

CONTRACTING INTERNAL INSTRUCTIONS OF COOPERATIVAS AGROALIMENTARIAS DE CASTILLA-LA MANCHA, U. DE COOP., REGULATING AWARD'S PROCEDURES OF THE CONTRACTS FOR THE ACTIVITIES AND PROGRAMS FRAMED IN "AGROSMARTglobal" PROJECT, 2014-2020 PROGRAMATION PERIOD.

1. - INTRODUCTION.

COOPERATIVAS AGROALIMENTARIAS DE CASTILLA-LA MANCHA, U. DE COOP, (CACLM in advance) is a federation of agri-food cooperatives, formed in November the 23th 1988, in the presence of the Notary of Madrid, sir Ignacio Zabala Cabello, under 5.393 number of its Protocol, signed on Dirección General de Cooperativas y Sociedades Laborales del Ministerio de Trabajo y Seguridad Social in the Libro de Inscripción de Asociaciones de Cooperativas del Registro de Cooperativas – Central Section, II Volumen, 109 Folio, 1st Inscription, 32-AC number, in February the 3rd 1989.

Its principal aim is:

1. The representation and defense of the cooperatives' and agrarian societies, facing the Public Administrations and physical and legal people. Also facing local, regional, national and supranational institutions. It will also defend the affairs of those associated companies in which its defense was delegated.
2. Maintenance, encouragement and divulgation of cooperatives' principles according to the directives and recommendations of International Cooperative Alliance and the cooperative's current legislation. It will collaborate with institutions, organisms and local, regional, national and international associations for the promotion of cooperative formation and the development of the agrarian cooperativism presence in the society.
3. It will promote business and commercial initiatives for associated entities which are in accordance with the integration, intercooperation, commercial concentration, production organization, rural development, internationalization, quality and environment principles.
4. It will collaborate with institutions; organisms; local, regional, national and international associations in the configuration and the startup of policies about boosting, fomenting and helping agrarian cooperativism or to the set of socioeconomic activity of agri-food cooperative and its farming partners.
5. It will assume the differentiations and promotion tasks of the products of its associated entities and it will promote the rationalization and modernization of the agri-food cooperatives economic activity, collaborating for full insertion and progress in the agri-food chain.
6. It will promote, organize and guide the cooperative formation on associated entities and their members, developing the agrarian cooperativism presence in the society, collaborating, if it is necessary, with institutions, organizations and associations.
7. The promotion, encouragement, elaboration and publication of researches, publications, expositions, trade fairs and related activities related to cooperation and agri-food cooperatives.
8. It will collaborate with another unions, federations and confederations of cooperatives to develop the cooperativism principles, the cooperatives' affairs and the similar companies, as well as the cooperative sector's integration.
9. It will organize and provide business advice to its members: auditing, legal or technical advice, agrarian and general insurance promotion, formation, information,

- coordination, conciliation and arbitration for the associated entities and between them. It will make researches, reports and analysis.
10. It will carry out any other activity to benefit its members.
 11. It will render assistance and advice to farmers, except if the representation and defense of common affairs. Voluntary participation will rule in these cases.
 12. It will promote equal opportunities to men and women advancing, in any case, the development, formation and professional and business qualification. It will boost the participation of the women in the governance in the decision-making bodies of the organizations and rural companies, especially in agri-food cooperatives and agrarian enterprises of transformation. Likewise, it will work in projects that include initiatives for full integration for women in rural policies and measures in equal terms.
 13. It will participate in collective bargaining procedures; it will approach to collective labor disputes, social dialogue and institutional participation in the public organisms of the labor administrations. It will impel self-employment and entrepreneurship initiatives, both individual and collective, the development of social responsibility of cooperatives companies, the prevention of occupational hazards, the adequacy of safety and healthcare systems, as well as the professional formation and social assistance, the implantation of agricultural professional card and the adequacy of professional classification.
 14. It will participate in the growth of investigation, development and innovation (R+D+i), as well as the elaboration, study, design and execution of project with technological basis
 15. It will develop projects about environmental sustainability, renewable energies, alternative crops, savings and efficiency in the natural resources use, consumption, rural tourism, cultural actions, healthcare systems, new technologies, counseling and whatever activities related with the development, sustainability and rural transformation and impulse.
 16. It will exploit patents, marks, models, procedures and products related with the aims written down before.
 17. It will give advice in vegetal and animal health, except representation and defense of common affairs; any service could be set to the associated against his will.

