. Also, FIIAPP F.S.P. requires:

- Produce a high-quality work according to the specifications of the FIIAPP, F.S.P.
- Deliver the final products to the specify destinies in Abuja. The specified address will set up once the contract will be signed.
- Provide two warranty year per item (Industrial Air Conditioners and Split Air Conditioners).
- Installation of the air conditioner guaranteeing its proper functioning.

**Ensure the adequate reception of the final products in their destinations and agreed times always assuming the relative and derived costs of the shipment and of the transport.**

The delivery of the products will be in two different locations of Abuja, Nigeria. The awarded company is committed to deliver them on term, and will take the responsibility for the delay, in which case the Art. 193 of the LCSP will be applied.

It has been identified a first need of products detailed in the next table:

Product	Description	Amount	Price Max. Per unite
<b>Industrial Air Conditioners</b>	5.0 Horse Power Floor Standing Air Conditioners with kit	4	2.287,43 €
<b>Split Air Conditioners</b>	1.5 Horse power with installation kit	9	460,11 €

## 7. TENDER BUDGET

The maximum budget of this tender will be the 70.000 € taxes NOT included.

The economic assessment will be made on this first need identified.

This amount includes all expenses necessary for the delivery of goods to the duty stations and proper installation..

FIIAPP F.S.P. is not obliged to contract this maximum amount, as orders will depend on the needs of the project.

This figure represents the maximum budget, which will determine the exclusion of any bid submitted for a higher amount.

## 8. TERM OF THE CONTRACT

The provision of the service will take place from formal execution of the contract and during the term of the project until the 4<sup>th</sup> June of 2022, with the possibility of extension of the same/renewable.

The FIIAPP F.S.P. reserves the right to terminate the contract at any time if it should not be satisfied with the requested service.

## 9. WARRANTIES

The successful bidder shall be obliged to provide a guarantee equivalent to 5% of the award amount.

The guarantees will be set up in accordance with the provisions set forth in Article 107 et seq. of the LPSC.

## 10. PROCEDURE AND FORM FOR AWARDING THE CONTRACT

FIIAPP F.S.P. uses an open simplified procedure to award this contract.

## 11. PRESENTATION OF PROPOSALS

In order to participate in this tender, the bidder must submit, at the Registry of the FIIAPP F.S.P., located at C/ Beatriz de Bobadilla 18-4º, Madrid, before 12:00 p.m. on **14th of June of 2019**, the bid that they propose, in two sealed envelopes. The envelope will be sent to Legal Advice and must indicate, on the outside of each one, the tender procedure and reference number for which the bid is being submitted, the signature of the proposing party, the name of the company, the full name and capacity of the person signing the proposal and the information of the contact person at the company, all of which must be written legibly.

## 12. FORM AND CONTENT OF THE PROPOSALS

Companies that submit bids must include the following points:

### A. Envelope No. 1. Administrative proposal

The proposal must contain the following documentation:

1. The **capacity to act** will be demonstrated by:
  - A. **Declaration responsible** for having full capacity to act and not be subject to the prohibitions on contracting provided in Article 71 of Law 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, (**Appendix II**) are transposed into Spanish law.
  - B. **All** legal persons wishing to submit themselves for the tender must attach the following documentation for the **identification of the real owner** (Articles 3 and 4 of the Prevention of Money Laundering Act, Law 10/2010, of April 28): Identification of the physical person/s who ultimately own(s) or control(s), directly or indirectly, a percentage greater than 25% of the share capital or voting rights of a legal person, or that through other means exercise(s) control, directly or indirectly, of the management of this legal person. Companies that are listed on a regulated market in the EU or equivalent third countries are excepted (**Annex III**).

### C. Documents that prove representation:

The person with power of representation must include a notarised or administratively certified copy of their powers of attorney, together with a copy of their National Identity Document or, if applicable, the document that serves in its

stead.

