

ABA-MAN-001

# Contracting Manual

of Grupo Energía Bogotá S.A. E.S.P.



Grupo **Energía Bogotá**



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# Contracting Manual

## I. PURPOSE

To regulate the acquisitions of the goods and services required by Grupo Energía Bogotá S.A. E.S.P.

## II. SCOPE

This Manual contains the general rules and principles that regulate the acquisition of goods and services by means of contracts and other legal businesses entered into by Grupo Energía Bogotá S.A. E.S.P. (hereinafter, the Company), in the capacity of contracting party and in performance of its corporate purpose.



### III. DESCRIPTION OF THE MANUAL

## **Chapter I** General Provisions





## 1. Purpose and Scope of Application

This Manual contains the general rules and principles that regulate the acquisition of goods and services by means of contracts and other legal businesses entered into by Grupo Energía Bogotá S.A. E.S.P. (hereinafter, the Company), in the capacity of contracting party and in performance of its corporate purpose.

## 2. Definitions

The definitions contained in this Manual, and the scope, meaning, interpretation and effects of the acronyms, words or terms shall be those defined herein, except when a different interpretation or effect is expressly established in connection with a specific topic.

## 3. Exceptions

This Manual shall not apply to the cases indicated below; however, these shall be regulated by the rules of private law and special applicable laws, the regime of disabilities and incompatibilities established by law, the principle of planning, as well as the principles of the public function and fiscal management:

- a. The contracts that are subject to special legal regimes, such as work contracts, loan contracts, public credit transactions and/or equivalent or associated transactions, operating or commercial agreements in the capacity of transporters and the purchase of fuel or energy for the operation, contracts of uniform conditions with household public services companies, contracting derived from trust businesses, among others.
- b. The connection contracts described by Laws 142/1994 and 143/1994, any provisions that complement, amend or supplement them, and their applicable regulatory regime.
- c. The transaction contracts described in articles 2469 and 2483 of the Civil Code.
- d. Acquisition of products offered by Large Retailers.

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- e. Services under the modality of subscription, affiliation or registration.
- f. Purchases made through petty cash funds.
- g. Lease, swap, purchase-sale, lend to use and other legal businesses involving real estate properties.
- h. In the case of acquisitions of goods and services for corporate events, as defined in this Manual.
- i. Agreements entered into with partners or strategic allies to promote business strategies.

**PARAGRAPH:** The procedure, persons responsible and approval bodies for the matters described in this section shall be defined in the framework of the Company's Integrated Management System.

## 4. Applicable Regime

The Company may enter into all types of contracts, in accordance with the rules of the Civil Code, the Commercial Code, this Manual and any special provisions that may apply due to the nature of the Company.

Contracts entered into or that must be performed abroad may be ruled by the regulations of the country agreed to by the parties.

## 5. Principles

The Company's contracting shall be guided by the principles of planning, equality, morality, effectiveness, economy, timeliness, impartiality and publicity.

## 6. Contracting Authorizations

The Company's CEO has authorization to enter into contracts, subject to the authorization limits established in the Corporate Bylaws to act and make binding commitments. The CEO may authorize Company employees to enter into contracts, pursuant to the provisions of the Corporate Bylaws, and may remove such authorization at any time.

## 7. Incompatibilities, Disabilities and Conflicts of Interest

The regime on disabilities and incompatibilities shall apply to contracts entered into by the Company, pursuant to law and regulations on conflicts of interest established in the Code of Ethics and in the Policy on Managing Conflicts of Interest.

## 8. Information on Suppliers and Contractors

The Company shall maintain an updated registry of suppliers and contractors, which shall be managed directly by the Company or by a third party, and which should enable pre-qualifying potential proponents, and reviewing and assessing contractor performance, among others.

**PARAGRAPH:** In order to sign a contract, a requirement is that the supplier must be registered in the Company's supplier registry.



## **Chapter II:**

### **Contractual Process and Selection Modalities**



## 9. Stages of the Contracting Process

The stages of the contracting process include planning, selection, performance and termination, as appropriate, in accordance with this Manual.

## 10. Contracting Planning

The Company's contracting must be performed based on adequate planning, taking into consideration the efficient use of resources. It must be based on an analysis that determines acquisition needs and convenience, in order to define the strategy that is best suited to the Company's interests.

The Company shall prepare an Annual Contracting and Purchasing Plan (ACPP), which will serve as reference and will contain the Company's requirements of goods and services. Any changes to the ACPP will be processed and approved by the sourcing area.

## 11. Market Intelligence

The Company may engage in market intelligence to review technical and commercial matters, new technologies, potential scopes, among others, during the contracting planning phase. Such meetings may consist of business rounds, workshops and market exploratory meetings.