CACALM is not a public administration and it does not belong to public sector and, in consequence, it has not the condition of contracting authority, but it pretends that contracts included in "AGROSMARTglobal", PERIODO DE PROGRAMACIÓN 2014-2020, will be ruled by advertising, concurrence, transparency, confidentiality, equality and no discrimination principles. The award will bear in the most advantageous economic offer. It will be available for all the interested in the participation of contract award processes ruled by those principles and it will be released in the contractor's profile in any case.

2. - CONTRACTING RULES.

The CACLAM contracting rules are governed by the dispositions in the present internal instructions and by the private legal system.

The award of the contracts for works, supplies and services will adjust to the following principles:

A) PUBLICITY

The publicity demands will be fulfilled with the insertion of the information in contractor's profile without prejudice to use any other additional or alternative media.

The publicity will contain a short description of the essential details of the contract that would be awarded, the hiring procedure, the estimated value of the contract, place when the additional information could be requested, and deadline of offers' reception and place of delivery.

Every contract included in the area of application of "AGROSMARTglobal" project, PERIODO DE PROGRAMACIÓN 2014-2020, will be announced in contractor's profile.

B) TRANSPARENCY

The CACLIM hiring rules will be available in Contractor's Profile. The Specifications that will rule the biddings will take in account the following aspects:

- The deadlines to present the offers would be enough to allow the companies carry out the correct evaluation and the formulation of their offers.
- The bodies that will make an award proposal and that will award the contract have to be previously and clearly determined.

C) OFFERS' CONCURRENCE

It will carry out all the actions to guarantee the free access in included processes in the area of application of these instructions of all qualified applicants or bidders to carry out the object of the contract.

In the negotiated procedures that are concluded under the protection of these instructions, the principle of concurrence will be guaranteed with the request of the offers to a minimum of three candidates, whenever possible. It will be selected by the contracting body and fully trained for the execution of the contract.

It is not allowed the direct award of the contracts included in the area application of these instructions.

D) CONFIDENTIALITY

The Contractor Body cannot divulge the confidential information provided by businessman; this nature affects, particularly, to technical or commercial secrets and the confidential aspects of the offers.

The contractor should respect the confidential nature of that information, which he has access with the occasion of the contract's execution that would have been given the referred character in the Specifications or in the contract, or it has to be treated like that because of its nature.

E) EQUALITY AND NON DISCRIMINATION

The description of the object of the contract will not reference to a determined manufacture or providence. It cannot refer to a determined mark, patent, type, origin or production. It is not applied if a reference of this type is justified by the object of the contract and it is accompanied by the mention "or equivalent".

It will guarantee the access equality for economic operators of all member States of the EU.

If the bidders have the obligation to present any certificates, titles or any justificatory documents, it will have been adapted to the documents coming from any EU member State which offer equivalent warranties.

The CACLM webpage incorporates Contractor's Profile to make sure publicity, transparency and public access about contract's activity. The inclusion of the award in Contractor's Profile will take effect of publicity in the award procedure.

The award must be carried out in the way that it goes to the most advantageous economic offer taking in account the objective criteria of offer assessment that has been established.

3. – HIRING BODY.

The CACLM hiring bodies are the Governing Council, as administration body, as well as D. JUAN MIGUEL DEL REAL SÁNCHEZ-FLOR, with the condition of CACLM Managing Director and proxy of it, in accordance with the granted seizure by Notary number 772, Ms. María Villalta Cliville, July the 21st 2018.

4. – OBJECT AND REACH.

These instructions have the purpose to regulate the CACLM activity about hiring works, provisions or services included in the scope of "AGROSMARTglobal" project, PERIODO DE PROGRAMACIÓN 2014-2020.

Work contracts.

They are those contracts which have the object of the realization of a work or the execution of some of the assimilated works the performance of a work that solves specific CACLM needs. In addition to these benefits, the contract would contain, in the case, the redaction of the corresponding project

Supply contracts.

Provisions contracts are those which have the aim of acquiring, financial leasing, or leasing, with or without purchase option, of products and movable property.

Service Contracts.

They are those contracts which principal aim is the performance of actions consisting of the development of an activity or with the objective of the obtainment of a different result of a

work or a supply. The purchase of a personalized computer program will have the same nature.

The present procedure will be not applied to:

- Trading, donation, exchange, leasing or any similar actions about movable or incorporeal properties, except those related with software and it is classified as supplies or services.

5. – NECESSITY AND SUITABILITY OF THE CONTRACTS.

CACLM will agree with those contracts which are necessary for the compliance and realization of their purposes.

