

**ANNEXURE 2**  
**Manual for Implementation of Resources Derived from Donations of the Green Climate Fund  
to APC-Colombia- Precontractual Procedures and Administration of Resources**

**MANUAL FOR IMPLEMENTATION OF RESOURCES DERIVED  
FROM DONATIONS OF THE GREEN CLIMATE FUND TO APC-  
COLOMBIA**

**PRECONTRACTUAL PROCEDURES AND ADMINISTRATION OF  
RESOURCES.**

**APC-COLOMBIA**

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**VERSION 1 – 2017**

## INTRODUCTION

This Manual contains the rules and policies for the development of selection and contracting processes for the supply of goods and works, as well as the hiring of consulting firms and individual consultants that the Presidential Agency for International Cooperation of Colombia, APC-Colombia (hereinafter referred to as APC-Colombia), will carry out, in execution of grant agreements made between the Green Climate Fund (hereinafter referred to as GCF) and APC-Colombia.

The application of this Manual is covered by article 20 of Law 1150 of 2007, which states that "*The contracts or agreements financed in their totality or in amounts equal or greater than fifty percent (50%) with funds of cooperation agencies, assistance or international aid, may be subject to the regulations of such entities.*" The above-mentioned regime will be applied by APC-Colombia as long as the financing of the contracts to be signed is made with resources from the international donor for a value equal to or greater than 50% of its total value. Taking into account that the contracts that will be celebrated within the framework of the Readiness preparatory proposal for Colombia come in a 100% from the GCF, this Manual constitutes the regulation determined by the parties to execute the resources derived from the donations that the GCF makes to APC-Colombia.

Although there are selection methods to conclude contracts with state entities, established by the Law 80 of 1993 "*General Statute for Contracting Public Administration*", it applies only for the execution of resources coming from the general budget of the nation. Therefore, this last Law will not be taken into account in this Manual, which will be applied only for the selection of contractors whose financing comes from the GCF, who is within the "*funds of cooperation agencies, assistance or international aid*".

As an execution requirement, the resources coming from the GCF will be included by APC-Colombia as grants (non-refundable technical cooperation) in the general budget of the nation and will be classified as own resources originated from a grant.

APC-Colombia has extensive experience executing various International Cooperation resources from the Inter-American Development Bank, World Bank, European Union, Spanish Cooperation Agency (AECID), UNITAR, UNESCO, Government of the People's Republic of China, and the United Kingdom, based on their regulations and procedures, as established in the Law 1150 of 2007. These procedures allow strict compliance to the proposed activities by adding efficient selection criteria, based on quality and cost, lower cost, cost based on budget, among others, which Colombian legislation does not regulate.

## **1. GENERAL CONSIDERATIONS**

### **1.1. PRINCIPLES<sup>2</sup>**

When the execution of an action requires the award of a contract for the supply of goods and works, it must be awarded to the most economically advantageous tender (i.e. to the offer that presents the best price-quality relation). In doing so, it should avoid any conflict of interest and respect the following principle: APC-Colombia should evaluate the proposals in accordance with an objective criteria that allows the quality of proposals to be measured taking into account the price (the lowest price proposal should receive the highest rating in the price criterion).

When APC-Colombia does not choose an open procedure for an individual contractor, the entity will justify in writing the direct contracting, which applies in the cases regulated by this manual.

APC-Colombia will maintain sufficient and adequate documentation regarding the procedures used to justify the pre-selection and award of decisions.

### **1.2. SCOPE**

The Manual, with its contracting policies and procedures, will be applied in all processes that are carried out to select legal entities or natural persons necessary for the execution of the donor agreements between the GCF and APC-Colombia.

### **1.3. PROHIBITED PRACTICES**

APC-Colombia requires to all participants, whether legal entities or natural persons, of the contracting processes described in this manual, (including their respective officers, employees and representatives, whether express or implied) to observe the highest ethical standards and report to APC-Colombia all suspected acts of Prohibited Practices of which it has knowledge or becomes aware, during the selection process and throughout the negotiation or execution of a contract. Prohibited Practices include acts of: (i) corrupt practices; (ii) fraudulent practices; (iii) coercive practices; (iv) collusive practices; and (v) obstructive practices. Any allegation shall be submitted to the Administrative and Financial Department of APC-Colombia for the appropriate investigation. Other competent areas shall be involved if necessary, to ensure that no contract is concluded with the reported participant or decide to terminate an existing one and analyze the need to apply fines and/or penalties.

