**CONTRACTING AUTHORITY:**

**MEDICAL UNIVERSITY OF BIALYSTOK**

**ul. Jana Kilinskiego 1 15 – 089 Bialystok**

**NIP [*Tax Identification Number*]: 542-021-17-17, REGON [*National Official Business Register*]: 000288604**

**Contact: Public Procurement Department**

**phone: 85 748 56 25, 85 748 57 39, 85 748 56 26, 85 748 56 40, 85 748 55 39, 85 686 51 37**

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Bialystok, 26.06.2023

# Case reference no.: AZP.25.1.39.2023

**TERMS OF REFERENCE (HEREINAFTER: ToR)**

**FOR AN ORDER WITH AN ESTIMATED VALUE BELOW THE EUROPEAN UNION THRESHOLDS (EUR 215 000)**

**CATEGORY – SUPPLIES**

The public procurement procedure is carried out as the basic procedure, pursuant to Article 275(2) of the Act of 11 September 2019. Public Procurement Law (i.e. Journal of Laws of 2022, item. 1710 as amended) – hereinafter referred to as the PPL Act

**SUBJECT OF THE ORDER**

**Delivery, installation and implementation of the LIMS system for the purpose of management of the research laboratory meeting the requirements of the Medical University of Bialystok**

**approved by**

**Chancellor of MUB Konrad Raczkowski**……………………………………..

prepared by:

Verified by:

**The offer, documents and declarations must be submitted electronically under pain of nullity (signed with a qualified electronic signature) or electronically signed with a trusted signature or personal signature to the address https://platformazakupowa.pl/pn/umb**

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# Part I Name and address of the Contracting Authority, telephone number, e-mail address and website of the procedure to be conducted

1. Name and address of the Contracting Authority: **Medical University of Bialystok - ul. Jana Kilinskiego 1, 15-089 Bialystok, Poland**
2. Telephone numbers: 85 748 56 25, 85 748 57 39, 748 56 26, 748 56 40, 748 55 39, 748 56 27, 748 55 39, 85 686 51 37, 85 748 54 43.
3. E-mail address: ***zampubl@umb.edu.pl***
4. Website address of the procedure: <https://platformazakupowa.pl/pn/umb>

# Part II Website address where the Terms of Reference (ToR), amendments and clarifications to the content of the ToR and other documents relating to the procedure are available - <https://platformazakupowa.pl/pn/umb>

# Part III Award mode and source of funding

* 1. The procurement procedure is conducted under the **basic** procedure pursuant to **Article 275(2) of the PPL Act.** In matters not regulated by the provisions of this ToR, the provisions of the PPL Act with its implementing acts and the provisions of the Act of 23 April 1964 shall apply. - Civil Code (i.e. Journal of Laws of 2020 item 1740 as amended):
	2. The Contracting Authority requires that all correspondence relating to this procedure be identified by a case number, i.e. **AZP.25.1.39.202****3**
	3. The contract is financed by the European Union - the project "Centre for Innovative Research in Prevention of Civilisation Diseases and Individualised Medicine (CBI PLUS)" co-financed by the European Regional Development Fund under Action 1.1 of the Podlaskie Regional Operational Programme 2014-2020 .

# Part IV Information on whether the Contracting Authority provides for the selection of the most advantageous tender with the possibility of negotiation

1. Pursuant to Article 275(2) of the PPL, the Contracting Authority **provides for the possibility to conduct negotiations in order to improve the content of the offers**, however such negotiations may not lead to changes in the content of the ToR and shall only concern those elements of the content of the offers which are subject to evaluation under the offer evaluation criteria.
2. If the possibility to negotiate is used, the Contracting Authority will indicate in the invitation the date and method of negotiation and the scope of the content of the tender.
3. The ongoingnegotiations are confidential. Neither party may, without the consent of the other party,disclose technical and commercial information relating to the negotiations.
4. Once the negotiations have been concluded, the Contracting Authority shall inform the participants in the negotiations and invite them to submit **additional tenders** and provide an opening date (no less than 5 days from the date of transmission of the invitation).
5. A supplementary offer may not be less favourable in any of the evaluation criteria indicated in the invitation to negotiate than the offer submitted in response to the contract notice.
6. A tender shall cease to be binding on the Economic Operator to the extent that he submits a supplementary tender containing more favourable proposals under each of the tender evaluation criteria indicated in the invitation to negotiate.
7. A supplementary tender which is less favourable in any of the tender evaluation criteria indicated in the invitation to negotiate than the tender submitted in response to the contract notice shall be rejected.
8. **Whenever reference is made to a tender in this ToR, it shall also be understood as a supplementary tender.**

