



Internal Directive No. 00612

From : **PRESIDENCY**

To : **All areas of the company**

Subject : **Contracting Manual Adoption of Empresa de Telecomunicaciones de Bogotá S.A. E.S.P. – ETB and Other Corporate Provisions**

Date : **July 13th, 2012**

Whereby the Contracting Manual of Empresa de Telecomunicaciones de Bogotá S.A. E.S.P. – ETB is adopted as well as other corporate provisions.

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CONSIDERING

That Empresa de Telecomunicaciones de Bogotá SA ESP – hereinafter ETB, in a jointly owned public utility company, made up by state contributions and private capital, that it is a network and telecommunication services supplier in all the country, regulated by the Act 1341 of 2009 and other applicable regulations.

That in accordance with the provisions in article 55 of the Act 1341 of 2009, the acts and contracts signed by the companies that provide Information and Communication Technologies – IT, whatever their nature thereof and regardless their capital structure, shall be regulated by the private law regulations.

That in accordance with article 13 of the Act 1150 of 2007, nevertheless ETB is excluded of complying with the rules and proceedings of the *Estatuto General de Contratación de la Administración Pública* (General Contracting Statute of Public Administration) shall apply in its contractual management “*the administrative function and tax planning principles of articles 209 and 267 of the Political Constitution, respectively and shall be regulated by the ineligibility and incompatibility rules provided to the state contracting.*”

That to sign acts and contracts, ETB is regulated by the Private Law, and must comply with the constitutional and legal rules and principles applicable to administrative function to ensure an appropriate fiscal management, as well as to be regulated by the ineligibility, incompatibility, prohibition and interest conflict rules provided in the *Estatuto General de Contratación de la Administración Pública*.

That it is necessary to adapt the Contracting Manual, the Supervision Manual y the General Contracting Conditions currently valid, with the purpose of making more efficient the contractual management by joining in a single regulatory body, all the applicable regulations to a bidder selection, the signing and execution of contracts, their monitoring and the issuing of other corporate provisions that ensure the compliance and development of ETB corporate purpose.

That in accordance with the ETB Corporate Bylaws, it is a President’s power to execute the judicial and extrajudicial representation of the company in all instances and for this, the President should sign all the acts and contracts necessary to carry out its work and develop its corporate purpose.

That ETB aims to reduce environmental impact on the goods, works or services procurement during all the life cycle of these.

That paragraph 10 of article 65 of ETB Corporate Bylaws gives the power to the President to “*delegate all or part of his authority and competence to officials at a directive, executive or equivalent level.*”



That according to the above, the President of Empresa de Telecomunicaciones de Bogotá SA ESP – ETB, ADOPTS this Contracting and Supervision Manual and other corporate provisions are established.

TITLE I.

CHAPTER ONE. GENERAL CONTRACTING PROVISIONS

ARTICLE 1. SCOPE.-

The provisions of this Contracting Manual are applicable to all contracting procedures performed by the various offices of Empresa de Telecomunicaciones de Bogotá SA ESP, hereinafter ETB, in order to develop and comply its corporate purpose, and related and closely activities thereto.

PARAGRAPH: Being regulated by special rules, the provisions of this Manual shall not apply with all related to:

1. Interconnection and essential and access facilities related to it;
2. Contracts and labor agreements;
3. The granting for the access to electromagnetic spectrum;
4. Those in which ETB must be adhered to the supplier terms.
5. Those in which ETB acts as a Contractor.
6. The alliances, partner entrepreneur contracts or business associations;
7. The public services.
8. The acts or contracts executed with petty cash resources;

ARTICLE 2. PURPOSES OF THE CONTRACTING PROCEDURE.-

The purpose of all contracting procedures performed shall be the fulfillment of the objectives and business purposes, the development of its corporate purpose, and the continued and efficient provision of public telecommunications services and communications in general by ETB.

ARTICLE 3. APPLICABLE REGULATIONS.-

The ETB contracting procedure is regulated by the Civil and Commerce Codes, in accordance with the provisions in article 55 of the Act 1341 of 2009 and by the applicable special regulations according to its legal nature and its activities.



ARTICLE 4. PRINCIPLES.-

In the contracting procedures in advance and in contracts signed by ETB to develop its corporate purpose, shall be taken into account the applicable constitutional principles to the Administrative Function.

For purposes of this Contracting Manual the following definitions of principles are adopted:

- a. Principle of Transparency:** The ETB contractual management shall be developed following the processes and procedures established in this Manual, which shall be performed in a clear, precise, transparent and open manner. These behaviors should guide all the contracting processes.
- b. Principle of Planning:** It aims to require that the decision to contract responds to a fully identified, studied, evaluated and budgeted needs at a prior stage at the beginning of contracting by ETB, preventing that the development of the contracting procedures are a product of improvisation or the mere discretion of the company or its employees, unlinked to corporate interest and real needs of the company.
- c. Principle of Economy:** It aims to ensure that contracting procedures strictly follow the efficiency and celerity principles preventing unnecessary steps, claiming the adoption of agile mechanisms and procedures, regulated by decisive terms and preclusive stages.
- d. Principle of Responsibility:** It forces ETB workers and Contractors to seek the fulfillment of contracting purposes, to monitor the correct contract execution and to protect the company, contractor and third parties rights that should be affected by this execution, in spite of contractual and legal sanctions that their actions and omissions should generate.
- e. Principle of an Objective Choice of the Best Bidder:** In any contracting procedure the selection of the contractors shall be objective and lie over the most favorable offer to the company and to satisfy the Company's purposes.

The selection shall be objective when it is made without having in consideration affect o interest factors and in general, any kind of subjective motivation.

The best bidder is the proponent, who makes the most favorable offer, which is obtained as a result of an analysis, verification and/or consideration of various legal, financial and technical requirements of evaluation and consideration that ETB should have required in terms of reference without the favorability is compounded by factors different from the contents of such document or the verification or consideration of only one or some of them.



The demands of the terms of reference should be appropriate and proportional to the object to contract, to its value and other parameters considered as relevant.

- f. Principle of Payment Capacity:** It consists in ensuring the existence of necessary and sufficient resources to sign and execute contracts and the compliance of all necessary budget and accounting processes.
- g. Principle of Free Concurrence:** It consists in more or less freedom people have to participate or not in contracting procedures carried out by ETB. It is a relative, not absolute or unconditional principle, because the corporate interest imposes relative concurrences according to the contracting procedure conducted.
- h. Principle of Equality:** It consists in the similar position that shall be taken by all the applicants, as well as the same rights, expectations and opportunities to access to participate in a contracting procedure.
- i. Principle of Respect for Intellectual Property:** In contracting procedures and the contracts signed by ETB shall be respected the intellectual property rights of the parties, in accordance with the law.
- j. Principle of Primacy of Substantial over the Formal:** This principle seeks that during the process of the contractual management, formalities do not impede the objectives achievement of the substantial right involved with them, therefore, as long as the substantial right should fully comply, the breach or non-observance of any non-essential formality should not be the cause to substantial right takes effect.
- k. Principle of Publicizing.** It consists in making public each one of the stages in contracting procedures under this Manual rules.

ARTICLE 5. ABILITY TO CONTRACT.-

People with a legal status under the current provisions and groups or temporary joint ventures should submit proposals and sign contracts with ETB.