6. – CONTRACTING CAPACITY, HIRING PROHIBITIONS, SOLVENCY AND CLASIFICATION.

1. CACLM can make agreements with legal and physical people, foreign or Spanish, who have full capacity to act and develop activities included on the purposes, aims or the activities' scope taking in account their statutes or foundational rules. They cannot be incurred in contracting prohibition and they have to own and prove, in the case, the economic, financial and technical or professional solvency or, in the case the Specifications Papers demands it, the current classification.

The business man should have the professional or owners' qualification that could be demanded for the realization of the task or activity of the contract.

2. If a bidder company loses its legal personality because a fusion, split or transformation in other type of company during the processing of a procedure and before the contract's formalization, the new company generated or the company which has acquired the first company will succeed the position of the bidder. It will happen if the successor company has the contracting capacity and it has not the contracting prohibition. It also has to demonstrate the solvency and the qualification in the required conditions in the Specifications Paper to participate in the award procedure.

3. People who incur in one of the following circumstances will not be able to contract with CACLM:

a. Those which have been condemned by final judgment for terrorism, creation or integration of a criminal organization, illicit association, illegal financing of politic parties, human trafficking, business corruption, punishable insolvency, breach and falsehood in accounting obligations, crimes against the exercise of fundamental rights and public freedoms, discovery and disclosure of secrets, misleading advertising and prices adulteration, informatics crimes, crime against intellectual and industrial property, bribery and influence peddling, prevarication, frauds, negotiations and activities prohibited to functionaries, crimes against the Public Estate or Social Services, aids fraud or EU general budget fraud, crimes against the rights of the workers, embezzlement, money laundering and financing of terrorism, crimes related with the territory organization and urbanism, crimes against historical heritage and

environment or those that have incurred in penalty of special disqualification for the exercise of profession, trade, industry or trade.

The contracting prohibition will include the legal people who are declared criminally responsible, and those which administrators, agents or representatives who are convicted of any of the crimes described in the last paragraph.

b. Those which have been finally sanctioned for serious or very serious infraction in professional subjects, like distortion of competition, labor integration and equality of opportunities and no discrimination of people with disabilities, or status of foreigners, in accordance to regulations in force; for very serious infraction in environmental material following the Law 21/2013, of November the 9th, of environmental evaluation, in the Law 22/1988, of July the 28th, of coasts, in the Law 42/2007, of December the 13th, about environmental patrimony and biodiversity, Law 11/1997, of April the 24, about containers and container residues, Law 22/2011, of July the 28th, about residues and contaminated soil, Real Decreto Legislativo 1/2001, of July the 20th, Real Decreto Legislativo 1/2016, of December the 16th; or serious or very serious infraction about labor or social matters, in accordance to Real Decreto Legislativo 5/2000, August the 4th, as well as for the serious offense provided for in article 22.2 of the aforementioned regulations.

c. Those which have applied for the declaration of voluntary bankruptcy of creditors, those which have been declared insolvent in any procedure, those which have been declared incontest, unless the agreement has become effective in it, those which are subjected to judicial intervention or having been disqualified according to Real Decreto Legislativo 1/2020, of May the 5th, which approves the Refund Text of Concursal Law, without the end of the period of disqualification set in the judgment of qualification of the contest.

d. Those which are not fulfilling with tax obligations or Social Security imposed by current provisions, in the terms established by the law; in the case the company has 50 worker or more, those that do not comply the requirement that when less than 2 percent of its employees are workers with disability, in accordance to article 42 Real Decreto Legislativo 1/2013, of November the 29th.

It is considered that the companies fulfill their tax and social services obligations when these obligations are postponed, fractioned or its suspension has been agreed on the occasion of the challenge of such debts.

e. Those which have incurred in falsehood when they have made the responsible declaration or providing any other information regarding their capacity and solvency, or having breached, for reasons attributable to them, the obligation to communicate the corresponding information regarding classification and relating to the records of bidders and classified companies.

f. Those which are sanctioned by a contracting prohibition imposed under firm administrative sanction, in accordance to Law 38/2003, of November the 17th, General of Aids, or in the Law 58/2003, of December the 17th, General of Taxes.

g. Those which have the administrators of the legal person or a physical person incurred in any of the dispositions in the Law 3/2015, of March the 30th, regulatory of the of the exercise of the high position of the General State Administration or the Autonomous Regions, in the Law 53/1984, of December the 26th, about incompatibilities of the personnel at the service of the administrations or be any of the elective positions regulated in the Organic Law 5/1985, of June the 19th, of the General Electoral Regime, in the terms established in it.

