

BIDDING DOCUMENT OF GENERAL TERMS AND
CONDITIONS

**Acquisition of a Digital Language Teaching
Platform**

INTERNATIONAL PUBLIC TENDER

Centro Ceibal para el Apoyo a la Educación de la Niñez y la Adolescencia.

Publication of the Bidding Document and Queries on our website:
compras.ceibal.edu.uy

Date Limit of queries: Wednesday November 11, 2020, 5:00 pm.

**Date of Opening of Offers: Tuesday November 17, 2020, 11:00 am at Avenida Italia
6201, Edificio Los Ceibos.**

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1. SECTION 1 – CALL AIM.

1.1. Introduction and Background of Plan Ceibal:

Centro Ceibal para el Apoyo a la Niñez y la Adolescencia (Centro Ceibal), a public non-state person created by Law No. 18,640, of January 8, 2010, has among its tasks, among others, the management of *Plan Ceibal (Programa para la Conectividad Educativa de Informática Básica para el Aprendizaje en Línea)*, *Plan Ibirapitá* (Decree 130/2015, of May 15, 2015), and *Programa Jóvenes a Programar* (Decree 407/016 of December 26, 2016) , without prejudice to other programs that, for reasons of public interest, the Executive Branch may assign.

In this context, and within the framework of Plan Ceibal, CENTRO CEIBAL calls for this Public Pricing Tender for the purpose of acquiring a digital language teaching platform, as a “finished product” in SaaS mode (content included) , aimed at students and teachers with a focus on the second cycle of Primary and Middle Basic Education.

1.2. SEE SPECIFIC TERMS IN ANNEX A

2. SECTION 2 - REGULATIONS GOVERNING THE PROCEDURE OF ACQUISITION.

2.1. Rules that regulate the call:

The tender will comply with the provisions of these General and Specific Conditions and the Regulations for Purchases and Contracting of Goods, Services and Works (<https://www.ceibal.edu.uy/storage/app/media/reglamento-de-compras-y-contrataciones-de-bienes-servicios-y-obras-wiki-ceibal-enero-2019.pdf>). Likewise, the selection of the bidder and the contractual execution will be governed by the following general principles:

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

The aforementioned principles will also serve as an interpretative criterion to resolve issues that may arise in the application of the pertinent provisions.

The offers must ensure compliance with the requirements established in the terms and conditions of the Bidding Document.

By the mere presentation of the bidder, it is considered that he accepts this Bidding Document and other provisions applicable to this call. In case of conflict between the Bidding Document and the offer, the Bidding Document will prevail.

2.2. Queries of the Bidding Document:

The queries as well as the request for extension, will be made through [Portal de Compras del Centro Ceibal](#) until **Wednesday November 11, de 2020, 5pm**. For these purposes, the interested party must provide their contact information, which must be unique and related to each bidder. The content of the questions and answers will be of public access for any interested party that enters the Portal, leaving in reserve the contact information of the person who has formulated the query.

CENTRO CEIBAL will evacuate the queries, not being forced to follow a predetermined order in the replies. Likewise, in case of receiving queries outside the deadline, Centro Ceibal will have the discretionary power to respond or not, without any responsibility, assuming the bidder's responsibility for having made the query after the deadline set for it.

The conditions of the present call will also include the queries that the bidders formulate, together with the written replies given by CENTRO CEIBAL, which will be an integral part of this Bidding Document.

2.3. Modifications to the Bidding Document and Extension / Cancellation:

CENTRO CEIBAL may modify the specifications either on its own initiative or in response to a query or observation made by an interested party. When the amendment is of a substantial nature and can expand the number of interested parties, it will be disseminated through the same means used in the original call.

Likewise, CENTRO CEIBAL will have the discretion to extend or cancel the call, without expression of cause and responsibility. The extensions or cancellations will be disseminated or communicated through the same means used for the call.

In the event that a bidder needs an extension in the opening of bids, he must make his request through [Portal de Compras del Centro Ceibal](#), at least 5 (five) business days before the date established in the Bidding Document for the opening.

CEIBAL reserves the right to grant the extension in the requested terms, reject the request, or grant a shorter extension to the requested one.