ARTICLE 6. GROUNDS OF INELIGIBILITY AND INCOMPATIBILITY.-

In compliance with article 13 of Act 1150 of 2007, ETB is regulated, when contracting, to the ineligibility and incompatibility rules provided in the law regulating the state contracting. Also they shall be grounds of ineligibility and incompatibility the others established in the Political Constitution and Law.



Therefore, people accused by a ground of ineligibility or incompatibility applicable to Public Entities regulated by the Estatuto General de Contratación de la Administración Pública, might not submit proposals or sign contracts with ETB.

FIRST PARAGRAPH. SPECIAL PROHIBITIONS: It is expressly prohibited to ETB workers to incur in the following conducts in spite of legal sanctions:

- a. Neither the Legal Representative nor the Attorneys to contract shall sign acts or contracts with third parties to their benefit involving privileged information use, conflict of interest or a competitive act with ETB;
- b. Neither the spouses, nor the long-term partners, nor the relatives to the fourth degree of consanguinity, or to the second degree of affinity, or the first degree of civil, of ETB managers or workers at a directive or executive level, neither directly nor indirectly, neither as a member of the group nor temporary joint venture working as a bidder, neither when they are in the referred conditions of kinship with any of the shareholders of legal entities that intend to sign a contract, might not submit proposals, neither sign nor execute contracts;
- c. Similarly, neither the individual nor legal entities whose legal representatives or shareholders were ETB workers benefited or are benefiting with voluntary retirement plans or received or are receiving a compensation for any concept, might not submit proposals neither sign outsourcing contracts.

SECOND PARAGRAPH: SWORN STATEMENT: The bidder or supplier shall state under oath when submitting a proposal:

- a. Not to be in the course of a legal cause when offering and signing and executing a contract, on any of the grounds of ineligibility or incompatibility specified in the Political Constitution of Colombia and specifically those applicable to government contracts;
- b. In the offer, the bidder must expressly state about the existence or non-existence of trade or family relationships with ETB workers at a directive or executive level;

In turn, ETB workers shall inform the Empowered their trade or family relationships with ETB bidders or contractors with a statement of impediment under penalty of legal sanctions.

- c. That neither their equity, nor the resources they used to sign and execute a contract come from illegal or outside the law activities



If the bidder submits a proposal or signs a contract when he is in the course of a legal cause under situations mentioned above, shall respond for damages caused to ETB or third parties. This event shall terminate the contract unilaterally.

ARTICLE 7. COMPETENCE.-

The competence to contract on behalf of ETB is led by its President as its Legal Representative, who may grant general or special power empowering workers at a directive or executive level. The power may be revoked any time.

ARTICLE 8. SUPPLIERS' DATABASE

ETB shall have a suppliers' database administrated by the Supply of Goods and Services Management or the person acting.

If a supplier wants to register, shall comply with the procedure and requirements requested by ETB. All the information the supplier provides in such form must match with the information delivered to tax authorities and financial institutions.

ETB shall register all the individual and legal entities prior to sign a contract and may invite and choose bidders whether if they recorded or not in the database.

FIRST PARAGRAPH: INFORMATION ABOUT THE SUPPLIER PERFORMANCE. - The suppliers' database shall have the relative data of the products and services the supplier may provide, his experience, his financial, tax and trade information,

It also shall report the relative information of breaches made by the supplier when executing acts or contracts signed or executed with ETB and have given rise to the payment of penalties or discounts by a breach concept. In contracting procedures this negative information shall have the consequences provided by the Empowered.



SECOND PARAGRAPH: DATABASE MANAGEMENT ON BACKGROUND OF EXECUTION.- It is a supervisors responsibility to assess the suppliers performance through a Contract Management System, in accordance with the internal regulations governing the subject, and record the decision, defined as, among others, the receipt minutes or agreements once signed, or sending the collection account, as appropriate, the information related to breaches incurred in the signing or execution of contracts signed with ETB and have resulted into fines or penalty clause, or any other mechanism considered to compensate its total, indicating the date, cause and nature of the event of a breach and the sanction imposed or the agreement terms, as appropriate.

Also, they must report any deductions made by a breach to the agreements of service levels.

When contracting an auditing, the auditor is required to make an assessment and send it to the Purchasing Planning and Experts Management Team of the Supply of Goods and Services Management or the person acting, for entry into the Contractual Management System. The supervisor of the auditing contract shall monitor the compliance of this requirement by the auditor.

ARTICLE 9. ELECTRONIC MEDIA USE.-

All processes and procedures regulated in this Manual, may use the electronic media according with the requirements outlined in Act 527 of 1999 and the rules regulating or modifying or supplementing them.

ARTICLE 10. INTERPRETATION.-

The interpretation of ETB contracting principles, rules and regulations and therefore, those in this Manual, shall be headed by the Secretary General by issuing instructions for proper application.

PARAGRAPH: The fulfillment of this power shall be executed in accordance with the provisions in the Internal Directive No. 00563 of June 2nd, 2009.

ARTICLE 11. CONTRACTING PROCEDURE PERIODS.-

All the contracting procedure periods from the issuing of the terms of reference to the signing of a contract shall be set out in the terms of reference and, previous Empowered justification, may be extended before its expiration for the period deemed necessary, whenever circumstances so require.

ETB may suspend the selection process at any stage, when technical, operating, economic, market, force majeure circumstances, authority order, irresistible act of a third party or utility or corporate convenience reasons that may justify this decision. The decision to suspend the process shall be explained and reported to stakeholders and/or bidders.



If there are reasons that justify the selection process, this may even be cancelled. This decision requires the respective justification by the Empowered and shall be reported to the stakeholders and/or bidders.

CHAPTER TWO. CONTRACTUAL PLANNING

ARTICLE 12. NEED'S ANALYSIS.-

Before starting any contracting procedure, the Empowered shall make a written document containing at least the following requirements:

- a) Opportunity, convenience and need's analysis of purchasing a good, work or service to intend to contract;
- b) The good, work or service description to intend to contract;
- c) Estimated and support analysis of the prices and costs of a good, work or service to intend to contract;
- d) In the case of contracts for works, they must include the legal and technical analysis on:
 - I. Designs, maps, blueprints, and other technical studies required by the work and its development stage;
 - II. Identification and the process status of the licenses, authorizations, permits and/or studies.
 - III. Costs related to the fulfillment or development of each one of the requirements mentioned above.
- e) Justification of the contracting procedure to be used when it is a Public Invitation or Direct Selection.

FIRST PARAGRAPH: COMPLEMENTARY SPECIFICATIONS. – Developing the principles of the corporate governance, the Empowered must include, as complementary specifications, other analysis considered as necessary to contract a good, work or service.

SECOND PARAGRAPH: BRANDS OR MANUFACTURERS DESCRIPTION.- It shall not be referenced brands or trade names, patents, designs, manufacturers, or any description that determines the purchase of a brand or factory in the description of goods and services, except when justified by the Empowered on the need's analysis.



THIRD PARAGRAPH: AUTHORIZATION PROCESS BEFORE THE BOARD.- Pursuant the Bylaws and the Corporate Governance Code, prior to the start of any process and when submitting it before the Supply of Goods and Services Management, the Empowered must process to the Secretary General the inclusion of the following issues in the Board Agenda for consideration and approval:

- a. Operations involving the signing of agreements and contracts with ETB affiliates or Bogota, or companies in which Bogota has a shareholding, and companies or entities affiliated or related to Bogota for the purchase or sale of goods and services exceeding one percent (1%) of the market capitalization, during the period of twelve (12) consecutive months, and/or:
- b. Signing contracts or agreements with an estimated amount exceeding two percent (2%) of the market capitalization.