# Part V Description of the Object of Contract

1. The subject of the contract is **supply, installation and implementation of a LIMS system for managing a research laboratory for the needs of the Medical University** in Bialystok for the needs of organisational units of the Medical University of Bialystok

2. A detailed Description of the Object of Contract is contained in Attachment No. 3 to ToR – OPZ

3. **CPV codes 480000-8 software and information system packages**

* 1. Pursuant to Article 101(4) of the PPL Act, if the documents describing the subject matter of the contract contain references to standards, technical evaluations, technical specifications and technical reference systems referred to in Article 101(1)(2) and (3) of the PPL Act, and such references are not accompanied by the expression 'or equivalent', the Contracting Authority shall allow solutions equivalent to those described in each such standard, technical evaluation, technical specification, technical reference system.
	Accordingly, it should be assumed that each standard, technical evaluation, technical specification, technical reference system appearing in the description of the subject matter of the contract is accompanied by the words "or equivalent". Pursuant to Article 101(5) of the PPL, an Economic Operator who invokes equivalent solutions described in those documents is obliged to prove, **by enclosing with the tender the relevant means of proof** referred to in Articles 104-107 of the PPL Act, that the proposed solutions satisfy toan equivalent extent the requirements set out in the description of the subject matter of the contract.

# Part VI Period of performance

1. Contract completion date – minimum date – 15 working days, maximum date – 26 working days from the date of placing the order by the Contracting Authority - in accordance with Part XVII of this ToR.

2. Place of delivery and performance: Medical University, IT Department, address: Adama Mickiewicza 2c, 15-222 Bialystok (entrance from the Euroregional Pharmacy Centre)

building: Collegium Universum (block D). For Software that is available electronically, delivery or implementation will be carried out digitally

# Part VII Draft terms of the public procurement contract to be incorporated in the body of the contract

The draft contractual provisions are set out in the model contract forming an integral part of the ToR (Appendix no. 5 to the ToR).The Economic Operator who has submitted the most advantageous tender will be obliged to sign a contract in accordance with the attached model contract. Submission of a tender constitutes full acceptance of the contract by the Economic Operator.

# Part VIII Information on the means of electronic communication to be used by the Contracting Authority to communicate with Economic Operators and information on the technical and organisational requirements for drawing up, sending and receiving electronic correspondence

1. The communication between the Contracting Authority and the Economic Operators shall take place, via the Purchasing Platform located at: **https://platformazakupowa.pl/pn/umb.**
2. Declarations, applications, notifications or information received by the Contracting Authority shall be considered documents submitted within the time limit, if their legible content reaches the Contracting Authority before the expiry of this time limit. The date of transmission (receipt) of declarations, requests, notices and information shall be the date on which they are sent via the platform by clicking on the "Send message to the Contracting Authority" button, after which a message will appear that the message has been sent to the Contracting Authority.
3. The Contracting Authority will provide information to Economic Operators via the [platform](http://platformazakupowa.pl). Information concerning answers to questions, amendments to the specifications, changes to the deadline for the submission and opening of tenders will be posted by the Contracting Authority on the platform in the 'Announcements' section. Correspondence addressed to a specific Economic Operator in accordance with the applicable regulations will be forwarded via the platform to the specific Economic Operator.
4. The Economic Operator, as a professional entity, shall be obliged to check the communication and messages sent directly to platformazakupowa.pl by the Contracting Authority, as the notification system may fail or the notification may be filtered out to the SPAM folder.
5. The Contracting Authority, in accordance with the Regulation of the President of the Council of Ministers of 30 December 2020 on the manner of drawing up and transmitting information and technical requirements for electronic documents and means of electronic communication in a public procurement procedure or competition (Journal of Laws of 2020, item 2452), specifies the necessary hardware and application requirements for operation on [platformazakupowa.pl](https://platformazakupowa.pl/), i.e:
	1. permanent access to the Internet with a guaranteed capacity of no less than 512 kb/s,
	2. PC or MAC computer with the following configuration: min. memory 2 GB RAM, Intel IV 2 GHZ processor or its newer version, one of the operating systems – MS Windows 7, Mac Os x 10 4, Linux, or their latest versions,
	3. any web browser is installed, except for Internet Explorer
	4. javaScript enabled,
	5. installed Adobe Acrobat Reader or another software application which supports the .pdf file format,
	6. encryption on platformazakupowa.pl is carried out through the TLS 1.3 protocol.
	7. indication of the time of data receipt by the purchasing platform is the date and exact time (hh:mm:ss) generated in accordance with the time of the local server synchronized with the clock of the Central Office of Measures.