2.4. Communications:

All communications between the bidders and CENTRO CEIBAL, prior to the opening of bids, will be made through [Portal de Compras del Centro Ceibal](#). Once the offers are open, the communications made to the e-mail reported by the bidder shall be considered valid.

These communications constitute personal and authentic means of notification

2.5. Requirements:

A. Requirements for submission of Offers :

Certificates.

CENTRO CEIBAL will control that the bidders are up to date with the certificates of BPS, DGI, and BSE, throughout the process including the contract period, in case of being contracted. For these purposes, the bidders must clearly specify in its offer the company's name, No. RUT, No. BPS, and No. Policy BSE.

B. Representation of the Bidder.

If the bidder is a Commercial Company (national or foreign), it must be attached to the offer the notarial certificate accrediting the constitution, validity and representation thereof, according to the social contract, or bylaws. If he appears by proxy, he must attach, likewise, the first copy of the mandate, notarial testimony of the same, or another document which results in the representation invoked, in case the representation does not arise from the notarial certificate and / or bylaws.

If the selected bidder were a foreign company, Centro Ceibal may optionally require that the documentation be duly translated, legalized and notarized, if applicable, before the award and / or signature of the contract.

C. Legal Status of the Bidders.

Companies may participate individually or collectively. In the latter case, companies must be jointly and severally compelled by all stages of contracting, establishing it expressly, and must attach for each of them the documentation required in these specifications.

Both national and foreign legal entities which comply with the requirements established in the bidding rules may participate, individually, as an associate or consortium.

In the case of companies participating collectively, they must be jointly and severally bound for the entire period of validity of the contract, which must be expressly stated in the offer.

The submission of joint offers by companies that plan to consortiate under the provisions of arts. 501 to 509 of the law N ° 16.060 dated September 4, 1989, must attach to the offer:

- Minutes expressing the intention to consort, with notarial certification of signatures, details of the services that each member of the consortium will assume, as well as the proportions with which each participant participates.
- All the information required in this document for each one of the members of the consortium.
- Designation of one of the members as authorized officer to contract obligations and receive instructions for and on behalf of each and every one of the members of the consortium.
- Evidence in the Minutes of intention and subsequently in the consortium contract that each of its members will be jointly and severally liable with CENTRO CEIBAL for each and every one of the obligations contracted in the framework of this acquisition.
- Express the indivisibility of the obligations contracted before CENTRO CEIBAL, and the non-modification of the act or contract, without the prior authorization of CENTRO CEIBAL.

D. Validity of the Proposal.

The offers will be valid for a minimum period of 120 calendar days, automatically extendable for successive periods of 90 days, unless there is a written communication by the bidder, not agreeing to the aforementioned renewal, which must be communicated no less than 10 (ten) business days before the expiration of the period of validity or its extensions.

E. Inhibition of submitting to the Tender.

The persons who are employees, consultants or contracted personnel of CENTRO CEIBAL, that intervene in this procedure of hiring or that have intervened in their previous phases, cannot participate in this tender or have a dependency or contractual link with the companies or organizations offering them.

Failure to observe this impediment may result in the dismissal of the offer or the termination of the contract, as the case may be.

2.6. Reception of Offers - until Tuesday November 17, 2020 at 11am:

Offers can only be sent through [Portal de Compras del Centro Ceibal](#). The proposal must be attached in a keyed file using zip or rar format. The file must be identified and dated, and must contain all the documents that make up the offer clearly identified in accordance with the provisions of point 3.1 of these Specifications. The complete offer (zip / rar file) cannot exceed 25 Megabytes; however, it is allowed to include text documents in the zip / rar file with access to links that contain the information required in these Specifications.

In parallel, the bidder will send the acting Notary Public to the following email address **password@ceibal.edu.uy** the key of the file.

CENTRO CEIBAL reserves the right to request the original paper documentation at any time and prior to the award.

CENTRO CEIBAL will issue a proof of receipt of the offer which will serve as the only means of proof of receipt of the offer in a timely manner. Therefore, it is the responsibility of the interested bidder to ensure such proof before the opening of the offers.

In the event that the same bidder sends more than one offer, the last one received prior to the date and time of their opening will be deemed valid.

The bidder assumes full responsibility for the presentation of the offer, a means that ensures the confidentiality of the offer until the moment it is opened. In case of difficulties of the aforementioned medium, the Centro Ceibal reserves the right to evaluate the exception and accept the offer (provided that it is received on the date and time), as long as the equality of the bidders and the transparency of the process are not altered.