The areas concerned shall report the Secretary General the contract or agreement value in terms of percentage of the company's market capitalization.

Once signed such contracts or agreements, the Empowered must submit reports to the Secretary General of the execution thereof.

CHAPTER THREE. COMMITTEE OF CONTRACTS.

ARTICLE 13. COMMITTEE OF CONTRACTS.-

ETB Committee of Contracts is created as a consultant body that supports the President or Attorneys to sign and execute contracts or agreements in which ETB is participating. The recommendations made by this Committee are advisory and its decisions are not binding.

ARTICLE 14. COMMITTEE OF CONTRACTS STRUCTURE.-

The Committee of Contracts is composed with the following members:

- a. The President or his delegate;
- b. The Secretary General or his delegate;
- c. The Chief Financial Officer or his delegate;
- d. The Vicepresident of Planning or his delegate;
- e. The Empowered of the interested area in the acknowledged subject of the Committee;
- f. The Supply of Goods and Services Manager or the person acting;



PARAGRAPH. The Supervisor or Auditor of a contract or agreement under consideration may be invited to the meetings, and other persons deemed as necessary.

ARTICLE 15. COMMITTEE OF CONTRACTS FUNCTIONS.

The Committee of Contracts shall have the following functions:

- a. Advise and make recommendations to the President and Empowered, in the various issues occurring during the contractual or execution stages of the contracts or agreements in which ETB is participating, as long as these are submitted by the Empowered.
- b. Without prejudice of the functions assigned to the ETB Conciliation and Judicial Defense Committee, examine and issue a concept regarding the responses developed by the areas involved to the requests or complaints made by the contractors or those arising in the execution of the contracts or agreements signed in which ETB is participating, when they are submitted by the Empowered.
- c. In the pre-contractual stage of the contracts or agreements in which ETB is participating, relevant issues shall be taken to the Committee, of which amount is equal or greater than 50,000 current monthly legal minimum wages – CMLMW.
- d. Establish guidelines and rules for its functioning according to the company's needs.

ARTICLE 16. MEETINGS AND QUORUM.

The Committee of Contracts shall be meeting when convened by the President or his delegate or by the Secretary General or his delegate.

Quorum shall be constituted with the participation of at least four (4) members of the Committee. All the recommendations shall be issued by the favorable vote of a simple majority of its members.

ARTICLE 17. COMMITTEE OF CONTRACTS SECRETARIAT.-

The Committee of Contracts Secretariat shall be exercised by the Secretary General through the Contracting Team or the person acting and shall have the following functions:

- a. To prepare the agenda;
- b. To send the calling and set a date to the members of the Committee;
- c. To set a date to the interested area;



- d. To set a date to the Supervisor or Auditor and other persons deemed as necessary to address the subject acknowledged by the Committee;
- e. To prepare and organize the minutes;
- f. To update and guard the Committee's file;
- g. To verify the existence of the necessary documents of the case to be studied and analyzed by the Committee.

TITLE II

CHAPTER ONE. SUPPLIER

ARTICLE 18. CONTRACTING PROCEDURES.-

ETB shall select suppliers through using the following contracting procedures:

- a. Private Invitation;
- b. Public Invitation;
- c. Direct Selection;

ARTICLE 19. PRIVATE INVITATION.-

This is the contracting procedure through an invitation to a plural number of people (at least two) for with equal status submit a proposal to ETB, in accordance with the needs, requirements and conditions provided in terms of reference.

When choosing people to invite the Empowered shall consider, among others, the following circumstances:

- a) Technical or technologic reasons or in the case of activities which by their nature or complexity may only be assigned to certain specific persons and there is a plural number of them, which must be the result of practices development of the Market Intelligence.
- b) As a result of a Pre-qualification or a RFI (Request For Information).



ARTICLE 20. PUBLIC INVITATION.-

This is the contracting procedure through a public call to any number of people for with equal status submit a proposal to ETB, in accordance with the needs, requirements and conditions provided in terms of reference.

ARTICLE 21. DIRECT SELECTION.-

This is the contracting procedure through an invitation to a person to submit a proposal to ETB, in accordance with the needs, requirements and conditions provided in terms of reference.

ARTICLE 22. TERMS OF REFERENCE.-

The terms of reference shall be made prior the beginning of any contracting procedure and shall have at least the following requirements:

- a. The good, work or service description to contract.
- b. The identification, schedule and periods of the different process stages;
- c. The objective, clear and complete rules governing offers' submittal, the guarantee of a serious proposal, the assessment factors and the awarding of the procedure to the best bidder;
- d. The reasons and causes whereby proposals are rejected, its termination statement and the consequences of the bidder's negative information.
- e. All the necessary conditions to sign and execute a contract and other relevant issues thereof, like the contractual guarantees.
- f. . Other requirements deemed as necessary according to the kind of contracting procedure performed or a good, work or service to contract.
- g. It should include a rule on it being known and accepted the current Contracting Manual by bidders and participants.

FIRST PARAGRAPH: TERMS OF REFERENCE DRAFTS.- ETB may develop terms of reference drafts to private and public invitation contracting procedures whenever it deems appropriate, which shall have all the requirements and needs provided in this article. The development and delivery of these documents to stakeholders is not a commercial offer and therefore, ETB is not required to start a contracting procedure.



SECOND PARAGRAPH: EVALUATION FACTORS.- Pursuant to paragraph d) of this section, evaluation factors shall be established in the terms of reference.

THIRD PARAGRAPH: BUDGET.- The Empowered may include the good, work or service budget when the intention is to contract and the consequences generated when it is approved.

PARAGRAPH FOURTH: SEPARATION OF FUNCTIONS.- The Empowered shall develop the technical conditions of the terms. The legal conditions shall be defined by the Legal Team of the Secretary General. The financial and economic conditions shall be defined by the Economic Studies Team of the Value Management.

FIFTH PARAGRAPH: ADDENDUM ISSUING.- The modification, omission, addition or any other adjustment to the content or scope of the terms of reference shall be made by the Empowered through an issuance of addendums numbered consecutively until the contract signing.

ARTICLE 23. EXPERT SUPPORT.-

For reasons of complexity of the contractual object and demonstrated by the Empowered, it may be foreseen an independent expert or technicians support to develop the terms of reference, the offers evaluation or a general advice at any stage or activity of the contracting procedure.

ARTICLE 24. OFFER'S EVALUATION.-

Once submitted the offer or the proposals within the contracting procedure, it shall proceed to evaluate them as follows: The Empowered shall assess the technical conditions of the terms. The legal conditions shall be evaluated by the Legal Team of the Secretary General and the financial and economic conditions shall be assessed by the Economic Studies Team of the Value Management.

Within the stage of offers evaluation, ETB may require a bidder to deliver the documents unattached to the offer and that are needed to their legal, technical and financial evaluation.

In no cases the bidder may improve the offer.

ARTICLE 25. NEGOTIATION AND DYNAMIC STRUCTURING OF PROPOSALS.-

The Empowered may set in the terms of reference a negotiation stage with the only bidder enabled, with the purpose to obtain economic and competitive advantages for ETB, which shall take place after the technical, legal and financial evaluation of the offers and before the awarding.



