

GENERAL TERMS AND CONDITIONS

Procurement of up to 100,000 devices (Laptops and/or tablets)

INTERNATIONAL PUBLIC CALL FOR TENDERS No. 0758-2015

Centro Ceibal para el Apoyo a la Educación de la Niñez y la Adolescencia
(Ceibal Center for the Educational Support of Children and Adolescents)

Publication of the Call for Tenders' Documents and Enquiries on our website:
compras.ceibal.edu.uy

Deadline for Enquiries: October 06, 2015, at 5:00 p.m.

Date of Opening of Tenders: October 13, 2015, at 3:00 p.m. at Avenida Italia 6201, Edificio Los Ceibos

Cost of the Call for Tenders' Documents: USD 1,300 (thirteen hundred US dollars)

The purchase of the Call for Tenders' Documents is a necessary requirement for making enquiries prior to the opening and submitting of tenders for this call. It can be made at Centro Ceibal or by means of a bank deposit in US dollars, to the checking account No. 157 000 7810 at the BROU. Once the deposit has been made, the bidder shall register at compras.ceibal.edu.uy with his contact information and attach the proof of purchase of the Call for Tenders' Documents. Once this has been complied with, Centro Ceibal shall assign the bidder a username and password to participate in the process, make enquiries, request a postponement and submit tenders.

IMPORTANT: In the event of a conflict between the Spanish text of the Call for Tenders' documents and their English translation, **the Spanish language version shall prevail.**

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1. CHAPTER 1 – PURPOSE OF THE CALL FOR TENDERS.

1.1. Introduction and history of Plan Ceibal:

Given the need to make progress within the Society of Information and Knowledge by means of developing actions aimed at reducing the digital gap, the Executive Branch created PLAN CEIBAL by Decree 144/007 of April 18, 2007 in order to perform such studies, assessments and actions as required to provide every child of school age and every public school teacher with a portable computer. Pursuant to laws 18,640 and 18,719, respectively, and Decree 56/010, CENTRO CEIBAL para el Apoyo a la Educación de la Niñez (Ceibal Center for the Educational Support of Children) is established, its main task being the development and implementation of Plan Ceibal.

In this context and within the framework of Plan Ceibal, CENTRO CEIBAL issues this international public call for tenders for the procurement of up to 100,000 devices (Laptops and/or tablets).

1.2. SPECIFIC TERMS AND CONDITIONS - APPENDIX A

2. CHAPTER 2 – REGULATIONS GOVERNING THE PROCUREMENT PROCESS.

2.1. Rules governing the Call for Tenders:

The call for tenders shall be governed by these General and Special Terms and Conditions. The choice of bidder and the execution of the contract shall be governed by the following general principles:

- a) transparency;
- b) absence of ritualism;
- c) materiality;
- d) veracity;
- e) equal treatment;
- f) due process;
- g) competition, and
- h) good faith.

The above principles shall also serve as interpretation criteria to resolve any issues that may arise in the application of the relevant provisions.

All tenders shall ensure compliance with the requirements established by the Terms and Conditions of the Call for Tenders.

By the mere submittal of his tender, the bidder is deemed to accept these Terms and Conditions and any other provisions applicable to this Call for Tenders. In case of conflict between the Terms and Conditions and the tender, the Terms and Conditions shall prevail.

2.2. Enquiries about the Terms and Conditions

Only those who have purchased the Call for Tenders Documents may make enquiries, ask for postponement of the opening date and submit tenders. To this effect, the bidder who has purchased the Call for Tenders' Documents shall register at the Portal of Centro Ceibal compras.ceibal.edu.uy attaching the proof of purchase of the Call for Tenders' Documents. Once registration is successful, he shall receive an email sent by Centro Ceibal to the email

address provided by him, containing a username and password allowing him to participate in the process, makes enquiries, request a postponement and submit tenders.

Enquiries and answers, as well as a request for postponement, shall be made through the Portal of Centro Ceibal compras.ceibal.edu.uy until **September 23, 2015 at 5:00 p.m.** Only those who have purchased the Call for Tenders' documents and have registered successfully at the Portal shall have access to the enquiries submitted and the answers thereto.

