

Adam Mickiewicz Institute  
Mokotowska 25  
00-560 Warsaw, Poland

Terms of Reference

## OPEN TENDER PROCEDURE

Object of the contract:

**Charter of passenger planes for the I, CULTURE Orchestra**  
**Case no.2/IAM/2015/7**

Approved by

Olga Wysocka

Deputy Director,  
Adam Mickiewicz Institute

Warsaw, July 9,2015

## **I. NAME AND ADDRESS OF THE ORDERING PARTY**

Adam Mickiewicz Institute  
Mokotowska 25, 00-560 Warsaw, Poland  
Phone / Fax no. (+48 22) 44 76 181 / 44 76 152  
NIP (Tax Identification Number): 701-001-09-66  
REGON (National Business Registry Number): 140470071  
[www.iam.pl](http://www.iam.pl) e-mail: kkieloch@iam.pl

## **II. CONTRACT AWARDING PROCEDURE**

The contract awarding procedure is implemented pursuant to the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2013, item 907, as amended), hereinafter referred to as the “PPL”, as an open tender procedure for services with a contract value not exceeding the amount specified in the regulations issued pursuant to Art. 11, section 8 of the PPL (i.e. EUR 207,000.00).

## **III. DESCRIPTION OF THE OBJECT OF THE CONTRACT**

1. The object of the contract is the **charter of passenger planes for the I, CULTURE Orchestra on the following routes:**
  1. Berlin – Kiev (August 21, 2015)
  2. Kiev – Batumi (August 25, 2015)
  3. Batumi – Bilbao or Santander (August 27, 2015)

**The Ordering Party shall indicate the point of arrival (see point 3) no later than by July 24, 2015.**

**The detailed description of the object of the contract is specified in Appendix 1 to these Terms of Reference.**

Common Procurement Vocabulary (CPV) code: 60423000-9 – “Airline charter services.”

2. The Ordering Party shall not accept partial tenders.
3. The Ordering Party shall not accept variant tenders.
4. The ordering Party shall not award supplementary contracts referred to in Art. 67, section 1, item 1 of the PPL.
5. As part of the bid, the Contractor shall indicate the parts of the contract which they intend to commission to subcontractors.
6. The Ordering Party shall not enter into a framework agreement.
7. The Ordering Party shall not conduct an electronic bidding procedure.
8. Settlement with the Contractor shall be handled in EUR.
9. The Ordering Party shall not reimburse the costs of participation in the procedure, subject to Art. 93, section 4 of the PPL.
10. The Ordering Party shall not restrict the eligibility to place bids to Contractors hiring over 50% of disabled personnel.
11. Pursuant to Art. 36, section 4 of the PPL, the Contractor is required to indicate any subcontracting provisioned within their bid. The Ordering Party does not restrict any section of the contract from possible subcontracting.
12. The Ordering Party does not stipulate the possibility to cancel the tender procedure if they fail to secure proper funding from the European Union budget and nonreturnable funding from the subsidies granted by the European Free Trade Association (EFTA) member states, procured to finance the undertaking in whole or in part.

#### IV. Term of the Contract

1. Berlin – Kiev (August 21, 2015)
2. Kiev – Batumi (August 25, 2015)
3. Batumi – Bilbao or Santander (August 27, 2015)

#### V. CONDITIONS OF PARTICIPATION IN THE OPEN TENDER PROCEDURE AND BID EVALUATION CRITERIA

1. Tender eligibility is restricted to Contractors who meet the requirements concerning:
  - 1) **Official authorization to perform specific activities or actions if such authorization is required by the law** – the Ordering Party shall determine that the Contractor has been properly authorized in this regard if the Contractor presents 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,
  - 2) **Necessary knowledge and experience\***. The Ordering Party shall determine that the Contractor meets the conditions set out in this regard if the Contractor demonstrates that, within three years prior to the bid submission deadline, or – if the Contractor has run their business activity for a shorter period – in the entire span of the Contractor's business activity, they have duly performed at least: **2 services, each within the scope of a separate contract value no less than PLN 500,000.00 gross**, of the type corresponding to the type of the service which constitutes the object of this contract as stipulated by the Ordering Party, i.e. the charter of passenger plane(s). For the Ordering Party to recognize the provision of such services, the Contractor shall submit a document ascertaining the **due performance of such services**,
  - 3) **Necessary technical capacity and staff capable of performing the contract\***. The Ordering Party sets no special requirements in this regard,
  - 4) **Financial and economic standing\***. The Ordering Party sets no special requirements in this regard.