2.7. Formalities:

The bidder must submit the offer on file duly identified with the name of the bidder. The file must include contact information **Ref.: LPI Plataforma de Lengua**

(*) In the event of having made inquiries prior to the opening ceremony, the same contact information that was reported must be provided by that means, in order to avoid any type of confusion between the bidders. It is noteworthy that the bidder is entirely responsible for the veracity and uniformity of the information provided.

The first page of the same must be signed by the legal representative of the company, which must be accredited by a notarial certificate of representation, or notarized power of attorney. Additionally, it will be necessary to include the complete identification form of the bidder attached to the specifications.

2.8. Opening of offers:

Considering the health emergency arranged by the competent national authority, there will NOT be a face-to-face opening of bids.

The opening of bids will be held on **Tuesday, November 17, 2020 at 11:00**, by the acting notary public, together with a representative of Centro Ceibal Purchase Department, through videoconference which will be recorded for the proof of the bidders and the institution. The public notary will proceed to receive the offers and download them, controlling all the documentation presented, and will prepare the respective certificate, which will be notified by the Purchase Department to the bidders together with a copy of the received offers, to the email denounced.

CENTRO CEIBAL, after analyzing the offers, may grant the proponents a reasonable period of time to remedy the defects, formal deficiencies or obvious or minor errors, provided that the equality of the bidders is not materially altered.

2.9. Disclaimer of Liability:

CENTRO CEIBAL may desist from the call at any stage of its execution, or may reject all offers, without expression of cause and without liability. None of these decisions will generate any right of the participants to claim for expenses, fees or compensation for damages. It is recorded that costs, fees and other items included directly or indirectly with the elaboration, preparation and presentation of their offer will be on the bidders.

3. SECTION 3 - FORM AND CONTENT OF THE OFFER

The offer must be written in Spanish.

3.1. Content of the offers:

Refer to what is indicated in section 8.2 of the Technical Annex.

In the event that confidential information is presented, by way of example: customer information, which may be the subject of intellectual property and those of a similar nature, must be delivered separately in a sealed envelope whose cover classifies the content as confidential (article 10 of Law No. 18,381, of October 17, 2008). In the event of sending through the Portal, such information must be included duly identified "Confidential Information" within the zip / rar file that contains the entire offer.

Only Centro Ceibal will have access to this information for the purpose of evaluating the offer. The prices and descriptions of goods and services offered and the general conditions of the offer are not considered confidential.

The bidder must guarantee that it will transfer to CENTRO CEIBAL the improvements in technology that may occur during the execution of this call and during the contracting in case of being awarded.

In Annex II Quotation (Technical Specifications) the quotation must be shown, in US dollars or Uruguayan pesos with itemized taxes. If they are not broken down, they will be understood to be included in the total price offered. For comparative purposes, the value of the BCU dollar bill on the offer opening date will be considered.

When the price adjustment parameter is specified in the offer, it will begin to apply from the award.

The payment method may be:

- (i) 30 days of invoice date and prior product and / or service conformity, by bank transfer in a BROU account.
- (ii) By international bank transfer as agreed with the supplier prior product / service conformity.

If during the term of maintenance of the offer, and / or during the validity of the contractual relationship, the current tax system, as well as other taxes that may be created, will tax the supply, such taxes will be charged to the supplier under the terms and conditions that establishes the legal and / or regulation norm.

4. SECTION 4 – EVALUATION OF TENDERS AND ADJUDICATION.

4.1. Teams for the evaluation of the proposals presented:

The offers will be evaluated by Teams of Specialists designated for this purpose.

Said Teams of Specialists will make their respective reports in their areas of competence and a joint final report together with the award recommendation to CENTRO CEIBAL Board of Directors, who will order the award or cancel the purchase.

4.2. Evaluation criteria:

The technical-economic evaluation of the proposals will be carried out considering the aspects established in point 7.3 of the Technical Specifications.

Centro Ceibal reserves the right to negotiate the conditions of the offer with the one / s that it considers most convenient to its interests, without this giving rise to any claim on the part of the remaining bidders.