Through joining the public procurement procedure, the Economic Operator:

* 1. accepts the terms of use of [platformazakupowa.pl](https://platformazakupowa.pl/) as set out in the Terms and Conditions located on the website [under the link](https://platformazakupowa.pl/strona/1-regulamin) under the tab "Terms and Conditions" and acknowledges them as binding,
	2. has read and complies with the Instructions for Submitting Tenders/Applications available [under the link](https://drive.google.com/file/d/1Kd1DttbBeiNWt4q4slS4t76lZVKPbkyD/view).
1. **The Contracting Authority shall not be liable for tenders submitted in a manner inconsistent with the instructions for use of** [**platformazakupowa.pl**](http://platformazakupowa.pl), in particular if the Contracting Authority becomes aware of the contents of the tender before the deadline for submission of tenders (e.g. submission of a tender in the "Send a message to the Contracting Authority" tab).
Such an offer will be considered by the Contracting Authority as a commercial offer and will not be taken into account in the present procedure as the obligation imposed by Article 221 of the Public Procurement Law has not been fulfilled.
2. The Contracting Authority informs that the instructions for using [platformazakupowa.pl](http://platformazakupowa.pl) concerning, in particular, logging in, submitting requests for clarification of the content of the ToR, submitting tenders and other activities undertaken in this procedure using [platformazakupowa.pl](http://platformazakupowa.pl) can be found in the tab “Instructions for the Economic Operators” available on-line at: <https://platformazakupowa.pl/strona/45-instrukcje>

# Part IX Information on how the Contracting Authority may communicate with Economic Operators by means other than electronic communication in the event of one of the situations referred to in Articles 65(1), 66 and 69

The Contracting Authority does not envisage communicating with Economic Operators by any means other than electronic communication.

# Part X Indication of persons authorised to communicate with Economic Operators

1. The Contracting Authority designates the following contact persons for Economic Operators:

***- on matters of substance:*** *Piotr Zadykowicz,*

e-mail: ***piotr.zadykowicz@umb.edu.pl***

***- on formal matters:*** *Kamila Kartaszow,*

*e-mail:* ***kamila.kartaszow@umb.edu.pl***

2. Oral communication is only allowed for information that is not relevant, in particular not concerning the contract notice or the contract documents.

# Part XI Period of validity of tenders

1. An Economic Operator submitting a tender shall be bound by it for **30 days** , counting from the deadline for submission of tenders, i.e. until **12.08.2023**
2. If the selection of the most advantageous tender does not take place before the expiry of the tender validity period, the Contracting Authority shall, before the expiry of the tender validity period, request the Economic Operators once to agree to extend this period by a period indicated by the Contracting Authority, which shall not exceed 30 days.
3. Extension of the time limit for being bound by a tender as referred to in Section 2 shall require a written declaration of consent by the Economic Operator to extend the time limit for being bound by a tender.
4. The period for which a tender is valid shall commence upon the expiry of the deadline for the submission of tenders.

