

# **URUGUAY**

## **STATE RAILROAD ADMINISTRATION**

**Procurement Department**  
(Tendering Unit)

### **SPECIAL SPECIFICATIONS DOCUMENTS FOR THE SALE OF RAILS THAT ARE NO LONGER SUITABLE FOR RAILROAD USE WITH EXPORT AUTHORIZATION.**

**PUBLIC TENDER 1/2024**

### **SALE OF RAILS NO LONGER SUITABLE FOR RAILROAD USE WITH EXPORT AUTHORIZATION**

**OPENING DATE: MARCH 20TH, 2024 TIME: 2:00 PM**

**SECURITY DEPOSIT:** to be presented at the Treasury, Avda. Gral. Rondeau N° 1921 Office 807 (Finance Department) Monday to Friday from 10:30 a.m. to 2:30 p.m.

**BIDS RECEIVED AT:** Procurement Department, (Tendering Unit) Avda. Gral. Rondeau N° 1921 Office 806 or through the Public Procurement Portal ([www.arce.gub.uy](http://www.arce.gub.uy)) (e-opening) until the time set for the opening of bids.

**PRICE OF THE BIDDING DOCUMENTS: \$ 40,000**

# **SALE OF RAILS NO LONGER SUITABLE FOR RAILROAD USE WITH EXPORT AUTHORIZATION.**

## **INTRODUCTION**

As part of the strategic development plan of the National Railway Administration(A.F.E.), the agency promotes the sale of rails that are no longer suitable for railroad use, which are kept in different railway stations nationwide.

Thus, A.F.E. calls for national and international public bids for the sale of up to 11,500 tons of rails, further noting that through Decree No. 153/2023 (<https://www.impo.com.uy/bases/decretos/153-2023>), the Executive Power granted A.F.E. authorization for the individuals or legal entities that are awarded in this bid to export the rails.

### **Chapter I: LEGAL FRAMEWORK AND JURISDICTION.**

#### **Article 1: LEGAL FRAMEWORK AND JURISDICTION.**

In addition to the conditions herein, which define the provisions expressly allowed by the General Bidding Terms and Conditions for non-personal supply and service contracts and the national regulations in force, any provisions outlined in further communications and notices issued by A.F.E. as clarifications and amendments to these Bidding Terms and Conditions shall apply. The laws and jurisdiction of the city of Montevideo, Uruguay, shall be applicable for all matters related to the performance or interpretation of the contract.

### **Chapter II: CONDITIONS OF THE ITEM THAT IS SUBJECT OF THE CALL.**

#### **Article 2: PURPOSE AND SCOPE.**

The purpose of the contract is the sale by the State Railroad Administration and the purchase by the successful bidder(s) of up to 11,500 tons of idle railroad rails. Annex I, "MANDATORY BIDS CHART," outlines the location and quantity estimates.

The weight and quantity of each item listed in Annex I, "MANDATORY BIDS CHART," is a preliminary estimate made by A.F.E. to make—if applicable—the security deposit established in Article 10 herein and the payment under Article 4.

#### **Article 3: DESCRIPTION OF THE RAILS.**

A.F.E. warns bidders that the item for sale is idle railway material; therefore, this Administration does not guarantee in any way the quality of the goods, nor that they are free of defects, nor in conditions to be put on the market, nor suitable for the

use that the successful bidder/s intend. Thus, by participating in this call, the successful bidder takes on any risks regarding their condition and intended use.

In addition, the quantities outlined are estimates; therefore, A.F.E. is not bound to sell a specific amount; the final sale will be based on the result of the weighing to be carried out.

#### **Article 4: PRICE.**

The Bidder **shall submit their bid in the table in Annex I, "MANDATORY BIDS CHART," otherwise, the bid will not** be considered.

Regarding the conditions under Annex I:

a) Bidders must bid for all items (1 to 10), and partial bids will not be accepted for the entire lot.

b) The price per ton must be equal to or greater than USD 200 (two hundred US dollars), and bids below the base price will not be accepted.

c) Price should be quoted in USD (US dollars) per ton of rails. **The price offered is before taxes.** If taxes are applicable, they shall be paid by the successful bidder.