The Empowered may also use the dynamic structuring system of the offers in the processes in which there are a number of bidders enabled, that shall be held in person or by electronic means. The bidders, in condition to those aspects of the offer including dynamic variables, shall submit an initial offer that may be enhanced through a development of successive positions until the structure of the final offer, understanding that the final offer is the last one submitted for each variable within the period of the meeting in person or the virtual meeting, as appropriate. For all purposes, the final offer shall be the bidder's initial offer that has not exercised his right to submit bids.

The result shall be in writing.

PARAGRAPH: DYNAMIC VARIABLES.- The dynamic variables mentioned in this section may be technical or financial variables. The technical variables are referred to the bidder's ability of modifying the specifications provided in the terms of reference. And the financial variables are those aspects with an economic impact in the offer provided in the terms of reference.

CHAPTER TWO. PRIVATE INVITATION

ARTICLE 26. GENERAL RULE.-

The choice of a contractor shall be made, by general rule, through this selection method to develop and fulfill its corporate purpose, as well as the activities related and those directly related thereto.

ARTICLE 27. PROCEDURE.-

The Private Invitation shall be made in accordance with the following procedure:

- a. **Sending of Terms of Reference Drafts (when these ones have been developed):** If there is room to develop terms of reference drafts, these shall be sent to a plural number of stakeholders to analyze their contents and scope, in accordance with paragraph 1 of article 22;
- b. **Comments to Terms of Reference Drafts:** The stakeholders may submit comments to the content and scope of the terms of reference drafts within two (2) working days after its sending. The Empowered shall respond each one of the comments prior issuing the terms of reference.



- c. **Briefing:** When deemed appropriate by the Empowered and prior issuing the terms of reference, it shall be communicated the date, time and place in which it shall take place a briefing in order to clarify the content and scope of the terms of reference drafts.
- d. **Sending of the Terms of Reference:** Once solved all the comments and concerns to the stakeholders, the Empowered shall issue the terms of reference of the Private Invitation, which shall be sent to a plural number of stakeholders in with equal status submit a proposal.
- e. **Receipt of Proposals:** In the day, time and place set out in the Invitation schedule, the receipt of proposals shall carry out and in which shall be filled a spreadsheet.
- f. **Proposals Evaluation:** In the Invitation schedule shall be set out a reasonable time to make an assessment of the proposals submitted.

During this time the explanatory, or accuracy, or amendment requests of the proposal or the bidder shall be made, in accordance with the provisions in article 24 of this Manual.

- g. **Negotiation or Dynamic Structure:** One of these stages may be overtaken prior to the awarding in accordance with the provisions of article 25;
- h. **Awarding:** Once conducted the previous stage and within the time specified in the Invitation schedule, the Empowered, through a document in writing, shall analyze and respond each one of the comments and questions made during the Private Invitation and shall award this Invitation to the best bidder. This decision shall be communicated to the successful bidder and the rest of them.

Within the same time the Empowered may declare the termination of the Invitation, if a best bidder could not been chosen. This decision shall be communicated to the bidders.

- i. **Signing a Contract:** The successful bidder and ETB through the Empowered shall sign and fulfill the requirements of executing a contract within the time specified in the terms of reference or in the Contract.

Without a prejudice of being effective the guarantee of a serious offer, if the successful bidder does not sign the contract, the Empowered may sign with the bidder in the second order of eligibility or to state the termination of the Invitation.

PARAGRAPH: PROCEDURE IN CASE OF A TERMINATION OF A PRIVATE INVITATION STATEMENT.- If a termination of a Private Invitation is declared and the need continues, ETB may restart it in accordance with the procedure established in this article.



CHAPTER THREE. PUBLIC INVITATION

ARTICLE 28. SOURCE.-

Previous decision expressed by the President or the Empowered, ETB may carry out this selection mode to develop and fulfill its corporate purpose, and the related activities and those directly related thereto.

ARTICLE 29. PROCEDURE.-

A Public Invitation shall carry out in accordance with the following procedure:

Publication of the Terms of Reference Drafts (when these ones have been developed): If there is room to develop the terms of reference drafts, these shall be published on the ETB webpage for a period of five (5) working days, in accordance with paragraph 1 of article 22.

- a. **Comments to Terms of Reference Drafts:** Stakeholders may submit comments to the content and scope of the terms of reference drafts. The Empowered shall respond each one of the comments prior issuing the terms of reference.
- b. **Briefing:** Prior issuing the terms of reference, the Empowered shall communicate the day, time and place in which a briefing shall take place in order to clarify the content and scope of the terms of reference drafts. Of all the events a document shall be developed containing the comments made by the participants and the responses to each one of them issued by ETB, indicating those that have been accepted and which generate a modification, an adjustment or an explanation of any of the aspects in the terms of reference drafts.
- c. **Publication of the Terms of Reference:** Once solved all the comments and concerns of the stakeholders, the Empowered shall publish on the ETB webpage the terms of reference of a Public Invitation.
- d. **Receipt of Proposals:** The day, time and place set out in the Invitation schedule, the receipt of proposals shall carry out and in which shall be filled a spreadsheet.
- e. **Proposals Evaluation:** In the Invitation schedule shall be set out a reasonable time to make an assessment of the proposals submitted.
- f. During this time the explanatory, or accuracy, or amendment requests of the documents of the proposal or the bidder shall be made, in accordance with the provisions of article 24 of this Manual.
- g. **Negotiation or Dynamic Structure:** One of these stages may be overtaken prior to the awarding in accordance with the provisions in article 25.



- h. **Awarding:** Once conducted the previous stage and within the time specified in the Invitation schedule, the Empowered, through a document in writing, shall analyze and respond each one of the comments and questions made during the Public Invitation and shall award this Invitation to the best bidder. This decision shall be published on the Company's webpage.

Within the same time the Empowered may declare the termination of the Invitation, if a best bidder could not been chosen objectively. This decision shall be published on the webpage.

- i. **Signing a contract:** The successful bidder and ETB through the Empowered shall sign and fulfill the requirements of executing a contract within the time specified in terms of reference or in the contract.

Without a prejudice of being effective the guarantee of a serious offer, if the successful bidder does not sign the contract, the Empowered may sign with the bidder in the second order of eligibility or to state the termination of the Invitation.

PARAGRAPH: PROCEDURE IN CASE OF A TERMINATION OF A PUBLIC INVITATION STATEMENT.- If a termination of a Public Invitation is declared and the need continues, ETB may restart it in accordance with the procedure established in this article.

CHAPTER FOUR. DIRECT SELECTION

ARTICLE 30. CAUSES OF A DIRECT SELECTION.-

The choice of a contractor shall be made, by general, rule, through a Private Invitation, except in the following cases in which it may be used a direct contract:

1. Emergency Contracting.
2. The acts or contracts in amounts equal or lower than five hundred (500) current monthly legal minimum wages;
3. Those referred to loans;
4. Contracts to develop scientific and technological activities according to the provisions of Act 29 of 1990 and other regulations related;
5. Those referred to a trade agency;
6. Those referred to a collection and a current account;
7. Interadministrative contracts or agreements;
8. Those referred to an exclusive supplier;
9. Those referred to professional services signed in order to address the qualities and conditions of the supplier;



10. Extension, updating, modification contracts and technical support services and maintenance of infrastructure or software already installed;
11. Contracts of property purchase or when they are taken under a title not involving a transfer domain.
12. Contracts of personal or real property exchange.
13. Contracts with a non-profit private organizations.
14. Goods or services procurement to ETB subsidiaries or affiliates, companies where the Capital District or ETB have equity interest or to Capital District Entities. In these cases the contracts shall be signed under the terms, conditions and costs that ETB usually applies to non-related third parties, that is, in market conditions in order to leverage corporate synergies.
15. Advertising contracts and media centers.

