



## **ADMINISTRATIVE CLAUSES FOR PROCURING PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION**

### **1. ANTECEDENTS, OBJECT, LEGAL REGIME AND ADVERTISING, ELECTRONIC RELATIONS WITH THE MURCIA REGION INSTITUTE OF TOURISM.**

#### **1.1.- ANTECEDENTS**

“Instituto de Turismo de la Región de Murcia” (Murcia Region Institute of Tourism, hereinafter ITREM), is a public body with the legal status of public business agency, attached to the Tourism and Culture Department of the Autonomous Community of the Region of Murcia, pursuant to Article 11 of President's Decree no. 2/2018 of 20 April, on Regional Administration reorganisation (Murcia Region Official Gazette (BORM) No. 91 of 21 April); ITREM was constituted by Chapter IV, Book III of Murcia Regional Assembly Law 14/2012 of 27 December on tax, administrative and reorganisation measures for the regional public sector; Its general objectives are the organisation, planning, programming, management and coordination of the Region of Murcia's competences in tourism, within the framework of regional Government policy.

In compliance with said objectives, ITREM engages in various types of promotional actions, including campaigns in Spain and abroad advertising existing tourism resources and products to publicise Costa Calida-Murcia Region as a holiday destination and increase the influx of tourists.

For the Region of Murcia, English-speaking countries are the main sources of outbound tourism flows, contributing 42.1% of total foreign tourists and 39.6% of their spending. International tourism in the Region of Murcia is therefore characterised by heavy dependence on the English-speaking market, much more so than Spain as a whole where the share is 20.4% (compared to 42.1% in the Region of Murcia. As a result, the negative effects of the United Kingdom of Great Britain and Northern Ireland (UK) leaving the European Union (EU), known as Brexit, will have greater impact on tourism in the region than in the rest of Spain.

Pursuant to Article 99.3 in the Law on Public Sector Contracts (hereinafter referred to by its Spanish acronym - LCSP) each part of the contract will be performed separately by dividing it into lots based on the markets and segments targeted by the procurement; the characteristics ITREM requires are clearly defined and perfectly suited to this division of the object of the contract, considering furthermore, that separate performance of each lot will be more efficient

#### **1.2.- Object.**



The object of the present specifications is to establish the administrative clauses that will govern the open procedure for procuring promotional co-marketing campaigns between ITREM and transport companies and/or tour operators present in the British and Irish market that market passenger transport services and other complementary tourism services for the Region of Murcia destination, divided into the following lots:

**LOT 1. TRANSPORT COMPANIES AND/OR TOUR OPERATORS PRESENT IN THE BRITISH AND IRISH MARKET WHO MARKET TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES WITH THE REGION OF MURCIA AS DESTINATION IN CAMPAIGNS DIRECTED AT AREA 1: MAJOR CITIES IN THE UNITED KINGDOM AND REPUBLIC OF IRELAND - COSMOPOLITAN SECTOR.**

**LOT 2. TRANSPORT COMPANIES AND/OR TOUR OPERATORS PRESENT IN THE BRITISH AND IRISH MARKET WHO MARKET TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES WITH THE REGION OF MURCIA AS DESTINATION IN CAMPAIGNS DIRECTED AT AREA 2: NORTHERN UNITED KINGDOM -MULTI-SEGMENT**

**LOT 3. TRANSPORT COMPANIES AND/OR TOUR OPERATORS PRESENT IN THE BRITISH AND IRISH MARKET WHO MARKET TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES WITH THE REGION OF MURCIA AS DESTINATION IN CAMPAIGNS DIRECTED AT AREA 3: SOUTHERN UNITED KINGDOM - MULTI-SEGMENT.**

**1.3.- LEGAL REGIME AND PUBLICITY.**

This procurement is governed by the particular administrative clauses, technical specifications, Law 9/2017 of 8 November on Public Sector Contracts and in anything not repealed by said law, by the General Regulation for the Law on Public Authority Contracts, approved by Royal Decree 1098/2001 of 12 October.

Pursuant to LCSP, Article 122.4, contracts shall align with the content of the present schedule of particular administrative clauses, and said clauses shall be considered an integral part of the contracts.

ITREM engages in the present procurement in its capacity as contracting authority with public authority status pursuant to LCSP Article 3.2 and 3.3 paragraph d).

The present PROCUREMENT IS SUBJECT TO HARMONISED REGULATION, under LCSP, Articles 19, 22.1 b) and 22.2:

The award procedure and form will be conducted by OPEN PROCEDURE pursuant to LCSP, Articles 156, 157 and 158.



For the purposes of the present procurement and the rules and documents constituting its legal regime, the “contracting authority” or “contracting party” will be understood to be the Murcia Region Institute of Tourism and “contractor company” or simply “contractor” or “awardee” will be understood to be the company or business owner ITREM hires to provide the service in question. References to the “contracting authority” shall be understood to refer to the competent organ of the public business agency “Instituto de Turismo de la Región de Murcia”.

Pursuant to Article 135.1 LCSP, this procedure will be advertised in the Official Journal of the European Union (OJEU) and on the Murcia Region Institute of Tourism’s contracting party profile

The Schedule of Administrative Clauses, Technical Specifications and other attached documents are contractual in nature. Negotiations over contract terms and conditions with bidder companies are forbidden.

Ignorance of the present schedule, the contract, its attached documents and instructions and rules of any type approved by the Administration which may be applicable in performance of the agreement shall not exempt the contractor person from the obligation to comply. In any dispute between the Spanish version of this schedule, the technical specifications and any other documents published in a different language, the Spanish version shall always prevail.

Those interested in the tender process may request additional information, supplementary documentation and clarifications on what has been laid down in the schedules and other documentation provided they do so at least 12 days before the period elapses for presenting proposals through the generic application form section on the official website of the Autonomous Community of the Region of Murcia (<https://sede.carm.es>). For these purposes the identification code of the Murcia Region Institute of Tourism (code DIR3) is A14022337 and the code for its procurement processes is 1609. If CLARIFICATIONS are requested, ITREM responses shall be binding and they shall be made public on its contracting authority profile in terms that guarantee equality and competition in the tender process.

The department responsible for monitoring and ordinary execution of the contract is the Murcia Region Institute of Tourism’s Promotion Office.

**1.4 ELECTRONIC RELATIONS WITH ITREM. All bidders must have a recognised electronic certificate or qualified electronic signature** issued by providers on the “trusted list of certification service providers”, <https://sedeaplicaciones.minetur.gob.es/Prestadores/>, admitting, among others, electronic signature certificates from FNMT, Class 2 CA and the electronic Spanish National Identity Number (DNI).



Furthermore, under LCSP Article 140.1 a).4 all bidders must indicate the EMAIL ADDRESS which ITREM can use for all communications resulting from the present procurement process. **URL:** [https://notificaciones.060.es/PC\\_init.action](https://notificaciones.060.es/PC_init.action)

Pursuant to Article 43 in Law 39/2015 of 1st October on the Common Administrative Procedure for Public Authorities, the DIR3 code for the Murcia Region Institute of Tourism is A14022337.

The code for procurement proceedings with the Murcia Region Institute of Tourism is 1609.

## **2.- BASIC TENDER BUDGET, ESTIMATED CONTRACT VALUE, CONTRACT PRICE AND EXISTENCE OF CREDIT.**

2.1.- The BASIC TENDER BUDGET for each lot is as follows:

Lot 1: FOUR HUNDRED AND EIGHTY-FOUR THOUSAND EUROS (€484,000.00), including VAT, at the rate of €242,000.00 per year.

Lot 2: TWO HUNDRED AND FORTY-TWO THOUSAND EUROS (€242,000.00) including VAT, at the rate of €121,000.00 per year.

Lot 3: ONE HUNDRED AND TWENTY-ONE THOUSAND EUROS (€121,000.00), including VAT, at the rate of €60,500.00 per year.

VAT has been calculated at the rate of 21% current in Spain. Pursuant to Article 84. Pursuant to 1.2a) of Law 37/1992, of 28 December, on Value Added Tax, if the awardee is not established in the territory where the tax applies, the reverse charge mechanism will apply so that ITREM will be liable for liquidating and paying the tax in Spain.

2.2.- Pursuant to LCSP Article 100.2 the basic tender budget has been produced taking into account market prices.

