



FUNDACIÓN REAL ESCUELA
ANDALUZA DEL ARTE ECUESTRE

INSTRUCTIONS FOR CONTRACTING NOT SUBJECT TO HARMONIZING REGULATIONS IN THE ROYAL FOUNDATION OF THE ANDALUSIA SCHOOL OF EQUESTRIAN ART. PUBLIC SECTOR CONTRACTS LAW.

requirements derived from the publicity principle will involve insertion of the relevant information about the bidding on contracts of more than 50,000 euros in the entity's contracting profile, regardless of whether the internal instructions of the contract provide other alternative or additional modalities of dissemination."

These Instructions are intended to comply with the provisions of the legal citation above. Their purpose is to establish procedures to be followed by FREAAE in the selection of the contractor and the awarding of the contracts not subject to harmonized regulation, pursuant to the delimitation established by the LCSP in its article 13.

Pursuant to the regulation cited above, this Instruction will make available to all interested parties in the contract awarding procedure regulated by them, publishing them on the Internet on the FREAAE web page and in the Contracting Platform area of the Andalusia Council, corresponding to the profile of FREAAE as awarding authority.

1.- OBJECT OF THE INSTRUCTIONS

The Foundation of the Royal Andalusia School of Equestrian Arts (hereafter FREAAE) is part of the public sector and is considered a contract awarding power, distinct from the Public Administrations, pursuant to article 3.1 f) and 3.3 of Law 30/2007, of Oct. 30 governing Public Sector Contracts (hereafter LCSP).

Article 175 of the LCSP, addressing contracts that are not subject to harmonized regulation, provides the following:

"Article 175. Awarding of contracts that are not subject to harmonized regulation.

In the adjudication of contracts that are not subject to harmonized regulation the following provisions will be applied:

- a) Contract awarding is subject, in all cases, to the principles of publicity, concurrence, transparency, confidentiality, equality and non-discrimination.
- b) The appropriate agencies of the entities referred to in this section will approve mandatory instructions for their internal operations in which they regulate the procedures for contracting such that it guarantees the effectiveness of the principles set forth in the previously stated section and that the contract is awarded to whoever presents the most economically advantageous offer. These instructions must be available to all parties interested in the proceedings for awarding contracts regulated by them, and published in the entity's contracting profile.

In the state public sector, approval of the instructions will require a report from the Attorney General.

- c) It is understood that compliance with the

2.- CONTRACTING PROCEDURE

Contracting not subject to harmonized regulation will be conducted by FREAAE habitually through open procedures or negotiated without publicity.

Under the open procedure, all interested business persons may present a proposal, exclusive of any negotiation of the terms of the contract with the bidders. FREAAE may repeat the negotiating process without prior notice, requesting offers, as long as it conveys the information to at least three businesses qualified to carry out the contract under the terms set forth in section 2.2 of these Instructions.

Likewise, FREAAE may use the rest of the proceedings provided in the LCSP in matters on which it is proceeding and has established



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the particular conditions in the corresponding bid documents for the.

Pursuant to article 122.3 of the LCSP, minor contracts may be awarded directly to any business person capable of doing the work and has the professional ability necessary to carry out the contract, in compliance with standards established in article 95 of the cited law. Those considered minor contracts are those involving an amount less than 50,000 euros when dealing with works contracts or 18,000 for other contracts.

In accordance with the LCSP, contracts not subject to harmonized regulation are subject to the general character provisions for the entire public sector established in the Preliminary Title and the First Book of the cited law.

Such general character contracts will be subject to the following provisions:

Article 123. Equality and transparency provisions.

Article 124. Confidentiality.

Article 129. Interested parties' proposals.

Article 131. Admissibility of variants or improvements.

Article 132. Electronic bidding session.

Article 133. Succession in the procedure.

2.1. OPEN PROCEDURE

The open procedure will be announced publicly through an invitation to participate in the procedure for all those who are interested and meet the capability requirements for the contract.

2.1.1. Bid notice.

The notification process will take place on the Internet, in the FREAAE profile in the contracting platform of the Andalusia Council and on the web page of the company. In addition, FREAAE may, if the circumstances of the bid warrant it, use complementary means of notification, through the publication of the notice in dailies or official, state, autonomous or local bulletins or in regional or provincial communication media. In such cases, the costs of publishing the corresponding notices will be paid by the awarding agency.