## **2. GENERAL PROVISIONS**

### **2.1. BUDGET – PROCUREMENT PLAN**

The execution of the resources will be made based on the Procurement Plan in force and approved by the GCF to cover the implementation period.

### **2.2. TAX ISSUES**

Article 96 of the Law 788 of 2002 establishes that *"The funds from aid or grants from foreign entities or governments agreed with the Colombian Government, intended to carry out common utility programs and covered by intergovernmental agreements, are exempt from taxes, fees or contributions. Also, the purchase or importation of goods and the acquisition of services made with the donated funds will enjoy this tax benefit, provided that they are exclusively destined to the object of the donation. The National Government shall regulate the application of this exemption."*

<sup>2</sup> Taken from Annex IV, "Award of procurement contracts applicable to European Community financed grant contracts for external actions".

In this sense, The Decree 540 of 2004 in its article 2 states that *"The exemption referred in the Article 96 of the Law 788 of 2002, will be applied with regard to national taxes, fees, contributions, that may affect the importation and the expenditure or the investment of the funds coming from aid or grants made under the intergovernmental agreements made with the Colombian Government, destined to realize programs of common utility.*

*The exemption in the payment of national taxes, fees or contributions, will be also applied to the contracts to be held for the realization of works or projects of common utility, as well as the acquisition of goods and/or services and financial transactions that are performed directly with the amounts coming from the resources of the aid or grant, with the same purpose".*

Taking into account the above and according the nature of the granted resources by the GCF, national taxes, fees or contributions could be covered by the common utility certificate, when they have a direct impact in the international cooperator's resource and when the requirements described in article 96 of the Law 788 of 2002 and the Decree 540 of 2004 are complied.

### **2.3. BUDEGETARY AND FINANCIAL ASPECTS**

APC-Colombia, according to the Decree 4152 of 2011, article 2 establishes the *"Creation of the Presidential Agency for International Cooperation of Colombia, APC-Colombia. To fulfill the functions spelled out, a Special Administrative Unit to be named Presidential Agency for International Cooperation of Colombia, APC-Colombia will be created, as a national decentralized entity of the Executive Branch, with legal personality, administrative and financial autonomy and own patrimony, attached to the Administrative Department of the Presidency of the Republic".*

In accordance with the above, APC-Colombia must execute the resources in compliance with the Decree 111 of 1996, Organic Statute of the Budget, and their respective annexes. In this way, APC-Colombia will make commitments within the fiscal year that *"begins on January 1 and ends on December 31 of each year"*, as established by the principle of annuity that must be followed by any state entity in Colombia.

According to the Decree 2785 of November 29, 2013 Article 4 *"The collection of own resources, administered and from special funds of the bodies that are part of the General budget of the Nation should be transferred to the single account disposed for this purpose by the General Directorate of the Public Credit and The National Treasury of the Ministry of Finance and Public Credit".* Based on this regulation, the administration of resources will be done through the National Single Account.

On the other hand, all financial, accounting, and budgetary information derived from the project will be executed through the Integrated System of Financial Information SIIF Nation, applicable to the entities that make up the general budget of the nation, such as APC- Colombia.

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### **2.4. CONTRACTING ATTRIBUTIONS**

The Administrative and Financial Department of APC-Colombia will make all procurement decisions and will carry out the pre-contractual stage for all contracting processes of goods and works and consulting services, in accordance to the Procurement Plan approved by the GCF and the procedures detailed in the following chapter.

## **3. PROCESSES AND PROCEDURES**

The pre-contractual stage of the contracting process of goods and works to be carried out by the Administrative and Financial Department of APC-Colombia, in accordance with the Procurement Plan approved by the GCF, is detailed below. The contractual and post-contractual stages are governed by APC-Colombia's own procedures.

### **3.1. PRE-CONTRACTUAL STAGE**

For each contracting to be carried out, APC-Colombia, in coordination with the Technical Partner (corresponding entity of the Collegiate Body) specialized in the matter to which the good or service refers, will prepare the Terms of Reference (TR), starting the pre-contractual stage. The description and scope of the goods and works described in the TR must be in accordance with the budget available in the Procurement Plan.