According to Banco de España's sector ratios of non-financial companies (RSE database) in sector M731, referring to advertising, costs are broken down as follows:

- Direct costs: 82.18%
- Overheads: 12.47%
- Industrial profit: 5.35%



2.3.- Pursuant to LCSP Article 101, the **ESTIMATED VALUE** for this procurement, is SEVEN HUNDRED THOUSAND EUROS (€700,000.00 ) excluding VAT. This amount has been calculated on the basis of the unit prices of the components in the provision, after taking into account the costs of physical execution, general overhead costs and trade margin.

2.4.- Contractor shall issue invoices on a quarterly basis, in the legal form and with the pertinent withholdings and taxes according to law and present them at ITREM's offices, located at Avda. Juana Jugán, 2, (Edificio CCT), 30006 – Murcia. No more than half the price of the award for each lot may be invoiced each year.

Invoices must contain the service provisions delivered in the corresponding quarter, expressly indicated as such in the concept on the invoice.

Before invoices can be paid, the awardee must have fulfilled its obligation to present a quarterly activity report with proof and certificates of execution of the contracted advertising actions. ITREM shall have a maximum period of thirty days to verify the aforementioned documents. This period shall be suspended if the contractor is required to remedy any proof or provide any that has been omitted.

These reports must contain the promotion actions carried out by the contractor at its expense in the same quarter, duly described, valued and justified. The amount invoiced at the end of each of the two financial years must be at least equal to the valuation of the actions carried out by the contractor at its expense in said year.

Pursuant to LCSP Article 210.4, within thirty days counting from the date of the document certifying compliance with contract provisions, the corresponding liquidation shall be arranged with and notified to contractor. Any resulting balance shall be paid by bank transfer to the awardee contractor to the bank account indicated in the bid or any other subsequently expressly notified to the contracting body.

2.5.- The **CONTRACT PRICE** shall be that which results from the award and shall include Value Added Tax as a separate item. The price includes any other type of expenditure required to satisfy the contracting authority in performance of the service, be it general, financial, material, technical equipment or any other type of expenditure and the profit attributable to its management, fees, charges, taxes and contributions of any type, including expenses stemming from any action presented in the bid, except for VAT which will be added to each invoice as a separate item. In the case of the tax payer inversion mechanism contemplated in Law 37/1992 of 28 September, on Value Added Tax , VAT must be indicated with the value of €0.00.

2.6.- To meet the financial obligations under this contract, it is planned to allocate the budget



and appropriate and sufficient credit from own funds charged to the ITREM budget for the years 2019 and 2020 in which the expenditure must be executed in accordance with the corresponding credit retention file RC456-18.

2.7.- Bids will not be admitted for amounts over the maximum budget amount established for the present procurement.

2.8.- The financial bids formulated shall specify the proposed amount excluding VAT, always on the understanding that the proposed amount includes any other type of tax or tax burden applicable as appropriate to the nature of the contract.

### **3.- PERFORMANCE OF THE CONTRACT AND PRICE REVIEW**

The parties shall be bound by the contract upon signing and it shall be valid for two years.

The advertising actions are planned to take place from 1st January 2019 until 31st December 2020.

Bearing in mind the specific characteristics of the contract, pursuant to LCSP Article 103 all price reviews are excluded.

### **4.- REQUIRED CLASSIFICATION**

Classification is not required under LCSP Article 77.

Without prejudice to the above, entry on the Official Register of Tenderers and Classified Companies in the Public Sector or in the Official Register of Tenderers of the Autonomous Community of the Region of Murcia shall accredit, unless proved otherwise, the suitability of the business owner as regards his/her personality and capacity to act, representation, professional or business qualification, economic, financial, technical and professional solvency established in sections 12.3 and 12.4 in the present schedule, classification and other registered circumstances, and the existence or otherwise of prohibitions on contracting that must appear on the register.

Similarly, under LCSP, sixteenth addition provision, if foreign bidders participate in the tender from a State member of the European Union or signatory to the European Economic Area, their capacity, solvency and absence of prohibitions on contracting may be accredited by:

- consulting the corresponding official list of business owners authorised to contract established by a Member State of the European Union, or
- Through documentation accrediting said points, which must be presented in the period granted to present the definitive guarantee.

Pursuant to the Regulation on the Law of Public Sector Contracts (RGLCAP) Articles 37 and 38, the classification applicable to each lot, taking into account the correspondence between



service classification subgroups and CPV codes in each subgroup in Schedule II to Royal Decree 1098/2001, of 12 October, approving the Regulation on the Law on Public Sector Contracts (RGLCAP), will be as follows:

**CPV 79341000-6. Advertising services GROUP T, SUBGROUP 1. CATEGORY 1.**

**5.- REQUIRED BIDDER ELIGIBILITY FOR CONTRACTS AND SOLVENCY**

**5.1- Capacity to contract**

5.1.1 Natural or legal, Spanish or foreign persons themselves or through duly authorised representatives may participate in the tender for this contract if, pursuant to LCSP Articles 65 to 69 they have full capacity to act, are not affected by any of the prohibitions on contracting indicated in LCSP Article 71 and in Law 5/1994 of 1st August on the Regional Statute on Political Activity and accredit their economic, financial, technical and professional solvency pursuant to LCSP Articles 86, 87 and 90 or are duly classified.

They must also have the business or professional qualification which, as appropriate, is required to perform the activity or provision constituting the object of the contract.

5.1.2 Legal persons may only be awarded contracts whose provisions are included within their own purposes, object or sphere of activity according to their articles of association or founding rules

5.1.3 Non-Spanish companies from Member States of the European Union or States Signatories to the Agreement on the European Economic Area shall have capacity to contract with the public sector provided that, under the legislation of the State where they are established, they are authorised to make the provision in question.

If the legislation of the State where these companies are established require special authorisation or membership of a certain organisation in order to provide the service in question, they must accredit compliance with this requirement.

5.1.4 Physical or legal persons from States not members of the European Union or from States signatories to the Agreement on the European Economic Area must justify through a report that the foreign company's State of origin in turn admits participation from Spanish companies in contracts with public sector entities assimilable to those listed in Article 3, in a substantially similar manner. Said report shall be produced by Spain's corresponding Economic and Commercial Office abroad and shall accompany the documentation presented. In contracts subject to harmonised regulation, as in the present case, the report on reciprocity in relation to companies from States signatories to the World Trade Organisation's Government Procurement Agreement shall not be required.



5.1.5 Temporary associations of businesses (joint ventures) may contract with the public sector without the need to formalise the association in a deed until the contract has been awarded in their favour.

Business owners who participate in a temporary association are jointly and severally bound and must appoint a sole representative or agent for the association with sufficient powers to exercise the rights and comply with the obligations under the contract until it ends, without prejudice to the existence of joint powers that may be granted for the collection and payment of significant amounts.

For the purposes of the tender, business owners who wish to participate in a joint venture must indicate the names and circumstances of those in the association and their stake, and assume the commitment to formally constitute a joint venture if they are awarded the contract.

The duration of joint ventures shall coincide at least with that of the contract until it expires.

## **5.2.- Bidder's required solvency**

5.2.1 As regards the minimum conditions of **ECONOMIC AND FINANCIAL SOLVENCY** in LCSP Article 87, under Article 77.1 b) in the aforementioned law, the business owner's classification shall accredit his/her solvency for signing contracts of the same type as those for which the classification was obtained and those for which the classification is not required.

In cases where the business owner is not classified, economic and financial solvency shall be accredited as follows: *Annual turnover or annual turnover in the area referred to in the contract, for the best year in the last three available years depending on the dates of constitution or start of the business owner's activities and presentation of bids for €300,000.00 or more for potential awardees of lot 1, €150,000.00 for lot 2 and €75,000.00 for lot 3.*

5.2.2.-The minimum conditions of TECHNICAL OR PROFESSIONAL SOLVENCY referred to in LCSP Article 90 will be accredited by presentation of a list of the main services or works performed of the same or similar nature to those object of the contract over no more than the last three years, indicating the amount, dates and public or private recipient of the same, of the same type or nature as the object of the contract.

The minimum requirement for considering this solvency accredited is an annual aggregate amount in the busiest year of €140,000.00 or more for potential awardees of lot 1, €700,000.00 for lot 2 and €35,000.00 for lot 3.

