

ADDENDUM 8
INVITATION TO SUBMIT TENDERS No. FNTB - 181-2014

The FONDO NACIONAL DEL TURISMO - FONTUR, in accordance with the provisions of Articles 9 and 15 of the Manual of Procurement and Procedure for the Management and Sale of Properties informs to those interested in general in the process of Public Invitation to Submit a tender FONDO NACIONAL DE TURISMO-181-2014, whose purpose is: to **"Select the most favorable tender for the signing of a contract whose purpose will be the award in concession of the Establishment of Business called "HOTEL EL PRADO" in the city Barranquilla - Atlántico.** " proceed to modify the terms of the invitation, in order to adjust them according to comments submitted by interested parties and by the Attorney General Delegate For The Preventive Monitoring Of The Public Function, as follows:

FIRST. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS OF THE TENDER IN PARAGRAPH 4.1.2., AS FOLLOWS:

4.1.2. Certification of payment to the System of Social Security and Occupational Health.

The bidder, as a legal person, shall submit an original certification, issued by the Statutory Auditor, when there is one in position in accordance with the requirements of the law, or by the Legal Representative when the Statutory Auditor is not required, certifying the payment of the contributions of its employees to the Systems Of Health, Occupational Hazards, Pensions And Contributions to Family Compensation Funds, Colombian Institute of Family Welfare and National Apprenticeship Service. This document must certify that at the date of submittal of the tender, the payment of the contributions has been made corresponding to the payroll for the last six (6) months, counted backward from the date above, in which the obligation to make such payments is generated.

In the event that the company does not have more than six (6) months of being established, it must certify the payments from the date of its establishment. The information presented is understood to be supplied under oath with respect to its faithfulness and truthfulness. In the case of a payment agreement with collecting entities on any of the above-mentioned obligations, it must demonstrate that there is an agreement and that it is current on payment. In the case of Consortiums or Joint ventures, each of its members, legal persons must provide the certificate required. In the event that the bidder does not have personnel in charge and therefore is not obliged to pay contributions to social security, it must, under oath, indicate this fact in such certification.

Where the proponent is exempt from the payment of parafiscal contributions because it is a taxpayer of the income tax for equity - CREE, as set out in the Law 1607 of 2012 and its regulatory decrees, it shall attach copy of the six (6) last monthly statements withholdings at source by way of CREE, (in the case of monthly statement) or a copy of two (2) of the last statements of withholding at source by way of CREE (in the case of quarterly statement)

SECOND. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS OF THE TENDER, PARAGRAPH 4.3, IN BOLD AS FOLLOWS:

4.3. Contract of Commitment to incorporate company

. To participate in this form of association they must meet the following requirements:

- i. Certify the signing of the promise of contract of the company for the formation of a commercial company whose corporate purpose contemplates the signing and completion of the Concession contract purpose of this invitation, which is foreseen for the future company a minimum term of duration to the term Total estimated the contract of Concession and three (3) years after, and restrict the alienation of shareholder property or social partner participation, as described later.
- ii. Certify the appointment of the legal representative of all natural or legal persons who are committed to the Incorporation of the future company, with sufficient power for the representation without limitations of the group, in all aspects that are required from the submittal of the Tender until the Incorporation of the promised company. This requirement is certified with the submittal of the document on which the granting of power to the common representatives with sufficient power to act, force and to hold responsible all and each one of the partners in the process of invitation. The power of attorney may be given in the contract of promise of Incorporation of the commercial company.
- iii. Certify the existence, validity, legal representation and the legal capacity of the members of the Group and their legal representatives, to sign the agreement of the company and for their participation in the future company constituting in capacity and proportions of participation in which each of the future associates commit.
- iv. The aspects required in paragraphs (i) to (iii) above, shall be certified by the submittal of the Agreement Of Incorporation Of Mercantile Company, which are specifically set out arrangements that take into account the relevant performance requirements in such paragraphs and in Article 119 of the Code of Commerce, securing the signing of the contract of the company only to the selection of the Tender, and pointing out a term or deadline for the signing of the contract of the company at that event, a time period which, in any case, shall allow the performance of the maximum terms set out in this invitation.
- v. For the signing of the contract of concession the bidder selected in this form must submit the certificate of existence and legal representation of the promised company.
- vi. Any additional conditions for the formalization of the contract of the company shall lead to the rejection of the Tender.