## 2 . Spanish businesses.

### *Companies with a legal personality.*

The capacity to act for companies that are legal persons will be demonstrated by the founding and amending deeds thereof, recorded in the Mercantile Registry when this is a requirement in accordance with applicable commercial legislation. If it were not a requirement, proof of the capacity to act will be given by the deed or document of incorporation or amendment, by the articles of association or by the founding deed, which must record the rules according to which the business activity is regulated and which must be recorded in the corresponding official registry, if applicable. Or through registration in the Official Registry of Bidders and Classified Companies of the Public Sector

### **Foreign businesses.**

#### *Community companies or States signatory to the Agreement on the European Economic Area:*

Community companies accrediting, in accordance with the legislation of the State in which they are established, that are qualified to perform the provision in question, according to the provisions of Article 67 of Law 9/2017 of 8 November, Public Sector Contracting, by which the European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, are transposed into Spanish law.

#### *Non-EU companies:*

The natural or legal persons of States not belonging to the European Union or States signatory to the Agreement on the European Economic Area must justify by means of a report from the Spanish Economic and Commercial Office, for Nigerian Companies it is located in Lagos: **Idejo Street Plot 933, Victoria Island, P.O.Box 50495 – Ikoyi Lagos SN Email: lagos@comercio.mineco.es**, which will be accompanied by the documentation presented, that the State of origin of the company admits Spanish companies in contracting with Public Administrations in a substantially analogous manner. In contracts subject to harmonised regulation, the report on reciprocity will be dispensed with in relation to companies from States signatory to the World Trade Organisation Agreement on Government Procurement.

Likewise, when the contract is for works, the company must also have an office in Spain, it must have attorneys or representatives appointed and it must be recorded in the Mercantile Registry. Comply with the provisions for that purpose in Art. 68 of Law 9/2017 of November 8, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, are transposed into Spanish law.

### **Temporary joint venture:**

When two or more companies submit bids to a tender as a temporary joint venture, each one of the proprietors comprised in the joint venture must demonstrate their legal personality, their capacity to act and their representation. In a private document, they must indicate the names and circumstances of the signing proprietors, the equity holding of each one and the person or entity that, during the contractual term, holds full powers of representation (Article 69 of Royal Decree 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, are transposed into Spanish law).

### 3. Solvency:

- Proof of financial solvency in the form of annual turnover, or annual turnover in the field to which the contract relates, referring to the best financial year within the last three years available, depending on the dates on which the employer was set up or commenced business and the submission of tenders for an amount equal to or greater than that required in the tender announcement or in the invitation to participate in the procedure and in the contract documents or, failing that, the amount laid down in the regulations. In addition, the minimum annual turnover required shall not exceed one and a half times the estimated value of the contract, in this case, 105.000 €, except in duly justified cases such as those relating to special risks linked to the nature of the works, services or supplies.
- Technical: will be accredited by submitting certifications that demonstrate at least 3years' experience as a supplier of this type of services

For the calculation of bids with abnormal or disproportionate values, the application of Art. 85 of Royal Decree 1098/2001, of 12 October, which approves the General Regulations for Public Administration Contracts Law and also, in the case of abnormally low bids, a hearing will be held in the terms included in Art. 149 of Law 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, are transposed into Spanish law.

**FIIAPP F.S.P. will not accept any proposal where the received envelopes arrive manipulated (not closed, open, torn, etc.)**

#### ➤ **Common aspects of the proposals**

- The proposals (must be written in Spanish or English).



- Proposals that may contain omissions, errors or cross-outs that prevent a clear understanding of what FIIAPP F.S.P. deems to be essential in order to consider the bid will not be accepted.
- No bidder may submit more than one proposal. In addition, no bidder may sign any proposal in a temporary joint venture with others if they have already submitted one individually or if they are recorded in more than one. Failure to comply with these rules will result in the invitation to tender being rejected for any of the proposals to which it subscribes.