# Part XII Description of bid preparation

***The tender shall be submitted electronically via https://platformazakupowa.pl/pn/umb by the deadline indicated in the ToR.***

**Section I:**

1. **The offer must include the following statements and documents:**
	1. Offer form,, a specimen of which is **attached** as **Appendix 1 to the ToR;**
	2. a statement on not being subject to exclusion, a specimen of which is **attached** as **Appendix 2 to the ToR;**

and

* 1. unless it results from the documents submitted with the offer or from free and generally accessible databases, in particular public registers within the meaning of the Act of 17 February 2005 on the computerisation of the activities of entities performing public tasks (consolidated text Journal of Laws of 2020, item 346 as amended), **a power of attorney** or other document confirming the authority of the person or persons signing the tender to represent the Economic Operator must be attached to the tender;
	2. in the case of joint bidding by Economic Operators, a statement confirming that there are no grounds for exclusion, the specimen of which is **attached as Appendix 2 to the ToR**, is submitted by each of the Economic Operators jointly applying for the contract;
	3. list of the part of the contract which the Economic Operator intends to entrust to subcontractors and the names of the subcontractors' companies **– in accordance with Appendix 4 to the ToR (if applicable)**
	4. the means of proof in question, as referred to in Section V(4) of the ToR **(if applicable)**.
1. Pursuant to Article 107(2) of the PPL Act, the Contracting Authority informs that if the Economic Operator fails to submit the said evidence or if the submitted evidence is incomplete, the Contracting Authority will call for its submission or completion within the prescribed time limit.
2. When submitting a tender in electronic form, the Economic Operator is required to submit documents signed by persons empowered with an electronic signature via the platform. **An Economic Operator may submit only one tender, subject to Part IV, point 4 of this ToR.**
3. The tender must be prepared in accordance with the PPL Act, its implementing regulations and the requirements of the ToR. The content of the offer must correspond to the content of the ToR.
4. The offer should be written in Polish or English and submitted under pain of invalidity in **electronic form (bearing a qualified electronic signature) or in electronic form (bearing a trusted signature or a personal signature),** via the Platform available at [***https://platformazakupowa.pl/pn/umb***](https://platformazakupowa.pl/pn/umb)
5. The Platform is available free of charge.
6. The tender and its annexes should be signed by a person authorised to represent the Economic Operator. An offer made in electronic form shall be signed with an electronic signature by a person authorized in accordance with the form of representation of the Economic Operator as specified in a court register or other document appropriate for a given organizational form of the Economic Operator, or by a person authorized (based on a power of attorney) by authorized persons.
7. The bid must be accompanied by all the documents required in the ToR.
8. Once you have completed the Bid Submission Form and attached all required attachments, click on the "Proceed to Summary" button.
9. A bid submitted electronically must be signed with an electronic qualified signature, a trusted signature or a personal signature. In the process of submitting an offer via [platformazakupowa.pl](http://platformazakupowa.pl), the Economic Operator should put his signature directly on the documents sent via [platformazakupowa.pl](http://platformazakupowa.pl). It is recommended to use a signature on each attached file separately, in particular those indicated in Article 63(1) and (2) of the PPL Act, where it is indicated that tenders and the statement referred to in Article 125(1) shall be drawn up, under pain of nullity, in electronic form or form and bear, as appropriate to the value of the procedure, a qualified electronic signature, a trusted signature or a personal signature.
10. The date on which an offer is submitted is the date on which it is submitted in the system (platform) in the second step of submitting the offer by clicking on the "Submit Offer" button and a message appears that the offer has been encrypted and submitted.
11. Detailed instructions for Economic Operators on how to submit, amend and withdraw a bid can be found on the website at: <https://platformazakupowa.pl/strona/45-instrukcje>
12. The maximum size of one file sent via the dedicated forms for: submission, modification, withdrawal of an offer is 150 MB, while for communication, the file size is a maximum of 500 MB.
13. **The file extensions used by Economic Operators must be in accordance with** Appendix 2 to the “Regulation of the Council of Ministers on the National Interoperability Framework, minimum requirements for public registers and information exchange in electronic form and minimum requirements for ICT systems,” hereinafter referred to as the KRI Regulation.
14. The Contracting Authority recommends the use of formats: .pdf .doc .docx .xls .xlsx .jpg (.jpeg) **with particular emphasis on .pdf**
15. For possible data compression, the Employer recommends the use of one of the extensions:

