

AGREEMENT No. 104
(of November 8, 2005)

“To amend the Panama Canal Authority Contracting Regulation”

THE BOARD OF DIRECTORS
OF THE PANAMA CANAL AUTHORITY

WHEREAS:

Article 18, item 5, paragraph c, of the Organic Law empowers the Board of Directors to approve the regulations applicable to the contracting of works, provision of goods, and rendering of services required for the operation of the Canal.

The Board of Directors of the Panama Canal Authority approved the Contracting Regulation of the Panama Canal Authority, pursuant to Agreement No. 24 of October 4, 1999.

The Panama Canal Board of Directors amended the Contracting Regulation, pursuant to Agreements No. 60 of October 17, 2002; No. 67 of July 18, 2003; and No. 79 of June 22, 2004, to authorize a 23-month pilot plan—from January 31, 2003, to November 22, 2004—to implement a reverse negotiated solicitation at the price of the lowest bidder.

The results of the contracting undertaken through the use of reverse negotiated solicitation at the price of the lowest bidder, showed that the process offers benefits that are significant and in keeping with the Panama Canal Authority strategic policy and objectives, whereby the Administrator has submitted to the consideration of the Board of Directors a permanent regulation for the reverse solicitation process previous cited.

AGREES:

ARTICLE ONE: Chapter IX of the Panama Canal Authority Contracting Regulation is amended to add Section Seven, which shall read thusly:

“Section Seven
Reverse Negotiated Solicitation at the Price of the Lowest Bidder”

“Article 89 A. The reverse negotiated solicitation at the price of the lowest bidder will be distinguished by the following features:

1. The bid solicitation is a process of bidding and counter bidding for the purpose of obtaining the best price for the Authority for goods, services, or works, within a specified period of time.
2. The contracting official determines the object to be subjected to the bidding process and the maximum price of the same.
3. Bidders compete by bidding and counter bidding prices in real time on the Internet, to determine the best price in a predetermined period of time.
4. The rules applicable to negotiated solicitations of the Authority shall be applicable to the processes of reverse solicitation as long as they are not inconsistent with this contractor selection process.”

“Article 89 B. The reverse solicitation includes the following:

1. Selection of Bidders in the Auction: Is the stage of the bid process in which bidders who may participate live are selected, based on their ability to execute the contract in terms of providing the goods required, delivery time, and other criteria established in the solicitation package. The solicitation package shall be published pursuant to the guidelines in article 40 of this regulation and shall indicate the object of the contract, the base price, time, date, and deadline established for the bidding and counter bidding.
2. Invitation to the Live Auction: The Authority invites the bidders selected in the previous stage to participate in the live auction, confirms their participation, and assigns a password to each bidder.
3. Configuration of the Auction: Once the participation of the selected bidders has been confirmed, the Authority configures the auction on the Internet, inputting the description of the goods, the duration of the bidding and counter bidding, the base price, and the minimum decrease of the counter bid, and all other required information of the bidders that will participate in the live auction. The identity of the configured bidders will not be available to the other bidders.
4. Live Auction: At the scheduled date and time, the Authority shall conduct the on-line auction on the Internet and the configured bidders shall compete in real time for the award of the contract by bidding and counter bidding, decreasing their prices, until the auction ends. The lowest price bid shall be visible on the Internet to allow counter bidding at lower prices.
5. Awarding the Contract: Upon conclusion of the auction process, the Authority shall award the contract to the lowest bidder. Should only one bidder confirm participation in the live auction, the contracting official may request this bidder to submit a price bid and then proceed to the awarding or declare the selection void pursuant to article 68 of this regulation.

ARTICLE TWO: This agreement shall take effect upon its publication in the Canal Register.

Given in the City of Panama on the eighth day of the month of November of two thousand five.

TO BE PUBLISHED AND ENFORCED

Ricaurte Vásquez M.

Diógenes de la Rosa

Chairman of the Board of Directors

Secretary