**All documents that are submitted must be originals or authenticated photocopies.**

**If the documentation is notarial, it must comply with the requisites regarding authentication set forth in the Law and in Notarial Regulations.**

**For this tender process, documents stamped by the Foundation at the Registry may also be validated as true copies of originals.**

### **13. CERTIFICATION AND QUALIFICATION OF DOCUMENTS**

Once the envelopes have been received by the Secretary of the Contract Award Committee, said Committee shall meet to previously qualify the documents submitted in the appropriate time and manner.

If the committee observes defects or omissions in the submitted documentation that can be corrected, it will inform the interested parties verbally and in writing, thereby granting a period of no more than three business days so that bidders can correct or amend such defects or omissions, thereby cautioning them that the bidder will be definitively excluded if they do not proceed to correct the documentation within the granted period.

In this event, bidding companies that are required to correct defects must send in the requested documentation by presenting it, without exception, to the Registry.

Subsequently, the Contract Award Committee will meet again to adopt the appropriate resolution on the definitive admission of the bidders in view of the received corrections.

### **14. CONTRACT AWARD COMMITTEE**

The composition of the Contract Award Committee will be the following:

Chair: Gemma Cosido. Financial Management

Members: 1. Sonsoles de Toledo. Member of the Legal Advisory Department  
2. Carolina Morales. Financial Project Manager.  
3. Gema Villegas. Team Leader

Secretary: Mariano Guillén-Oquendo. Security and Justice Director

## 15. OPENING OF THE OBJECTIVE PROPOSAL

The envelope with the financial proposals of the various bids will be opened by the Contract Award Committee in a public session on **24<sup>th</sup> of June 2019** at 12:00 p.m. at the headquarters of FIIAPP F.S.P..

## 16. EVALUATION OF THE PROPOSALS

The proposals will be evaluated according to the objectively and subjectively evaluable criteria shown in the attached table:

OBJECTIVE EVALUATION CRITERIA	Maxim
Price	70 points
Warranty. 10 points per additional warranty year	30 points
<b>TOTAL</b>	<b>100 points</b>

To apply **subjectively evaluable criteria**,

- the maximum score will be given to the best bid in this aspect, for each one of the criteria. All the other bidders will be scored in proportion to the best.
- Scores will be given according to the evaluation of the various subjective criteria appearing in the table.

To apply **objectively evaluable criteria** the total budget of each company will be assessed.

**The formula used will be the following:**

- 1: Best financial bid (Box A): maximum score (70 points)

All other bids:

$$\text{Application base: maximum score} \times \frac{\text{Bid being assessed}}{\text{best bid}}$$

- 2: Application of the criterion of proportionality.

$$\text{Financial assessment: maximum score} \times \frac{\text{Maximum score}}{\text{Application base}}$$

-Scores will be given according to the evaluation of the various objective criteria appearing in the table.



## **17. CONTRACT ADJUDICATION**

The contract is awarded following the contract adjudication by the Contracting Authority, at the proposal of the Contract Award Committee. The Contracting Authority must give the reasons for its decision if it dissents from the Award Committee's proposal.

The contract will be awarded within the maximum period of 15 days from opening of the sealed envelopes in a public session.

The award of the contract will be notified to the bidders in writing via the fax or email provided.

## **18. FORMAL EXECUTION OF THE CONTRACT**

The contract formalisation document will be issued within 15 working days from the day following reception of notification of the award.

When, for causes attributable to the contractor, the contract cannot be formally executed within the indicated period, FIIAPP F.S.P. may resolve to terminate, subject to a mandatory hearing of the interested party.

The contract will be private in nature, and the civil courts shall have jurisdiction to hear any disputes that may arise from the interpretation or application thereof.

## **19. CONTRACT MANAGER**

The contracting body designates Gema Villegas as the person in charge of the contract, who will supervise its execution and adopt the decisions and dictate the necessary instructions in order to ensure the correct performance of the agreed service, within the scope of the powers attributed to them.

## **20. REGULATORY STANDARDS**

The contract that is signed will be private in nature and will be governed by the following:

- The clauses contained in these Specifications.
- The provisions set forth in Law 50/2002, on Foundations.
- The provisions established by Law 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014, are transposed into Spanish law.