The price offered corresponds only to the ton value of the rails; A.F.E. is not responsible for any other expense. Thus, the successful bidder will be solely responsible for all risks, costs, and taxes that emerge from retrieving the rails and their final intended use. For example, labor, machinery, freight, loading and unloading, transportation for weighing on official scales and final destination, intermediate warehousing services for their future export, and any other associated expenses.

#### **Article 5: METHOD OF PAYMENT.**

The total amount awarded must be paid in full within 10 (ten) business days from the day following the notification of the award and before collecting the Sales Order.

Payment shall be made in U.S. dollars to **USD Current Account 001553895-00006 - Banco de la República Oriental del Uruguay.** Upon delivery of the bank deposit slip, the Treasury of A.F.E. will issue the corresponding receipt at Avda Gral. Rondeau 1921 Office 807 (Monday to Friday from 10:30 a.m. to 2:30 p.m.).

Failure to pay this amount in due time and form may be cause for the termination of the contract.

**The successful bidder may only retrieve materials they have paid for in**

**advance.**

A.F.E. will keep track of each of the deliveries and deduct the amounts paid.

### **Chapter III: BIDDING PROCESS.**

#### **SECTION I: GENERAL PROVISIONS.**

##### **Article 6: COMMUNICATIONS.**

All communications related to this call should be addressed to the Procurement Department of A.F.E., at Rondeau N° 1921 office 806, e-mail address: [afelicita@afe.com.uy](mailto:afelicita@afe.com.uy).

##### **Article 7: TENDER SPECIFICATION DOCUMENT.**

The specification document costs UYP 40,000 (forty thousand Uruguayan pesos). Please contact [afelicita@afe.com.uy](mailto:afelicita@afe.com.uy) for the proof of purchase of the bidding documents.

##### **Article 8: CLARIFICATIONS:**

Interested parties may ask clear-cut questions. A.F.E.'s answer will be notified to all bidders within the period between the second half of the term between the call for bids and 48 hours before the opening.

If A.F.E. considers it convenient, based on the nature of the call, a meeting might be held to address all questions submitted. All bidders who had previously purchased the Specifications Document shall be invited to this meeting.

Minutes shall be taken and signed by all attendees, and this document will be considered part of this Bidding Document. If A.F.E. cannot answer any question based on the nature of the inquiry, the answer will be provided in writing within 48 hours, and it will be sent to all bidders who purchased the tender documents.

No further clarifications will be provided after this period.

##### **Article 9: EXTENSIONS.**

Bidders may request an extension of the bid opening date by writing to the Procurement Department, AFE's Tendering Unit, Avda. Gral. Rondeau, 1921, Office 806, via e-mail to [afelicita@afe.com.uy](mailto:afelicita@afe.com.uy) within the first half of the period between the publication date of the invitation to bid and the bid opening date. A.F.E. shall decide on requests for extensions at its sole discretion.

If an extension is granted, it will apply to all bidders. The Administration may process the request for an extension of time, prior deposit by the applicant of an amount equivalent to UYP 20,000 (twenty thousand Uruguayan pesos), as a guarantee of the effective submission of the bid. The deposit and/or bank transfer

must be made to Banco República, UYP, current account number 001553895-00004.

A.F.E. Will have full rights, with no need for court or general notifications, over the amounts above once the new term agreed upon expires, even if the applicant or applicants have not submitted their proposals or if they have, but bids cannot be received or opened.

The deposit will be returned immediately if the extension request is not granted.

**Article 10: BID SECURITY DEPOSIT.**

**The bidder shall deposit USD 100,000 (one hundred thousand US dollars) to guarantee that the bids will not be withdrawn.**

The procedure shall be as follows:

**Guarantee in government securities.** The guarantee in public securities shall be deposited in the name of the Bidder in the Securities Custody Section of Banco de la República Oriental del Uruguay and to the order of A.F.E. The slip showing the name of the bidder(s) and the bid number shall be submitted to the Treasury of A.F.E., which shall issue the corresponding receipt before the bid opening time.

**Guarantee using a first demand bond.** If issued by the National Insurance Bank (*Banco de Seguros del Estado*), the document shall be delivered directly to the Treasury of A.F.E. without notarial certification of signatures, which shall issue the corresponding receipt before the bid opening time.