The means and proof required to accredit economic, financial, technical and professional solvency are described in Clause twelve (12) herein and must be presented by the bidder proposed as awardee when required to do so.



## **6. DEFINITIVE GUARANTEE**

Pursuant to LCSP Article 107 the awardee of each lot shall furnish a definitive guarantee equivalent to 5% of the final bid price, excluding VAT.

This guarantee may be provided in any of the forms laid down in LCSP Article 108, or as the awardee chooses, by withholding from the price of the first or successive invoices, if the amount of the first invoice is insufficient to cover the entire guarantee.

The guarantee shall be deposited, in any event, before ITREM's contracting authority and it shall be replaced, increased, refunded and cancelled pursuant to LCSP Articles 109 and 111.

The guarantee period shall be 3 months from when the contract has been fully performed. The definitive guarantee will address the concepts mentioned in LCSP Article 110 and may not be returned or cancelled unless the planned guarantee period has expired and the contract in question has been performed satisfactorily or until the contract has been declared terminated without fault on the contractor's part. When the contract has been liquidated and the guarantee period has elapsed, if there are no liabilities, the guarantee will be returned or the bank guarantee or guarantee insurance will be cancelled. The refund agreement must be adopted and notified to the interested party within two months from the end of the guarantee period.

## **7.- AWARD PROCEDURE.**

The services contract shall be awarded through an OPEN PROCEDURE pursuant to LCSP Articles 156, 157 and 158.

Given the complexity of the technical evaluation of the elements object of the tender, the maximum period for making the award shall be three months counting from the opening of Envelope B.

## **8.- PRESENTATION OF BIDS AND DOCUMENTATION REQUIRED**

### **8.1 Bid presentation**

BIDS WILL BE PRESENTED IN SPANISH Documentation drafted in another language must be accompanied by the corresponding official translation into Spanish. Nevertheless, the contracting authority reserves the right to directly admit, without the need for translation to Spanish, documents written in English.

Bids will be presented only at the Instituto de Turismo de la Región de Murcia, Avda. Juana Jugán, 2, 30006 Murcia, from Monday to Friday during opening hours (from 9am to 2 pm), for the attention of "Área Jurídica, Régimen Interior y Contratación" within the period indicated in



the tender announcement published in the OJEU which in any event shall be at least 35 calendar days from the date the tender announcement is sent to the Publications Office of the European Union, pursuant to LCSP Article 156.3. The announcement will also be published on ITREM's procurement body profile.

Notwithstanding the above, bids may also be presented by post. In such case, the business owner must justify the date and time of the dispatch at the Post office or any courier company and inform the contracting authority that the bid has been sent by email to [juridico@murciaturistica.es](mailto:juridico@murciaturistica.es) on the same day, noting on a cover sheet attached to the proof of dispatch, the file number, full title of the object of the contract, company name and VAT code or, as appropriate, the bidder's name and personal identification number.

Reception of the aforementioned email shall be accredited in a document issued by ITREM's receiving office. Without these two requirements, the bid will not be admitted if it is received by the contracting authority after the end date and time of the period indicated in the tender announcement.

In any event, if the documentation has not been received after ten calendar days from that date, it will not be admitted.

Bidders may not sign any proposal in a joint venture with others if they have presented a proposal individually, nor may they appear in more than one joint venture. Infringement of these rules shall mean that none of the bids signed by said bidder will be admitted.

By presenting a bid the business owner unconditionally accepts all the clauses in the present schedule, and the technical specifications, without any exception or reserve, and authorises the procurement desk and contracting authority to consult data at the Official Register of Tenderers and Classified Companies for the Public Sector, and in the official lists of economic operators of a member State of the European Union established in Schedule I of Royal Decree 1098/2001, of 12 October, approving the Regulation for the Law on Public Sector Contracts.

All acts and expressions of the intention of administrative organs or bidding companies or contractors which have legal effects and are issued during the contracting period must be authenticated with an advanced recognised electronic signature pursuant to Law 59/2003 of 19 December on electronic signatures. The electronic, IT and telematic resources used must be able to guarantee the signature meets the provisions in this regulation, pursuant to LCSP, Sixteenth Additional Provision.

## 8.2 Form of Presentation

Given that the procurement will be conducted by lots, the bidder or their representative shall present: ONE SINGLE "A" ENVELOPE PER COMPANY, AND ONE "B" ENVELOPE AND ONE "C" ENVELOPE FOR EACH CHOSEN BATCH, duly sealed and signed, and WITH A CLEARLY LEGIBLE INDICATION ON THE BACK OF THE ENVELOPES OF THE FOLLOWING INFORMATION:



1. Bidder’s name or company name, address and tax identification number, contact person, telephone and an email address for notifications.

2. The procurement name: **“PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION”**

3. The name and content of each envelope:

**Envelope A:** Documentation on capacity and solvency.

**Envelope B:** Documentation to be valued according to criteria whose weighting depends on a value judgement.

**Envelope C:** Documentation on criteria quantifiable through the mere application of formulas.

4. Lot number being bid for according to the names of each of the ones shown in Section 1.2 in the present schedule.

<p><b><u>ENVELOPE A: DOCUMENTATION ON CAPACITY AND SOLVENCY</u></b></p> <p>NAME OR BUSINESS NAME: _____</p> <p>Address: _____</p> <p>VAT CODE: _____</p> <p>CONTACT PERSON _____</p> <p>Telephone: _____</p> <p>Email: _____</p> <p>PROCUREMENT: <b>PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION</b></p> <p>Signature</p>
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<p><b><u>ENVELOPE B: DOCUMENTATION ON CRITERIA WHOSE WEIGHTING DEPENDS ON A VALUE JUDGEMENT</u></b></p> <p>NAME OR BUSINESS NAME _____</p> <p>Address: _____</p> <p>VAT No. _____</p> <p>CONTACT PERSON</p> <p>Telephone: _____</p>
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Email: _____
<b>PROCUREMENT: PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION</b>
LOT: _____
<b>Signature</b>

<b><u>ENVELOPE C: DOCUMENTATION ON CRITERIA QUANTIFIABLE THROUGH THE MERE APPLICATION OF FORMULAS.</u></b>
NAME OR BUSINESS NAME _____
Address: _____
VAT No. _____
CONTACT: _____
Telephone: _____
Email: _____
<b>PROCUREMENT: PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION</b>
LOT: _____
<b>Signature</b>

8.3. Documentation to be presented in each envelope:

The documents to be included in each envelope must be originals or true copies, according to the legislation in force.

Bidders must designate in their bids the information which, as appropriate, they consider confidential. Confidentiality affects, among others, technical and commercial secrets, confidential aspects of the bids and any other information whose content may be used to distort competition, either in this tender procedure or subsequent ones.



The duty of confidentiality of the contracting authority and its attached services may not extend to the entire content of the awardee's bid or to the entire content of the reports and documentation which, as appropriate, is directly or indirectly generated by the contracting authority during the tender process. It may only extend to documents with restricted diffusion and under no circumstances to publicly accessible documents.

Each envelope shall include the following documents and a numbered list of the same:

#### ENVELOPE " A "

##### DOCUMENTATION ON CAPACITY AND SOLVENCY

Bidders shall present a single envelope A which shall contain the following documents:

- 1) **Affidavit** following the European Single Procurement Document (ESPD) which must be signed electronically and with the corresponding identification, where the bidder states the circumstances referred to in LCSP Article 140.1 a) according to the guidelines in **ANNEX 1**.
- 2) In cases where the business owner uses the solvency and resources of other companies, under LCSP Article 75, each of those companies must also present an affidavit showing the relevant information for these cases, according to the standard model of the European Single Procurement Document.
- 3) In cases where several business owners participate grouped in a temporary joint venture **an affidavit must be provided for each participating company** (ESPD), along with a commitment to formally constitute the joint venture if they are successful, according to the model in **ANNEX II** to the present schedule.
- 4) Foreign companies shall present a statement saying they submit to the jurisdiction of all types of Spanish Courts and Tribunals, for all incidents arising directly or indirectly from the contract, waiving as appropriate any foreign venue to which they may be entitled.
- 5) **Express statement of whether or not there are companies in the same group or related undertakings participating in the tender**, for the purposes laid down in LCSP Article 149.3 and RGLCAP Article 86 following the model shown in **ANNEX III** in this schedule. Related undertakings are considered to be those that come within any of the cases contemplated in Commercial Code Article 42.