4.3. Preference Regimes:

Centro Ceibal in each case will analyze if it is appropriate to grant the preference according to the provisions of current regulations. It is the burden of the bidder to submit it within the deadlines set in the call for collections and other requirements established in the current regulations. Centro Ceibal is not obliged to suspend the process of the call due to the unavailability by the interested party of said documentation in the times defined in the call.

A) National Industry Preference: Art. 41 of Law No. 18,362 and Decrees of Executive Power No. 13/2009 and 164/13, as well as in the amendments, interpretative and concordant rules.

Bidders who wish to benefit from the benefit must declare in their offer if the goods or services qualify as a national in light of the requirements of current legislation. In the event that it is declared that the work (s) qualify as national, the offeror requires: (i) sworn statement detailing the goods or services to be provided that qualify as national; and (ii) in the event of being awarded the contract, the respective certificate of origin issued by the Certifying Entities must be presented within a term not exceeding 10 business days.

In case of absence of declaration, or failure to submit said information, it will be interpreted that the work (s) does not qualify as national and no preference will be granted.

B) Special regimes included in Sub Programa de Contratación Pública para el Desarrollo: Article 44 of Law 18,362 and Executive Power Decree No. 371/010 and No. 164/13, as well as in the amending, interpretative and concordant rules.

b.1) Preference in the price: For the application of the benefit, the bidder must submit together with the offer: (i) Certificate issued by DINAPYME that proves his participation in *Sub Programa de Contratación Pública para el Desarrollo*, and (ii) sworn statement that accredits the percentage of national integration according to art. 8 of Decree 371/010 (model ANNEX II).

If the required information is not provided, Centro Ceibal will not apply the preference.

In case of being awarded the contract, the respective certificate of origin issued by the Certifying Entities must be presented within a period not exceeding 15 business days.

In compliance with the provisions of numeral i) of literal c) of article 11 of the Decree 371/10 of December 14, 2010, it is stated that the Market Reserve mechanism does not apply to this call.

4.4. Final Report of the evaluation of offers:

The members of the Specialist Teams will make a final report; and prior to being submitted to the consideration of the Centro Ceibal Board of Directors, the bidding companies will be seen for a period of 5 business days from the first day following notification. Within this period, the bidders may formulate in writing the considerations that merit the procedure carried out up to that moment and the report of the *Comisión Asesora de Adjudicaciones*. It is not necessary to wait for the expiration of said term to award, if the bidders state in writing that they have no considerations to formulate

4.5. Adjudication:

CENTRO CEIBAL reserves the right to award the process to the bid (s) it deems most convenient for its interests and the needs of the service, being able to depart from the report and recommendation of the Specialist Teams for well-founded reasons, not being obliged to make the award in favor of the lowest price offer or the best technical offer, being able to cancel the purchase if it understood that there are considerations of merit or convenience that justify it, even without expression of cause or liability as indicated in point 2.9 of this Document.

In this context, it is empowered to:

- award the bidder that meets the best conditions.
- select none of the items.
- divide the adjudication.
- award less quantity to the bid.
- consider as a preponderant aspect to reject an offer, the background of the bidders related to the commercial conduct assumed in terms of the compliance of contracts with CENTRO CEIBAL and, with other state agencies.

Once the winning bid has been defined, CENTRO CEIBAL will communicate the decision to all offers that remain valid as of the date of the communication.

5. SECTION 5 – CONTRACT SIGNING.

5.1. Communication to the awardee:

The communication sent to the awarded bid (to the e-mail reported), will constitute the confirmation of the award of the bid. The award resolution, the present Bidding Document, and the proposal of the bidder shall constitute the contract between the parties, until the respective contract is signed. If there is a conflict between the provisions of the award resolution, the Bidding Document and the Company's Proposal, the first two documents shall prevail; at any stage of the present tender.

5.2. Constitution of Guarantee:

Within 20 business days following the communication of the award, the selected bidder will constitute a guarantee of faithful compliance with the contract, equivalent to 5% of the awarded amount. Said guarantee may be constituted at the discretion of Centro Ceibal, through withholdings in payments, or through any of the instruments detailed below: cash deposit, public securities, surety or bank guarantee, or surety insurance policy. If the guarantee is issued by a foreign banking or insurance institution, it must have representation in Uruguay or be accepted by a local institution. The constitutive document must contain a clause that establishes that the aforementioned guarantee may only be released with prior written communication from CENTRO CEIBAL.