- vii. The Commitment to incorporate a company must include in its conditions (1) a capital subscribed and paid for a minimum of ONE THOUSAND MILLION PESOS (\$1.000.000.000) at the time of its Incorporation; and (2) within ten (10) days of the Incorporation of the company, the future partners or shareholders shall be required to capitalize the company at an additional amount of ELEVEN THOUSAND MILLION PESOS (\$11.000.000.000) which must be paid in cash on a single date (i.e. without payment deadline). In addition, during the term of the company, it shall maintain a minimal capital subscribed and paid (including premium in stock placement) of TWELVE THOUSAND MILLION PESOS (\$12.000.000.000).

THIRD. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS OF THE TENDER, IN PARAGRAPH 4.5 IN BOLD AS FOLLOWS:

4.5 CLARIFICATION NOTE. APPLICABLE TO ALL SECTIONS OF THIS CHAPTER (4)

The FONDO NACIONAL DE TURISMO may require Bidders for clarifications that it deems necessary, and request the documents it finds suitable with respect to all those qualifying documents which are not subject to comparison of Tenders, nor grant qualification points, provided that this do not violate the principles of equality and transparency applicable to this process.

The Bidders must supply the clarification, attach documents or rectify omissions in mention, in the term designated by FONDO NACIONAL DE TURISMO explicitly within the text of its request, under penalty of rejection of the offer.

Under no circumstances FONDO NACIONAL DE TURISMO shall allow certifications of circumstances that occurred subsequent to the closing of the process.

FOURTH. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS OF THE TENDER, IN PARAGRAPH 4.5.3 IN BOLD AS FOLLOWS:

4.5.3. Financial statements: Balance sheet and income Statement cutoff at December 31, two (2) recent fiscal years (2013 and 2014) accompanied by their corresponding notes to the financial statements, signed by the legal representative, certified public accountant and if applicable the Statutory auditor, when legal or bylaws setting the figure of statutory auditor. Opinion from the Statutory Auditor if applicable.

The Bidder of foreign origin must meet the requirements of a financial nature according to its financial statements for its last two fiscal years. In this sense, if the closing does not correspond to December 31 of 2013 and 2014, the Bidder of foreign origin, shall certify, by means of certification by the competent authority, which the closing date fiscal certified corresponds to its last fiscal period.

If it's a foreign bidder and they has a branch office in Colombia, the financial statements referred to in this paragraph must correspond to the consolidated financial statement of the parent company to certify to the financial conditions as a group in accordance with the legislation in force. In any case when the financial statements of the parent company is brought, the tender must be accompanied a letter showing the linking of the parent company to the project.

The Legal Representative and the Statutory Auditor, if it is the case, that sign the documents referred to, must appear as such on the certificate of existence and legal representation of the bidder issued by the respective Chamber of Commerce, accompanied by the tender.

In the case that the bidder is a Consortium, joint venture or Commitment to incorporate a company each Member must submit the financial statements individually. Also, in the event that the bidder or one of the members of the Consortium or joint venture that conform the bidder does not have force of Incorporation for more than one year, it must provide for the verification of the financial statements, Incorporation of the Company, firm or company the initial balances.

FIFTH. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS FOR THE TENDER PARAGRAPH 4.5.5. IN BOLD AS FOLLOWS:

4.5.5. Copy of the Income statement.

For those who are forced at the closing date and delivery of tenders of this invitation to declare income tax and supplementary, according to the tax calendar published by the Main Office of National Taxes and customs DIAN (http://www.dian.gov.co/descargas/Servicios/publicaciones/2014/Calendario_Tributario_2014.pdf and Decree 2972 of 2013) or failing that the Income Tax Return and net worth, according to provisions of the second paragraph of Article 620 of the Tax Statute, corresponding to the last two fiscal years (2013-2014)

In the case that the bidder is a Consortium or joint venture each Member must submit a copy of their income statement for the last two fiscal years.

Note 1: For the case of Consortiums or Joint ventures, each of its members must submit the aforementioned documents independently.

Note 2: The bidders who are required to submit their income statement, but at the closing date, according to the tax calendar, and still have not been required to file their income statement corresponding to the year 2014, must submit the income statement of the years 2013 and 2012

Note 3: The foreign bidders must obtain a copy of the payment of the income tax or the equivalent in their country of origin.