6) **Statement of lot preference** according to **ANNEX IV** attached to this schedule.

If the documents listed in this section are not presented, a decision may be taken not to consider the bid and exclude the bidder. Nevertheless, should the Procurement Desk observe defects or omissions in the bid that may be remedied, the Desk may grant a period of no more than three calendar days for the interested participants to correct or provide the relevant documentation, upon verbal and/or email communication.

“ENVELOPE A” MAY NOT INCLUDE ANY ASPECT REGARDING THE CONTENT OF ENVELOPE C (ASPECTS OF THE BID RELATED TO CRITERIA QUANTIFIABLE BY MERE APPLICATION OF FORMULAS) IF IT DOES, THEN THIS ACTION WILL BE A DIRECT GROUND FOR EXCLUDING THE BID FROM THE PROCUREMENT PROCEDURE AS REGARDS THAT LOT.

**ENVELOPE “B”**

**CRITERIA WEIGHTED BY A VALUE JUDGEMENT**

Bidders will present one ENVELOPE B PER LOT THEY WISH TO BID FOR and this envelope will contain the technical proposal consisting in the GLOBAL STRATEGIC AND TACTICAL ACTION PLAN (actions funded with ITREM’s contribution as well as those to the bidder’s account). The plan will comply with the requirements of the technical specifications and the grading criteria established in section ten (10) in the present tender document.

“ENVELOPE B” MAY NOT INCLUDE ANY ASPECT REGARDING THE CONTENT OF ENVELOPE C (ASPECTS OF THE BID RELATED TO CRITERIA QUANTIFIABLE BY MERE APPLICATION OF FORMULAS) IF IT DOES, THEN THIS ACTION WILL BE A DIRECT GROUND FOR EXCLUDING THE BID FROM THE PROCUREMENT PROCEDURE AS REGARDS THAT LOT.

**ENVELOPE “ C”**

**CRITERIA CAPABLE OF AUTOMATIC EVALUATION**

Bidders will present one envelope C **per lot** they wish to bid for which shall include:

- Financial Proposal shall follow the model attached to the present schedule as **ANNEX VI**.

Pursuant to LCSP Article 139.4 economic proposals must express separately, that is, as distinct items, the amount of Value Added Tax to be passed on. The financial proposal shall express the total cost of the service at market price (not the tariff price)

**9.- ADMISSION OF PROPOSALS AND CLASSIFICATION OF DOCUMENTS.**

9.1- Proposals will be admitted during the period set in the tender announcement published in the OJEU and in ITREM’s contractor profile.

9.2 Said period shall be at least 35 calendar days counting from the date the tender announcement is sent to the Publications Office of the European Union.



9.3- In principle all the proposals that meet the requirements in this schedule and comply with the requirements in the technical specifications may be admitted.

9.4- Certification and classification of the documents in “Envelope A”. When the envelopes have been received by the Procurement Desk secretariat together with the certificate from the person in charge of the Register, the Procurement Desk will classify the documentation contained in said envelope.

Pursuant to LCSP Article 141.2, if the Desk observes defects or omissions that can be remedied in the documents presented by different bidders, it will grant a period of no more than three calendar days for the bidders to remedy them.

The Procurement Desk will then meet to adopt the opportune agreement on the definitive admission of the bidders.

9.5- Opening of the bids in “Envelope B” by the Procurement desk on the day and time indicated in the contracting authority’s profile, envelope B containing criteria weighted by value judgement will be opened in public.

The Procurement Desk will assess the content of “Envelope B” for which purpose it may request any technical reports it considers necessary pursuant to LCSP Articles 150.1 and 157.5.

09.6-Opening of “Envelope C” proposals. At the day and time indicated in the Contracting authority’s contractor profile the Procurement Desk will proceed to open “Envelope C” in public.

Finally, the Procurement Desk will evaluate the content of “Envelope C” using quantifiable criteria by simply applying the formulas indicated in this schedule and issue a report on the result of the evaluations.

9.7- Classification of the bids. The procurement desk will classify the proposals in descending order and make an award proposal to the contracting authority. Before making its proposal the desk may request any technical reports it deems necessary.

The award proposal does not create any entitlement whatsoever in favour of the proposed bidder.

#### **10.- ASSESSMENT CRITERIA TO BE TAKEN INTO ACCOUNT FOR THE AWARD**

The contracting authority will alternatively have the power to award the contract for each lot to the bid that presents the best value for money or declare the tender to have been unsuccessful. The tender may not be declared unsuccessful if there is a bid or proposal which could be admitted according to the criteria in the schedule.

#### **10.1.- CRITERIA WEIGHTED ACCORDING TO A VALUE JUDGEMENT: GLOBAL STRATEGIC PLANNING AND TACTICAL ACTION PLAN - up to 49 points.**



Referring to the suitability of the chosen actions according to the area, their distribution in time in relation to the dates of the campaign, the target public defined for each lot and the degree of notoriety and effectiveness of the chosen formats.

## **10.2.- CRITERIA QUANTIFIABLE BY SIMPLY APPLYING FORMULAS.**

### **10.2.1 CAMPAIGN SCOPE- up to 25 points.**

The total number of persons reached by the campaign according to the actions proposed in the global strategic plan will be evaluated. Bidders must also break down the reach of each action in their tactical plan. The score assigned for this criterion is as follows:

$$Pa = \frac{\text{Bid to be evaluated}}{\text{Bid with the greatest reach}} \times 25$$

Where:

Pa: Campaign scope score.

The results will also be rounded to two (2) decimal figures.

### **10.2.2 WORK TEAM'S PROFESSIONAL EXPERIENCE OVER THE REQUIRED MINIMUM - up to 15 points**

Experience of the proposed team (minimum 3 people, maximum 5) responsible for carrying out the co-marketing proposal for strategic planning, purchase of advertising spaces and execution of advertising actions assessed at 3 points for each year or fraction of the team's experience, up to a maximum of 15 points.

To calculate the work team's professional experience, the arithmetic mean of each team member's years of experience will be calculated and the result will be applied to the aforementioned grading .

To accredit the team's minimum professional experience in this type of work, the bidder proposed as potential awardee must present, together with the rest of the required documentation, each team member's curriculum vitae (minimum 3), signed by them, detailing similar works and the duration, accompanied by the corresponding company certificates.

If the offered experience is not accredited with the required documentation, it will not be possible to award the contract to that bidder and the potential award will pass to the next classified bidder.

If the work team is outsourced, the potential awardee must provide a binding commitment between the bidder and the work team to perform this contract.

### **10.2.3 FINANCIAL PROPOSAL - up to 11 points.**



Financial proposals will be valued with a strict criterion of proportionality of bids, according to the following formula, with a maximum of 11 points:

$$Po = \frac{\text{Best value for money}}{\text{Bid to be evaluated}} \times 11$$

Where:

Po: Financial bid score

The results will also be rounded to two (2) decimal figures.

#### **10.2 . 4- PARAMETERS FOR IDENTIFYING A PRESUMABLY ABNORMAL BID.**

Pursuant to Article 149 in Law 9/2017 of 8th November on Public Sector Contracts, transposing European Parliament and Council Directives 2014/23/EU and 2014/24/EU of 26 February 2014 to the Spanish legal system, the objective parameters for identifying cases where a bid may be considered presumably abnormal in reference to consideration of said bid as a whole, will be as follows: *It will be presumed that a bid may be abnormal when the total score it obtains, after applying the award criteria in the Schedule, exceeds by more than 20 percentage units the average score for the set of valid bids presented. Nevertheless, if in the above case, there are bids with a score less than 20 percentage units below said average score, a new average will be calculated without considering such bids.*

#### **11. AWARD OF THE CONTRACT**

Maximum number of lots to which a bid may be presented and those which can be awarded to the same bidder:

The same bidder may present bids for all the lots. Furthermore, the number of lots that can be awarded to the same bidder is limited to one lot. If the same bidder obtains the best score in two or three of the lots it has bid for, the Procurement Desk will take into account the statement in the preference document shown in **ANNEX IV** to the present schedule when making the award.