If issued by private Insurance Agencies, the document must be submitted with a notarial certification of signatures to A.F.E.'s Legal-Notarial Department at least 2 working days before the bid opening, and the Legal-Notarial Department will have 1 working day for its approval or rejection. Once the Office above has approved the document, the bidder shall deliver it to the Treasury of A.F.E., which shall issue the corresponding receipt before the bid opening time.

**Security deposit or bank guarantee.** If the bidders choose this option, the guarantee must state that the guarantor waives the benefit of excussio. If issued by public banking institutions, the document shall be delivered directly to the Treasury of A.F.E., without notarial certification of signatures, before the bid opening time.

If private banking institutions issue documents, they shall be submitted with a notarial certification of signatures at least 2 working days before the opening of the

bidding before the Legal - Notarial Department of A.F.E., which shall have 1 (one) working day to approve or reject them. Once the document has been approved, the bidder shall submit it to the Treasury of A.F.E., issuing the corresponding receipt before the bid opening time.

The bid maintenance guarantee will be canceled once the successful bidder receives the corresponding sales order.

Bid maintenance guarantees for unsuccessful proposals will be returned, in all cases at the bidder's request, upon expiration of the bid maintenance period or award to another bidder. If the bid maintenance period has expired and A.F.E. has not yet decided on the acceptance or rejection of the bids, the corresponding guarantee shall also be returned to those bidders who so request, in which case the Administration shall understand that the petitioner is withdrawing its bid.

The minimum term of the bid maintenance guarantee shall be 90 (ninety) calendar days, which may be automatically extended for further periods of 30 (thirty) days, provided that the bidder does not expressly withdraw 10 (ten) days before the expiration date of the original term or subsequent extensions.

The bid security may be forfeited:

1. When the bidder withdraws its bid during the maintenance period.
2. If the bid is accepted, if the successful bidder does deposit in due time and form the contract's performance bond under the provisions herein.
3. When the successful bidder refuses or fails to sign the contract, having been notified to do so, within 10 (ten) days from the day following the date of notification.

#### **Article 11: VALIDITY OF THE OFFER.**

The bids shall be valid and bind the Bidders for 90 (ninety) calendar days, as of the day following the date for their opening, unless any bids are accepted before the expiration of such term.

Bids that are withdrawn during these minimum periods will not be considered. If the term expires without A.F.E. having made a decision, the bids shall be regarded as automatically extended for subsequent periods of 30 (thirty) days unless they issue a written notification at least 10 (ten) days prior to the expiration of the original term or the subsequent extensions, limiting the term of such extensions or explicitly rejecting such extensions.

**Article 12: CONSORTIUM BID.**

If bidders submit a joint offer, they must:

- a) Indicate the name of each party that will be part of the pool.
- b) Appoint an address for business in the Department of Montevideo.
- c) Be registered in RUPE.
- d) To state in the consortium agreement or consortium promise that if they are awarded the contract, they must make sure that the provisions of such agreement comply with the requirements under articles 501 to 509 and related articles of Law No. 16.060.
- e) To be bound indivisibly and jointly about the contracting National Railroad Administration for all obligations arising from the agreement, both under the consortium promise and/or actual consortium.
- f) Establish the extent of participation of each of the members.
- g) If the company or companies are foreign, once the award is notified, they must comply with Law No. 16,497 (National Registry of Representatives of Foreign Firms)
- h) The Bidders must indicate the owners' names in the case of partnerships or of their authorized representatives in the case of corporations. Corporations must submit the list of the members of the Board of Directors.
- i) Only successful bidders must submit the notarial documentation necessary to prove their legal status. Likewise, all documentation from abroad must be legalized and notarized following the national provisions in force.

**Article 13: ACCEPTANCE OF THE SPECIFICATIONS.**

Submitting the bid tacitly implies knowledge and acceptance of the Specification Conditions and their Annexes.

**Section II BID SUBMISSION.**

**Article 14: BID SUBMISSION.**

The bids stating the prices offered may be submitted in **person**, **online**, or **by e-mail**.

In-person: at the place, date, and time set forth on the cover page of these bidding documents, in a sealed envelope bearing the bidding number.

Upon submitting the bid, the bidder shall enclose, outside the envelope, the bid maintenance and security deposit receipt from AFE's Treasury under Article 10

herein, if applicable.