*\*The Contractor may rely on the knowledge and experience, technical potential, personnel capable of performing the contract, or financial capacity of third entities, regardless of the legal nature of the Contractor's relations with such entities.*

2. In case of a consortium of Contractors jointly competing for the contract, at least one of those Contractors or all Contractors jointly must meet the conditions specified in point 1.
3. Tender eligibility is restricted to Contractors for whom there are no grounds for exclusion from the contract awarding procedure. In case of a consortium of Contractors competing jointly for the contract, there must be no grounds for exclusion of any of the participating Contractors.
4. Fulfilment of the conditions of participation in the procedure shall be evaluated based on the documents and declarations submitted by Contractors, referred to in point VI, and assessed on a **fulfilled/not fulfilled** basis.

#### VI. LIST OF DECLARATIONS AND DOCUMENTS TO BE SUBMITTED BY CONTRACTORS AS CONFIRMATION OF FULFILLMENT OF THE CONDITIONS OF PARTICIPATION IN THE PROCEDURE.

1. In order to confirm that the Contractor meets the conditions of participation in the procedure referred to in Art. 22, section 1 of the PPL, the following documents must be presented:

- 1) A declaration of fulfilment of conditions of participation in the procedure referred to in Art. 22, section 1 of the PPL. A declaration template is attached as Appendix 2 to these Terms of Reference,
- 2) Air Operator Certificate (AOC),
- 3) Valid certificate of airworthiness referred to 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,
- 4) List of services provided or, in the case of periodical or continuous services, services being provided within the scope required to ascertain the fulfilment of knowledge and experience condition within three years prior to the bid submission deadline, or – if the Contractor has run their business activity for a shorter period – in the entire span of the Contractor’s business activity, including their worth, scope, dates and clients, and enclosed documents stating the due performance of those services. Submitted documents must unquestionably confirm the fulfilment of the condition specified in point V.1.2 of these Terms of Reference according to the template which constitutes **Appendix 5 hereto**.

The list of main services must contain the following:

- a. a description of the object of the contract and its value (name and short description of the service);
- b. the dates on which the service is to be performed (in the dd-mm-yyyy format);
- c. service recipients (at least company names of service recipients);
- d. type of experience (own experience, third party experience).

A template of the list of main services is attached as **Appendix 5 to these Terms of Reference**. The submitted list should be accompanied by evidence confirming due performance of such services.

The evidence referred to in section 6 of these Terms of Reference includes:

- a) official confirmation, provided that for periodical or continuous services which continue to be performed such confirmation should be issued no earlier than three months before the bid submission deadline;
- b) if the Contractor is unable to obtain the official confirmation referred to above for objective and justified reasons, the Contractor’s own declaration shall be deemed to constitute satisfactory evidence;
- c) if the list includes the Ordering Party among the indicated service recipients, the Contractor shall not be required to provide such evidence.

**Should the need arise, in particular should either the list or the evidence confirming due performance of services raise doubts of the Ordering Party, the Ordering Party might directly approach the recipients of services to request additional information or documents to be submitted directly to the Ordering Party.**

**For Contractors competing jointly for the contract, the aforementioned declaration must be provided by at least one of the participating Contractors or by all Contractors jointly.**

**For Contractors competing jointly for the contract, the aforementioned documents and declaration must be provided by at least one of the participating Contractors or by all Contractors jointly.**

2. As evidence of lack of grounds for the exclusion of a Contractor from the contract awarding procedure due to the circumstances referred to in Art. 24, sections 1 and 2 of the PPL, the following shall be presented:
  - 1) a declaration of a lack of grounds for exclusion from the procedure. A template of this declaration is attached as **Appendix 3** to these Terms of Reference;
  - 2) a list of entities that are part of the same capital gains group as the Contractor as specified in the Protection of Consumers and Competition Act of February 16, 2007 (Journal of Laws no. 50, item 331, as amended), or information to the effect that the Contractor does not belong to any capital gains group (**Appendix 7** to these Terms of Reference).
  - 3) a current official extract of the Contractor's entry in the relevant register or central business register and information service, where an entry in a register is required under separate regulations, issued no more than six months before the bid submission deadline, in order to provide evidence of a lack of grounds for exclusion under Art. 24, section 1, item 2 of the PPL.
  - 4) bid proposal form – **Appendix 4** to these Terms of Reference.