## 12. Guarantees

Insurance types, coverage and insured amounts, or the amounts to be guaranteed, as well as the valid terms and conditions of the guarantees, shall be defined based on the risk assessment performed by the area responsible for risks and/or insurance at the Company, or by the person with such responsibility, and based on the commercial conditions of the insurance and/or financial market, as well as the market conditions of the good and/or service to be contracted.

In any case, guarantees may be dispensed with when it has been agreed that full payment will be made upon reception to satisfaction of the good

or service, or when the risk and/or insurance area, or its equivalent, determines that the guarantee is not required, subject to a prior risk assessment, justification by the technical area and verification by the sourcing area.

### 13. Modalities of Selection

Contractors may be selected by the Company under the following modalities:

- a. Direct request for offer
- b. Closed competitive process
- c. Open competitive process
- d. Emergency contracting

**PARAGRAPH 1:** The process may be initiated by the requesting party, following verification of availability of budget allocations and fulfillment of the requirements and documents established by the sourcing procedure for contracting the good or service.

**PARAGRAPH 2:** The Company may use e-business tools such as electronic auctions, virtual bidding boxes and Market Places, among others, in order to optimize selection times and obtain the best market prices.

**PARAGRAPH 3:** Reception of only one proposal during a contractor selection process shall not be grounds for not continuing the process.

**PARAGRAPH 4:** During the selection stage, the Company may hold meetings with the interested parties in order to clarify and specify technical, legal and/or commercial matters, to enable a better understanding of the process or the contracting request. Steps must be taken to ensure that all process participants are invited.

### 14. Direct Request for Offer

Modality under which the Company directly contacts the supplier, i.e., in the case of a single offer, in the following events:

- a. Contracting and acquisition of goods and/or services in amounts of less than two hundred (200) current legal monthly minimum wages (hereinafter, SMMLV, for the Spanish original) including VAT.



- b.** Acquisition of goods and/or services that only one supplier can provide, because it is the exclusive manufacturer, distributor or representative, or because it holds the item's intellectual property rights.
- c.** Contracts to perform activities that may be assigned to certain individuals or legal entities because of their technical quality, expertise or widespread market recognition, duly justified.
- d.** Providing of professional and management support services to the Company.
- e.** In the case of requirements or activities that are considered strategic by the Business Group, subject to approval by the Strategic Sourcing Committee.
- f.** For reasons of confidentiality related to the security and/or strategy of the business, which must be justified in writing by the Requesting Party and approved by the Executive Committee.
- g.** Contracts entered into in the framework of the sustainability and corporate social responsibility policy with individuals or legal entities whose activities are performed in a given location, municipality or region in the areas of influence or of interest of the Company, that have been previously identified and validated by the requesting party.
- h.** Agreements entered into with non-profit or for-profit entities or organizations.
- i.** Whenever no offers are received, or when those received have not received the ratings required by the contracting process, subject to decision by the competent Committee.
- j.** Acquisition of goods for tests or trials in the context of pilot projects aimed at assessing the use of new technologies, or in search for better alternatives, based on recommendations by the technical areas.
- k.** Projects to expand or renovate plants or technological platforms with the original supplier.

- l.** When only one proponent remains following the pre-selection process.
- m.** When due to the characteristics of the good and/or service to be contracted, it is appropriate to apply Commercial Instruments approved by the Strategic Sourcing Committee.
- n.** Contracts related to advertising, media plan or in general for performance of dissemination and/or communication activities.
- o.** In the case of inter-administrative agreements or contracts, and others entered into with public entities.
- p.** Contracts or agreements with Strategic Suppliers, subject to approval by the Executive Committee.
- q.** Contracts entered into to reestablish or assure the continuity of activities that were not completed in the framework of a previous contract that was terminated due to total breach by the contractor, or due to making effective any of the contract termination clauses attributable to contractor, as long as the requesting party demonstrates and justifies that such measure is aimed at ensuring performance of the contracted service and to prevent the paralysis or interruption of services or to start up operations of a project.

## 15. Closed Competitive Process

A selection modality under which the Company invites at least two (2) proponents; and based on pre-defined objective assessment criteria selects the offer that is most favorable to the Company.

This modality shall apply when the estimated contract price is greater than two hundred (200) SMMLV and less than ten thousand (10,000) SMMLV, including VAT.

Regardless of the amount, this modality shall also apply in the following cases:

- a.** For selection of contractors to perform projects derived from bidding processes opened by the national government, national or international bidding processes or invitations to build and/or

operate assets related to the Company's corporate purpose, whenever a strategic supplier is not available.