#### **12. DOCUMENTATION TO BE PRESENTED BY THE PROPOSED AWARDEE**

The Procurement desk will ask the bidder who has presented the most economically advantageous bid to present the documentation detailed in this section within ten working days counting from the day after the bidder receives the request.

***Documents must be provided as originals or true copies under current legislation.*** A true copy is considered to be an administrative public or private document in whatever format provided by competent Public Authority bodies in which the identity of the body making the copy and



its content are guaranteed. True copies shall have the same validity and effect as the original documents.

**All acts and statements by bidding companies** or contractors which have legal effects and are issued during the procurement procedure **must be authenticated with an advanced electronic signature** recognised according to Law 59/2003 of 19 December on electronic signatures. The electronic, IT and telematic resources used must be able to guarantee the signature meets the provisions in this regulation, pursuant to LCSP, Sixteenth Additional Provision.

In joint ventures, of both physical and legal persons, each member shall present the documentation required in this clause, accrediting their capacity, personality, representation and solvency in the terms contemplated in LCSP Article 69.

12.1.- **If the company proposed as awardee is classified**, it can accredit representation, capacity to contract, technical, professional, economic and financial solvency and whether or not it comes under any of the prohibitions on contracting with a valid certificate from the Official Register of Bidders and Classified Companies, of either the national government or the Autonomous Community of the Murcia Region. This certificate must be accompanied by an express affidavit, issued by the legal representative, concerning the unchanged nature of the data that appears therein.

If the awardee is a foreign company from a State member of the European Union or signatory to the European Economic Area, accreditation of its capacity, solvency and absence of prohibitions on contracting may be provided:

- Either by consulting the corresponding official list of business owners authorised to contract established by a Member State of the European Union, or
- By documentation accrediting the aforementioned points which must be presented in the period granted for presentation of the definitive guarantee.

Joint ventures will be classified according to the result of the accumulated classifications of the grouped companies, pursuant to LCSP Article 69.6, its implementing regulation and other company classification rules.

**12.2.- Documents accrediting BUSINESS OWNER'S PERSONALITY AND CAPACITY and representation.**

1. Deed of incorporation or equivalent document and any amendments to the articles of association that affect the form, name, address or object. Documents that must be entered in the Mercantile Register or any other register where entry is mandatory.



2. Power of attorney or equivalent document or as appropriate appointment as joint and/or several director(s) or managing director(s). Documents that must be entered in the Mercantile Register or any other register where entry is mandatory.

3. True copy of the company's VAT code.

4. True copy of the National Identity Document or as appropriate, equivalent document.

5. The capacity to act of business owners who are not Spanish but are nationals of States members of the European Union or signatories to the Agreement on the European Economic Area shall be accredited:

- by presenting certification or other evidentiary documentation of their entry on the appropriate register according to the legislation of the State where they are established (and indicated in Annex 1 of Royal Decree 1098/2001 of 12th October, approving the Regulation for the Law on Public Contracts) or
- by a sworn declaration before a notary or commissioner for oaths of the State where they are established, bearing a Hague Apostille.

6. Other foreign business owners must accredit their capacity to act with a report from the Permanent Diplomatic Mission of Spain in the corresponding State or from the Consulate Office in the territory of the company's address, showing, upon accreditation from the company, that they are registered with the local professional, commercial or similar Register or, failing that, they are normally active in local business in the area of activities covered by the object of the contract

They must also include a report from Spain's Economic and Commercial Office abroad to justify that the state where the foreign company is located in turn allows Spanish firms to participate in procurement processes with public sector bodies assimilable to those listed in LCSP Article 3.

It will not be necessary to present the reciprocity report in relation to companies from states signatories to the World Trade Organisation Agreement on Government Procurement.

7. Joint ventures formed temporarily for the purpose of presenting a bid must present documents accrediting the capacity to act for each of the companies in the association pursuant to the preceding clauses. The document proposing the joint venture must indicate the names and circumstances of the companies signing it, the stake of each of them and appoint a single representative for the group with sufficient powers to exercise the rights and fulfil the obligations stemming from the contract. A joint venture only needs to accredit constitution if it is awarded the contract.

### **12.3.-Documentation related to PROHIBITIONS ON CONTRACTING:**

12.3.1 Spanish companies have the option of presenting the following documentation directly or authorise ITREM to obtain it:



- A.- Certificate confirming they are up-to-date with their Social Security obligations.
- B.- Certificate from the Murcia Region Tax Office that they are up-to-date with their tax obligations to the Regional Treasury.
- C.- Certificate from AEAT confirming they are up-to-date with their tax obligations to the National Treasury.

Spanish companies shall also accredit they are registered for the tax on economic activities (IAE) in the appropriate section for the procurement object of the present contract and they are up-to-date with the resulting tax obligations. All of which may be accredited in one of the following ways, as appropriate:

- A) Presentation of the registration document, referring to the current financial year, supplemented by an affidavit of not having deregistered from said tax.
- B) Presentation of a receipt of payment of IAE for the latest financial year, supplemented by an affidavit of not having deregistered from said tax.
- C) Presentation of the registration document from any previous year, supplemented by an affidavit of not being obliged to pay said tax and with an affidavit of not having deregistered from said tax.
- D) Presentation of a certificate from Spain's Tax Administration Agency (AEAT) indicating current registration in the corresponding section, supplemented by an affidavit of not being obliged to pay said tax.

12.3.2.- Companies from the European Union or from States signatories to the Agreement on the European Economic Area.

Certificates issued by the competent authorities in the country of origin of being up-to-date with payment of their tax and Social Security obligations.

12.3.3.- Foreign firms not belonging to the European Union:

Certificates issued by the competent authorities in the country of origin of being up-to-date with payment of their tax and Social Security obligations.

12.3.4.- Express declaration of not being under any of the prohibitions on contracting indicated in LCSP Article 71, pursuant to LCSP Article 85: *"By court testimony or administrative certification, as appropriate. If said document cannot be issued by the competent authority, it may be replaced by an affidavit authorised before an administrative authority, public notary or qualified professional body".* Attached as **ANNEX VII** is the model of the Notarial Record of Statements.

In the case of companies from the European Union or States signatories to the Agreement on the European Economic Area, this declaration must be made before a notary or similar authority in their country, with the corresponding Hague Apostille, and translated into Spanish by a sworn translator Documents drafted in English will, however, be admitted.



In the case of foreign companies from outside the European Union, this statement must be made before a notary, with the corresponding Hague Apostille or before the Permanent Diplomatic Mission of Spain in the corresponding state or the Consulate Office in the territory of the company's address. It must be translated into Spanish by a sworn translator. Documents drafted in English will, however, be admitted.

#### **12.4.- Documents accrediting ECONOMIC AND FINANCIAL SOLVENCY**

As regards the minimum conditions of **economic and financial solvency** under LCSP Article 87, pursuant to Article 74.2 in said law, the business owner's classification shall accredit his/her solvency for signing contracts of the same type as those for which it was obtained and which can be signed without said classification. In other cases, the economic and financial solvency requirement shall be accredited as follows: *Annual turnover or annual turnover in the area referred to in the contract, referring to the best year of the last three available, for an amount of €300,000.00 or more for potential awardees of lot 1, €150,000.00 for potential awardees of lot 2 and €75,000.00 if proposed for lot 3.*

Bidder's annual turnover **shall be accredited** by any of the following documents:

1. The ANNUAL ACCOUNTS approved and deposited with the Mercantile Register if the business owner is entered on said register and otherwise by those deposited with the official register where the owner must be entered.  
Individual business owners not entered in the Mercantile Register shall accredit their annual turnover with their inventory books and annual accounts legalised by the Mercantile Register.

For these purposes, the bidder proposed as awardee may ask the corresponding Mercantile Register to send the filed accounts certificate directly to ITREM.

In the case of companies in States members of the European Union or signatories to the Agreement on the European Economic Area, the annual accounts approved by the company shall be provided, authenticated by a notary or similar authority in their country.

In the case of other foreign companies, annual accounts shall be provided approved by the entity and authenticated by the Permanent Diplomatic Mission of Spain in the corresponding State or by the Consular Office in the territory of the company's address.

2. NET TURNOVER CERTIFICATE for the purpose of managing the Tax on Economic Activities (IAE) issued by the Spanish Tax Authorities (AEAT).