**For Contractors competing jointly for the contract, the aforementioned documents and declaration are to be submitted by each Contractor independently.**

3. If – for Contractors having their registered seat in the Republic of Poland – the persons referred to in Art. 24, section 1, items 5-8 of the PPL are domiciled outside the Republic of Poland, then the Contractor shall submit on behalf of those persons a certificate of unpunishability within the scope specified in Art. 24, section 1, items 5-8 of the PPL, issued by proper judiciary or administrative organs overseeing their place of residence, no earlier than six months prior to the bid submission deadline, subject to situations in which the country of residence does not issue such certificates, in which case they shall be replaced by a document containing a statement certified by a notary public, proper judiciary or administrative body or a professional or business authority overseeing the place of residence of the aforementioned persons.
4. If the registered seat or place of residence of the Contractor is located outside the Republic of Poland, then instead of the documents referred to in point 2(2) above, the Contractor shall submit a document or documents issued in the country of its registered seat or residence duly confirming that
  - a) no liquidation procedure has been started against the Contractor and the Contractor has not declared their bankruptcy;
5. **The documents referred to in point 4 above should be issued no earlier than 6 six months before the bid submission deadline.**
6. If the documents referred to in points 4 above are not issued in the country in which the Contractor is domiciled or has their registered seat, these documents shall be replaced by a document containing a statement certified by a notary public, proper judiciary or administrative body or a professional or business authority overseeing the registered seat / place of residence of the Contractor. This provision shall apply as appropriate.
7. If the Contractor relies on third party resources, experience, technical potential, personnel capable of performing the contract, or the financial capacity of third entities, regardless of the legal nature of the Contractor's relations with such entities, the Contractor shall prove to the Ordering Party their ability to be in possession of resources required to perform the contract, in particular by presenting to this end a written commitment of said third parties to place the necessary resources at the Contractor's disposal for the time of their use in the performance of the contract.
8. If the Contractor relies on third party resources in order to demonstrate fulfilment of the conditions referred to in Art. 22, section 1 of the PPL as set out in Art. 26, section 2b of the PPL, and if these third parties participate in the performance of a part of the contract, the Ordering Party requires that the Contractor submit proper documents concerning such third parties as referred to in 6.2 of these Terms of Reference, stating that no circumstance arise with regard to those third parties as stipulated in Art. 24, section 1 of the PPL.

*Note: the declarations listed in 1.1 and 2.1., 2.2.,2.4 above shall be presented as originals, whereas other documents listed in 1 and 2 above shall be presented as originals or photocopies certified as true copies by the Contractor.*

**For Contractors competing jointly as a consortium for the contract and for the entities referred to in point 8 above, copies of documents related to the Contractor or said entities must be authenticated by the Contractor or the relevant entities respectively.**

**VII. INFORMATION ON METHODS OF COMMUNICATION BETWEEN THE ORDERING PARTY AND CONTRACTORS, AND CONTACT PERSONS AUTHORIZED TO COMMUNICATE WITH CONTRACTORS.**

1. Subject to the exceptions set out in the PPL, any declarations, requests, notices and information shall be exchanged by the Ordering party and Contractors in the following fashion:
  - a) in writing at the following mailing address: **Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland**, or
  - b) via fax at **(+48 22) 447 61 81**, or
  - c) via e-mail at: **kkieloch@iam.pl**
2. If the Ordering Party or Contractor exchange any declarations, requests, notices and information via fax or e-mail, the receiving party shall immediately confirm receipt upon the request of the other party.
3. Contractors may request clarification concerning the content of these Terms of Reference from the Ordering Party. Any such queries should be addressed to the Ordering Party in writing, via fax or e-mail.
4. The Ordering Party shall promptly provide the aforementioned clarifications, no later than two days before the bid submission deadline, provided that the clarification request has been received by the Ordering Party no later than by the elapse of the first half of the period set as the bid submission deadline.
5. If the clarification request has been received by the Ordering Party past the deadline referred to in point 4 above, or if it refers to clarifications provided, the Ordering Party may provide the Contractor with further clarifications or refuse to investigate the request.
6. The Ordering Party shall forward the content of all queries along with clarifications to all Contractors who received these Terms of Reference, without disclosing the source of the query. The Ordering Party shall also post this information on the website on which these Terms of Reference have been uploaded.
7. In justified cases, the Ordering Party might modify the provisions of these Terms of Reference prior to the bid submission deadline. The Ordering Party shall promptly provide all Contractors who received these Terms of Reference with any modifications hereto, and publish such modifications on the website ([www.iam.pl](http://www.iam.pl)) if these Terms of Reference have been published online.
8. The authorized contact person for Contractors is Katarzyna Kieloch, who shall be available between 08.00 a.m. and 3.00 p.m. on business days, telephone no. +48 22 447 61 81.

**VIII. DEPOSITS AND GUARANTEES REQUIRED**

None such are required by the Ordering Party.

**IX. BID VALIDITY**

When submitted to the open tender, the Contractor's bid shall be binding for a period of **30 days** following the bid submission deadline.