- b.** Contracting processes related to structuring stock issuances or company valuations, without prejudice for the use of commercial instruments or other selection modalities, subject to prior assessment by the sourcing and services area, or its equivalent.
- c.** For technical and/or technological reasons, which must be justified in writing by the requesting party.
- d.** As a result of pre-qualification and/or market intelligence, previously approved by the Strategic Sourcing Committee.

## 16. Open Competitive Process

Selection modality under which the Company publishes an invitation to make offers to all those interested in the open competitive process; which involves use of predefined assessment criteria to select the most favorable bid for the Company.

This modality shall apply in cases in which the estimated amount of the contract is equal to or greater than ten thousand (10,000) SMMLV, including VAT.

PARAGRAPH: The invitation and its addenda will be published on the Company's website.

## 17. Emergency Contracting

Selection modality that applies in cases of emergency, under which the requesting party must justify its decision in writing and report it to the Executive Contracting Committee at the meeting following occurrence of the event, at the latest.

## 18. Strategic Sourcing Committee

The Strategic Sourcing Committee shall be responsible for promoting, reviewing and approving the sourcing policies and strategies, and for identifying possible synergies within Grupo Energía Bogotá, including assessment of the relevance on undertaking joint contracting processes.

It will also establish parameters for the Categorization of Requirements based on spending amounts and the ACPP, and approve pre-qualifications and the use and approval of different Commercial Instruments.

## 19. Verification by Committees

The committees will approve the contracting requests, contractor selection, contract close-out and contract amendments, based on the following authorization levels:

- a. Contracting Operating Committee: It shall determine the above matters for amounts greater than two hundred (200) SMMLV and less than ten thousand (10,000) SMMLV, including VAT.
- b. Contracting Executive Committee: It shall determine the above matters for amounts equal to or greater than ten thousand (10,000) SMMLV, including VAT, and other matters within its purview as expressly defined in this Manual, independently from the amount.

**PARAGRAPH:** The contracting request should include as a minimum: justification of the need, applicable selection modality, purpose, terms, estimated budget, assessment criteria, suppliers to be invited, rules for negotiation and general conditions of the contract.

## 20. Assessment Criteria

The following factors may be taken into consideration for the assessment of offers, among others: price, terms, fulfillment of previous contracts, performance assessment, quality of the good or service, technical capabilities, experience, organization and human resources of the proponents, as applicable.

The offers will be assessed by Company employees assigned by the competent committee or by a third party with knowledge and expertise on the matter.

## 21. Closing of the Contracting Process

In cases in which no offers are received, or when the received offers do not fulfill the requirements or do not receive the minimum rating established by the Company in the request for offers, or when they do not fulfill criteria of profitability or convenience, the Operating Contracting Committee or the Executive Contracting Committee, as the case may be, may decide to no longer pursue the selection process.

## 22. Proponent Selection and Negotiation

Following the assessment, negotiations will be promoted to obtain more favorable technical, commercial, economic or other conditions, as approved by the competent Committee and in accordance with the Company's interests.

The negotiations will be promoted and carried out by the sourcing area of the Company, to which effect it may seek support from Company employees, following the guidelines set by the former.

If the selected proponent does not sign the contract or does not fulfill the performance requirements to initiate the respective contract, the corresponding competent Committee may recommend contracting the second-best offer, or otherwise the next offer ranked by rating.

## 23. Approval of Guarantees

The contract supervisor will approve the guarantees, subject to review by the Company's area responsible for insurance, or its equivalent area. Such approval must be given in writing or be included in the body of the policy or guarantee. Such approval shall be a mandatory requirement prior to beginning contract performance.

## 24. Contract Formalization

The following are the requirements for contract formalization:

- a. Fulfillment of the previously established selection procedure.

- b. Verification of the legal capacity of the person who will sign the contract.
- c. Inclusion of the supplier in the Company's supplier registry.

## 25. Contract Supervisor

Contracts signed by the Company shall have a contract supervisor, either internal or external, who shall be responsible for verifying contract fulfillment.

## 26. Amendments to Contracts

The contracts entered into by the Company may be amended over the term of performance whenever justifying circumstances arise. In cases of price amendments, there shall be no limitation, to which end the requesting party must demonstrate that the cost-benefit ratio of the original contract is maintained in comparison with market prices, when applicable. In the case of amendments to the purpose of the contract, such amendments must not affect the nature of the original contract.