The TR should clearly define at least the following aspects:

- The object to be contracted and its scope.
- The necessity of the contracting. The required good or service will be clearly detailed, establishing the expected results.
- In the case of recruitment of natural persons, detailed information and certifications regarding studies, minimum and desired experience will be required. In the case of legal persons, detailed information and certifications will be required.
- Process Schedule.
- Type of compliance guarantees and/or insurance policies applicable to the contract.
- The obligations to be fulfilled by the contractor, among which will be found the confidentiality agreement to be assumed by the participant in the process, regarding to the information provided by APC-Colombia.
- Contract period.
- The value of the contract and form of payment.
- The requirements that must be fulfill by the contractor in terms of occupational health, and labor, occupational and environmental risks issues.
- Weighting factors for evaluation.
- The possibility for the Proposer to submit its bid by digital means, when it is applicable.
- The possibility to send online applications, when applicable.

APC-Colombia has the discretionary faculty to make an early termination of the selection process, when no proposals are submitted or when none of the proposals meets the technical or budgetary requirements stipulated in the TR. Any changes made to the TR will be promptly informed to the participants.

Within this pre-contractual stage, the selection process will be carried out according to the good and/or service to be contracted, as described below:

### **3.1.1. SELECTION PROCESSES**

#### **3.1.1.1. GOODS AND WORKS CONTRACTS**

According to the Procurement Plan approved by the GCF, the value for goods and works contracts ranges from a minimum of 15,000 USD to a maximum of 50,000 USD. Observing the principles described in chapter 1 of this manual, the acquisition of goods and works with a value equal or below 50,000 USD will be done through the Selection Based on Quality and Cost (SBQC), which is a competitive process, through which the offers submitted by the proposers will be evaluated.

In selecting the contractor, the quality of the proposal and the cost of the good or services are taken into account. The weight assigned to quality and cost will be determined in each case according to the nature of the good or service to be performed.

If a higher value for these contracts is approved by the GCF, the GCF and APC-Colombia will agree on the terms of a different procurement method and modify the present Manual in that sense.

The selection process through the SBQC consists of the following stages:

**A. Publication of the Terms of Reference:** APC-Colombia will publish on its official website a general notice of acquisitions of goods or works with the TR.

**B. Proposals reception:** From the date of publication, a period of ten (10) business days will be granted, for the proposer to file the technical and price proposal in a physical manner. During this period, the proposer may request clarification regarding the information provided. APC-Colombia will respond to the clarifications in writing, through its official website, before the deadline to submit proposals.

The TR will clearly determine the place, date and closing time until which APC-Colombia can receive the proposals. Deadline may be extended by the entity under reasoned decision. After the deadline, no further proposals or amendments will be received.

In order to safeguard the integrity of the present selection process, each technical and price proposals must be presented in a sealed and separate envelope (in total, two (2) envelopes).

The envelopes with the technical proposals must be opened after the deadline, by a committee of officials designated by the Administrative and Financial Director of APC-Colombia, which will issue a Closing Act that must contain the relation of proposals, the legal representatives and number of pages of each proposal.

**C. Proposals evaluation:** APC-Colombia in conjunction with the Technical Partner specialized in the field of the good or service, will determine an Evaluation Committee, which will evaluate the proposals in two stages; first the quality will be evaluated, by means of a technical evaluation and after, the cost will be evaluated, by means of the evaluation of the price. Price proposals should be opened only when the technical evaluation has been completed.

**C.1. Quality Evaluation:** The Evaluation Committee should evaluate each technical proposal. Each criterion will be scored according to a given scale in the TR, and then each rating will be weighted, giving a score from 1 to 100 points. The following criteria are indicatives, and can be adjusted for each required good or service that will be determined in the TR.

Criterion	Punctuation
Specific experience	0 a 30 points
Methodology	0 to 20 points
Key staff	0 to 20 points
Knowledge transfer	0 a 20 points
Local / national labor force participation	0 a 10 points
Total	100 points

At the end of the process, the Evaluation Committee should prepare a Technical Evaluation Report (TER) about the "quality" of the proposals, recording the awarded score.

**C.2. Cost evaluation:** Once the quality evaluation is completed, the Evaluation Committee will proceed to evaluate the cost of each proposal through the evaluation of the price. The way in which the score will be awarded will be determined in the TR.

**C.3. Quality and cost final evaluation:** The total score should be obtained by adding the weighted scores on quality and cost. The proposer who has the highest score will be the selected proposer to conclude the contract. The other proposers will be notified with the result of the selection process through the email provided for it.

**D. Rejection of All Proposals and New Invitation:** The Evaluation Committee can reject all proposals, if none of them responds to the requirements, either because they present significant deficiencies in the compliance of the TR or

because its cost is considerably higher than estimated. In this case, APC-Colombia can initiate a new selection process which may include the modification of the TR.