Online: through the Public Procurement Portal ([www.arce.gub.uy](http://www.arce.gub.uy)) until the time and date set for the opening. Please see Annex II "Electronic Bid Opening" to submit the bid to this channel. The bidder shall attach the bid security deposit receipt from AFE's Treasury in accordance with Article 10 of this RFP, if applicable.

By e-mail: to [afelicita@afe.com.uy](mailto:afelicita@afe.com.uy) until the time and date set for the opening, and the bidder must attach the bid maintenance security deposit receipt from AFE's Treasury, in accordance with Article 10 of the present bidding documents, if applicable.

#### **Article 15: OPENING OF BIDS.**

For in-person bid opening, it shall be held at the place, date and time outlined in these bidding documents in the presence of the bidders who wish to participate.

In electronic opening, the bid may be uploaded up to the time indicated in the bidding documents. Please see ANNEX II for further details and information on the electronic opening.

In case of opening by e-mail, the bid may be sent up to the time indicated in the bidding documents.

The opening time will be set in local Montevideo, Uruguay time.

Once the opening is completed, the minutes shall be drawn up following Article 65 of the Consolidated Document on Accounting and Financial Administration (TOCAF) and signed by the acting officials and the bidders who wish to do so. Bidders may make any observations as they deem necessary regarding the controls carried out in the bid opening ceremony.

The proposals will not be checked for formal errors or omissions.

#### **Article 16: GENERAL CONDITIONS OF THE OFFER.**

**Language.** The bid and related documents must be written in Spanish.

Any printed material referring to specific technical or financial information of the bid may be presented in another language provided that a Spanish translation signed by the bidder is also submitted, which shall prevail for the purpose of interpreting the bid, without prejudice to the correction of obvious errors.

**Format.** The bid document cannot have text between lines, deletions or strikethroughs, except when it is necessary to correct the bidder's errors, in which case, the corrections shall be saved with the bidder's signature.

**Cost of the bid.** The bidder shall bear all expenses related to the bid preparation and submission, and A.F.E. shall not be liable in any case for such costs,

regardless of the result of the bidding.

**Article 17: CONTENTS OF THE BID.**

The offer shall include the following elements:

- a) **Identification of the bidder and bid submission letter**, stating names, addresses, fax and telephone numbers of the bidders, in the city of Montevideo for the bidding and subsequent acts. For such purposes, the Bidder shall fill out Form - A - Identification of the Bidder and Form - B - Presentation of Bid, in ANNEX III "Forms."
- b) **Bid Maintenance Deposit (Art. 10)**. Receipt issued by A.F.E. certifying that the Bid Maintenance Deposit was made, issued in the name of the bidder or bidders if several individuals or legal entities are involved and the number and purpose of this bidding.
- c) **Receipt of purchase of the bidding documents (Art. 7)**.
- d) **Consortium**. In the event of submitting a bid in the form of a Consortium or promise of Consortium, the bidders must submit a document in accordance with the provisions of Article 12 herein.
- e) **Price** The price shall be indicated in the table in Annex I "MANDATORY BIDS CHART", and following the provisions of Article 4. The price offered must be equal to or greater than USD 200 (two hundred US dollars) per ton
- f) **Visit**. The bidder can visit the different locations to see the rails, their condition, location, access, general characteristics of the stockpile, etc. The details of the visits, dates, and times will be published on A.F.E.'s website: [www.afe.com.uy](http://www.afe.com.uy) and on the Public Procurement Portal: [www.arce.gub.uy](http://www.arce.gub.uy).

**Article 18: BID CONTENT AND ASSESSMENT.**

If there is not enough information to evaluate a bid, which cannot be complemented with subsequent clarifications from the bidder, this may result in the rejection of the bid.

A.F.E may grant the bidders a maximum of 2 (two) days to correct any errors, format deficiencies or obvious or minor mistakes; this term may be extended for foreign bidders and, if granted, it shall apply to all bidders.