The Operating or Executive Contracting Committee, depending on the type of contract, shall be responsible for assessing the timing, convenience and requirements set forth in the previous section. In the event that the amendment in the contract amount implies that the Committee that originally approved the contract is no longer competent to do so, such amendment shall be assessed by the Committee that is competent to approve it.

## 27. Indemnities and Penalties

All contracts entered into by the Company shall include a penalty clause or early estimation of damages and penalties, except when expressly otherwise authorized by the competent legal area, as the case may be.

In continual performance contracts, a clause shall be included to regulate the economic penalties to be imposed to enforce fulfillment, and the amount shall be established based on the contract amount.

## 28. Settlement



The decision must be made whether the nature of the contract requires settlement for close-out. For contracts that do not require a close-out, a certificate of completion shall be signed, including a financial closing with a no-balances-due statement regarding obligations arising from the contract.





## **Chapter III:**

### Special Rules



## 29. Inter-company Agreements

Member companies of Grupo Energía Bogotá may enter into contracts or agreements with each other, directly and without the formalities established in this Manual, and in accordance with the provisions of the policy on transactions with related parties or other applicable rules. The same applies to contracts to be signed with Fundación Grupo Energía Bogotá.

## 30. Joint Contracting Processes

Member companies of Grupo Energía Bogotá may initiate and perform joint contracting processes, subject to approval by the Strategic Sourcing Committee. The opening and results of the selection process shall be submitted to approval by the competent bodies of each company, depending on the amount contributed by each company to the process.

**PARAGRAPH 1:** The selection modality shall be defined based on the total amount of the process.

**PARAGRAPH 2:** Each company shall sign a separate contract arising from the joint contracting process, except when the companies determine otherwise.



**Chapter IV:**  
Final Provisions



### 31. Manual Interpretation Criteria

The provisions of this Manual should be interpreted in a comprehensive and systematic manner, in accordance with the regulations of the Commercial Code and the Civil Code. Any events that are not expressly provided for in the Manual shall be addressed using the rule that has been used to solve a similar matter since the effective date of this Manual.

### 32. Transition

Selection and contracting processes in progress as of the effective date of this Manual shall continue to abide by the rules in force at the time when they were initiated, except when it is convenient to adopt the rules of this Manual, which shall be assessed by the Operating or Executive Contracting Committee, as appropriate.

### 33. Derogation

This Manual fully derogates and replaces CEO Decision No. 00000039 of May 06, 2016.





## **Chapter V:**

### Definitions and Acronyms



1. **Sourcing:** Process aimed at satisfying needs related to the acquisition of goods and services by the Company. (Source: Contracting Manual V1)
2. **Affiliation:** An action through which the Company acquires rights and/or benefits for belonging to or being a member of an organization, community, trade association, business or company association, technological or intellectual organization, social club or any type of group or association in which, subject to fulfillment of established requirements, the status of affiliate or member is acquired. (Source: Sourcing Department)
3. **Retail chain or large retailer:** Large stores that specialize in the mass sale of products, that have substantial infrastructure in place to serve and sell directly to the public, with branch stores in the main cities of the country. They are generally organized in a department store arrangement, such as household goods, apparel and hardware tools, among other commonly used products in the market. (Source: Contracting Manual V1)
4. **Person authorized to enter into contracts:** The employee authorized by the Company's CEO to enter into contracts for up to a certain amount. (Source: Contracting Manual V1)
5. **Categorization of Requirements:** It is a classification arrangement that groups the goods and/or services contracted by member companies of Grupo Energía Bogotá. (Source: Contracting Manual V1)
6. **Emergency:** An emergency is defined as the occurrence of an untimely event that represents an imminent risk or that may affect or endanger the provision of public services. (Source: Drafting Committee)
7. **Reviewers:** Employees previously assigned by the Operating or Executive Contracting Committee, as the case may be, or contracted third parties, to perform a legal, financial, technical and economic assessment of the offers submitted under the adopted selection modality, as applicable. (Source: Contracting Manual V1)

8. **Corporate Event:** A Company communications or public relations event aimed at one or several stakeholder groups, including Company employees, the purpose of which is to communicate or publicize a given topic that affects, is related to or promotes genuine relations with stakeholders. (Source: Drafting Committee)
9. **Registration:** An action through which the Company provides access to its employees to participate in external technical, academic, commercial or public relations events, such as congresses, seminars, forums, meetings or similar events. (Source: Sourcing Department)
10. **Commercial Instruments:** They are sourcing mechanisms or tools that enable the materialization of prior agreements with contractors and suppliers, depending on the characteristics of the good and/or service to be contracted and subject to prior market intelligence, a selection modality or pre-qualification, such as:
  - a. **Price Agreements:** A Commercial Instrument the Company signs with one or several suppliers to set prices for goods and/or services, under certain conditions of terms and transfer or performance. A price agreement is not binding for the Company until a specific contract has been signed stating the agreed conditions for the acquisition of the goods or services.
  - b. **Framework contract:** A contract of determinable amount signed between the Company and one or several qualified contractors, performance of which may be made through subsequent purchase orders for goods and/or services. Signing of a framework contract requires an estimated performance amount and budget availability at the time each purchase order is issued.