The invitation to bid will include, at least:

- Identification of the bid file.
- Descriptive bid specifications or documents approved by the contracting agency, as well as any complementary documentation. These documents must include the evaluation criteria for the stated requests with the due fulfilment (which will include the form for scoring the bids), and the admissibility of improvements, as well as the procedure chosen for the awarding process.
- Deadline and place for presentation of offers.

2.1.2. Contractual conditions sheets.

For contract different from those described in article 121.1 of the LCSP, of amounts above 50,000 euros, FREAAE will prepare specifications of conditions that, being an integral part of them, will establish the basic characteristics of the contract, the procedure for admissibility of variations, means of reception of the offers, award criteria and the guarantees that the bidders or the awarding agency must provide, as the case may be. These contracts will also reflect the provisions of article 104 regarding subrogation in work contracts.

The bid documents will expressly set forth the requirements regarding ability to perform and technical, economic and financial solvency that bidders must meet to qualify.

The bid documents will also describe any special circumstances with which the awarding company must comply in executing the contract and that must be taken into account as essential contracting elements.

The bid documents will establish stipulations corresponding to effects, compliance and expiration of the contracts.

FREAAE will provide in the bid documents the method of dispute resolution, including information about the effects and compliance and cancellation of contracts, indicating one of the following possibilities:



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- Submitting the issue to civil legal review in the Courts and Tribunals of the place where the contract was signed.

- Legal Arbitration before the arbitration court of the Chambers of Commerce, Industry and Navigation of the province in which the contract was signed or others specified due to the subject of the contract. In international contracts, matters of effects and cancellation may be subject to international arbitration courts.

2.1.3. Interested parties' proposals.

Regarding the term for receipt of offers, it will be as provided in articles 127 and 143 of the LCSP. However, for general contracts, this will be fifteen calendar days, counting from the date of the bid notice. In the case of processing a bid declared urgent, the terms may be reduced by half, as established in article 128 of the LCSP.

The interested parties' proposals, pursuant to article of the LCSP – of general application in their totality here – must be adjusted to the provisions in the bid specifications and their presentation implies unconditional acceptance in their entirety of the clauses or conditions, with no reservation.

In contracts subject to these Instructions the proposals, which must be accompanied by documents described in article 130 of the LCSP, will be presented in three duly identified envelopes marked as follows:

- Envelope A: Accrediting documentation for prior requirements, based on stipulations in the bid documents.
- Envelope B: Technical proposal.
- Envelope C: Economic proposal indicating, as a separate item, the Value Added Tax that must be deducted and paid.

At all times the principle of equality of the bidders and transparency in the process must be respected such that:

- No offers outside the term indicated for receipt of bidding participation will

be accepted.

- The opening of the offers for concurrent processes will be carried out simultaneously, once the bidding period has expired.

- The bidders will be notified of the process of selecting the contractor. Publication in the FREAAE contracting profile will replace individual notification of each of the bidders of the result of the process of selecting the contractor.

2.2. UNADVERTISED NEGOTIATED PROCEDURE

The unadvertised negotiated procedure may be followed in cases established by the LCSP for public Administration and, in particular, in the following cases:

- a) In cases in which irregular or unacceptable offers have been presented in the foregoing proceedings, as long as the negotiation includes all bidding companies that in the proceeding described above have presented offers in accordance with the formal requirements, and only to those companies.
- b) When, after following an open procedure, there has not been any offer or proposal, or the offers are not suitable, as long as the initial conditions of the contract are not substantially modified.
- c) Contracts with value equal to or less than 200,000 euros, if they are for works and service and supply contracts whose value is equal to or less than 60,000 euros.

The request for offers in unadvertised negotiated procedures must be done in writing simultaneously to all selected physical or legal persons.



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During the negotiation, the persons responsible for it will strive for equal treatment for all bidders involved. In particular, they will not provide, in a discriminatory manner, information that could give specific bidders an advantage over the others.

The FRAAE will negotiate the offers presented by bidders to adapt them to the requirements indicated in the bid specifications, in the bid notice, and, if applicable, in possible complementary documents, for the purpose of identifying the most economically advantageous offer, in accordance with the criteria established in the negotiations.

The file must include the record of the invitations sent, the offers received and the reasons for their acceptance or rejection or, if applicable, a suitable justification of the reasons none of the bids was selected.