#### **12.5.- Documents accrediting TECHNICAL AND PROFESSIONAL SOLVENCY.**



This will be accredited by presenting a list of the main services or work performed of the same or similar nature as those constituting the object of the contract for the last three years maximum, indicating the amount, dates and public or private recipient of said works of the same type or nature as the object of the contract.

Works or services carried out shall be accredited with certificates issued or stamped by the competent body, if the recipient is a public sector entity; if the recipient is a private subject, with a certificate issued by the recipient, or in the absence of this certificate by statement from the awardee; as appropriate these certificates shall be communicated directly to the contracting authority by the competent body.

The minimum requirement for considering this solvency accredited will be the annual amount accumulated in the year of most execution of €150,000.00 or more for potential awardees of lot 1, €75,000.00 if proposed for lot 2 and €37,500.00 if proposed for lot 3.

**12.6.- Affidavit of the commitment** on the part of the bidder proposed as awardee to dedicate or allocate to execution of the contract sufficient material and human resources for that purpose (LCSP, Article 76.2).

**12.7 .- Affidavit from the bidder proposed as awardee indicating any part of the contract it eventually intends to subcontract**, indicating the amount and the name or profile of the subcontractors who will be entrusted to perform it and declaring that they comply with the personality, capacity and solvency requirements in the present schedule.

**12.8 .- Appointment of the Team Leader**, who shall keep in regular contact with the contract manager appointed by ITREM. The rest of the personnel responsible for executing the service must also be identified.

**12.9.-** The bidder proposed as awardee shall provide a certificate from the bank showing the holder of said account.

**12.10.-** Presentation of CVs signed by the technical personnel allocated to execute the service, accompanied by qualifications and certifications from the companies accrediting their experience.

### **13 – VALIDITY AND FORMALISATION OF THE CONTRACT**

**13.1.-** Pursuant to LCSP Article 153.3, the contract may not be formalised until 15 working days have elapsed from the moment notification is sent of the award to the bidders and candidates.

The contracting authority shall ask the successful bidder to formalise the contract within 5 days counting from the day after reception of the request after the period contemplated in the previous paragraph has elapsed and no appeal has been filed which would cause formalisation



of the contract to be suspended. At the same time, the awardee shall sign the present Schedule of Administrative Clauses and the Technical Specifications as sign of acceptance.

13.2.- The document formalising the contract will be administrative in nature.

13.3.- The contract may be formalised in a public deed as requested by contractor, who shall pay the costs for executing the instrument, and the first copy must be delivered to the contracting authority.

13.4.- If for a reason attributable to the awardee the contract cannot be formalised within the aforementioned period, the awardee will be required to pay the amount of 3 percent of the basic tender budget, excluding VAT, by way of a sanction which shall be made effective firstly against the definitive guarantee if constituted.

In this case the contract will be awarded to the next bidder in the order the bids were classified, upon presentation of the documentation in Clause twelve (12) of the present schedule.

#### **14. CONTRACTOR OBLIGATIONS**

14.1.- Contractor shall provide the service in strict compliance with the clauses stipulated in the contract and in the present Schedule of administrative clauses, faithfully observing the provisions in the Technical Specifications and any instructions given by Technical Management designated by ITREM.

14.2.- In compliance with the above, the awardee must have insured its personnel against accidents and cover the social security, tax and other employment and fiscal obligations contemplated in the legislation in force. ITREM shall not accept any liability for any claim or incident in this regard; the awardee must also have coverage for any Civil Liability stemming from its behaviour.

14.3.- Contractor shall be liable for the technical quality of the works and for the provisions and services performed as well as any consequences resulting for ITREM or for third parties due to omissions, errors, inappropriate methods or incorrect conclusions during execution of the contract.

14.4.- Contractor shall execute at its expense, remedies for works found to be defective or incorrect.

14.5.- Contractor shall pay all costs stemming from any action filed over the strategic planning.



14.6.- Contractor shall be obliged to compensate for damage caused to third parties as a result of the operations required to perform the contract, without prejudice to the provisions of LCSP Article 196.

14.7.- The contract is understood to be agreed at Contractor's risk and peril.

14.8.- The contracting authority may ask the awardee at any moment to accredit again that its situation of being up-to-date with its tax and Social Security obligations is ongoing and any lack of accreditation may be a ground for terminating the contract.

14.9.- The contracting company shall appoint a Team Leader who shall keep in regular contact with the contract manager appointed by ITREM.

14.10.- Particular condition of contract performance Pursuant to LCSP Article 202 a special condition of contract performance is that training at the workplace must be provided for at least two of the three employees appointed to execute the contract on matters related to its object. Said condition must be accredited by a certificate from the company appointed to provide the service, which must also be signed by the employees who received the training.

#### **15. CONTRACTING AUTHORITY OBLIGATIONS,**

15.1 The contracting authority shall appoint a Technical Director for the contract who shall be the contact between the contracting authority and the contractor to coordinate correct execution of the services object of the contract, including, among others: ensuring compliance with the works object of the contract and validating the correct execution of contract provisions as they are being performed.

15.2.- The contracting authority shall provide the contractor all the data and information required for the correct execution of the works object of this procurement.

15.3.- The contracting authority is obliged to pay the agreed price once the contracted actions have been executed and duly justified and the Technical Director has notified approval of said actions.

#### **16.- INTELLECTUAL PROPERTY**

The use of images, audio, logos, brands and any other similar element that ITREM assigns to the contractor company to execute the present contract shall be understood assigned non-exclusively, restricted to the geographical area where the contract is to be executed and limited in time to the period of execution.

#### **17. AMENDMENTS TO THE CONTRACT**

The contracting authority may only amend the contract for reasons of public interest in the cases and manner contemplated in LCSP Articles 203 to 207, and so for the purposes of



Twentieth Additional Provision paragraph 6 in Law 7/2017 of 21 December on the General Budgets for the Autonomous Community of the Region of Murcia for 2018 grounds for amending the present contract, if any, will be changes that are required to enable the established budget stability objective.

In any proceedings to adopt the amendment agreement by the contracting authority, the contractor must be heard.

The contractor may not change execution of the contract in any way, unless it has obtained authorisation or an express order, in writing, from the contracting authority.

#### **18.- SUBCONTRACTING.**

Contractor may arrange partial performance of the provision with third parties in accordance with the requirements contemplated in LCSP Article 215. In any case:

- Tenderer shall indicate in the bid the part of the contract it intends to subcontract, indicating the amount and the name or business profile, defined by reference to the professional and technical solvency of the subcontractors to be entrusted with the work.
- The contractor shall notify the contracting authority in writing, after the contract has been awarded and by the latest when execution begins, of its intention to sign subcontracts, indicating the part of the provision it intends to subcontract and the subcontractor's identity, contact details and legal representative or representatives, sufficiently proving the subcontractor's ability to execute the work by reference to the technical and human elements at its disposal and its experience, and accrediting that it is not involved in any prohibition to contract under LCSP Article 71.
- The main contractor shall notify the contracting authority in writing of any change to this information during execution of the main contract and provide all the necessary information on new subcontractors.
- 

Under no circumstances shall subcontractors have any direct action against the contracting authority for the contractor's obligations towards them as a consequence of execution of the main contract and the subcontracts.

#### **19. ASSIGNMENT OF THE CONTRACT**

The rights and obligations under the contract formalised in the present proceedings may not be assigned to third parties. Assignment to third parties shall not be understood to mean (and therefore the above shall not apply) any case of business transformation and/or integration of ITREM or any transformation or integration of this company in the Public Sector of the Autonomous Community of the Region of Murcia. In any of said cases, the body assuming the competences relative to the activity object of this procurement shall automatically subrogate to the rights and obligations stemming from it.



## **20 TERMINATION OF THE CONTRACT**

The contract will terminate due to completion or repudiation.

### **20.1. Termination due to completion of the contract**

The contract shall be understood to have been completed when contractor has performed in accordance with the terms and conditions of the same and to ITREM's satisfaction, the entire provision.

### **20.2 Termination due to repudiation**

Grounds for repudiating the contract are those contemplated in LCSP Article 211 with the effects laid down in Article 213.

## **21.- APPEALS AND COMPETENT JURISDICTION**

Under LCSP Article 27, the jurisdiction of judicial review will be competent for resolving any legal issues that may arise over the preparation, award, effects, performance and termination of this contract.

