Resolution:

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First, the CADA found that under the provisions of the Code of Relations Between the Public and the Administration, all documents related to government procurement are administrative documents and can be communicated with the exception of information covered by business confidentiality. As a result, all documents of the tender process can be communicated to whomever requests it but information related to the commercial strategy of the firm cannot. That includes the technical and financial details of the submission. Also, all information related to technical and human resources must be redacted prior to communication. In addition, the CADA reminded that all grades and rankings can only be communicated to the interested firm. As a result, the CADA issued a favorable opinion to the communication of the documents related to the tender process and the selected firm, with the exception of the information that needed to be redacted as previously mentioned. It also issued a favorable opinion to the communication of all mails and exchanges related to the evaluation of the performance of the firm during the mission. However, it issued a negative opinion to the communication of technical offers and detailed financial offers submitted by candidates.

Second, the CADA found that all exchanges between the candidates and the awarding authority during the tender process are, under the principle of transparency and equal treatment, made public to other candidates and are therefore communicable. However, clarifications on specific elements of an offer are not since they may reveal the commercial strategy of the firm.

Finally, the CADA found that all documents submitted by the selected firm during the mission are administrative documents unless they are related to a contract concluded with a law firm for consulting services and thus protected under attorney-client privilege.