**X. BID PREPARATION METHOD**

1. The Contractor shall bear all costs of preparation and submission of bids.
2. Each Contractor may submit a single bid. Submission of more than one bid per Contractor shall result in rejection of all of their bids pursuant to Art. 89, section 1, item 1 and Art. 82, section 1 of the PPL.
3. The content of a bid must comply with these Terms of Reference.
4. It is recommended that all pages included in a bid are numbered and fastened together in an orderly and permanent fashion.
5. **Tenders shall be prepared in the Polish language, pursuant to Art. 9 section 3 of the PPL the Ordering Party shall accept bids in the English language version, typewritten, computer printed or written in indelible ink.**

6. Any corrections, amendments or deletions in the text of a bid must be dated and initialled by the representative of the Contractor authorized to sign the bid.
7. The submitted bid and all applicable declarations must be signed by a person (persons) authorized to represent and sign the contract on behalf of the Contractor, as entered in the appropriate register.
8. The Ordering Party requires that the Contractor include in the submitted bid a document or documents confirming their authority to sign the bid, e.g. a current official extract from the relevant register, a current extract from the business register, a current statute of the company, or a current court register. The required documents must be submitted as originals or copies certified as true copies by the Contractor.
9. If the authority to sign bids and declarations, and to represent the Contractor or Contractors in the tender procedure and enter into contracts up to the amount of the bid price is determined by a power of attorney, said power of attorney must be granted (signed) by the person or persons authorized accordingly in the relevant registers, and must be attached to the bid. The power of attorney must be submitted as an original or notarized copy.
10. The provision of point 9 above shall apply as appropriate to all subsequent powers of attorney.
11. The person or persons signing the bid must be authorized to contract on behalf of the Contractor up to an amount equal to the price of the bid pursuant to the entry into the relevant register.
12. All pages of the submitted bid, along with any attached declarations, translated copies and all other documents shall be initialled by no less than one authorized representative of the Contractor. This applies to the original copies of the attached declarations and other documents, as well as to the photocopies certified by the Contractor as true copies of the original documents.
13. If the bid contains information considered by a Contractor to constitute the Contractor's confidential business information under fair competition laws, such information shall be placed in a separate envelope inside the bid and marked "Confidential business information". The Contractor must also indicate the page numbers which contain confidential business information. Unless indicated as stipulated herein, all information contained in a bid shall be considered to be public-access and may be disclosed to other bidders along with the tender procedure report. Restricting information, data, documents or declarations that do not constitute confidential business information under fair competition laws shall result in said information being declassified.
14. The bid must include all documents, attachments and declarations specified in these Terms of Reference.
15. For bids submitted jointly by a consortium of Contractors who compete jointly for the contract, all participating Contractors shall have joint and several liability in respect to the non-performance or undue performance of the contract.
16. A bid submitted jointly by a consortium of Contractors must be signed in a way that makes it legally binding for all Contractors participating in the bid.
17. For bids submitted jointly by a consortium of Contractors competing jointly for the contract, the tender must include a document granting power of attorney to an individual authorized to represent the Contractors participating in the joint bid in the tender procedure or to represent the Contractors in the tender procedure and enter into contract with regard to a public procurement. This power of attorney must be submitted as an original document or notarized copy.
18. For Contractors competing jointly for the contract and for entities referred to in section VI.5 of these Terms of Reference, copies of documents related to the Contractor or said entities must be certified as true copies by the Contractor or the relevant entities respectively.
19. It is recommended that the first pages of a bid adhere to the **Bid Proposal Form Template (Appendix 4 to these Terms of Reference)**. While failure to adhere to the template set out in Appendix 4 shall not constitute grounds for rejection of the bid, the Ordering Party requires that any submitted bid include all declarations specified in the bid proposal form template.
20. Submitted bids must also include declarations and documents referred to in section VI of these Terms of Reference.

21. Bids shall be submitted in non-transparent, sealed packaging to the reception desk of the Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland.
22. Packaging (envelopes) containing bids shall be marked as follows:  
**“Open tender bid for the charter of planes for the I, CULTURE Orchestra. Case no 2/IAM/2015/7”**
  - a) addressee: Adam Mickiewicz Institute, Mokotowska 25, 00-560 Warsaw, Poland
  - b) sender: Contractor’s name, detailed mailing address and phone numbers (a seal is permitted).  
NOTE: The Ordering Party shall not be responsible for early opening of bids if envelopes are not marked correctly.
23. Pursuant to Art. 84, section 1 of the PPL, a Contractor may revise or withdraw the submitted bid prior to the submission deadline. The Contractor shall inform the Ordering Party in writing should they wish to revise or withdraw the submitted bid prior to the submission deadline.
24. Revised bids shall be submitted in a separate sealed and intact envelope marked “REVISION”. The envelope must be marked with the Contractor’s name, detailed mailing address and phone number (a seal is permitted).
25. **After the submission deadline, Contractors may no longer revise or withdraw their respective bids.**