Ignorance of any of the terms of the contract, of the documents attached thereto or of the instructions, specifications or rules of any kind issued by FIIAPP F.S.P. that may be applicable to performance of the agreement will not relieve the employer from the obligation of compliance therewith.

According to the provisions of Article 27.2 Law 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and Council Directives 2014/23/EU and 2014/24EU of 26 February 2014, are transposed into Spanish law, the civil courts will be competent to resolve disputes that arise between the parties in relation to the effects, compliance and termination of private contracts. This civil court shall have jurisdiction to hear any litigious issues affecting the preparation and adjudication of private contracts.

## **21. SYSTEM OF PAYMENTS**

Payment will be made by months in arrears, subject to an invoice submitted by the successful bidder, thereby specifying the actions taken during the month and the time taken for the same, as well as the type of service provided (programming, design or data upload).

The successful bidder shall be entitled to receive payment of the agreed price, pursuant to the conditions set out in the contract, corresponding to the works effectively performed and formally received by the Foundation.

## **22. SUBCONTRACTING**

The activities of this contract must be executed directly by the successful company. Exceptionally, FIIAPP F.S.P. may authorise the subcontracting of personnel or tasks related to the purpose of the contract by a company other than the successful bidder, under the terms provided for in Articles 215 and 216 of the LPSC. Acceptance must be express. It will be an essential requisite that the subcontracted company be abreast of all payment obligations regarding taxes and social security.

The successful company will be liable to FIIAPP F.S.P. for the actions of the subcontracted company in all areas, including service quality, delivery deadline, completion and obligations regarding data and information processing, as well as fulfilment by the subcontracted company of its social and tax obligations.

## **23. OWNERSHIP OF THE WORK PERFORMED**

All work that may be performed in any of the sections will be the property of FIIAPP F.S.P.

The successful bidder may not use on its own or provide to third parties any data of the contracted works or totally or partially publish the content without the express, written authorisation of FIIAPP F.S.P. In any event, the successful bidder will be liable for the damages or losses that may be derived from a breach of this obligation.

## **24. TERMINATION OF THE CONTRACT**

According to article 319 of the Public Sector Contracts Law, the effects and termination of the contracts concluded by the contracting authorities that do not belong to the category of Public Administrations shall be governed by rules of private



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law; without prejudice to the causes of termination of the contract established in articles 211, 306 (supplies) and 313 (services) of the Public Sector Contracts Law.

## **25. COMMENCEMENT OF THE WORKS**

The official start date of the work will take place since the formal execution of the contract date.

## ANNEX I. OBJECTIVELY EVALUABLE CRITERIA (ENVELOPE No. 2)

### A. FINANCIAL PROPOSAL

Mr/Ms....., of full legal age, a resident of..... and holder of National Identity Document no. ...., on behalf of or representing the company, ..... with its registered address at ..... and holder of Tax ID no. ...., in order to participate in the call for tenders:

"ADMINISTRATIVE SPECIFICATIONS FOR THE CONTRACTING OF AIR CONDITIONER EQUIPEMENT SUPPLIES"

Called by the International and Ibero-American Foundation for Administration and Public Policies, states the following:

Undertakes to perform the service for which they are submitting a bid, subject to the requisites and required conditions, for the price of:

Max. price for this first identified need: 16.000 € (Transport included, VAT not included)

Product	Description	Amount	Price Max. Per unite	Unit price (offer)	Total price (offer)
<b>Industrial Air Conditioners</b>	5.0 Horse Power Floor Standing Air Conditioners with kit	4	2.287,43 €		
<b>Split Air Conditioners</b>	1.5 Horse power with installation kit	9	460,11 €		
<b>TOTAL</b>					<b>Box A</b>
Taxes					
Transport					

(Indicate the price and the VAT separately. Presentation without disaggregating the price and VAT will result in the economic bid being excluded.)