CENTRO CEIBAL shall answer the enquiries, but without being obliged to follow a predetermined order when posting the answers. Should any enquiries be received outside the deadline provided, Centro Ceibal shall have the discretionary power to answer or not without any liability whatsoever, with the bidder assuming the responsibility for having made the enquiry after the deadline provided.

The Terms and Conditions of the call for tenders shall also include the enquiries submitted by the bidders and the replies given in writing by CENTRO CEIBAL, which shall be considered as part of these Terms and Conditions.

2.3. Amendments to the Terms and Conditions and Postponement/Cancellation

CENTRO CEIBAL may amend the Terms and Conditions either at its own initiative or in response to an enquiry or observation submitted by any interested party. Should the modification be substantial in nature and might it increase the number of interested parties, it shall be published using the same media as those used for the original Call for Tenders.

CENTRO CEIBAL may also, at its sole discretion, postpone or cancel the Call for Tenders, without stating any cause and without any liability whatsoever. Any postponements or the cancellation shall be published or notified using the same media as those used for the original Call for Tenders.

Should a bidder require a postponement of the opening of the tenders, he shall submit his request through the Portal compras.ceibal.edu.uy, not less than five (5) business days before the date specified in the Terms and Conditions for the opening of the tenders.

CENTRO CEIBAL reserves the right to grant the postponement as requested, reject the request or grant a postponement shorter than requested.

2.4. Communications

All communications between the bidders and CENTRO CEIBAL prior to the opening of the tenders shall be made through the Portal compras.ceibal.edu.uy. Once the tenders have been opened, all communications made to the email address provided by the bidder when registering at the Portal shall be deemed valid.

Such communications are means of personal and authentic notification.

2.5. Requirements for submitting Tenders:

A. Formal documents

- (i) Certificates

In case of domestic companies, CENTRO CEIBAL shall check that the bidders are up to date with the BPS, DGI and BSE certificates throughout the whole process, and in case of concluding a contract, throughout its term of validity. To this effect, the bidder shall clearly specify registered name, RUT number, BPS number and BSE policy number in his bid.

- (ii) Company documents

If the bidder is a Trade Company (domestic or foreign), a notarial certificate attesting to the constitution, validity and representation of the same pursuant to the articles of incorporation or the company bylaws shall be attached to the tender. If the bidder appears by proxy, and should the representation not arise from the notarial certificate above or the bylaws, the first copy of the mandate, power of attorney or notarial testimony thereof proving the representation invoked shall be attached to the tender.

If the awarded bidder is a foreign company, Centro Ceibal may optionally require all documents to be duly translated, legalized and notarized, if applicable, prior to the award and/or signature of the contract.

B. Legal Situation of Bidders

Companies may submit tenders individually or collectively. In the latter case, the companies shall be jointly and severally liable for all stages of the contracting process, expressly establishing this fact and attaching all documents required in these Terms and Conditions for each company.

Both domestic and foreign legal entities may participate, individually, associated or as part of a consortium, as long as they meet the requirements of the specifications governing this Call for Tenders.

In the event of companies participating collectively, they shall be jointly and severally liable for the entire term of the contract, a fact which shall be expressly established in the tender.

Joint tenders submitted by companies planning to establish a consortium pursuant to articles 501-509 of Law No. 16,060 of September 4, 1989 shall be accepted, the tender being accompanied by:

- A statement expressing their intention of establishing a consortium with notarized signatures, details of the services that each member of the consortium shall be responsible for, as well as the quota of each participant in the consortium.
- All information required by these Terms and Conditions for each of the members of the consortium.
- Appointment of one of the members as authorized to incur obligations and receive instructions for and on behalf of each and every one of the members of the consortium.
- A clause in the statement of intent and later in the consortium agreement that each of its members shall be jointly liable to CENTRO CEIBAL for each and every obligation incurred under this Call for Tenders.
- A statement of indivisibility of the obligations incurred to CENTRO CEIBAL, and of the compromise not to modify the statement or agreement without prior permission by CENTRO CEIBAL.

C. Validity of the Tender

Tenders submitted shall be valid for a minimum of 120 calendar days, automatically renewable for successive periods of 90 days, unless prior written communication by the bidder not consenting to the aforesaid renewal, which must be notified in advance not less than 10 (ten) business days before the expiry of the validity period or any extension thereof.