ARTICLE 31. GENERAL PROCEDURE.-

Direct Selection shall be made in accordance with the following procedure:

- a. **Sending of the Terms of Reference:** The Empowered shall issue the terms of reference, which shall be sent directly to the stakeholder to submit his proposal.
- b. **Receipt of Proposal:** The proposal shall be received according to the day, time and place set out in the schedule.
- c. **Proposal Evaluation:** The proposal submitted and received shall be evaluated by ETB, when appropriate.
During this time the explanatory, accuracy or amendment requests of the proposal or the bidder shall be made, in accordance with the provisions in article 24 of this Manual.
- d. **Awarding:** Once conducted the previous stage, the Empowered, through a document in writing, shall award the contract. Within the same time the Empowered may declare the termination of the Direct Selection. These decisions shall be communicated to the successful bidder or the proponent, when appropriate.
- e. **Signing a contract:** The successful bidder and ETB through the Empowered shall sign and fulfill the requirements of executing a contract within the time specified in the terms of reference or in the contract, respectively.

FIRST PARAGRAPH: PROCEDURE IN CASE OF A TERMINATION OF A DIRECT SELECTION STATEMENT.- If a termination of a Direct Selection is declared and the need continues, ETB may restart it in accordance with the procedure established in this article.



ARTICLE 32. SPECIAL PROCEDURE IN CASE OF AN EMERGENCY CONTRACTING.-

The signing of contracts referred in paragraph 1 of article 30 of this Manual shall apply when an event prevents contracting according with the selection procedures provided by this Manual, and to this effect there is the following procedure: Occurred circumstances generating an emergency, the Empowered shall make the needs analysis and the terms of reference with the substantial elements considered according to the object to contract, among others, the price or the way to determine it, the payment method, the time, the contractual object, etc.

Only in this case a contract execution may initiate before the guarantees that protect their risks have been signed, established and granted, as long as the terms of reference have been sent to the stakeholder. Signing a contract and granting guarantees should be supplied within eight (8) working days after sending the document referred. Once the contract has been signed, the Committee Chair shall be informed and the background that could take place shall be sent.

TITLE III

CHAPTER ONE. SIGNING AND EXECUTING A CONTRACT

ARTICLE 33. FORMALIZATION AND EXECUTION REQUIREMENTS OF THE CONTRACTS.-

All the acts or contracts signed by ETB must be in writing for its formalization.

For its execution, an approval of a guarantee or guarantees shall be required which cover the various risks required in the contract.

PARAGRAPH: PUBLICIZING.- The Supply of Goods or Services Management or the person acting, shall publish a monthly list of the contracts sign through its webpage.

ARTICLE 34. START ORDER.-

Once the formalization and execution requirements are complied, the Supervisor or Auditor shall issue a written order to start the contract.



ARTICLE 35. MANDATORY CLAUSE.-

All the contracts governed by this Manual, regardless their nature, object or amount, shall include the following clauses:

1. *“The contractor guarantees, solemnly under oath, that he confirms with the offer submitting, that no person serving ETB has received or shall receive, directly or indirectly, a benefit arising from the awarding, signing or execution of a contract, and expressly accepts that this provision is an essential condition of the contract, so that its failure shall result in its termination and the application of the relevant legal sanctions.”*
2. *“Best Practices and Corporate Responsibility Agreement. The contractor agrees to sign the Best Practices and Corporate Responsibility Agreement, which is an integral part of this contract and contains the sustainable development principles.”*
3. *“The Contractor must perform his duties in compliance with current legal regulations on environmental management. Therefore it is up among other duties, to conduct activities related to identify, analyze and assess dangers, to control and manage risks, to reduce, improve or compensate the environmental impacts and effects that may damage people, property or environment and to obtain the permits required by the environmental authorities. These duties are also applicable to subcontractors”.*
4. *“Waste Generation. The Contractor shall jointly establish with ETB a management and a waste treatment and environmental impacts policy that are generated by the execution of this contract”.*

ARTICLE 36. GUARANTEES.-

The guarantees to be granted by the bidder or contractor shall be indicated in the terms of reference and in the contract and they shall be required according to the Empowered criteria, taking into account the object of the contract and the duties to be assumed by the contractor or bidder.

The insured value may not be lower than 10% of the contract value or the budget of the contracting procedure, as applicable, except in the case of an advance of wages, compensations and social benefits. The guarantees granted shall be insurance policies issued by companies supervised by the Financial Superintendence of Colombia (*Superintendencia Financiera de Colombia*) and shall protect the following events:

- A. Serious Offer Policy:** It ensures that the one who submits a proposal cannot retire it and that the awarded supplier with the awarding meets his offer and sign the contract.
- B. Compliance Policy:** It ensures any factual grounds of breach of the contractor’s duties. The term shall run from the date of the signing until the termination or liquidation of the contract.



C. Correct Handling of Payment Advance Policy: It ensures the proper investment of the payment advance. Its insured value shall be equal to the payment advance granted and shall be valid until the termination or liquidation of the contract.

D. Wages, Compensations and Social Benefits Policy: It ensures the wages, social benefits and compensations payment of the staff that the supplier employs to execute the contract and its duration shall be equal to the contract and three years after the date of termination. Its insured value cannot be lower than 5% of the contract value.

This policy shall be granted in all the contracts in which the contractor employs third persons to fulfill the contractual obligations.

E. Stability and Quality of Work Policy: It ensures that the built work fulfills the intended purpose and has no hidden defects. It responds for the good quality of the material used in works and workings executed in accordance with the technique and provisions of the contract. Its duration shall begin on the date of receipt of the work and it must cover at least the time in which, according to the contract and civil and trade legislation, the supplier is responsible for the estimated minimum guarantee and for the redhibitory defects (hidden defects that may annul the contract).

F. Quality and Proper Functioning of Goods Policy: It ensures that goods fulfill the purpose for which they were purchased and the manufacture quality and the materials used. Its duration shall begin on the date of the receipt of goods and must cover at least the time in which, according to the contract and civil and trade legislation, the supplier is responsible for the estimated minimum guarantee and for the redhibitory defects.

Quality and Proper Functioning of Using Software Licenses Policy: Its duration shall begin on the date of the receipt of the license and must cover at least the time in which, according to the contract and civil and trade legislation, the supplier is responsible for the estimated minimum guarantee and for the redhibitory defects.

G. Parts Supply Policy: It ensures the parts and accessories supplying for the time specified in the contract.

H. Extracontractual Civil Responsibility Policy: It ensures the payment of damages caused by the supplier to a third party when developing the contract. Its duration shall apply until the termination or liquidation of the contract.

I. Service Quality Policy: It ensures that the contractor shall provide the services appropriately, according to the requirements of the contract developed by him.