SIXTH. CHAPTER IV IS MODIFIED. QUALIFYING REQUIREMENTS OF THE TENDER IN ITS PARAGRAPH 4.7.1. IN BOLD AS FOLLOWS:

4.7.1 Experience and quality

Experience and quality shall not grant a score, but it is a qualifying requirement to continue in the process and the result of their evaluation shall be determined as COMPLIES OR DOES NOT COMPLY, the experience and quality is determined individually or jointly based on two (2) of the following five (5) conditions:

- a. Owner of thirty percent (30%) of at least two (2) hotels that individually or jointly have a minimum of 1000 rooms.
- b. The operation of hotels comply with 95% of the requirements set out in annex 12 during the 5 years prior to the submittal of the tender, and that individually or jointly hotels have a minimum of 1000 rooms.
- c. The continuous operation of at least one hotel from those indicated in the paragraph a) that comply with at least 95% of the requirements laid down in the respective Annex 12 during the 5 years prior to the submittal of the tender.
- d. That last year consolidated Hotel operation is at least of 500 rooms, of which 250 must correspond to a single hotel that complies with the requirements listed in Annex 12 at International level.
- e. That in the last five (5) years it has operated at least one (1) hotel that complies with at least 95% of the requirements laid down in the respective Annex 12, at an international level.

In addition to the qualifying requirements previously set out, we shall take as a qualifying requirement the certification or letter of authorization of use of the brand with which the bidder intends to operate the Hotel, as part of the Hotel chain who owns it, in the event that the brand is not owned by the bidder.

NOTE. The bidder must take into account that if it chooses option C it must also certify the fulfillment of option A.

SEVENTH: CHAPTER V IS MODIFIED. CRITERIA FOR VERIFICATION AND EVALUATION OF TENDERS, IN ITS PARAGRAPH 5.1.6. ADJUSTING AND MERGING THEM AS FOLLOWS:

5.1.6. Grounds for refusal.

In the following events the tenders shall not be evaluated and shall be rejected:

- a. When there are several tenders presented by the same, or that the Bidder also participates as a member of a consortium or joint venture or that the bidder participates in the process integrating more than one plural structure.

- b. When the bidder does not submit the bond of seriousness.
- c. When the bidder is delinquent of FONTUR for tourism taxes or parafiscal contributions with tourism destination, either directly or through a company, consortium or joint venture in which he is either partner or member.
- d. When the validity of the bidder has a lower duration to the term of completion of the contract and 3 year more.
- e. When the economic tender is not submitted in a separate envelope.
- f. When the tender is submitted after the appointed date.
- g. When the Annex "Statement of Bidder" is not submitted or it is signed by a person not authorized to do so.
- h. When the information provided by the bidder in any of the documents is not truthful.
- i. When the tender is submitted in a partial way or conditioned or when the tender is submitted by fax or email.
- j. When the tender has deletions and amendments
- k. When the bidder does not provide legal, technical or financial qualifying documents required in the current terms of reference, In this event, the tender shall be rejected when the bidder has been required for specifications or submittal of missing documents by FONTUR, does not submit them in due form and in the term provided by FONTUR.
- l. In the event that the economic tender is not submitted in Colombian pesos.
- m. When the bidder has tried to intervene, influence or unduly find out about the contracting process.
- n. When the bidder, its legal representatives or any of its affiliates or partners are reported in any of the binding international lists for Colombia related to the system of management of risk of laundering Assets and financing of terrorism.
- o. When the bidder or any of the participants (in case of joint venture or consortium) is found in any of the grounds inabilities or incompatibilities laid down in the law or in a conflict of interest for contracting, laid down in the Code of Corporate Governance of FIDUCOLDEX.
- p. When any of the bidders or their members, in the case of a consortium, joint venture or commitment to incorporate a company, has been disabled or rejected within the contractors selection processes developed by FONTUR as a result of the submittal of false documentation or that they have tried to improperly influence any procurement process developed by that entity.
- q. When any ground of dissolution or liquidation is detected.
- r. When the text of some form laid down in the annexes to this invitation to tender is modified, altering its meaning.
- s. When the legal representative of the bidder legal person or Consortiums or Joint ventures is not duly authorized to submit tenders in accordance with the bylaws.

- t. When the bidder is reported in the responsible tax bulletin of the Contraloría General de la Nación.
- u. In other cases expressly set out in this invitation.