#### **XI PLACE AND DATE OF BID SUBMISSION AND OPENING.**

1. Bids shall be submitted to the address of the Ordering Party:  
**Adam Mickiewicz Institute  
ul. Mokotowska 25  
00-560 Warsaw, Poland  
reception desk**
2. The bid submission deadline is **10:30 a.m. on July 17 2015.**
3. Bids shall be opened in a conference room in the registered office of the Adam Mickiewicz Institute at **11:00 a.m. on July 17, 2015.**
4. Bids shall be opened publically. Attendance by Contractors is not mandatory.
5. When opening bids, the Ordering Party shall announce Contractor names (*company names*) and mailing addresses, along with proposed prices.

#### **XII. BID PRICE CALCULATION METHOD**

1. Prices listed in the bid shall include all costs related to the performance of the contract.
2. The Ordering Party hereby represents that the gross contract value offered in the Contractor’s bid must ensure the coverage of all costs related to the performance of the procurement referred to in Appendix 1 to these Terms of Reference.
3. **The gross value of the entire charter contract must include all fees related to the performance of flights, including airport fees, ground crew and cabin crew.**
4. The gross value must also include the due Value Added Tax.
5. The Ordering Party requires that all prices be quoted rounded off to the second decimal according to the standard mathematical rules for rounding numbers, i.e.:
  - a) a fraction ending with digits 1 to 4 shall be rounded down,
  - b) a fraction ending with digits 5 to 9 shall be rounded up.

#### **XIII. CRITERIA USED BY THE ORDERING PARTY IN SELECTING THE WINNING BID, INCLUDING THE WEIGHING OF THOSE CRITERIA AND BID EVALUATION METHOD.**

1. **When selecting the winning bid, the Ordering Party shall adopt the following criteria:**
  - 1) **Price** **80 pts**
  - 2) **Payment term** **20 pts**
2. The bids shall be evaluated as follows:



1) Within the “price” criterion, the maximum score of 80 points shall be awarded to the bid presenting the lowest total gross contract value (the VAT included), while each consecutive bid shall be awarded proportionally less based on the following formula:

$$V = \frac{\text{LBP}}{\text{EBP}} \times 80 \text{ points}$$

Where:

V – score-based bid value.

LBP – the lowest bid price

EBP – the examined bid price

2) Within the “payment term” criterion – the maximum score of 20 pts shall be awarded on the basis of the payment term as specified by the Contractor in accordance with the following scoring:

<b>Payment term on account of performing the contract</b>	<b>Score</b>
equal to 14 days or more following the execution of the contract	20 pts
between 7 and 13 days (included) following the execution of the contract	10 pts
shorter than 7 days, yet not shorter than 3 days following the execution of the contract	0 pts

**Note: If the Contractor does not specify the payment term, their bid shall be deemed as incompatible with these Terms of Reference and shall thus be rejected.**

**The highest scoring bid shall be the winning bid.**

**XIV. FORMAL REQUIREMENTS TO BE FULFILLED UPON SELECTION OF THE WINNING BID IN ORDER TO SIGN THE PUBLIC PROCUREMENT CONTRACT**

1. Contractors participating in the procurement procedure shall be notified of the results of said procedure.
2. Upon approval of the selection of the most advantageous bid, the decision shall be published on the Ordering Party’s bulletin board and website.
3. The Ordering Party shall enter into contract with the selected Contractor pursuant to Art. 94 of the PPL, taking into consideration the provisions specified in Art. Art.139 of the PPL.
4. Should a bid be selected which has been submitted by a consortium of Contractors competing jointly for the contract, the Contractors shall be required to submit to the Ordering Party a copy of the agreement regulating the relations between the respective Contractors cooperating within the consortium. The agreement regulating the Contractors’ cooperation shall include but not be limited to:
  - 1) names of Contractors submitting the bid;
  - 2) the economic purpose of the agreement;
  - 3) rules of representation and business conduct;
  - 4) duration of the agreement (the Ordering Party requires the duration of said agreement to be equal to or longer than the period dedicated to the execution of the contract and any subsequent warranty and/or guarantee period).