J. Material Good Handling Policy: It ensures proper administration and management of the materials delivered by ETB to the contractor to develop the contract, and no misappropriation thereof. Its duration shall be until the satisfactory return of such materials



FIRST PARAGRAPH: COVERAGE RATES. Coverage rates of policies may increase in opinion of the Empowered, based on risk evaluation in which must be analyzed the possibility of a loss happening and the severity of the damage caused to the Company.

SECOND PARAGRAPH: REPLACEMENT OF THE INSURED VALUE.- In any case, when policies are affected by the occurrence of accidents, the contractor must replace the insured value to the extent of the requirements of the contract.

ARTICLE 37. TRANSFER OF CONTRACTS.-

The contractor may not transfer nor totally nor partially his contractual position or the obligations under the contract, without prior expressed and written consent of the Empowered.

The transfer made without fulfilling such requirement shall be ineffective and unenforceable.

ARTICLE 38. INDEMNITY.-

All the contracts governed by this Manual shall have a clause requiring the contractor to indemnify ETB of any claim or demand, for the damages incurred by the Contractor's staff to third parties when developing the contract or any other event imputable to its responsibility.

ARTICLE 39. CONTRACTUAL PENALTIES.-

Any contract signed by ETB and governed by this Manual, must agree a non-performance penalty clause and a compensatory penalty clause submitted to meeting deadlines or terms.

- 1. FINES:** If there is a partial failure or delay of any of the obligations, the contractor shall pay a fine equal to 1.5% of the defaulted part of the price or 0.5% of the contract price, for each day, week or month delayed, according to the provisions of the terms of reference, without prejudice to the application of a pecuniary penalty clause. The total value of the non-performance penalty clause cannot exceed 30% of the total contract value.

In case of a Contractor's imputable delay in the establishment of the contractual guarantees, the fine shall be equal to 2% of the values that the contractor shall insure, for each day delayed, notwithstanding the application of the pecuniary penalty clause.

- 2. PECUNIARY PENALTY CLAUSE:** In case of a total or definitive failure of any of the Contractor's obligations, he must pay of a pecuniary penalty clause which amount, as defined by the Empowered, shall be up to the 30% of the total contract value. The penalty does not relieve the supplier to fulfill the main obligation, or to pay the damages exceeding the value of this percentage as provided in article 1594 of Civil Code and other regulations related.



FIRST PARAGRAPH: SANCTIONS CALCULATION.- In the terms of reference or in the contract may be defined the defaulted part of the contract price to calculate the fines or the pecuniary penalty clause, with respect to the obligations without a price discriminate.

SECOND PARAGRAPH: SANCTIONS DISCOUNT.- ETB must discount the value of the non-performance and compensatory penalty clauses of the amounts owed to the contractor by any concept. If not possible a total or partial discount, the contractor agrees to deposit in the account indicated by ETB, the undiscounted value or balance, within the time specified in the collection account determined to that purpose. The supplier expressly disclaims any request for purposes of arrears.

ARTICLE 40. CONTRACT MODIFICATION.-

The contract conditions may be modified by the Empowered through an Agreement signed by the parties during the execution time, when circumstances justify this and previous analysis of the consequences that such decision arises. Among others, the following are contract modifications:

- a. **Extension.** It means an expansion or continuation of a contract execution time within of which the parties' obligations are executing.
- b. **Addition.** It means expanding the contractual value.
- c. **Modification.** It is any modification to the contractual conditions as long as this modification does not change the contractual object.

FIRST PARAGRAPH: SOLEMNITY OF CONTRACT MODIFICATIONS.- Only contract modifications stated in a written document shall be binding for ETB. Any contract modification not written shall not have legal purposes nor produce an obligation to ETB.

ARTICLE 41. CONTRACT CANCELLATION.-

A contract execution may be cancelled totally or partially, by mutual agreement of the contracting parties.

The cancellation shall be formalized in a written document containing the agreement causes, the percentage of the contract completion, the contracted works, goods or services status, the time for which it is extended and the consequences that such decision arises.

The parties shall sign a minutes indicating the conditions of the contract resumption, once the cancellation causes before the due date are overcome.



The contractor shall modify the duration of guarantees provided in the same cancellation period, if the contractor have not given notice to the insurance company to cancel the insurance contract.

PARAGRAPH: NO CALCULATION OF TIME DURING THE CANCELLATION. As the contract cancellation involves the interruption of the execution time, the period for which it extends shall not be counted to calculate the sanctions.

ARTICLE 42. ADVANCE PAYMENTS.-

Only advance payments may be agreed up to 20% of the contract value, before VAT, whose purpose is the acquisition of capital goods.

By exception Advance Payments may be agreed in amounts greater than the mentioned above, as long as their agreement creates a measurable benefit to ETB, meaning that, receiving discounts equal or greater than the opportunity cost, taking into account the resources availability, information provided by the treasury Management or the person acting.

The advance payment granted shall not be subject to any adjustment.

The Contractor shall submit, prior to payment, the investment program of the advance payment to the supervisor or auditor, when appropriate, who shall approve or order the respective adjustments. The Contractor shall resubmit the investment program within the time set by the contract supervisor or auditor.

It is a contractor's duty to fill and send the form "advance payment request" for its payment.

Other requirements, conditions and requests shall be set by the Empowered in the respective contract.

FIRST PARAGRAPH: CAPITAL GOODS DEFINITION.- It means the foreign and domestic equipment used to the provision of telecommunications services.

SECOND PARAGRAPH SECOND: REPAYMENT OF ADVANCE.- The value of the advance payment granted shall be repaid necessarily in the same proportion or percentage corresponding to 100% of the invoice, before VAT;

ARTICLE 43. CONFIDENTIALITY

Signing any contract with ETB implies an obligation for the Contractor to use and manage any information known by any means and entrusted or accessed in reason or occasion of his duties, confidentially, ensuring by any means available that the workers at his service and other persons authorized, shall respect the obligation to maintain discretion about it.

The parties agree that the information provided during the contract development shall be managed as confidential and it shall only be used for appropriate action. A confidentiality violation or an information misuse shall give the responsible contracting party to claim compensation by the contracting party that failed.



It is not considered a confidentiality violation, disclosure of information to the competent authority or when is of public knowledge. Neither party acquires property rights or disposition with the respect to the information provided by the other party.

ARTICLE 44. HABEAS DATA.-

As for the due contract performance the contractor needs to access, consult and/or manage ETB databases, its customers, employees, suppliers or shareholders, prior the permits granted for that purpose, the contractor agrees to provide the necessary means to observe, meet and train his employees on the principles of third-party data management, such as: accuracy, purpose, restricted access and movement, timing, safety, confidentiality, freedom and transparency, according to the provisions of Act 1266 of 2008, the Resolution 3066 of 2011 of CRC (Telecommunications Regulation Commission) and other regulations modified, added or replaced.

For the same purposes, with the offer submittal, the bidder accepts, in case of being the successful bidder, to adhere himself to the security policy adopted by ETB to manage its information and third-party data, for which the bidder agrees to know and comply, as well to train the people at his service to execute the contract, regardless the link way thereof, about the obligatory nature of its compliance. This policy must be consulted on the ETB webpage, www.etb.com.co

TITLE IV

CHAPTER ONE. CONTRACT MONITORING

ARTICLE 45. CONTROLLING AND MONITORING A CONTRACT EXECUTION.-

ETB shall control and monitor the agreements or contracts execution through the supervision or auditing assigned or contracted by the Empowered.