The prohibition will extend also, in each case, to spouses, people linked with a similar relationship of emotional coexistence, as well as second degree relatives by consanguinity or affinity of the people referred to in the previous paragraphs, when the conflict of interests occurs with the Hiring Body or the organs in which the power to contract or those who substitute the first.

h. Those which have hired sanctioned with firm administrative sanctions published in the Official State Gazette according to infractions from Law 3/2015, of March the 30th, regulating the exercise of the high position of the General State Administration or the Autonomous Regions, because they have started working in companies or in private societies related with the charge held during the two following years after the end of this. The hiring prohibition will long during the person stays in the enterprise organization with the limit of two years after the dismissal.

About the solvency, the minimum requirements of solvency that the businessman should and the required documentation to accredit the requirements. These requirements will be indicated and specified in the Specifications Paper, so they should be linked to the object.

In those Specifications, CACLM can admit any test mediums of the solvency that are different to those provided in article 65 and following from Law 9/2017, of November the 8th, of Public Sector Contracts[^], because of the transposition to Spanish legal system of Directives of European Parliament and the Council 2014/23/EU y 2014/24/EU, of February the 26th 2014.

About the Classification, CACLM can require a determined classification to the bidders to define the required conditions of solvency to celebrate the contract.

7. – CONTRACTING RECORD.

The celebration of contracts by CACLM will be preceded of the elaboration of a document called “Contracting Purpose”, in which the most relevant data about the contract is recorded. It will be determined the necessity and suitability of the contract.

The Specifications that rule the contract will be incorporate to this Record.

The Specifications of Clauses or Particular Conditions will be elaborated to those contracts which demand the publicity, in which the agreements and the defining conditions of the rights and the duties of the parts of the contract. The Paper will be integrated in the contract and it should be written down the elemental characteristics of the contracts, the ways to the offers admission, the award criteria and the guarantees that the bidders or the awardee should constitute. Those Specifications will be published on Contractor’s Profile.

The Technical Prescriptions Sheets will be elaborated in the considered best date in relationship with the object of the contracts. It will contain technical prescriptions that will rule the realization of the contract and will define its qualities.

Once the contracting record is completed, the contracting body will dictate resolution approving this and opening the award procedure.

8. – SELECTION PROCEDURE.

Taking in account the FRAMED PROGRAMS IN “AGROSMARTglobal” PROJECT, PROGRAMATION PERIOD 2014-2020, and the special circumstances that are happening, the selection procedures will be the following:

A) OPEN PROCEDURE.

The general rule says that every hiring will be awarded by open procedure consistent on a work, a supply or a service included in the area of application of these Specifications. Exceptionally, the negotiated procedure will rule if any of the circumstances in the next section concur and this is susceptible of application. Every businessman can present a proposition in open procedure; the negotiation of the contract terms with the bidders is totally prohibited. They will be made by publishing an announcement in the contractor's profile and / or in press.

B) NEGOTIATED PROCEDURE.

The negotiated procedure could be used by hiring body when the engagements in which concur any of the circumstances exposed below and it should be justified in the file:

- a. When the propositions and economic offers in the open procedure started before are irregular or unacceptable because the businessman have not the attitude for violating the conditions for the presentation of variants or improvements, or for including abnormal or disproportionate values. This will apply if the original conditions of the contract are not modified.
- b. When, the open procedure is done, any offer is presented or adequate. This will apply if the original conditions of the contract are not modified.
- c. When, related in technical or artistic reasons or motives related with the protection of the exclusive rights, the contract be entrusted to a specific businessman.
- d. When an imperious emergency, it becomes impossible to the Hiring Body because unforeseeable events, obligates to carry out the execution of the contract immediately because if not it becomes impossible.
- e. When the works, the supplies or the services which are not included in the project or in the principal contract of work, supply or service, but they are necessary to carry out the principal contract because an unforeseen circumstance. CACLM can hire the awardee for the execution of this unexpectedly happened contract if this works, supplies or services cannot be separated of the principal contract or in the case they are strictly necessary for its perfection and that the accumulated amount of the complementary works,

services and supplies do not exceed 50% of the original price of the contract. The rest of the complementary contracts that do not have the indicated requirements should be below an independent contract.

- f. When the estimated value of the contract is lower than 80.000€ in the case of the works, and lower than 15.000€ the case of supplies or services.

In the negotiated procedures, the award will go to the bidder who has been justifiably elected by the hiring body. The hiring body can do inquiries to the different candidates and can negotiate the contract conditions with one or some of them.