- a) **For bids to be admissible, they must comply with the following requirements:**

Requirements	Observations:	Compliant (Yes/No)
Identification of the bidder	<u>Form - A - Identification of the Bidder - Annex III and Art. 17. a).</u>	
Bid submission letter	<u>Form - B - Bid Submission Letter - Annex III and Art. 17. a).</u>	
Receipt issued by A.F.E. certifying that the bid maintenance security deposit has been made	Art. 10 - Bid maintenance security deposit and Art. 17.b.	
Receipt of purchase of the specifications document	Art. 7 - Purchase of the bid specifications document and Art. 17. c).	
Consortium	If applicable - Art. 12 Consortium bid and art. 17 d).	
Price	Art. 4 - Price and Art. 17.e). (Price equal to or higher than USD 200 per ton)	

b) Once the admissibility assessment has been completed, the **most convenient bid will be determined, based on price, and the bid offering the highest price will be awarded.**

#### **Article 19: NEGOTIATION.**

In case of submission of similar or inadequate bids, pursuant to Art. 66 of the TOCAF, the bidders may be encouraged to improve their bids or to enter into confidential and parallel negotiations to reach better conditions.

The prices offered for each item will be compared to determine if the bid is similar.

#### **Article 20: AWARD.**

Once the awarding resolution has been issued and authorized by the State Audit Court, the Procurement Department, Tendering Unit of A.F.E. will notify the bidders.

A.F.E. reserves the right, in all cases, not to award any or all of the items at its sole discretion.

If there is a tie between the bids placed first, A.F.E. may divide the award proportionally **among the bidders if the subject matter of the contract allows for such division**, or call for bid improvement as provided for in the TOCAF. This provision applies for the original bids, and for the resulting bids after improvements or negotiations.

A.F.E. may divide the award among several bidders for justified reasons, as well as reasonably increase or decrease the bid amounts. (TOCAF art. 74).

The Procurement Department, Tendering Unit of A.F.E. will notify the Award Resolution to the successful bidder(s) and to the remaining bidders to the e-mail address indicated by the bidder in their proposal.

If the Awardee or its representative fails to confirm or submit the documentation requested in the following article or any other required documentation in due form and time, unless an extension has been authorized, A.F.E. may cancel the award, collect the bid maintenance deposit and sue for non-compliance and/or loss and damages, and may proceed to consider the remaining bids for subsequent award.

#### **Chapter IV: PROVISIONS ON THE EXECUTION OF THE CONTRACT.**

##### **Article 21: CONTRACT PERFORMANCE BOND.**

The successful bidder must guarantee compliance of the agreement to be entered into through a performance bond of 5% of the amount awarded.

This bond may be deposited in cash, public securities, bank guarantee or surety bond or surety insurance policy, within ten working days from the award notification, without prejudice to A.F.E.'s powers to grant a longer term for justified reasons. Failure to meet the established deadlines may cause cancellation of the award.

The guarantee must contain clauses that establish its validity until the total fulfillment of the contractual obligations.

The successful bidder, before depositing the performance bond at the Finance Department (Treasury), shall, if applicable, go to the Notary Section (Av. Rondeau 1921 office 802) for the Legal - Notarial Department of A.F.E. to verify the formal aspects of the bond, as well as the term of validity. If, due to non-compliance with any of the requested requirements, it is rejected, the successful bidder shall submit to

that Department another one that complies with the requirements within ten (10) working days.

If the performance bond is deposited as a surety bond or bank guarantee, these must be processed by banking institutions duly authorized to operate in the country. The same applies to surety insurance policies.

The performance bond shall be returned to the successful bidder upon contract completion. If the bonds are issued with a specific expiration date, prior to the termination of the contract obligations, the successful bidder shall renew or replace them at least thirty (30) days prior to their expiration. Failure to comply with the aforementioned obligation may result in its forfeiture.

## **Article 22: SALES ORDER.**

Once the performance bond is set (Article 21) and the total amount awarded (Article 5) has been paid in full, the successful bidder will be able to pick up the corresponding Sales Order from the Procurement Department, Tendering Unit (Avda. Gral. Rondeau 1921 office 806) within up to 10 (ten) working days.

## **Article 23: COLLECTING THE MATERIALS.**

The Awardee shall be responsible for all expenses and costs generated by the retrieval of the awarded rails at the corresponding sites, including but not limited to: transportation, loading and unloading, human resources and necessary materials, additional tasks such as potentially cutting of the rails and access to the site, the implementation of occupational health and safety standards, cleaning, etc.

The collection period shall start the business day after the Procurement Department issues the Order, in accordance with the provisions of Article 22 herein.

The awarded rails shall be retrieved within 120 (one hundred and twenty) days from the date after the delivery of the sales order. This term may be extended once only for up to 60 (sixty) days, at the express request of the successful bidder and for duly proven reasons.