D. Inhibition to submit Tenders

Those persons who are officers, consultants or staff under contract to CENTRO CEIBAL and are involved in this procurement procedure or have participated in its previous stages or have any kind of dependency or contractual relationship with the companies or organizations submitting tenders may not submit tenders.

Failure to comply with this inhibition may result in rejection of the tender or termination of the contract, as appropriate.

2.6. Reception of Tenders – Deadline: Friday, September 29, 2015 at 11:00 a.m.

a) In person at the Departamento de Compras de la Gerencia de Administración y Finanzas of CENTRO CEIBAL (Avda. Italia 6201, Edificio Los Ceibos, Monday to Friday (except holidays) from 9:00 am to 5:00 pm, or at the opening ceremony.

b) Sent by courier. In this case the tender shall be delivered to the Gerencia de Compras of CENTRO CEIBAL, who shall be responsible for issuing the acknowledgment of receipt; otherwise the tender may be deemed as not submitted.

c) Sent through the Portal compras.ceibal.edu.uy. The proposal shall include all documents making up the tender, clearly identified pursuant to section 3.1 of these Call for Tenders' Documents. Three clearly identified files, one for each envelope (ENVELOPE 1 – Formal Documents, ENVELOPE 2 – Technical Offer, and ENVELOPE 3 – Financial Offer) shall be submitted.

All files shall be encrypted using zip or rar format. The full offer (zip/rar file) may not be heavier than 25 Megabytes. However, the inclusion of text documents with access to links containing the information required by these Call for Tenders' Documents shall be accepted.

At the same time, the bidder shall send to the acting Notary Public, to the email address password@plan.ceibal.edu.uy, an encryption key for ENVELOPE 1 and ENVELOPE 2, and another, different key, for ENVELOPE 3. At the opening ceremony, the acting Notary Public shall proceed to decrypt ENVELOPE 1 and ENVELOPE 2 of the tender. Afterwards, and in case technical evaluation is passed, ENVELOPE 3 shall be opened at a public ceremony on the date to be determined by CENTRO CEIBAL, which will be duly notified to allow interested parties to attend.

In all three cases CENTRO CEIBAL shall issue an acknowledgement of receipt of the tender which shall serve as sole evidence of having received the tender in a timely and appropriate manner. The interested bidder is therefore responsible for ensuring to avail himself of the aforesaid proof of receipt before the opening of the tenders.

Should the same bidder send more than one tender (using whichever of the means provided), the last tender received prior to the date and time of opening of the tenders shall be deemed valid.

The bidder assumes full responsibility for the method chosen for submitting the bid, which seeks the confidentiality of the bid until the moment it is opened. In case of difficulties with any of the above methods, Centro Ceibal reserves the right to evaluate the exception and accept the bid (provided it is received in a timely manner), and as long as the equal treatment of the bidders and the transparency of the process are not altered.

2.7. Formalities:

In cases **a)** and **b)** above, the bidder shall submit the tender in a closed envelope (original, copy and a copy on a CD and/or pen drive), duly identified with (i) the name of the bidder (registered name and RUT); (ii) contact information used to register at the Portal and (iii) Subject, Ref.: LPI 0758-2015.

In all cases, and whatever the means of submitting the tender, the first page in each envelope shall be signed by the legal representative of the company, which shall be proved by a notarial certificate of representation or a notarial testimony of the power of attorney.

2.8. Opening Event:

The opening of the bids will be held on **September 29, 2015, at 11 am**, at the premises of Centro Ceibal (Av. Italia 6201, Edificio Los Ceibos).

Prior to the opening of the bids, the parties appearing wishing to be present at the bid opening event, shall prove their capacity as representatives or justify their powers of attorney to appear in this ceremony by means of documents proving the representation invoked.

The presence of the bidders at the opening event, is not mandatory, but those who attend may take note of the bids submitted, except for the information submitted and marked as "confidential information" as provided in Section 3.1. B).

Once the tenders have been opened, the acting Notary Public shall check the documents which make them up and **initial the first page of each of the envelopes making up the Tender of each bidder** together with the persons who are present.