.zip

.7Z

1. Common extensions that do **not appear** in the KRI Regulation include: .rar .gif .bmp .numbers .pages. **Documents submitted in such files will be deemed to have been submitted ineffectively.[[1]](#footnote-1)**
2. The Contracting Authority draws attention to the limitations on the size of files signed with the trusted profile, which is a **maximum of 10MB**, and the limitation on the size of files signed in the eDoApp application for personal signatures, which is a **maximum of 5MB**.
3. Where a qualified electronic signature is used by the Economic Operator:
* Due to the low risk of compromising the integrity of the file and the easier verification of the signature, the Contracting Authority recommends, where possible, that the **files comprising the tender be converted to the .pdf extension and bear a qualified signature in PAdES format.**
* Files in formats other than PDF are **recommended to be signed in XAdES format with an external type**. The Economic Operator should remember to submit the signature file together with the document to be signed.
* The Contracting Authority recommends the use of a qualified time-stamped signature.
1. The Contracting Authority recommends that the Economic Operator tests the possibility of correctly using the chosen method of signing the bid files well in advance.
2. **The tender must be prepared with due diligence for the entity seeking the award of the public contract and an appropriate interval until the closing date for receipt of tenders. It is suggested that you submit your bid 24 hours before the deadline for submission of bids.**
3. If the Economic Operator packages the documents in, for example, a zip file, it is recommended that each of the compressed files be signed in advance.
4. The Contracting Authority recommends that **not** make any changes to the files after they have been signed with a qualified signature. This may result in the integrity of the files being compromised, which will necessitate rejection of the offer.
5. Pursuant to Article 18(3) of the PPL Act, information which constitutes a business secret within the meaning of the provisions on combating unfair competition shall not be disclosed. If the Economic Operator, not later than by the deadline for submission of tenders, has undoubtedly reserved that they may not be disclosed and has demonstrated, by enclosing appropriate explanations, that the reserved information constitutes a company secret. There is a space on the platform in the bid submission form designated for attaching the parts of the bid that constitute company secrets.

**Section II: Economic Operators may jointly submit an offer to the tender.**

1. Economic Operators may jointly submit an offer to the tender. In such event, they shall appoint a representative who is going to represent them in the public procurement procedure or to represent them in the procedure and to conclude the public procurement Contract. The provisions concerning Economic Operators shall apply *mutatis mutandis* to Economic Operators who jointly apply for the award of the tender. The power of attorney must be attached to the tender and include, in particular, clear indications of: the public procurement procedure to which it relates, the Economic Operators who jointly apply for the tender, the appointed representative and the scope of his or her power of attorney, including in particular: representing the Economic Operators who jointly apply for the award of the tender, incurring obligations on behalf of the Economic Operators jointly applying for the award of the tender, joint submission of the tender, conducting correspondence and undertaking obligations related to the public procurement procedure.

2. The document of power of attorney must be signed by all Economic Operators applying jointly for the award of the contract, including the Economic Operator appointed as a proxy and by the persons authorised to make declarations of will listed in the Economic Operator’s relevant register or records. The power of attorney document (original or notarised photocopy), must be attached to the offer in electronic form, signed with a qualified electronic signature or in electronic form signed with a trusted or personal signature.

 All correspondence and settlements will be made exclusively with the entity acting as a proxy for the others, with payments being made directly to the account of the entity in question (only the one named in the Contract) or to a joint settlement account to be used for payments for services rendered by individual entities.

1. Economic Operators competing jointly for the award of a public contract shall be jointly and severally liable for the performance of the contract.
2. The Contracting Authority reserves the right to request, prior to the conclusion of a public procurement contract, a contract governing the principles of cooperation between Economic Operators jointly applying for the award of the contract.

**Section III: Information regarding Subcontractors**

1. The Contracting Authority requires that the Economic Operator indicates in the tender, the parts of the contract which he intends to entrust to subcontractors, as well as the names of possible subcontractors, if they are already known *(Appendix no. 4 to the ToR should be filled in and submitted together with the tender).*
2. **Pursuant to Article 7(27) of the PPL Act, a subcontract shall be construed as an Contract made in writing**in return for payment concluded between a Economic Operator and a subcontractor, and, in the case of a works contract other than a contract in the field of defence and security, also between a subcontractor and a further subcontractor or between further subcontractors, by virtue of which the subcontractor or further subcontractor, respectively, undertakes to perform a part of the contract.
3. It is assumed that failure to indicate in the bid a part of the order which the Economic Operator intends to entrust to a subcontractor means execution of the order by the Economic Operator’s own means.
4. If the Economic Operator envisages the participation of subcontractors for the performance of the subject matter of the contract, whose works are specified in the offer, the detailed rules in this respect are specified in the model contract constituting *Appendix No. 5 to the ToR*.
5. The Contracting Authority shall not indicate in the ToR subcontracts for supplies or services which, due to their value or subject matter, are not subject to the obligation to submit to the Contracting Authority.