Failure to meet these deadlines shall be grounds for termination of the contract and/or application of fines.

#### **Article 24: PLACE AND TIME OF PICK-UP.**

The items awarded shall be collected from the location indicated in Annex I "MANDATORY BIDS CHART". Pick-up day and time will be arranged with the Procurement Department, Monday through Friday from 9:00 a.m. to 4:00 p.m.

If an extension of the schedule above is necessary, at the express request of the successful bidder and whenever possible, the successful bidder shall bear all expenses incurred by A.F.E.. If the successful bidder causes any delays to the schedule of over 5 minutes, even if they have not requested an extension, the bidder will have to pay 1 (one) hour of the costs generated to AFE. This is the case when an extension is requested and exceeded.

#### **Article 25: PICK-UP.**

Authorized A.F.E. staff must be present during the entire time the rails are being collected for monitoring purposes, since the total weight outlined in Annex I "MANDATORY BIDS CHART" is estimated.

The pick-up process shall begin with the weighing of the unladen (tare) truck on a scale authorized according to the provisions in force (Legal Metrology - LATU); after that, once the idle rails have been loaded onto the truck, a new weighing shall be performed on the same scale to determine the tons collected.

Three (3) documents are required for monitoring purposes, namely: a) sales order; b) weighing certificate showing unladen (tare) and laden data; and c) certificate indicating the tons collected. All documents must be signed by a representative of the successful bidder and a representative of A.F.E., except the sales order, which shall be signed only by a representative of A.F.E.

If the number of tons collected exceeds the total weight estimated under this item, the successful bidder shall pay the difference within 10 working days. Conversely, if the total weight is lower than the amount awarded, A.F.E. will reimburse the surplus deposited within 10 working days to the account indicated in writing.

**A.F.E. will establish in which order the rails shall be picked up at its sole discretion.**

The area where the rails were located must be left clean (clear ground). Otherwise, delivery shall not continue and may be grounds for contract termination (art. 40).

The successful bidder shall pick up the rails at its own cost and by the means it

deems convenient. A.F.E. may authorize the bidder to cut the rails within the premises so they can be easily loaded and moved.

In addition, if around the items for sale A.F.E. finds any materials that they find useful and that are not within the object of this sale or at the sole discretion of the person in charge of the delivery, these shall be stored away and be kept in the possession of A.F.E. The company shall move those materials to a suitable place within the premises, stacking them adequately. Such loading, transfer, unloading and stockpiling operations shall not generate any cost to A.F.E.

#### **Article 26: RISK AND LIABILITY.**

The risk and liability for theft, loss or damage on the awarded railway material shall be transferred to the successful bidder from the delivery of the Sales Order, by way of example, this shall imply:

- a) Custody of the awarded railway material.
- b) Taking on the risks and responsibility for the operation of the collection and transfer of railway material. This includes damages caused to A.F.E. or Third Parties.
- c) The successful bidder shall be responsible for labor obligations, including: payment of salaries, social benefits, provision of protective and safety equipment, and other obligations related to the staff that will perform the tasks necessary for the handling and collection of the rails.
- d) The successful bidder shall take out Insurance against Occupational Accidents and Occupational Diseases, in force for the entire duration of the contract, covering the staff involved under this contract, in accordance with the type of work to be performed.
- e) The successful bidder shall comply with all regulations relating to occupational safety. For such purposes and before starting the collection, a work plan signed by a Safety and Health Inspection must be submitted to be considered by A.F.E.'s own Safety and Health Inspection, who may request improvements.
- f) Take on responsibility for all equipment, tools, and other supplies required for the operation.

Special attention will be paid to avoid fires in the area where the operation is carried out.

#### **Article 27: INDEMNITY.**

Without prejudice to the other responsibilities that correspond to the Awardee, the latter shall indemnify and hold A.F.E harmless, as well as its directors, officers

and staff in general from any lawsuit, claim, damages, losses, expenses, costs, charges, of civil, commercial, administrative, labor, tax or any other nature arising from or related to this contract, and caused by any act or omission, whether with or without intent or negligence, of the Awardee or its employees or its subcontractors, employees of subcontractors and staff in general.