CHAPTER TWO. SUPERVISION AND AUDITING

ARTICLE 46. SUPERVISION.-

It is defined as the set of functions performed by ETB workers at a professional level or higher, to carry out the control, monitoring and support of a contract execution, intended to ensure its proper execution and compliance, in accordance with the provisions in this Manual and the contract obligations.



The contract monitoring shall be carried out also with the purpose of keeping the Empowered permanently informed of its progress and difficulties arising.

PARAGRAPH.- AUDITING SUPERVISOR.- In all cases in which ETB hires an external auditing, a supervisor assigned by the Empowered shall verify the auditing contract compliance.

ARTICLE 47. AUDITING.-

It is defined as the set of functions performed by an external individual or legal entity to ETB, contracted specially to carry out the control, monitoring and support of the contracts execution, intended to ensure their proper execution and compliance, in accordance with provisions in this Manual and the contract obligations.

The auditing may be assigned to external contractors when by institutional necessity the company requires it, due, among other factors, the project specialty or size, value, specificity of functions or when the necessity or business conveniences require it.

ARTICLE 48. SUPERVISION AND AUDITING SCOPE.-

The function of supervision and auditing implies administrative, technical, financial and legal actions, in order to verify the contract compliance and the ETB interest satisfaction.

ARTICLE 49. PRINCIPLES.-

Without damaging the principles of corporate governance, the contract monitoring, through the supervision and auditing, shall be developed in accordance with the efficiency, economy, effectiveness and impartiality principles. In this regard:

- a. Shall cooperate with ETB and the contractor to achieve the contractual objectives agreed.
- b. Shall ensure the proper contract execution and the compliance of established schedules, keeping them properly updated.
- c. Shall ensure that the resources are executed properly.
- d. Shall respond for the results of their management.
- e. Shall verify the compliance of the technical, economic and financial conditions of the contract.
- f. Shall report at the appropriate time any situation affecting the proper contract execution in order to be solved as soon as possible, preventing undue delays affecting ETB or a contract execution.
- g. Other attached to the contracted object and the exercise of his activity and profession.



ARTICLE 50. PURPOSES.-

The following are supervision and auditing purposes:

- a. Guarantee the efficient and proper resource investment assigned to the contracts.
- b. Ensure that the contractor when executing a contract keeps the time, terms, conditions and technical requirements and other provisions agreed.
- c. Maintain permanent communication with the contractor and ETB workers.
- d. Tend to avoid conflicts between the parties and adopt measures to solve any disputes.
- e. Ensure that the contract execution is not interrupted without a reason.

ARTICLE 51. POWERS.-

The supervisor and auditor are entitled to act according to what was agreed in the contract and covered by this Manual. Their competence:

- a. Require the contractor to comply with the obligations under the contract.
- b. Provide the contractor and his dependents with written instructions about the obligations compliance.
- c. Require the necessary information, recommend what they consider like a contribution to the best contract execution and in general, adopt the measures tending to the proper execution of the object contracted.
- d. Certify in writing all their actions. Orders and instructions issued are mandatory as long as they are consistent with the agreement.
- e. Suggest measures deemed as necessary to the best execution of the object agreed.
- f. Communicate the Empowered the circumstances that may put in risk the contract execution, and if necessary, to the control agencies through the ETB Secretary General.
- g. Inform at the appropriate time, the circumstances, events and situations affecting the contract's running and request taking legal, technical o financial measures that could take place, accompanying and actively contributing to ETB during the solving of any disputes and difficulties presented and that must be solved.

ARTICLE 52. FUNCTIONS.-

The supervisor and auditor shall exercise the following functions:

A. ADMINISTRATIVE FUNCTIONS.

1. Check the documentation contained in the contract folder and to collect the missing information in order to as much information about its origin.
2. Avoid decisions interfere with no reason in contractor's actions.
3. Check that permits, licenses, authorizations and other documents necessary exist to execute the contractual object.
4. Keep a strict control over correspondence occurs with the contractor during the contract execution, so that ETB intervenes properly the requests submitted.
5. Organize information and documents generated during the contract execution and send them to Document Management Center or the person acting.



6. Coordinate with ETB units related with the contract execution, to comply their obligations. Within this function is meant to track the contractual actions.
7. Approve the schedules to be followed during the process of each one of the execution and liquidation stages of the contract.
8. Integrate into committees and participate actively and responsibly in their operation, recording meetings held and decisions adopted.
9. Meet, process and resolve any contractor's consultation, so that the process is flexible to solve the problems arose when developing the contract activity, within the limits of their functions.
10. Process applications for entry of contractor's personnel and equipment or from external people to the influence area of the contract.
11. Ensure that for attributable reasons to ETB there is not a higher onerous or the contract commutativity is not affected.
12. Schedule and coordinate regular meetings to analyze the execution status and contract advances.
13. Report the execution status and contract advances, with the frequency required, following the object and nature thereof.
14. Enforce applicable safety, hygiene, occupational and environmental health standards.
15. Carry out any other function necessary to the proper contract monitoring.

B. TECHNICAL FUNCTIONS.

1. Check and approve the work location and its technical requirements to start and develop the contract, also check – as appropriate – the existence of blueprints, designs, licenses, authorizations, studies, calculations, specifications and other technical considerations deemed as necessary to the contract execution.
2. Check that the contractor provides and maintains the personnel or equipment offered, with the conditions and suitability agreed initially and require their replacement when necessary.
3. Study and monitor technical requirements that do not involve contract modifications.
4. Monitor the contract progress based on the schedule provided and recommend any adjustment that may be required.
5. Monitor and examine continuously the quality of the work, equipment, materials, goods, supplies, products or services, as well as organize and monitor trials and tests necessary to control them.
6. Perform technical justifications that may be required during the contractual stage or in the requirements requested by the Empowered.
7. Ensure that regulations, technical specifications and procedures provided to execute the contract activities are being complied.
8. Check the goods delivery or the services provision, in accordance with the provisions of the relevant contracts, leaving the respective written evidence and justification.
9. Project the responses to reports submitted or to questions made by State control agencies or any other authority and put them into Empowered approval.
10. Check, as occasion requires, the equipment, items and documents reinstatement supplied by ETB, confirming their status and quantity.
11. Include in the Contract Management System all the news, orders and instructions given during the contract time.



12. Certify the contract compliance in its different stages of execution. Prior to the issuance of the certificate, a draft shall be sent for Empowered approval.
13. Carry out other activities for the development of the contract object, in accordance with the relevant technical requirements.

C. FINANCIAL FUNCTIONS.

1. Check the contractor fulfills the requirements for the advance payment agreed.
2. Verify that the contract is properly supported with the resources required.
3. Review and approve the invoices and/or collection accounts submitted by the contractor.
4. Approve expenditures and payments, after verifying the compliance of the contract requirements provided for this purpose.
5. Ensure the proper budget execution of the contract.
6. Ensure the total repayment of advance, according to the contract provisions.
7. Check that additional works and activities involving an increase in the contract value have the proper technical justification and budgetary support, avoiding making commitments outside the contract obligations and without capital support.
8. Verify, in accordance with the legal means allowed to this effect, the compliance of *parafiscal* contributions and with the Integral Social Security System (*Sistema de Seguridad Social Integral*) by the contractor and his dependents.
9. Check the proper tax payments that might arise and resulting from the contract or post-contract activity.
10. Make the economic justifications that may be required during the contract stage or in the requirements requested by the Empowered.
11. Make reports and submit the accounting information produced.