Any contentious issues arising in relation to the present procurement process shall be decided before jurisdictional organs with headquarters in the city of Murcia and so it is understood that contractors waive any forum to which they might be entitled if different from the above.

## **22.- SPECIAL APPEAL ON PROCUREMENT ISSUES**

Pursuant to LCSP Article 44.2 the following actions may be the object of special appeal on procurement issues:

A) Tender announcements, the tender specifications and contractual documents establishing the terms and conditions governing the procurement.

B) Procedural measures adopted in the award procedure, provided they directly or indirectly decide on the award, determine the impossibility of continuing with the process or cause defencelessness or irreparable detriment to legitimate rights and interests. In any event, the above circumstances will be considered to occur in procurement desk or contracting authority proceedings which agree the admission or rejection of candidates and bidders and the admission or rejection of bids, including bids excluded for being abnormally low under application of Article 149.

C) Award agreements.

D) Changes based on breach of Articles 204 and 205 of the present Law because it is understood that said modification should have been the object of a new award.

E) Formalisation of commissions to own resources in cases where they do not comply with legal requirements.

F) Agreements to take back concessions.

Pursuant to the Collaboration Agreement signed between the Department of the Treasury and Public Administrations and the Autonomous Community of the Region of Murcia on the



attribution of competence over Contractual Resources (Spanish Official Gazette (BOE) no. 280 of 21 November 2012) the Central Administrative Tribunal of Contractual Resources (hereinafter referred to by its Spanish acronym TACRC) is the competent body for processing and deciding appeals, requests for provisional measures and issues of nullity of award proceedings and contracts referred to in LCSP Articles 44, 49 and 39. The physical address of said tribunal is Avda. Gral. Perón, 38; 28020-Madrid, and its official website is “<http://tribunalcontratos.gob.es>”.

The aforementioned appeal will be processed pursuant to LCSP Articles 44 to 60.

The appeal decision can only be challenged by an appeal for judicial review pursuant to Article 10, Section 1 paragraphs k) and l) and Article 11, Section 1 paragraph f) of Law 29/1998 of 13 July regulating the Jurisdiction of Judicial Review.

#### **ANNEXES TO THE PRESENT SCHEDULE:**

**Annex 1.**- Guidance on completing the European Single Procurement Document (ESPD).

**Annex II.**- Joint venture commitment model.

**Annex III** Model affidavit on membership of a group of companies

**Annex IV** Model statement of lot preference

**Annex V.** Model for assessing the work team’s experience.

**Annex VI** Financial proposal model:

**Annex VII** Model of Notarial record of statements.

Murcia, on the date of the electronic signature  
Manuel Fernández-Delgado Tomás  
DIRECTOR GENERAL OF INSTITUTO DE TURISMO DE LA REGIÓN DE MURCIA.



## **ANNEX I**

### **GUIDELINES FOR COMPLETING THE EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD).**

1. Download the ESPD.xml file available from ITREM's contractor profile, in the tender announcement section.
2. Click on the following link: <https://ec.europa.eu/growth/tools-databases/espd>
3. Select the language "English".
4. Select the option "I am an economic operator".
5. Select the option "Import ESPD".
6. Load the ESPD.xml file that you previously downloaded onto your equipment (step 1).
7. Select the country and click on "next".
8. Fill in the corresponding ESPD sections (parts II, III, IV, V and as appropriate VI).
9. Print out and sign the document.
10. This document, duly filled in and signed must be presented together with the rest of the tender documents as established in the tender specifications and within the specified period.
11. In the case of a contract with several lots, one statement must be completed for each lot being tendered for.
12. If participating in the tender as a joint venture, one document must be filled in per company in the joint venture.
13. If the bidder accredits the necessary solvency for entering into a contract based on the solvency and resources of other entities, regardless of the legal nature of that relationship, one document must be completed for the bidder company and another for the company whose resources are attached.

You can consult the "Recommendation of the Administrative Procurement Advisory Board on use of the European Single Procurement Document contemplated in the new public procurement Directive", published in Spain's Official Gazette (BOE) Number 85 on Friday 8th April 2016 (Section III. Page 24845) at the following link: <http://www.boe.es/boe/dias/2016/04/08/pdfs/BOE-A-2016-3392.pdf>



**ANNEX II  
 MODEL COMMITMENT TO FORMALISE A TEMPORARY JOINT VENTURE**

Mr/Ms....., with National Identity/Tax Reference no..... on their own behalf (in the case of a physical person), or as representative of company.....VAT no..... In the capacity of ....., for participating in this procurement.

Mr/Ms....., with National Identity/Tax Reference no..... on their own behalf (in the case of a physical person), or as representative of company.....VAT no..... In the capacity of ....., for participating in this procurement.

**HEREBY DECLARE**

- 1.- On behalf of the Companies..... and ..... they jointly and severally undertake to execute **PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT COMPANIES AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION.**
- 2.- They also undertake, if awarded the tender, to constitute a Temporary Joint Venture.
- 3.- Each Company's stake in said Joint Venture is as follows:
  - ..... %
  - ..... %
- 4.- They appoint Mr/Ms.....during the life of the contract, to have full powers to represent the Joint Venture and its address for notification purposes shall be .....

(Place, date and signatures of the representatives of the companies in the Joint Venture).

**To the General Management of "INSTITUTO DE TURISMO DE LA REGIÓN DE MURCIA"**



**ANNEX III**  
**MODEL AFFIDAVIT OF MEMBERSHIP OF A GROUP OF COMPANIES**

Mr/Ms..... With Personal ID nO. /Tax Id. No.  
..... On their own behalf (if a physical person) or as representative of  
the company ..... VAT Code..... In their capacity  
as..... to participate in the procurement of  
**“PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT  
COMPANIES AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH  
MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY  
TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION”**

**HEREBY DECLARES**

- The company I represent forms part of the group of companies....., pursuant to Commercial Code Article 42.1 and it is participating in this tender with the following companies members of the same group:
- The company I represent forms part of the group of companies....., pursuant to Commercial Code Article 42.1 and it is participating in this tender with the following companies members of the same group:
- The company I represent is not part of any business group, pursuant to Commercial Code, Article 42.1.

*(Place, date and signature of the company representative)*

*\* Mark the appropriate box with an X*

**To the General Management of “Instituto de Turismo de la Región de Murcia”**



**ANNEX IV**  
**STATEMENT ON LOT PREFERENCE**

Mr/Ms..... with Personal ID /Tax Id. No.  
..... on their own behalf (if a physical person) or as representative of  
the company ..... VAT Code..... in his/her  
capacity as..... to participate in the procurement of  
**PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT  
COMPANIES AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH  
MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY  
TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION**

**HEREBY DECLARES**

That if proposed as awardee for two lots, the company I represent expresses its preference for  
lot number.....

(Place, date and signature of the company representative)

**To the General Management of “INSTITUTO DE TURISMO DE LA REGIÓN DE MURCIA”**



**ANNEX V**  
**EVALUATION OF THE WORK TEAM'S EXPERIENCE**  
**LOT NUMBER .....**  
**(AUTOMATICALLY EVALUATED CRITERION)**

Mr/Ms ....., with personal identification document no. ...., on behalf of....., with VAT no. ...., and an address at....., with telephone number. ...., and email address: .....

Being aware of the terms and conditions and requirements to participate in open tendering for the procurement of **“PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT COMPANIES AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION.”**, believes that it is in a position to participate as bidder in said process and for that purpose, declares the following data in relation to its bid to be evaluated according to the criteria established in Clause ten in the Schedule of Administrative Clauses:

NOTE: FILL IN THE TABLE FOR THE LOT YOU ARE PRESENTING AN OFFER FOR AND PUT THIS ANNEX IN ENVELOPE C FOR YOUR CHOSEN LOT.

**WORK TEAM'S PROFESSIONAL EXPERIENCE**

<b>LOT NUMBER ...</b>	
<b>NAME AND SURNAMES</b>	<b>YEARS OF EXPERIENCE*</b>
Employee 1	
Employee 2	
Employee 3	
Employee 4	
Employee 5	

\*Express each year and/or fraction of experience per employee numerically.