After analyzing the bids, CENTRO CEIBAL may grant the bidders a reasonable deadline to overcome any defects, formal deficiencies or obvious or minor errors, provided that the equality of the bidders is not materially altered.

2.9. Release of Liability

CENTRO CEIBAL may cancel the call for tenders at any stage of its implementation, or may reject all tenders. None of these decisions shall entitle any of the participants to any claim for expenses, fees or compensation for damages whatsoever. It is noted that all expenses, fees and other items incurred directly or indirectly in the development, preparation and submission of the tender shall be borne by the bidder.

3. CHAPTER 3 – FORM AND CONTENT OF THE TENDER

The tender shall be drawn up in Spanish, with the exception of brochures which may be submitted in English.

3.1. Content of the Tenders

The tender shall be submitted in three (3) closed envelopes, the first page of each envelope being signed pursuant to section 2.7 above.

A - Information ENVELOPE 1

Formal Documents, the information indicated in section 2.5 A (i) and (ii) shall be included.

B - Information ENVELOPE 2

The following information shall be included:

- i). Legal and Commercial Information – Experience:

Bidders shall be companies renowned for providing the services/supplies to be procured. For this purpose they shall provide references supporting this requirement (for example, signed customer letters, contact information, success stories), the purchaser being allowed to request, should it be deemed necessary, additional information in this regard.

- ii). Technical Proposal

This chapter shall include detailed information on each of the technical aspects indicated in the Technical Terms and Conditions.

If confidential information is submitted, for example: customer information, information which may be subject to intellectual property rights and other information of similar nature, it shall be submitted separately in a sealed envelope establishing its content as confidential (Article 10 of Law No. 18,381, of October 17, 2008). In the case of submittal through the Portal, this information shall be duly identified as "Confidential Information".

Only Centro Ceibal shall have access to this information for the purpose of evaluating the tender. Prices and descriptions of goods and services offered and the general terms and conditions of the tender shall not be deemed to be confidential.

The bidder shall guarantee that he will transfer to CENTRO CEIBAL all improvements in technology or in prices that may occur during the execution of this call for tenders and during the term of the contract should he be awarded the tender.

iii). Delivery conditions and schedule:

The bidder shall specify in his tender the conditions and schedule of delivery of the products offered pursuant to the volumes quoted, taking into account the provision of section 13 of the Special Terms and Conditions.

C - Information ENVELOPE 3

It shall contain the Financial Proposal.

Quotation form: quotations shall be per unit, following the guidelines established in this section and in the Special Terms and Conditions.

Quotations shall be expressed in US dollars.

The bidder shall quote the CIF/MVD price for the devices and the EXW (works) price for the spare parts.

The following shall be quoted for devices: (i) down payment option, and/or (ii) 180 days payment option and/or (iii) 360 days payment option. In all cases, the payment due date shall be considered from the date of the shipping documents.

Payment terms may be:

(i) 30 days from the date of invoice and prior approval of the product and/or service by bank transfer to an account at the BROU.

(ii) Against conformity of the required documents (commercial invoice, bill of lading, packing list, etc.) by irrevocable and transferable Letter of Credit.

(iii) Payment against conformity of the shipping documents.

(iv) By international bank transfer as agreed with the supplier, subject to conformity of the product/service received.

Should the tax system in force impose taxes on the goods supplied or should new taxes be created during the period of guarantee of the tender and/or the term of the contractual relationship, such taxes shall be borne by the supplier pursuant to the terms and conditions established by the corresponding legal provision and/or regulation.

4. CHAPTER 4 – EVALUATION OF TENDERS AND AWARD.

4.1. Teams for the evaluation of the proposals submitted:

All tenders shall be evaluated by Teams of Specialists appointed for this purpose according to the history and experience of the bidder and the technical and commercial aspects.

These Teams of Specialists shall make their respective reports within their areas of competence and submit a final joint report with the award recommendation to the Board of CENTRO CEIBAL, who shall decide the award or render the purchase null and void.

4.2. Evaluation criteria:

The evaluation of the proposals will be made considering the technical solution in first place, and for those passing this stage, the financial offer shall be studied.