NOTE

In ....., on .....[day] .....[month]  
.....[year] (Place, date and signature of the  
tenderer)

Signed:



B. ADDITIONAL AUTOMATIC TECHNICAL CRITERIA

AUTOMATICALLY QUANTIFIABLE TECHNICAL CRITERIA	OFFER DECLARED BY THE BIDDER (*)
Years of warranty of the air conditioner equipment.	

(\*) The bidder shall include the declarations the section refers to in the right column, clearly stating the offer to be evaluated automatically. If a certain aspect is not offered, "NOT OFFERED" must be included in the corresponding section of the right column.

In ....., on .....[day] .....[month]  
.....[year] (Place, date and signature of the tenderer)

Signed:





## APPENDIX II

### STATEMENT OF COMPLIANCE

Mr/Ms ....., holder of National Identity Document No. ...., acting in representation of ....., holder of Tax ID No. .... and with registered office at ....., in their capacity as ..... and interested in the tender announced by the International and Ibero-American Foundation for Administration and Public Policies.

I hereby **DECLARE RESPONSIBLY**, for the purposes set forth in Article 140.1 c) of Law 9/2017 of 8 November, on Public Sector Contracts, by which European Parliament and European Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014 are transposed into Spanish law.

- My client is not subject to any cause of prohibition to enter into contracts with the public sector, pursuant to the provisions set forth in Article 71.1 of the LCSP.
- I am abreast of all tax and social security obligations under prevailing legislation, and undertake to provide proof of this requirement before any contract is formally executed, in accordance with the General Terms and Conditions of the contracting process, if my client's bid is successful.

In, ....., on .....[day] .....[month] .....[year] from .....

(Place, date and signature of the tenderer)

Signed:



**APPENDIX III**

**Statement of compliance for legal persons**

Mr/Ms (.....), holder of National Identity Document No.(.....), acting as (attorney in fact, general manager, sole administrator, etc.) of (.....), holder of Tax ID No. (.....), and with address for notifications at (.....), No. (...), (Postcode .....), (Town/City.....), for the purpose of compliance with the provisions of prevailing regulations on the prevention of money laundering and terrorism financing,

**CERTIFY**

1. That the data set out in the documentation provided to comply with the formal identification obligation established in Article 4 of the Regulations of Law 10/2010 are true and accurate, and all this information is valid:

YES

NO

2. That the ownership or control structure of the company represented is as follows:

No partner/shareholder has a holding greater than 25%.

That the partners/shareholders with holdings greater than 25% are:

FULL NAME OF THE PARTNER OR SHAREHOLDER	PP/LP	IDENTIFICATION	NATIONALITY	HOLDING (%)

PP: physical person/LP: legal person

3. That the physical persons who ultimately own or control, directly or indirectly, a percentage greater than 25% of the share capital or voting rights of the legal person that I represent, or which through statutory provisions or agreements or other means exercise control, directly or indirectly, of the legal person, are:

That no physical person/s ultimately own(s) or control(s), directly or indirectly, a percentage greater than 25% of the share capital or voting rights of the company that I represent, or through other means exercise(s) control, directly or indirectly, of the management of this company.<sup>1</sup>

The following:

FULL NAME OF THE BENEFICIAL OWNER	IDENTIFICATION	NATIONALITY	CONTROL (%)



4. That the directors, members of the Board of Trustees (for foundations) or members of the Board of Directors (for associations) are:

<b>NAME OF DIRECTOR</b>	<b>PP/LP</b>	<b>IDENTIFICATION</b>	<b>NATIONALITY</b>

If any of the aforementioned directors, trustees or members of the board of directors are legal persons, state the name of the physical person appointed by the legal person director:

<b>COMPANY</b>	<b>NAME OF DIRECTOR</b>	<b>IDENTIFICATION</b>	<b>NATIONALITY</b>

In witness whereof, this document has been issued for all required purposes.

In (...), on (...) [day] (...) [month] (...) [year]