2.2. SOME SPECIAL TREATMENT CASES

Below are a series of general character contracts addressed in the public sector regulations for Public Administrations based on article 154 of the LCSP, in which, regardless of any other criterion or condition, a specific process of awarding, negotiating, with or without advance publicity may be followed (article 153 of the LCSP).

This generic possibility is specified for FRAAE in some cases for those that could possibly excuse the application and submitting to the principles of publicity and concurrence.

Advertising or concurrency are strictly necessary, then, in the following cases:

2.3.1. General cases.

a) When, for technical or artistic reasons or reasons related to protection exclusivity rights the contract may only be awarded to one specific company.

b) When there is a compelling need, resulting from unforeseen circumstances for the contracting, through no fault of its own, to require prompt execution of the contract that does not fall under provisions of the urgency process stipulated in article 96 of the LCSP. In these cases, article 96 of the LCSP will apply.

c) When the contract in question is a consequence of a competition and, in accordance with applicable regulations, must be awarded to the winning company. If there are various winning companies it must invite all of them to

participate in the negotiations.

2.3.2. Specific cases of works projects.

a) When the contract deals with complementary works that are not part of the project or in the contract, but due to an unforeseen circumstance become necessary to execute the entire project as described in the project or in the contract without modification and whose execution is entrusted to the contracting company for the principal work, according to the prevailing prices for the original contract or which, if applicable, are set in a contrary manner, as long as the works cannot be separated technically or economically from the original contract without causing great inconvenience to the public sector or that, although turning out to be separate, are strictly necessary for their completion, and that the accumulated amount of the complementary works does not exceed 50 percent of the original contract price. The remaining complementary works that do not meet the requirements indicated must be the subject of independent contracting.

b) When the works consist of repetition of other similar awards by open procedure or restricted to the same contracting company by the contracting agency, as long as they are adjusted to a base project that has been the subject of the initial contract awarded by said procedures, that the possibility of making use of this procedure is indicated in the bid notice for the initial contract, and the amount of the new works



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has been computed are locked into the total amount of the contract. This procedure may only take place within three years from the formalization of the initial contract..

2.3.3. Specific cases in supply contracts.

a) When the products that must be supplied are exclusively made for the purposes of research, experimentation, study or development; this condition does not apply to production in series for establishing a product's commercial viability or recuperating research and development costs.

b) When the contract deals with complementary deliveries made by the initial providing company that represent either a partial replacement of supplies or facilities in current use, or an expansion of the existing supplies or facilities, if the change of providing company obligates the contracting agency to acquire material with different technical characteristics, resulting in incompatibilities or disproportionate technical difficulties in use and maintenance.

The duration of such contracts, as well as that of renewable contracts, may not, as a general rule, be more than three years.

c) When it deals with acquisition in organized markets or exchanges of raw materials supplies that quote on them.

d) When it deals with a supply approved in especially advantageous conditions with a providing company that definitively ceases its business operations, or with administrators of a competition, or through legal agreement or a similar proceeding.

2.3.4. Specific cases for service contracts.

a) When it deals with complementary services that are not part of the project or in the contract but which due to unforeseen circumstances become necessary to execute the service as it was described in the project or in the contract without modification and whose execution is entrusted to the contracting company for the principal work, according to the prevailing prices for the original contract or which, if applicable, are set in a contrary manner, as long as the services cannot be separated technically or economically from the original contract without causing great inconvenience to the public sector or that, although turning out to be separate, are strictly necessary for their completion, and that the accumulated amount of the complementary services does not exceed 50 percent of the original contract price. The remaining complementary services that do not meet the requirements indicated must be the subject of independent contracting.

b) When the services consist of the repetition of other similar services awarded by open or restricted procedure to the same contracting company by the contracting agency, as long as they are adjusted to a base project that has been the subject of the initial contract awarded by said procedures, that the possibility of making use of this procedure is indicated in the bid notice for the initial contract, and the amount of the new services has been computed are locked into the total amount of the contract. This procedure may only take place within three years from the formalization of the initial contract.

In procedures that do not require concurrence, the written request for bids will not be required.

2.4. CONTRACTING BY MEANS OTHER THAN OPEN OR UNADVERTISED NEGOTIATION

In the restricted procedure only those contractor who, at their request and with attention to their solvency according to the criteria indicated in the



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will be selected by the contracting agency. In this procedure all negotiation of the contract terms with the bidders or candidates will be prohibited.