The request for offers will be made to the most suitable suppliers. It is going to be necessary the documental sight of, at least, three offers.

9. – CONTRACT AWARD.

A) OPEN PROCEDURE

The term to present the proposals should not be bigger than 10 business days from the date of the announcement.

Once the proposals' reception phase is concluded, the Hiring Table will be formed, which its composition will be opportunely determined, and it will be assisted by independent technicians.

It will be analyzed if the proposals fulfill all aptitude and non-prohibition with Public sector conditions and if they accredit all economic, financial and technical solvency required criteria. If the Table notes material defects on the documentation presented, it can concede, if it thinks it is convenient, a maximum term of 5 days to solve the mistakes.

Once the bidders which fulfill the required requirements are located, the economic proposals will be rated and, in the case, the technical proposals are also rated according to rating criteria included in the Specifications, elaborating the award proposal and writing down the record of the adopted agreement.

The award will be granted to the most advantageous economic offer. It should be necessary the justification for the utilization and weighing of the criteria different to the lowest price, when it does not attend exclusively to lowest price.

The criteria for the valorization and determination of the most advantageous economic offer will be directly linked to the contract, like the quality, the price, the execution term, the utilization costs, the environmental characteristics, the profitability, the technical value, the functional or aesthetic characteristics, the suitability and costs of the replacements, maintenance or similar.

The awards will be published on Contractor's Profile.

B) NEGOTIATED PROCEDURE.

Once CACLM has received all the offers, the economic and technical proposals will be qualified in accordance to the Papers. The company with the best economic offer will be selected.

The Management will write the award agreement that should be authorized, in the case, by the Hiring Body.

The awards will be published on Contractor's Profile.

10. – PERFECTION AND FORMALIZATION OF THE CONTRACT.

The contracts will be perfected through the award by the hiring body. In general, the contract will be formalized by the parts in private contract. The parts can elevate to public deed if one of the parts asks for it, in the presence of the designed notary by CACLM. The Notary costs will be paid by the part that applies for the elevation to public deed.

It will be formalized in a maximum term of 10 business days for the award.

Before the contract's formalization, the awardee should present the justificatory documentation about being up-to-date in the fulfillment of their Tax and Social Services obligations. In the case, it will submit the proof of payment in the CACLM account of the amount established in the Papers, which has to be paid by the contractor.

If the awardee is a Temporary Union of Companies, it should submit the articles of incorporation.

If the term is not fulfilled, the contract's perfection will not take legal effects. CACLM can carry out a new award to the following bidder following the order of offers' rating. This will happen whenever possible and that the new awardee has given his agreement.

The resignation to the celebration of the contract or the withdrawal of the procedure will be agreed by the hiring body before the award. It should be properly notified to the bidders and it will not generate any economic right for them. The celebration of the contract could be given up for public interest reasons that were justified. In the case, it could not be promoted a new award while the reasons that justify the resignation long.

The withdrawal of the procedure will be argued in a not-fixable infraction of the contract's preparation rules or in the procedure rules. It should be justified in the record the cause. The withdrawal will not hinder the instant initiation of a new award procedure.

Once the contract is awarded, the hiring body can resign or desist of the contract, if the body mandated of the expenditures validation will not allow or approve those expenditure or the celebration of the contract, without the generation of any economic right for the awardee.

11. – GUARANTEES.

In the celebrated contracts by CACLM considering the concurrent circumstances, it could demand the realization of a guarantee to the bidders to maintain their offers until the award, and it could demand it to the awardee to secure the correct execution of the contract.

12. – ABBREVIATED PROCESSING.

URGENT: if the celebration of the contract is necessary to attend a not-postponed need because of justified interest reasons, the urgent processing could be declared, cutting deadlines in half

EMERGENCY: In the case CACLM has to act immediately because of catastrophic events or situations that involve a great hazard of need that affect the Federation.

13. – ENTRY INTO FORCE.

These internal rules will take effect the following day of the direction's approval.

<p>Approved by: Juan Miguel del Real Sánchez-Flor Director General de Cooperativas Agroalimentarias de Castilla-La Mancha</p> <p>Date: 30/10/2020</p>	<p>Sign:</p> <p>DEL REAL SANCHEZ FLOR JUAN MIGUEL - 06234474W</p> <p>Firmado digitalmente por DEL REAL SANCHEZ FLOR JUAN MIGUEL - 06234474W Fecha: 2020.10.30 10:13:12 +01'00'</p>
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