**XV. ESSENTIAL TERMS AND CONDITIONS OF THE PUBLIC PROCUREMENT CONTRACT, GENERAL TERMS OF THE CONTRACT OR DRAFT CONTRACT, PROVIDED THAT THE ORDERING PARTY REQUIRES THE CONTRACTOR TO SIGN A PUBLIC PROCUREMENT CONTRACT UNDER SUCH TERMS.**

1. A draft of the contract is attached as **Appendix 6 to these Terms of Reference.**
2. The Ordering Party allows potential amendments of the contract in the following cases:
  - 1) change of persons authorized to negotiate and co-ordinate the object of the contract;
  - 2) correction of evident spelling and arithmetic mistakes;
  - 3) change of persons in charge of the performance of the object of the contract and appoint new persons in this respect, provided that the Ordering Party shall be able to refuse to accept persons whose qualifications do not match respective qualifications stipulated in these Terms of reference;
  - 4) in case of all changes assessed objectively as beneficial to the Ordering Party;
  - 5) in case of changes in the commonly adopted legal regulations which shall influence the performance of the contract, including changes to VAT rates;
  - 6) otherwise, in unforeseen cases without fault of either party, which the parties were unable to foresee when performing the contract with due diligence, including but not limited to any significant changes in the services market covered by this procedure or major difficulties of the Contractor or the Ordering Party in procuring materials essential to perform the contract.
3. The Ordering Party provides for the possibility to conclude the agreement on the form submitted by the Contractor if it complies with the provisions of the Draft Contract, which constitutes Appendix 6 hereto.

**XVI. LEGAL PROTECTION MEASURES AVAILABLE TO CONTRACTORS DURING THE CONTRACT AWARDING PROCEDURE.**

Legal protection measures are set out in detail in Title VI of the PPL. Contractors and other entities whose legal interest in winning the tender has been or may be jeopardized due to a breach of the provisions of the PPL by the Ordering Party are entitled to legal protection measures. Organizations entered in the list referred to in Art. 154, section 5 of the PPL are also entitled to legal protection measures with regard to the call for tenders and the Terms of Reference.

**Appendices to the Terms of Reference:**

- Appendix 1 – Detailed Description of the Object of the Contract,
- Appendix 2 – Declaration of Fulfilment of Conditions of Participation in the Proceedings,
- Appendix 3 – Declaration of Lack of Grounds for Exclusion from the Proceedings,
- Appendix 4 – Bid Proposal Form,
- Appendix 5 – List of Main Services,
- Appendix 6 –Draft Contract
- Appendix 7 – Declaration of Membership in a Capital Gains Group

**Appendix 1 to the Terms of Reference**

**DETAILED DESCRIPTION OF THE OBJECT OF THE CONTRACT**

**The procurement must include airport fees.**

1. Berlin – Kiev (August 21, 2015)
2. Kiev – Batumi (August 25, 2015)
3. Tbilisi – Bilbao or Santander (August 27, 2015)

**1. Berlin – Kiev (August 21, 2015)**

Departure from Berlin Schoenefeld before the noon

Arrival at Kiev International Airport till 17.00 (5 pm) (at the latest, local time).

**2. Kiev – Batumi (August 25, 2015)**

Departure from Kiev International Airport before noon

Arrival at Batumi till 17.00 (5 pm) (at the latest, local time).

**3. Tbilisi – Bilbao or Santander (August 27, 2015)**

Departure from Batumi before noon

Arrival at Bilbao or Santander till 17.00 (5 pm) (at the latest, local time).

**The Ordering Party shall indicate the point of arrival (see point 3) no later than by July 24, 2015.**

1. All passengers shall fly on the same plane, without transfers.
2. Additional requirements – hot meal (vegetarian and non-vegetarian options) on board and drinks (coffee, tea, water, juice, carbonated drinks) included in the price.
3. The number of seats on the plane: at least 109 (10 cello seats, 2 tuba seats, 1 contrabasson seat)
  - 1) registered luggage:  
109 passengers x 1 luggage item of up to 23 kg per person
  - 2) hand luggage  
109 passengers: hand luggage of up to 10 kg + an instrument per person

.....  
(Date, name and surname, signature of the Contractor's authorized representative)

**Appendix 2 to the Terms of Reference**

.....  
(Contractor's seal)

**“TEMPLATE”**

**DECLARATION OF FULFILLMENT OF CONDITIONS OF PARTICIPATION IN THE  
TENDER PROCEDURE**

Art. 22, section 1 of the Public Procurement Law

By taking part in the public procurement procedure for:

**“Charter of passenger planes for the I, CULTURE Orchestra”  
Case no. 2/IAM/2015/7**

on behalf of: .....  
(Contractor's full company name)

we represent that as of the date of submission of bids we comply with the conditions concerning:

- official authorization to perform specific activities or actions if such authorization is required by the law;
- necessary knowledge and experience;
- necessary technical capacity and staff capable of performing the contract;
- financial and economic standing.

Under penalty of perjury as per Art. 297.1of the Penal Code, I hereby confirm the information stated above as true with my hand-written signature.