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Unharmonized contracts that FREAAE wishes to sign will be subject to articles 163 and subsequent articles in the LCSP governing competitive dialogue.

Such contracts will also be subject to articles 168 and the subsequent articles of that law governing special standards applicable to project competitions.

2.5. PRESENTATION OF ACCREDITATION DOCUMENTATION FOR COMPLYING WITH PRIOR REQUIREMENTS

The invitations to participation and proposals of the companies in various contracting procedures must be accompanied by the accrediting documentation regarding capacity and technical, economic and financial solvency, in the terms established by the LCSP and on the contract conditions sheet.

2.6. EVALUATION OF THE OFFERS AND AWARDING PROCEDURE

The awarding of the contract offer will go to the most advantageous economic offer.

Pursuant to provisions of article 295, of the LCSP, the evaluation of the proposals will be done by the Contracting Board, which will generally be composed of:

- The President: the person who exercises executive powers.
- Members:
 - a) The Resources Director, who is responsible for economic-budgetary control.
 - b) The person in charge of the Area, Department, or Unit for which the contract is being negotiated.
 - c) The person in charge of the Administration or Purchasing Department.
- Secretary: The person who serves as Vice secretary, who is responsible for legal consultation and who serves with voice but no vote.

When the evaluation must take into account many

criteria, the board will request technical reports as it deems appropriate.

For the evaluation of the proposals and determination of the most economically advantageous offer FREAAE must respond to one or more criteria directly linked to the object of the contract, as established in article 134.1 of the LCSP, among them:

- a) Price
- b) Quality
- c) Term of execution or delivery of the object of the contract
- d) Cost of use
- e) Environmental characteristics
- f) Characteristics having to do with satisfaction of social demands that respond to need, defined in the contract specifications, particularly regarding especially disadvantaged populations to whom the users or beneficiaries of the object of the contract belong.
- g) Profitability
- h) Technical value
- i) Aesthetic or functional characteristics
- j) Availability and cost of replacement parts
- k) Maintenance
- l) Technical assistance
- m) Post-sale service
- n) Adherence to the consumer arbitration system of the Andalusia Council
- o) Others

When only one criterion is used for the awarding, this will necessarily be the lowest price. If more than one evaluation criterion is used, the lowest prices will represent, at least 50 percent of the total evaluation.

The criteria that serve as the basis for the awarding of the contract, as well as its weighting, will be determined by the contracting agency and will be detailed in the bid notice and the conditions sheet, pursuant to article 134.2 of the LCSP.

Once the evaluation is complete, the Contracting Board will classify the proposals



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presented in decreasing order, presenting its results, together with its award proposal, to the contracting agency, which will complete the award process.

2.7. CONTRACTING AGENCY AND AWARDING OF CONTRACT

The Executive Committee is the agency that exercises, among others, the authority to contract, authorized by the Sponsor to designate general or singular representatives, within the limits of its own representation, such as is the case of its President or the Managing Director, according to the specifications of the FREAAE Statutes and subsequent sections.

The contracting agency may not declare an invitation to bid unanswered if there is an offer or proposal that would be admissible according to the criteria on the sheet. In the event an invitation to bid is declared unanswered, the contracting agency may authorize, in the same act, negotiation of the object of the invitation to bid with other companies.

The awarding of the contract will be announced to the bidders and published in the FREAAE's contracting profile. It will also be communicated to the awardee, together with the notification of the award in its favour, the documentation that necessarily must be provided to formalize the corresponding contract.

After the passage of the term reflected in the corresponding Conditions Sheet, if the awardee has not submitted the required documentation, it will be understood that he waives the award and consequently, in order to complete the contract, a new award process will be carried out by the contracting agency. This will be done in favour of the bidder who submitted the second best evaluated bid in the bidding process, being sufficient this time the publication in the contracting profile of the new award.

2.8. FORMALIZATION OF THE CONTRACTS

FRAAE will formalize the contracts under the terms and time frames set forth in the conditions sheets governing the contracting.

Reported by the Legal Consultant of the Andalusia Council Oct. 31, 2008. Approved by the Board of Directors of FREAAE, in a session held Nov. 14, 2008.
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