PARAGRAPH: The sourcing area may establish other Commercial Instruments, subject to approval by the Strategic Sourcing Committee.

(Source: Contracting Manual V1)

**11. Market Intelligence:** Actions to review and determine the structure, characteristics or trends of the market for goods and/or services, as input for contracting planning, in order to identify segments that represent the best opportunity, to determine the selection modality and understand the conditions related to the provision of goods and services and/or the identification of potential suppliers.

When market intelligence has the purpose of applying Commercial Instruments, it must include an analysis of qualifications, experience and commercial conditions of the potential suppliers. (Source: Contracting Manual V1)

**12. Market Place:** A system of electronic catalogs provided by a vendor for the online acquisition of goods or services under a Business to Business (B2B) purchasing model. (Source: Sourcing Department)

**13. Supply Positioning Matrix** Methodology used to classify the goods and services acquired by the Company according to the following criteria: Spending amount, provisioning risk and impact on operations. Under this methodology, the goods and services are classified as Critical, Bottleneck, Lever or Routine. (Source: Sourcing Department)

**14. Proponent:** Individuals, legal entities or any type of partnership that submits an offer under one of the selection modalities carried out by the Company. (Source: Contracting Manual V1)

**15. Annual Contracting and Purchasing Plan (ACPP):** The Company's annual contracting program of reference, which contains consolidated information centralized by the sourcing area or its equivalent. The ACPP is an input for purchasing and contracting planning at the Company and for preparing the budgets of the requesting areas. (Source: Contracting Manual V1)

**16. Pre-selection:** A procedure the sourcing area may carry out to pre-select, determine and rate potential suppliers of the goods and services required by the Company. To this end it reviews, among other matters, the legal information, verification against restrictive lists, financial, technical, occupational health, industrial safety and

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quality information, as applicable, based on criteria defined by the Company. (Source: Contracting Manual V1)

17. **Supplier:** Individuals, legal entities or any type of partnership that can satisfy the Company's contracting needs. (Source: Contracting Manual V1)
18. **Strategic Supplier:** Suppliers of goods and services selected based on agreements entered into with strategic partners or allies, and those who demonstrate a strong track record and experience at the Company in critical activities for the reliability and availability of the public services. (Source: Drafting Committee)
19. **Pilot Project:** A temporary undertaking aimed at testing the viability of a solution in the context of the implementation of processes and tools that do not exist or are not in place to date in the organization. Temporary means that the project has an end date. (Source: Project Management Office Manager)
20. **Requesting party:** It is the management-level employee, in the positions of Vice-President, Director, Manager or equivalent, responsible for assessing the need for contracting and for planning with assistance from the sourcing area. The Requesting Party must submit a request to contract a good or service in writing to the sourcing area or its equivalent, to which end he/she must manage and provide all the information required by this area to initiate the contracting process. (Source: Contracting Manual V1)
21. **Electronic Auction:** Dynamic process for negotiating the prices of goods or services by means of software or a technological platform, among previously selected suppliers in a competitive process. Electronic auctions may be used to acquire goods and service that are standard or that have uniform technical characteristics. (Source: Sourcing Department)
22. **Subscription:** Access to services, rights of use or benefits that the Company requires for its ordinary course of business for a given time period.

Acquisitions of software licenses and rights of use are considered subscriptions, and the Technology Department or its equivalent shall be responsible for verifying and justifying their acquisition.

When there are multiple proponents or when it is possible to negotiate prices or conditions in the market, the contracting modalities described in this Manual shall apply. (Source: Sourcing Department)

- 23. Virtual bidding box:** An electronic platform used as a means to request and receive bids by digital means. (Source: Sourcing Department)

## DOCUMENTATION CONTROL

Version No.	Version Date	Minutes of document approval	Reason for update
1	05/06/2016	CEO Decision 0000039/2016	The document was created, and the Contracting Manual of Empresa de Energía de Bogotá S.A. E.S.P. was adopted
2	09/02/2019	CEO Decision 0004/2019	The Contracting Manual was amended to adapt it to the Company's Strategic Sourcing Model approach, particularly in

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			connection with its focus on policies and rules.
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