The following weighting shall be taken into account for the evaluation:

The final score of each offer, considering both the Technical Evaluation and the Economic Evaluation, shall be given by the following formula:

$$(POME/PO) * 40 + (PTO/PTOMC) * 60$$

Where:

POME is the price of the lowest tender

PO is the price of the tender being evaluated

PTO is the technical score of the tender being evaluated

PTOMC is the technical score of the best qualified tender

The technical evaluation shall consider:

- a) Previous records related with Plan CEIBAL.
- b) Compliance with the requirements of the Technical Terms and Conditions (mandatory and desirable).
- c) Features of the devices (hardware and software) promoting the achievement of the objectives of Plan CEIBAL
- d) Warranty conditions.

Those tenders that do not pass technical evaluation shall not be considered and the envelope (3) corresponding to the economic offer, shall be returned unopened to the bidder.

The envelopes of the economic offers of those proposals passing technical evaluation, shall be opened in a public event, by the designated Notary Public, at a date to be determined by CENTRO CEIBAL and duly notified to the respective companies.

The total number of devices to be purchased shall result from the evolution of Plan Ceibal, without CENTRO CEIBAL committing to purchase the devices (samples) used to evaluate the tenders.

CENTRO CEIBAL reserves the right to negotiate the terms of the tender/s deemed to be most suitable to its interests, without this giving any rights to any claim whatsoever to the remaining bidders. CENTRO CEIBAL may request those bidders who qualify technically to improve their integral (both economic/technical) offer at any time prior to award.

4.3. Final report on the evaluation of the tenders:

The members of the teams of specialists shall make a joint final report identifying the eligible tenders and establishing an order of preference among them, and prior to it being submitted for consideration by the Board of Centro Ceibal, it shall be made available to the bidders for a period of 5 business days counted from the first day following the notification. Within this period, the bidders may state in writing their considerations about the procedure followed so far and about the opinion or report of the Awarding Advisory Committee. It will not be necessary to wait for the full period to pass if the interested parties state in writing that they have no considerations to make.

4.4. Award:

CENTRO CEIBAL reserves the right to award the call for tenders to the tender or tenders considered most convenient for its interests and the needs of the service, and may ignore the report and recommendation of the Teams of Specialists for good cause, not being obliged to award the contract to the lowest bid or the best technical offer. Centro Ceibal may also declare the call for tenders null and void if it understands that there are considerations of merit or convenience to justify this decision, even without expression of cause or responsibility, as provided by Section 2.9 of these Terms and Conditions.

In this context, CENTRO CEIBAL is empowered to:

- award the contract to the bidder who meets the best conditions.
- not to award a specific item or none of them.
- split the award.
- award a lesser quantity than the one called for tenders.
- consider the history of the bidders concerning their commercial conduct in fulfilling contracts with CENTRO CEIBAL and other government agencies as a predominant reason to refuse an offer.

Having defined the winning tender, CENTRO CEIBAL shall notify the decision to all bidders who have tenders that are valid on the date of notification.

5. CHAPTER 5 – CONTRACT SIGNATURE.

5.1. Notification to the awarded bidder:

The notification sent to the awarded bidder (to the email address provided) shall constitute the confirmation of the award of the tender. The award decision, these Terms and Conditions and the Tender by the bidder shall constitute the contract between the parties until the respective contract is signed. In case of conflict between the award resolution, the Terms and Conditions and the Tender submitted by the Company, the first two documents shall prevail at any stage of this call for tenders and procurement.

5.2. Constitution of Guarantee:

Within 10 calendar days following the notification of the award, the selected bidder shall provide a contract performance guarantee equivalent to 5% of the total amount awarded.

This guarantee may be established by means of a cash deposit, government securities, a bank bond or guarantee or bond insurance. Should the guarantee be issued by a foreign bank or insurance company, they shall either have a representative office in Uruguay or it shall be accepted by a local institution. The constituting document shall contain a clause stating that this guarantee may be released only upon written notice by CENTRO CEIBAL.

If the guarantee is not established in the manner and time indicated, CENTRO CEIBAL may annul the award and execute the tender guarantee. In this case, CENTRO CEIBAL may reconsider the study of the Call for Tenders excluding the bidder awarded in first place.