The Awardee shall comply with all legal and regulatory obligations related to its corporate purpose and the activities undertaken.

#### **Article 28: FINES.**

The successful bidder shall be liable for the following fines:

28.1. **Delay in the fulfillment of an obligation.** In the event that the successful bidder does not comply on time with their obligations, they will have to pay a daily fine of 2 UR for each day they are delayed.

28.2. **Fine for breach of obligation.** Should the successful bidder fail to comply with any of their obligations, A.F.E. may apply fines proportional to the non-compliance, which may range from 0.3% to 10% of the amount awarded, depending on the severity of the event.

**Payment of fines.** A.F.E. will deduct fines from any outstanding payments or sums in favor of the awardee or from the bonds or security deposits in force if these funds are insufficient. If no amounts are due, the fines will be considered a debt the successful bidder owes.

**Legal nature.** All fines are punitive in nature, and A.F.E. may independently claim the corresponding damages. Likewise, A.F.E. may demand compliance with the obligation together with the payment of the fine (art. 1367 section 2. of the Civil Code).

**Full right.** The fines will lawfully apply without the need for any court demand for payment or other.

**No tacit waiver.** Tolerance to the successful bidder for any partial or total breach of its obligations shall not mean that A.F.E. waives its right to apply the fines stipulated herein.

#### **Article 29: DAMAGES FOR DEFICIENCY IN SERVICE.**

The successful bidder must pay—provided that the Inspection and Surveillance Department, in accordance with the instructions in force understands that the successful bidder was responsible—for the materials, missing or deteriorated elements in case of theft or damage to A.F.E. property.

### **Article 30: INSURANCE.**

The successful bidder undertakes to take out and maintain civil liability insurance against third party claims in the joint name of the latter and A.F.E., from the execution of the contract until its termination, for a minimum amount of USD 200,000 (two hundred thousand U.S. dollars). This insurance will cover all subcontractors who may have their own insurance.

The insurance shall cover at least the following contingencies, for which the successful bidder is liable: a) loss or damage to the property of A.F.E. and third parties; and b) personal injury or death.

The successful bidder shall deliver to A.F.E. for its approval, the insurance policies and certificates before signing of this contract.

The insurance does not exempt the successful bidder from any liability whatsoever with respect to A.F.E.

The successful bidder shall be responsible for all deductibles and other payments associated with the insurance.

### **Article 31: TERMINATION OF THE CONTRACT DUE TO NON-PERFORMANCE.**

Failure to comply with all or any of the obligations of the successful bidder may result in the lawful termination of the contract by A.F.E., unless A.F.E. chooses to demand performance.

The reason why the contract may be terminated for breach of contract include, but are not limited to:

31.1 The awardee does not comply with the payment of the price in the stipulated term and proper form.

31.2 The successful bidder does not comply with the collection of the rails awarded on time.

31.3 The awardee incurs in corrupt practices (bribery, extortion or coercion, fraud, collusion).

31.4 They are subject to 5 fines.

31.5 Failure to comply with national and departmental regulations.

31.6 Irregular payment of taxes to the corresponding agencies.

31.7 The successful bidder is declared bankrupt.

31.8 Assignment or transfer of the bidding without having obtained prior written authorization from A.F.E.

The termination of the contract due to a breach of contract by the successful bidder means that A.F.E., as a fine, may forfeit 100% of the contract performance bond plus the price equivalent to the rails already collected, without prejudice to the claim for damages caused by the breach of contract.

**Article 32: DELAY OR INACTION ON THE PART OF THE SUCCESSFUL BIDDER.**

It is expressly stipulated, for all purposes of this contract, that no act, omission, delay or the mere lapse of time shall be construed or valid as a waiver of the rights and remedies conferred by this Contract to A.F.E.

**Article 33: AUTOMATIC DEFAULT.**

The non-compliance by any of the parties to the obligations herein shall cause them to become delinquent, with no need for any court notification or demand for payment or other, except for the exceptions set forth in this contract.

**Article 34: ASSIGNMENT OF CONTRACT.**

A.F.E. reserves the right to assign this contract to a third party, without implying any liability on the part of the Administration.

The successful bidder may assign the award in favor of a third party, provided that A.F.E. consents in writing and upon demonstration that the new awardee meets or provides the same assurances of compliance.