Guarantee deposits (made in cash or with a daily check) may be delivered in *Tesorería* of CENTRO CEIBAL, or deposited in the Savings Account in foreign currency of *Banco de la República Oriental del Uruguay (BROU) Agencia Mini BROU Portones* Number 157-000781-0.

If the guarantee is not constituted in the aforementioned manner and term, Centro Ceibal may cancel the award. In this case, Centro Ceibal may reconsider the study of the call with the exclusion of the bidder awarded in the first instance.

The guarantee of faithful fulfillment of the contract may be executed in case the successful bidder fails to comply with the contractual obligations and will be returned once the fulfillment of all obligations by the awarded company has been proved.

5.3. Contract Signing:

The parties agree to a maximum term of 30 days from the award for the negotiation and signing of the contract. In the case of foreign companies, and for the purposes of signing the contract and for any litigation that may arise, Centro Ceibal may require the bidder (s) awarded (who do not have a domicile in Uruguay), to appoint a legal representative residing in Uruguay for the purposes of notifications.

The following documentation will be part of the contract, in the following order:

- 1) Contract that will contain a Service Level Agreement - SLA according to numeral 4.1.8 of the technical specification
- 2) Specifications
- 3) Awarded Offer

The minimum time horizon that Ceibal is able to guarantee for a contract is 3 years, provided that the project is successful in its first year of implementation.

5.4. Sanctions:

The conducts that configure breach of the Awardee, may give merit to the imposition of the following sanctions:

- Fine: The Awardee may be sanctioned with a fine. In cases where there is no express sanction defined in the Service Level Agreement or in the Contract, it will be sanctioned

with a fine that will be determined based on the entity of the breach, and that will range from 5% to 20% of the monthly billing for the contracted service. In the case of the acquisition of products, in the event that the selected supplier falls behind in the quantities and delivery terms agreed, and unless something different has been provided in the Technical Bases, or the parties have agreed to something different in the contract, it will be sanctioned with a fine equivalent to 5% on the value of the supply that should have been delivered. The fine will be applied from the business day following the expiration of the delivery period. For each additional week of delay, the fine will increase by 1.5%. After 30 calendar days of delay, without the supplier having delivered the acquired equipment, it will be grounds for termination of the contract.

In the event of application of fines, CENTRO CEIBAL is empowered to withhold the amount thereof from the sums that the Awardee would have to receive.

- Termination of the Contract for total or partial breach. By way of example, it may lead to the termination of the contract:
 - Failure to comply with the obligations established both in this document and in the Service Level Agreement, which by its entity, in the opinion of CENTRO CEIBAL and by founded resolution, make the provision of services by the Awardee inconvenient.
 - That the Awardee incurs in fraud, gross negligence or breach of the obligations and conditions stipulated in the Specifications, Offer and in the Contract.
 - Failure to pay the corresponding tax and insurance obligations.

CENTRO CEIBAL may require the successful bidder to certify that it is up to date in the payment of current social laws, tax contributions, health insurance that corresponds, as well as that the staff is insured against work accidents, in accordance with the current dispositions.

In any of the aforementioned cases, CENTRO CEIBAL may terminate the contract, and claim the damages caused by said breach plus the corresponding fine.

5.5. Competent jurisdiction:

The jurisdiction over any interpretation or elucidation of disputes that may arise from the bidding or the contract, will be the jurisdiction of the Courts of the city of Montevideo, of República Oriental del Uruguay, in accordance with the provisions in force in the matter in Uruguay.

5.6. Non-exclusivity:

The commercial relationship generated between CENTRO CEIBAL and the awarded bidder (s) shall be non-exclusive, and CENTRO CEIBAL may enter into agreements with third parties whose terms and benefits are similar or equivalent.

5.7. Contract extension:

Centro Ceibal reserves the right to increase the amount awarded on equal or better commercial terms, or on more advantageous terms than those resulting from the awarded offer.

5.8. Arrears:

The awarded supplier will fall into default by right without the need for judicial or extrajudicial management or interpellation of any kind for the sole expiration of the agreed terms, for the performance of any act or fact that translates into doing or not doing something contrary to what is established in the commercial relationship.