The contract performance guarantee may be executed in case the awarded bidder fails to comply with the contractual obligations. It shall be returned once compliance with all contractual obligations has been verified.

5.3. Signature of the Contract:

The awardee bidder shall appear to sign the contract within 5 business days after the day following the notification for this purpose. Otherwise the tender guarantee shall be executed. In case of foreign companies, and for the purpose of signing the contract and for whatever dispute that may arise, Centro Ceibal may require the awarded bidder/s (without registered offices in Uruguay) to appoint a legal representative with registered offices in Uruguay for notification purposes.

The following documents, in their respective order, shall be deemed part of the procurement contract:

- 1) The contract
- 2) The documents of the call for tenders
- 3) The tender awarded

5.4. Confidentiality:

The awarded bidder obligates himself, his employees and other subcontractors, to keep strict confidentiality with respect to the documents and information provided by CENTRO CEIBAL or generated as the result of this contract. Consequently he shall not reveal, use, publish, disclose or communicate in any manner, directly or indirectly, in all or in part, any information to third parties or make it accessible to unauthorized persons, under any circumstances, unless upon written permission by CENTRO CEIBAL.

CENTRO CEIBAL assumes the same obligation regarding the information deemed confidential by the awarded bidder.

5.5. Penalties:

Any behavior construed as a failure to fulfill or a breach of contract may cause the imposition of the following penalties:

- **Fine:** The awarded bidder may be imposed a fine. In those cases where no express penalty was defined by the Service Level Agreement or by the Contract, he shall be imposed a fine to be determined according to the extent of the breach, ranging from 5% to 20% of the monthly invoiced amount for the service contracted. In case of the purchase of products, if the selected supplier is late in delivering the quantities according to the delivery schedule agreed and unless something different is established in the Technical Terms and Conditions or the parties have agreed something different in

the contract, he shall be imposed a fine equal to 5% of the value of the supply that should have been delivered. The fine shall apply from the business day following the expiry of the delivery deadline. For each additional week of delay, the fine will increase by 1.5%. A delay of 30 calendar days without the supplier having delivered the equipment purchased shall be construed as grounds for contract termination.

In case of application of fines, CENTRO CEIBAL shall be authorized to withhold and deduct the amount thereof from any payments due to the awarded bidder.

- Contract termination due to total or partial failure to fulfill. By way of example, the following may lead to the termination of the contract:
 - Failure to fulfill the obligations established both in these Terms and Conditions and in the Service Level Agreement, which, due to their magnitude in the opinion of CENTRO CEIBAL and upon a well-founded decision, cause the provision of services on part of the awarded bidder to be inconvenient.
 - Fraud, gross negligence or failure to fulfill or breach of the obligations and conditions established in the Call for Tenders, the Tender and the Contract committed by the awarded bidder.
 - Failure to pay the incumbent tax and insurance obligations.
CENTRO CEIBAL may require the awarded bidder to prove that he is up to date in the payment of social security contributions, taxes and health insurance, as applicable, and that his staff is insured against work accidents pursuant to the regulations in force.

In any of the cases above, CENTRO CEIBAL may terminate the contract and submit a claim for damages caused by the failure to fulfill/breach plus the corresponding fine.

5.6. Jurisdiction:

The jurisdiction relative to any interpretation or clarification of disputes arising from the call for tenders or the contract shall be the courts of the city of Montevideo, República Oriental del Uruguay, pursuant to the provisions in force regulating this matter in Uruguay.

5.7. Non-exclusivity:

The commercial relationship generated between CENTRO CEIBAL and the awarded bidder or bidders shall not be exclusive; CENTRO CEIBAL shall be entitled to conclude agreements with third parties whose terms and services are similar or equivalent.

5.8. Contract extension:

Centro Ceibal reserves the right to extend the amount awarded under equal or better commercial terms or under terms more advantageous than those resulting from the awarded tender.

5.9. Default:

The awarded supplier shall fall into default by operation of law without need of any judicial or extra judicial proceedings, by the mere expiry of deadlines and agreed terms or by the performance of any act or event that results in doing or not doing something contrary to the provisions of the business relationship