Laura Martusciello  
Procurement Department

**Annex I - MANDATORY BIDS CHART.**

<b>Item</b>	<b>Station</b>	<b>Distance MVD (Km, Approx)</b>	<b>Estimated total weight (ton) of the Lot</b>	<b>Price in USD per ton (excluding taxes)</b>
1	Algorta	350	1700	
2	Guichon	375	680	
3	Piedras Coloradas	380	1450	
4	Porvenir	370	2600	
5	Km 485 (City of Paysandu)	380	1700	
6	Churchill	310	800	
7	El Lago	285	760	
8	Los Molles	225	600	
9	Santa Lucia	70	560	
10	Talleres Peñarol	0	650	
Total, of what was offered				

## **Annex II - ELECTRONIC OPENING.**

### **To Bidders:**

To place your bids online promptly, we advise you to consider the following recommendations:

**1)** Being registered in RUPE is a requirement to be able to bid online. If you are not, we recommend that you first complete the registration procedure as soon as possible. For more information about RUPE see the following link or call (+598) 2604 5360 from Monday to Sunday from 8:00 am to 9:00 pm.

ATTENTION: To submit a bid, it is sufficient to be registered in RUPE under an "ONBOARDING" status. For the purposes of the award, the selected bidder must be under an "ACTIVE" status in RUPE, as established in the RUPE Guide for Suppliers, which can be accessed at [www.comprasestatales.gub.uy](http://www.comprasestatales.gub.uy) under the menu option Suppliers/RUPE/manuals and videos.

**2)** You must have a password to access the online bidding system. If you do not, we recommend you request one as soon as you decide to participate.

ATTENTION: the password to access the online offer system is different from the password used to access RUPE. It is obtained directly from the system and is received by e-mail to the address registered in RUPE. We recommend reading the manual and watching the video explaining how to enter offers online.

**3)** When submitting the economic offer online, you must specify the price, currency, tax, quantity to be offered and other attributes for each item quoted (presentation, color, etc.). We recommend analyzing the items for which you are going to enter a quotation, in order to be sure that you have all the available data.

If you wish to quote any tax or attribute that is not available in the system, please contact the ACCE Catalog section at: [catalogo@acce.gub.uy](mailto:catalogo@acce.gub.uy) to include it and/or get advice on how to proceed.

**4)** We recommend preparing the documents of the offer with enough time in advance. It is of utmost importance to separate the confidential and non-confidential parts. Please note that an incorrect classification could result in the offer being disqualified.

**5)** Submit your quotation as soon as possible to make sure everything is working correctly. If you wait until the last minute, unexpected events can happen, such as Internet connection failures, server crashes, slow systems due to the large number of people accessing the same thing, etc., which cannot be solved quickly.

**6)** You will be able to view, modify and even delete your bid until the time set for the opening, since access is only available with your password.

At the time established for the opening, you will no longer be able to modify or delete the data and documents entered into the system. The financial offer and the non-confidential documents will be made available to A.F.E. and the other bidders. Confidential documents will only be available to A.F.E.

**7)** If you have any questions, please contact ARCE Customer Service at (+598) 2604 5360 from Monday to Sunday from 8 am to 9 pm, or via email at [compras@arce.gub.uy](mailto:compras@arce.gub.uy) and

### **Annex III - FORMS.**

#### **Form - A - Bid Submission.**

I, the undersigned ..... On behalf of myself/on behalf of ....., with legal domicile for all purposes of this bidding at .....N ..... in the city of Montevideo, undertake, subject to the Laws and Courts of the Uruguay, with the exclusion of any other recourse, to comply with the bid proposed in the bidding process **FOR THE SALE OF RAILS NO LONGER SUITABLE FOR RAILROAD USE WITH EXPORT AUTHORIZATION.** N \_\_\_\_\_, in accordance with the corresponding specifications and bidding documents.

Date:

Signature:

#### **Form - B - Identification of the Bidder.**

1. Name or Company Name: \_\_\_\_\_.
2. Fantasy name: \_\_\_\_\_.
3. Tax Registration Number: \_\_\_\_\_.
4. Telephone: \_\_\_\_\_.
5. Fax: \_\_\_\_\_.
6. E-mail: \_\_\_\_\_.

NOTE. In case of Consortium, this Form must be filled out by each of the firms that are members of the Consortium.