

Ordering Party:

Instytut Adama Mickiewicza

25 Mokotowska Str.

00-560 Warsaw

**Contractors participating in the
procedure**

INFORMATION ON CANCELLING THE OPEN TENDER PROCEDURE

Regards: open tender procedure for **Charter of passenger planes for the I, CULTURE Orchestra.**

Ordering Party informs, that that the following contractors have submitted tenders in the aforementioned procedure:

Tender no. 1 ACC AVIATION LTD, PRIORY GATE, 18 Castlefield RD, Reigate, Surrey RH2 0AP England

Tender no. 2 CHAPMAN FREEBOM AIRCHARTERING Sp. z o.o. ul.Salsy 2 02-823 Warszawa

Tender no. 3 AIR CHARTER SERVICE Ltd, Millbank House 171-185 Ewell Road Surbiton Surrey KT6 6AP England

As a result of the evaluation of the tenders, the Ordering Party:

1. Rejected tender no 1 submitted by ACC AVIATION LTD

Legal basis

Art. 89, section 1, point 2 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended)

„The contracting authority shall reject a tender, if:

2) its content is inconsistent with the specification of essential terms of contract...”

Factual basis

In the tender the contractor submitted “a total value in EUR” without submitting the price for the individual flights.

2. Rejected tender no 3 submitted by AIR CHARTER SERVICE Ltd

Legal basis

Art. 89, section 1, point 1 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended)

„The contracting authority shall reject a tender, if:

1) it is not in conformity with this Act;”

Factual Basis

In the tender, the contractor submitted two prices for the realisation of the tender, therefore submitted two bids which is incompliant with Art. 82 section 1 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended) „An economic operator may submit one tender.”

Legal Basis

Art. 89, section 1, point 2 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended)

„The contracting authority shall reject a tender, if:

2) its content is inconsistent with the specification of essential terms of contract...”

Factual Basis

In the tender the contractor offered an alternative flight to Rotterdam, which is inconsistent with art. 3 section 3 of the specification of essential terms of contract „ The Ordering Party shall not accept variant tenders.”

3. Excluded contractor CHAPMAN FREEBOM AIRCHARTERING Sp. z o.o

Legal basis

Art. 24 section 1 point 12) of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended)

„Excluded from contract award procedures shall be:

12) economic operator which has not demonstrated fulfilment of conditions for participation in a procedure or has not been invited to negotiate or submit initial offers or tenders, or has not demonstrated lack of grounds for exclusion;”

Factual basis

In accordance with the requirements of participation in the open tender procedure stated in art. 5 section 2 point a) of the specification of essential terms of contract, contractors competing for the contract should present the following documents:

- a. Air Operator Certificate (AOC)
- b. Valid certificate of airworthiness as specified in Appendix 1 (Part 21) to the Commission Regulation (EC) no. 1702/2003 of September 24, 2003, laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production (Official Journal L 243 of September 27, 2003) or a certificate of airworthiness compatible with domestic regulations (i.e. those of the country in which the aircraft has been registered), based on Appendix 8 to the Convention on International Civil Aviation.

Contractor supplied the above mentioned documents issued for Danish Air Transport A/S, stating that „in order present compliance with the requirements of participation in the open tender procedure stated in art. 5 of the specification of essential terms of contract I rely on the assets of the following company: Danish Air Transport A/S”

According to ruling no. KIO 1456/13 Contractor is not allowed to use the authorisations of other entities for given operation or activity in order to present compliance with the requirements of participation in the tender procedure because „... authorisations are issued as a result of an administrative decision for specific contractor and in the light of domestic regulations may not be shared”.

Therefore, in accordance with art. 26 section 3 of the of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended) the Ordering Party requested the Contractor to submit by April 16th, 2018 the abovementioned documents issued for **Chapman Freebom Airchartering Sp. z o.o.**

In the letter dated April 12th, 2018 the Contractor informed that he does not have such documents, therefore does not meet the conditions for participation in the procedure.

4. Rejected tender no. 2 submitted by Chapman Freebom Airchartering Sp. z o.o.

Legal basis

Art. 24 section 4 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended)

„The tender of an excluded economic operator shall be considered rejected.”

Consequently, **Ordering Party hereby informs that the open tender procedure is canceled** under art. 93 section 1 point 1 of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended) „The contracting authority shall cancel a contract award procedure, if:

- 1) no non-rejectable tender has been submitted...”

Legal protection measures specified in title IV of the Public Procurement Law (Journal of Laws of 2017, item 1579, as amended) are granted to economic operators participating in the procedure.

In accordance with art. 7 section 2 of the specification of essential terms of contract, the Ordering Party requests the confirmation of receipt of this letter to be sent via e-mail to: hzonko@iam.pl or via fax to 22 44 76 181.

Yours faithfully,

Deputy Director
Adam Mickiewicz Institute



Dariusz Sobkowicz