.....  
(Date, full name and signature of the Contractor's authorized representative)

**Appendix 3 to the Terms of Reference**

.....  
(Contractor's seal)

**“TEMPLATE”**

**DECLARATION  
OF LACK OF GROUNDS FOR EXCLUSION FROM THE PROCEDURE  
under Art.24, sections 1 and 2 of the Public Procurement Law.**

By taking part in the public contract award procedure for:

**“Charter of passenger planes for the I, CULTURE Orchestra”  
Case no. 2/IAM/2015/7**

on behalf of:

.....  
(Contractor's full name)

we represent that, as at the date of submission of tenders, there are no grounds for exclusion from the procedure under Art.24.1 and 2 of the Act of 29 January 2004 Public Procurement Law (Journal of Laws of 2013, item 907, as amended).

Under penalty of perjury as per Art. 297.1 of the Penal Code, I hereby confirm the information stated above as true with my hand-written signature.

.....  
(Date, full name and signature of the Contractor's authorized representative)



**Appendix 4 to the Terms of Reference**

**Ordering Party:**  
**Instytut Adama Mickiewicza**  
**ul. Mokotowska 25**  
**00 – 560 Warsaw, Poland**

**BID PROPOSAL FORM**

In response to the open tender announcement, we submit this bid for:

**“Charter of passenger planes for the I, CULTURE Orchestra”**  
**Case no. 2/IAM/2015/7**

In accordance with the requirements presented in the Terms of Reference, we hereby propose the provision of the object of the contract:

CONTRACTOR(S) DETAILS (for a joint tender, name the proxy):

.....

NIP (Tax Identification Number) ..... REGON (Business Registry Number)

.....

Mailing address for all notices from the Ordering Party:

.....

Authorised contact person for the Ordering party:

.....

Telephone: .....

Fax: .....

e-mail: .....

In response to the open tender announcement, pursuant to the requirements specified in the Terms of Reference, we submit this bid for the performance of the contract:

<b>Item no.</b>	<b>Object of the procurement</b>	<b>Gross flight price</b>
<b>1.</b>	<b>route: Berlin – Kiev (August 21, 2015)</b>	
<b>2.</b>	<b>route: Kiev –Batumi (August 25, 2015)</b>	
<b>3.</b>	<b>route: Batumi – Bilbao or Santander (August 27, 2015)</b>	
	<b>Total gross price in EUR</b>	

**The gross value of the entire procurement: EUR .....**

**in words: EUR .....**

**including VAT of PLN .....**

**\*gross prices for the aforementioned routes include all costs specified in the Terms of Reference, the fees related to the performance of flights, including airport fees, ground crew and cabin crew. Hot meal (vegetarian and non-vegetarian option) on board and drinks (coffee, tea, water, juice, carbonated drinks).**

We hereby set the payment term for .....days (in words:..... days) following the complete execution of the contract(the payment term should not be shorter than 3 days).

Following is the part of the contract which we intend to commission to subcontractor(s) (if applicable):

.....  
.....

1. We represent that:
  - 1) We shall perform the object of the contract within the deadlines specified in the Terms of Reference.
  - 2) We have read the terms and conditions specified by the Ordering Party in the Terms of Reference, in particular the **DESCRIPTION OF THE OBJECT OF THE CONTRACT**, which we accept without reservations.
  - 3) We have obtained all information necessary to prepare our bid and perform the contract.
  - 4) We accept the provisions of the Draft Contract.
  - 5) The price includes all costs required for the performance of the contract which result directly from the **DESCRIPTION OF THE OBJECT OF THE CONTRACT**, as well as the costs which have not been included in said document, and without which it is impossible to perform the contract. We represent that we have predicted all circumstances capable of impacting the procurement price.
  - 6) This bid shall be valid for 30 days, starting on the date of the bid submission deadline.
2. The bid documentation includes ..... pages.
3. Attached to the bid have been its integral components:
  - 1) .....
  - 2) .....
  - 3) .....
  - 4) .....

.....  
(Date, full name and signature of the Contractor's authorized representative)

## Appendix 5 to the Terms of Reference

## LIST OF MAIN SERVICES

Item no.	Client	Dates of performance of service (dd/mm/yyyy)	Name and short description of the object of the service	Service value (gross)	Type of experience (own, subcontractor, third party)
<b>2 services</b> worth the minimum of PLN 500,000.00 each, <b>performed as part of a separate contract</b> , complying with the description of the service constituting the object of the procurement as stipulated by the Ordering Party i.e. the charter of passenger plane(s).					
1.		Contract start date ... Contract end date ....			
2.		Contract start date ... Contract end date			
.		Contract start date ... Contract end date			
...		Contract start date ... Contract end date			

.....  
*(Date, full name and signature of the Contractor's authorized representative)*

## Note:

1. The Ordering Party requires the Contractor to attach a list and evidence confirming that the services have been or are being duly performed.
2. **The Ordering Party requires the Contractor to specify whether the reference experience is its own experience or the experience of other entities, regardless of the legal nature of its relations with such entities, and to prove to the Ordering Party that it will have at its disposal the resources necessary to perform the, in particular by presenting to this end a written commitment of those entities whereby they undertake to put the necessary resources at the Contractor's disposal for the time of their use in performance of the contract.**
3. INSTRUCTION:  
Article 297, section 1 of the Penal Code: Any person who, for their own benefit or that of another person [...] presents a counterfeit or fraudulent document or a dishonest written declaration regarding circumstances of key significance for obtaining [...] the object of the contract, shall be punished by imprisonment for a period of 3 months up to 5 years.