D. LEGAL FUNCTIONS.

1. Once the contract is signed, check and demand to be granted the guarantees required and ensure these remain in force and in the amounts agreed.
2. Once the contract is finished, demand the guarantees establishment that could take place in the conditions agreed.
3. Promote the proper execution of direction and reorientation functions of the contract management relevant to ETB, specially the execution of contract sanctions agreed. If it is found a breach of the Contractor's duties and it is not possible to fulfill them through the regular activities, shall give immediately notice to the Empowered in order to assess the situation. The respective notice shall describe in detail the events that have led to such of it, indicating the kind of damages suffered by ETB, and their amounts. In case the kind of damages and their amounts cannot be precisely defined at the time of notice, an approximate estimate shall be submitted.
4. If the contract was not executed satisfactorily and in accordance with the provisions in it, the Empowered shall be requested to adopt measures and report to the insurance area for the accident statement to the insurer, when appropriate.
5. Ensure the compliance of labor obligations generated in connection to the contract signed.



6. Study and analyze the claims submitted by the contractor and make the relevant recommendations.
7. Sign all the minutes that occur at the time of the contract execution.
8. Ensure the proper process of applications and requests made in connection with the contract development.
9. Verify that the contract execution is developed within the contract term or duration and according to the values established.
10. Report properly the delays or situations or, in general, any event that might lead to make contract actions and/or sanctions and, in general, the initiation and development of the respective judicial and extrajudicial activities.
11. Others that in accordance with their nature are inherent to their functions and activities performed.

E. FINAL REPORT OF EXECUTION

Once the execution time is terminated or the contract or agreement is complied by any circumstance, the Auditor or Supervisor shall submit a Final Report of Execution of the contract monitored to the Empowered, in which must detail all the aspects related to the contract execution, among others, the level of the object compliance, its percentage, and pending obligations.

F. CONTRACT LIQUIDATION.

The successive performance contracts, the works contracts and those in which the Empowered deems appropriate, shall be settled by a Minutes that the parties shall sign within the period specified in the contract or, if not specified, within three months after its completion. Deadlines may be extended upon justification signed by the Empowered.

The minutes shall include, among others, the adjustments and acknowledges that could take place, as well as the agreements reached between the parties to put an end to disputes and make a statement of fully paid.

If the minutes cannot be signed by the contractor, the supervisor or auditor shall report the event to the Empowered and shall record the background of the contract execution and the guarantees provided, the financial statement, fines, pending obligations and other reasons for which the contractor did not sign the minutes.

ARTICLE 53. PERFORMANCE.-

Normally, the supervision or auditing shall be performed by a single person. Nevertheless, if it is not possible or suitable, the Empowered shall assign or contract several people, for which the duties and responsibilities of each one of these persons shall be pointed out precisely.



ARTICLE 54. QUALITIES.-

In each case, the Empowered addressing the special contractual object, shall consider the professional or institutional profile that should satisfy the individual or legal person to perform the functions of supervision or auditing.

In any case, supervision and auditing must be attended by people trained and with expertise in the respective area, ensuring necessary aptitude to fulfill their functions suitably.

Supervision shall be in charge of WTB workers at a professional level or higher.

ARTICLE 55. INELIGIBILITIES AND INCOMPATIBILITIES.-

Without prejudice to the rules governing the ineligibilities and incompatibilities, prohibitions and duties, the Empowered shall not assign a supervisor or hire as an auditor to whom is in an interest conflict situation that could affect the objective and impartial auditing exercising, or is subject of any conduct referred to in Act 734 of 2002, 1474 of 2011 and other related.

ARTICLE 56. SPECIAL PROHIBITIONS.-

The following is prohibited to supervisors and auditors:

- a. Make decisions implying modification, extension, expansion, reduction and other content or scope of the contract.
- b. Request or receive, directly or indirectly, for themselves or for a third party, gifts, favors or any other kind of benefits or privileges of the contractor.
- c. Ignore, deny or delay issues attention to their charge.
- d. Hinder the authorities' actions or the exercise of individuals' rights in relation to the contract.
- e. Become creditor or debtor of any person interested directly or indirectly in the contract.
- f. Allow wrongfully the access of third parties to contract information.
- g. Manage personally in a wrong way issues relative with the contract.
- h. Require the contractor, waives in exchange for modifications or additions to the contract.
- i. Exonerate the contractor of any of his obligations.
- j. Authorize the initiation of a contract execution before satisfying the legal or contractual requirements provided to this effect.

PARAGRAPH: CAUSE OF AN UNILATERAL TERMINATION OF AN AUDITING CONTRACT.- Incurring in one or several of the prohibitions mentioned above shall be a cause of an unilateral termination of an auditing contract.



ARTICLE 57. OPPORTUNITY FOR DESIGNATION.-

The supervisor or auditor may be assigned or hired from the pre-contractual stage, so that their participation and knowledge of the project may be ensured, to the extent that the work complexity to be performed on the contract execution requires it.

Their participation on the pre-contractual stage, when appropriate, shall be as a consultant. At the latest the appointment or contracting shall be made concurrent for the contract for which shall perform their functions.

ARTICLE 58. COMPETENCE TO SIGN DOCUMENTS.-

When the supervision or auditing of a contract is developing, the documents to be required shall be signed to ensure the proper contract execution in accordance with the contract nature and object.

TITLE V

SOLE CHAPTER. TRANSITORY AND REPEALING PROVISIONS

ARTICLE 59. TRANSICIONAL RULES.-

Contracting processes, whose terms of reference or Invitation conditions are issued by the technical, legal and economic studies teams on the effective date of this Manual, remain subject to the Manual provisions adopted by the Internal Directive No. 00546 of May 30, 2008 and the regulations that added, modified or replaced it.

The same provision shall apply to the Direct Selection processes without conditions in which those the offer was requested to the supplier.

Contracting procedures beginning on or after the effective date of this Directive shall be subject to the provisions thereto.

ARTICLE 60. DEROGATORY PROVISIONS.-

The Internal Directive revokes the Internal Directives No. 00449 of June 30, 2005; 00452 of July 29, 2005; 00453 of July 29, 2005; 00477 of January 20, 2006; 00488 of May 26, 2006; 00502 of December 6, 2006; 00510 of May 31, 2007; 00515 of July 18, 2007; 00516 of July 18, 2007; 00520 of August 14, 2007; 00546 of May 30, 2008; paragraph b) of paragraph II) of Internal Directive No. 00589 of August 24, 2011 (that modified Internal Directive No. 406 of September 27, 2004); 00600 of December 22, 2011; the regulations that added, modified or replaced them; it revokes the current Contracting Manual, the current Contract Supervision Manual; the current General Contracting Conditions, as well as other rules and provisions contrary to this Manual.



ARTICLE 61. VALIDITY.-

This Directive shall entry into force from the twenty-third (23rd) day of July of 2012, after publishing it on ETB webpage and intranet.

LET IT BE KNOWN AND PUBLISHED.

Given in Bogota D.C., on

SAUL KATTAN COHEN
President