*(Place, date and signature of the company representative)*

**To “Instituto de Turismo de la Región de Murcia” Senior Management**



**ANNEX VI**  
**FINANCIAL PROPOSAL MODEL**  
**LOT NUMBER .....**  
**(AUTOMATICALLY EVALUATED CRITERIA)**

Mr/Ms ....., with personal identification document no. ...., on behalf of....., with VAT no. . and an address at....., with telephone number. ...., and an email address for the purpose of notifications at: .....

Being aware of the terms and conditions and requirements to participate in the negotiated procedure for the procurement of **“PROMOTIONAL CO-MARKETING CAMPAIGNS BETWEEN ITREM AND TRANSPORT COMPANIES AND/OR TOUR OPERATORS WITH PRESENCE ON THE BRITISH AND IRISH MARKET THAT MARKET PASSENGER TRANSPORT SERVICES AND OTHER COMPLEMENTARY TOURISM SERVICES FOR THE REGION OF MURCIA DESTINATION.”**, believes that it is in a position to participate as bidder in said process and for that purpose,

**HEREBY DECLARES**

That he/she is familiar with the administrative clauses and technical specifications governing said procurement and unconditionally accepts all the clauses and provisions, and meets all the conditions required in said documents for contracting and does not come under any of the circumstances which, according to the legislation in force could exclude him/her from the aforementioned procurement and undertakes on behalf of..... (own behalf or the physical person represented) to perform the aforementioned object of the contract in strict compliance with the requirements and terms and conditions, for the price of: (in words and numbers):

**Amount to be paid by ITREM, excluding VAT: ..... EUROS (€.....'..... ), (I)\***  
**VAT: ..... EUROS (.....'..... €),**  
**(II)**  
**Total: ..... EUROS (.....'..... €) (III = I + II)**

**Amount to be paid by BIDDER, excluding VAT: ..... EUROS (€.....'..... )**

Said prices include any tax and expense applicable to the present contract, excluding VAT which is shown as separate entry.

\*This amount will be applied in the formula for evaluating the financial bids.

*(Place, date and signature of the company representative)*

**To the General Management Instituto de Turismo de la Región de Murcia**



**Annex VII**

**MODEL NOTARIAL RECORD OF STATEMENTS**

*(NOTE To be authorised before a notary public, only by awardee)*

Before me.....

APPEARS

Mr/Ms ....., of legal age, resident in .....,  
at ....., con personal identification  
number.....

I identify the appearer with his/her personal identification document which he/she shows to me and I return.

APPEARING

On behalf of....., with an address  
in....., and Vat reference/Tax id. no. ...., etc.

ASKS

ME,....., to record in documents the following statements which he/she makes orally in my presence, in the capacity in which he/she intervenes:

**DECLARES ON HIS/HER HONOUR**

That the legal person represented here, and its organs of government, management and administration do not come under any of the circumstances that prohibit it from contracting with the Public Sector contemplated in Article 71 of Law 9/2017 of 8th November on Public Sector Contracts, bearing in mind that the prohibitions on contracting also affect companies which due to the persons governing them or other circumstances may be presumed to be a continuation or stem from, through transformation, merger or succession, other companies which do come under said prohibitions. Said circumstances are as follows:

A) Having been sentenced in a final, irrevocable decision for terrorism offences, constituting or joining a criminal organisation or group, unlawful association, illegal funding of political parties, human trafficking, corruption in business, influence peddling, coercion, fraud, offences against the Treasury and Social Security, offences against workers' rights, prevarication, embezzlement, business prohibited to civil servants, money laundering, offences related to town and country planning, protection of the historical heritage and the environment or special disqualification from exercising a profession, trade, or industrial or commercial activity.

The prohibition on contracting shall extend to legal persons declared criminally liable and those whose directors or representatives whether in fact or law, with valid post and representation and until they are dismissed are in the situation mentioned in this section.

B) Having been finally and irrevocably fined for a serious professional violation that calls into question its integrity, market discipline, distortion of competition, employment



integration and equal opportunities and non-discrimination of people with disabilities or aliens, pursuant to the provisions in current law; or for a very serious environmental offence pursuant to current legislation, or very serious infringement of labour or social legislation in accordance with the provisions in the consolidated text of the Law on Social Order Offences and Penalties, approved by Royal Legislative Decree 5/2000 of 4 August, and the serious offence contemplated in Article 22.2 in said text.

C) Having requested the voluntary insolvency process, having been declared insolvent in any proceedings, being declared insolvent, unless a composition has been reached with creditors or an out-of-court agreement on payment has begun, being subject to court intervention or being disqualified under Law 22/2003 of 9 July, on Bankruptcy while the disqualification period established in the insolvency classification decision is still ongoing.

D) Not being up-to-date with tax and social security obligations imposed by the provisions in force, in terms determined by the regulations; or, in the case of companies with 50 or more workers, breach of the requirement for at least 2 percent of employees to be workers with disabilities, pursuant to Article 42 in Royal Legislative Decree 1/2013 of 29 November approving the consolidated text of the General Law on the rights of persons with disabilities and their inclusion in society, in the conditions determined by the regulations; or, in the case of companies with more than 250 workers, breach of the obligation to have a gender equality plan pursuant to Article 45 of Organic Law 3/2007 of 22 March on equality for women and men.

In relation to compliance with tax and social security obligations, companies will be considered to be up-to-date if debts have been postponed, fractioned or if suspension has been agreed because said debts are being contested.

For these purposes, he/she authorises ITREM to collect from the Competent Public Authorities, as it deems opportune, any data appropriate for verifying compliance with said obligations.

C) Making a false statement in the affidavit referred to in Article 140 or providing any other false information on its capacity and solvency or having breached on a ground attributable to him/her, the obligation to communicate the information contemplated in Article 82.4 and Article 343.1.

F) Being affected by a prohibition on contracting imposed by a final and irrevocable administrative sanction pursuant to General Law 38/2003 of 17th November, on Subsidies or General Law 58/2003 of 17th December, on Taxation.

The present ground for the prohibition on contracting shall cease to apply if the contracting authority, under Article 72.1 finds that the company has complied with its payment obligations or signed a binding agreement with a view to paying the amounts owed, including any accumulated interest or fines.

G) The physical person or the directors of the legal person coming under any of the cases in Law 3/2015 of 30th March regulating exercise of the high office of General Government Administration, or the respective rules of the Autonomous Communities, of Law 53/1984, of 26th December on Incompatibilities of Personnel at the Service of Public Authorities or holding



any of the elective posts regulated by Organic Law 5/1985 of 19th June on the General Electoral Regime in the terms established therein.

The prohibition shall affect legal persons where, in the terms and amounts established in the aforementioned legislation, the personnel and high offices referred to in the previous paragraph, as well as elected posts in the service of the same hold equity interests.

The prohibition shall also extend, in both cases, to the spouses, related persons with a similar relationship of affective cohabitation, ascendants and descendants and relations to the second degree of consanguinity or kinship to the persons referred to in the previous paragraphs when there is a conflict of interest with the owner of the contracting authority or the owners of the bodies to which the power to procure was delegated or who replace the contracting authority.

H) Having contracted persons with regard to whom the breach referred to in Article 15.1 of Law 3/2015 of 30th March regulating the exercise of the high office of General Government Administration or in the respective rules of the Autonomous Communities has been published in Spain's Official Gazette (Boletín Oficial del Estado) because they have gone on to provide services in enterprises or private companies directly related to the competences of the post held in the two years following the date of termination. The prohibition on contracting shall continue for the time the person contracted remains in the company's organisation up to a maximum limit of two years counting from termination of high office

I) Having unduly withdrawn their bid or candidacy in a tender process or having made the award of the contract in their favour impossible due to not having complied with Article 150.2 within the period indicated, due to wilful intent, fault or negligence.

J) Having ceased to formalise the contract, awarded in its favour in the periods contemplated in Article 153 on a ground attributable to the awardee.

K) Having breached clauses which are essential to the contract, including the special terms and conditions of performance established pursuant to Article 202 if said breach was defined in the tender documents or the contract as a serious breach, with wilful intent, guilt or negligence on the part of the business owner provided it has given rise to the imposition of penalties or compensation for damages.

L) Having given rise, on a ground they were declared guilty of, to the final and irrevocable repudiation of any contract signed with an entity among those in Article 3 of the present law.