**Appendix 6 to the Terms of Reference**

**DRAFT CONTRACT**

**made in Warsaw on .....**

by and between:

.....,

with its registered seat in ....., entered into ..... kept by ..... under the KRS (National Court Register) no. ...., NIP (Tax Identification Number), represented by ....., hereinafter referred to as the **Contractor**,

and

the **Adam Mickiewicz Institute** with its seat in Warsaw (00-560), ul. Mokotowska 25, entered in the Register of Cultural Institutions kept by the Minister of Culture and National Heritage, entry no. RIK 70/2006, tax identification no. 701-001-09-66, represented by

.....  
.....

hereinafter referred to as the **Ordering Party**, which reads as follows:

**1. OBJECT OF THE CONTRACT**

- 1. The object of the contract is the purchase of airline transportation services in order to transport ..... passengers (musicians, organizers, guests) of the I, CULTURE Orchestra ensemble on the following routes:  
.....

**2. DATES AND TERMS AND CONDITIONS OF THE CONTRACT**

- 1. The performance of the contract shall take place on the following dates and routes:  
.....
- 2. The Contractor shall sell to the Ordering Party ..... seats on the routes and dates referred to in point 1 above.
- 3. Upon signing the Contract, its implementation shall be overseen by:
  - a) On behalf of the Ordering Party:  
- Mr. / Ms. ...., phone no.: .....
  - b) On behalf of the Contractor:  
- Mr. / Ms. ...., phone no.: .....

**3. PAYMENT CONDITIONS**

- 1. According to the bid placed by the Contractor, the value of the contract amounts to PLN ..... gross (in words: ..... Polish zlotys gross).
- 2. The value of the object of the procurement as stipulated in point 1 above includes all costs specified in the Terms of Reference, as well as the fees related to the performance of flights, including ground crew and cabin crew. The Contractor shall provide passengers with drinks

(i.e. coffee, tea, water, juice, carbonated drinks) and hot meals (vegetarian and non-vegetarian options).

#### **4. FINAL PROVISIONS**

1. All changes to the Contract shall be null and void unless made in writing (as appendices).
2. To all matters not regulated in this Contract, provisions of Polish Law, specifically the Public Procurement Law and the Civil Code shall apply.
3. The Parties shall strive to resolve any disputes in amicable fashion. Should the Parties fail to reach consensus, any such disputes shall be settled by a common court of law having jurisdiction over the seat of the Ordering Party.
4. The Contract has been drawn in four identical copies, three for the Ordering Party, one for the Contractor.

**Ordering Party**

**Contractor**

**Appendix 7 to the Terms of Reference**

.....  
(Contractor's seal)



**Ordering Party:**  
**Instytut Adama Mickiewicza**  
**ul. Mokotowska 25**  
**00 – 560 Warsaw, Poland**

**DECLARATION**

Pursuant to Art.26.2d of the Act of 29 January 2004 – Public Procurement Law (Journal of Laws of 2010, item 907, as amended), by competing for the contract in the open tender procedure for the “**Charter of passenger planes for the I, CULTURE Orchestra**”, case no. **2/IAM/2015/7**

I represent that, as of the bid submission date, **I am not a member of a capital gains group** referred to in Art.24, section 2, item 5 of the PPL under the Act of 16 February 16 2007 – Competition and Consumer Protection Law (Journal of Laws no. 50, item 331, as amended).\*

I represent that, as of the bid submission date, **I am a member of a capital gains group** referred to in Art.24, section 2, item 5 of the PPL under the Act of 16 February 16 2007 – Competition and Consumer Protection Law (Journal of Laws no. 50, item 331, as amended), and I present attached a list of members of the same group.\*

\* delete if inapplicable – if the Contractor does not delete either item, the Ordering Party will deem the Contractor not to be a member of a capital gains group.

.....  
(Date and signature of the Contractor's authorised representative\*)

**For Contractors competing jointly for the contract, each Contractor presents their separate declaration.**

*The signatory of this declaration has made executed it under penalty of perjury as per Art. 297 of the Penal Code.*