### 3.1.1.2. CONSULTING SERVICES CONTRACTS

According to the Procurement Plan approved by the GCF, the value for consulting services are not higher than 35.000 USD. Observing the principles described in chapter 1 of this manual, the selection of contractors to render professional consulting services will be made when: (a) no staffing equipment is required; and (b) only professional consulting services will be contracted.

The selection of individual consultants will be done through a Selection Based on Quality and Cost (SBQC) for consulting services, which is a competitive process, through which the qualifications and quotations of professional fees provided by the participants are evaluated.

The selection process consists of the following stages:

**A. Terms of Reference publication:** APC-Colombia will publish on its official website a general notice of the TRs with the required profile, study and minimum experience required and desired; among which may be found higher studies, specific experience, and languages.

**B. Proposals receipt:** From the date of publication, in a period of five (5) business days, the participants are requested to send to APC-Colombia's e-mail, their proposals according to the TR, with their resumes, qualifications and the quotations of their professional fees. During this period, participants may request clarification regarding the TR. APC-Colombia will publish the clarification on its official website, prior to the closing deadline.

The TR will clearly determine the e-mail, date and closing time for APC-Colombia to receive the resumes and quotations, which may be extended by the entity under a reasoned decision. After the deadline, no additional receipt of proposal will be made.

**C. Compliance with requirements established in the TR:** APC-Colombia, in conjunction with the Technical Partner, will determine an Evaluation Committee, which will carry out an initial verification of the resumes of each of the participants on the fulfillment of minimum study and experience requirements established in TR. Those who do not comply with these minimum requirements and / or have not attached the quotation of services will not continue in the selection process and will be notified that they were not selected through the email provided for it.

**D. Interviews:** Participants who meet the minimum requirements described in the TR, will be contacted through the email provided for this and/or by a call to the cellphone number provided, to attend the APC-Colombia facilities to present the interview(s), in which it can be asked questions related to their studies and related experience and technical questions referred to the contractual object and activities to be performed. The Evaluation Committee will determine who will be the interviewer(s).

In case the participant does not attend to the scheduled and agreed interview, and presents a reasoned excuse, it will be given a new interview date and time. In the event that the participant does not attend the scheduled interview, it will be understood that has given up on the proposal.

**E. Proposals evaluation:** The Evaluation Committee will evaluate the profile of the participants who have sent both their resume and the quote of their services. The resume, the quote and the interview are required to carry out the evaluation. The TR will determine the score to be given to the selection factors of the contractor, which are indicatively mentioned below:

Minimum studies required for the position	0 a 30 points
Minimum experience required for the position	0 a 30 points

Additional studies and experience	0 a 20 points
Quotation of the cost of its services	0 a 10 points
Interview	0 a 10 points
Total	100 points

The weighting resulting from the assignment of the scores will determine the highest total score.

The Evaluation Committee will prepare an Evaluation Report (ER), recording the total score awarded to each participant. The report should corroborate the results of the evaluation and describe the strengths and limitations of the proposals, clearly establishing compliance with the requirements established in TR. The participant who has the highest score will be contacted at the email provided for this purpose, in order to start the contractual stage. In case the selected participant does not accept the offer, the following will be contacted in the list and so on. The other participants will be notified that they were not selected through the email provided for it.

**D. Rejection of All Proposals and New Invitation:** The Evaluation Committee can reject all proposals, if none of them responds to the requirements, either because they present significant deficiencies regarding compliance with the TR or because its cost is considerably higher than estimated. In this case, APC-Colombia can initiate a new selection process, which may include the modification of the TR.

#### **3.1.1.3. DIRECT SELECTION**

APC-Colombia may carry out direct contracting, without going through the selection processes described in the previous chapters, in the following cases: a) services that are a continuation of a previous work that the contractor has performed and for which the consultant was selected competitively; taking into account that it is a natural continuation of services; b) in case the good, work, or the consulting service can be provided by a supplier with which APC-Colombia has a current contract, resulting from a selection process based on the Framework Agreements that the state has through the "*Colombia Compra Eficiente*" platform, or derived from a Public Tender executed within the framework of the Law 80 of 1993 and Law 1150 of 2007. In this way, a direct contracting could be issued with the official supplier of APC-Colombia to efficiently meet related needs included in the Procurement Plan. In this sense, is understood that the supplier selection process will be done previously.

#### **4. MANUAL'S VALIDITY**

This manual is effective from the date of approval by the GCF and will remain in force until it is modified or terminated by agreement of the parties.