EIGHT. CHAPTER V IS MODIFIED. CRITERIA FOR VERIFICATION AND EVALUATION OF TENDERS IN PARAGRAPH 5.2.1. as for the Evaluation Criteria No.1 Highest Offer of Consideration by the Concession OF THE INVITATION WHICH WILL BE AS FOLLOWS:

Evaluation Criteria No. 1. Highest Offer of Consideration by the Concession	Restriction (s)	Requirement	Points	Score by economic Tender
<p>Sub-criterion 1 of evaluation. Highest Score (300 points) who offers the highest fixed component.</p>	<p>Cannot bid below the minimum consideration of FIVE HUNDRED MILLION PESOS (\$500.000.000.00) Mcte</p> <p><u>Tenders that are below the proposed value will get score calculated by a rule of three taking as a basis the highest value offered.</u></p> <p><u>Note: In order to get points we will consider the bidder that offers a consideration higher than the minimum value of consideration</u></p>	<p>The economic tender submitted must be higher than minimum amount of the fixed consideration</p>	<p>300 points to the Highest Tender of fixed component</p> <p><u>Tenders that are below the highest value proposed will get score calculated by a rule of three taking as a basis the highest value offered</u></p>	<p>300</p>
<p>Sub-criterion 2 of evaluation. Highest score (300 points) who offers the highest Variable component.</p>	<p>What is offered cannot be lower than zero point five percent (0.5%) of the total net sale of the hotel, as payment for variable consideration.</p> <p><u>Tenders that are below the highest proposed percentage will get score calculated by a rule of three taking as a basis the highest value offered.</u></p> <p><u>Note: In order to get points we will consider the bidder that offers a consideration higher to the minimum percentage of consideration</u></p>	<p>The economic tender submitted must be higher to the minimum percentage of the variable consideration that is higher to zero point five per cent (0.5%) of the total net sale of the Hotel.</p>	<p>300 points to the highest Offer</p> <p><u>Tenders that are below the highest percentage proposed will get score calculated by a rule of three taking as a basis the highest percentage offered</u></p>	<p>300</p>

NINTH. CHAPTER V IS MODIFIED. CRITERIA FOR VERIFICATION AND EVALUATION OF TENDERS IN PARAGRAPH IN THE SENSE OF DELETING NOTE No. 4 PARAGRAPH 5.2.1. OF THE INVITATION, that established: *If after evaluating the tenders submitted and enabled, none of the tenders reach a minimum of eight hundred (800) points, this invitation shall be declared void*"

TENTH. CHAPTER V IS MODIFIED. CRITERIA FOR VERIFICATION AND EVALUATION OF TENDERS IN PARAGRAPH IN THE SENSE OF DELETING NOTE No. 5 PARAGRAPH 5.2.1. OF THE INVITATION AS FOLLOWS:

Note 5: The proponent may submit as evaluable or qualifying experience hotels or rooms presented as qualifying experience, for which, in the tender should express such a condition and point out the hotel(s) that will serve to demonstrate both how qualifying and scoring experience. However in the event that is required to rectify issues relating to the qualifying experience (certifications, contracts, annexes, hotels or rooms), this experience shall not be taken into account for granting score.

In any case, each experience will be validated or qualify in accordance with any conditions or restrictions that are set in this invitation.

ELEVENTH. . CHAPTER V IS MODIFIED. CRITERIA FOR VERIFICATION AND EVALUATION OF TENDERS IN PARAGRAPH IN THE SENSE OF DELETING NOTE No. 5 PARAGRAPH 5.2.1.1. OF THE INVITATION AS FOLLOWS:

5.2.1.1. Criteria of evaluation 1 Highest Tender for Consideration by the Concession.

This criterion will be evaluated in open hearing at the date and time indicated in the schedule, in this hearing no observations from any proponent will be received.

At this hearing the envelopes containing the economic tenders will be opened and the evaluation will be done according the following rules:

Sub-criterion 1. MAXIMUM EVALUATION SCORE FIXED COMPONENT

The bidder that offers the highest value of fixed consideration shall receive THREE HUNDRED POINTS (300), Tenders that are below the proposed value will get score calculated by a rule of three taking as a basis the highest value offered.

In order to get points the economic tender submitted must be higher to the minimum consideration that is higher than **FIVE HUNDRED MILLION OF PESOS (\$500.000.000.00) Mcte**

The proposal with an economic tender below the minimum consideration that is, below FIVE HUNDRED MILLION PESOS (%500.000.000.00) Mcte, will be rejected.

B. Sub-criterion 2 HIGHEST SCORE EVALUATION VARIABLE COMPONENT

The bidder that offers the highest percentage of variable consideration shall receive THREE HUNDRED POINTS (300), offers that are below the highest percentage proposed shall receive a score calculated by a rule of three taking as a basis the highest percentage offered.

The tender cannot be lower than zero point five percent (0.5%) of the total net sale of the hotel, as payment for variable consideration. In order to get points the economic tender must be higher to the percentage of the minimum of the variable consideration.

The tender whose economic offer is below the minimum variable consideration, that is, below zero point five percent (0.559 of the total net sale of the Hotel will be rejected.

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(Original signed in folder)

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LEGAL DEPARTMENT DIRECTOR
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