# Part XIII Method and time limit for submission of tenders

The bid should be submitted through the system at [*https://platformazakupowa.pl/pn/umb*](https://platformazakupowa.pl/pn/umb)by **14.07.2023 at 09:00 .**

# Part XIV Deadline for opening of tenders

1. The opening of the submitted bids in the system will take place on **14.07.2023 at 09:05** pursuant to Article 222 of the PPL Act.
2. In the event of a malfunction of the ICT system that makes it impossible to open bids by the date specified by the Contracting Authority, bids shall be opened immediately after the malfunction is remedied.
3. The Contracting Authority will announce the change of the opening date on the website of the procedure.
4. The Contracting Authority will make available on the website of the conducted procedure information on the amount it intends to allocate for financing the contract, at the latest before the opening of tenders.
5. Information on the opening of tenders will be published at ***https://platformazakupowa.pl/pn/umb*** in the **'Announcements'** folder and will include information on:

5.1. the names or forenames and offices or places of business or residence of the Economic Operators whose tenders have been opened;

5.2. the prices or costs contained in the bids.

6. The Contracting Authority does not envisage holding a public tender opening session with the participation of Economic Operators or third parties, or broadcasting the opening session via any video transmission facilities, on-line.

# Part XV Grounds for exclusion referred to in Article 108(1) of the PPL Act and provisional evidence of the absence of grounds for exclusion

1. The Contracting Authority shall exclude from the procedure Economic Operators against whom there are grounds for exclusion referred to in Article 108, item 1 of the PPL Act, i.e. exclude the Economic Operator:

1) being a natural person who has been validly convicted of an offence:

* 1. participation in an organised criminal group or association with the aim of committing a criminal or fiscal offence referred to in Article 258 of the Penal Code,
	2. trafficking in human beings as referred to in Article 189a of the Criminal Code,
	3. referred to in Articles 228-230a, 250a of the Penal Code, in Articles 46-48 of the Sports Act of 25 June 2010 (Journal of Laws of 2020, item 1133 and of 2021, item 2054) or in Article 54(1) to (4) of the Act of 12 May 2011 on reimbursement of medicines, foodstuffs for special nutritional purposes and medical devices (Journal of 2021 No 1292, item 2054).
	4. financing a terrorist offence referred to in Article 165a of the Penal Code, or the offence of preventing or hindering the ascertainment of the criminal origin of money or the concealment of its origin, as referred to in Article 299 of the Penal Code,
	5. of a terrorist nature, as referred to in Article 115 § 20 of the Criminal Code, or with the aim of committing this offence,
	6. entrusting work to a minor foreigner referred to in Article 9(2) of the Act of 15 June 2012 on the effects of entrusting work to foreigners unlawfully residing on the territory of the Republic of Poland (Journal item 769).
	7. against economic turnover as referred to in Articles 296-307 of the Penal Code, an offence of fraud as referred to in Article 286 of the Penal Code, an offence against the reliability of documents as referred to in Articles 270-277d of the Penal Code, or a fiscal offence,
	8. referred to in Article 9(1) and (3) or Article 10 of the Act of 15 June 2012 on the results of employing foreigners unlawfully residing on the territory of the Republic of Poland:

- or for the relevant offence under foreign law;

if an incumbent member of its management or supervisory body, a partner in a general partnership or partnership, or a general partner in a limited partnership or a limited joint-stock partnership, or a proxy, has been validly convicted of an offence referred to in point II. 1;

against whom a final court judgement or a final administrative decision on overdue payment of taxes, fees or contributions for social or health insurance has been issued, unless the Economic Operator, respectively before the deadline for submitting requests to participate in the procedure or before the deadline for submitting tenders, has made payments of due taxes, fees or contributions for social or health insurance together with interest or fines, or has entered into a binding Contract on the repayment of those receivables;

who has been disqualified by a final decision from competing for public contracts;

if the Contracting Authority can establish, on the basis of reliable grounds, that the Economic Operator has entered into an Contract with other Economic Operators aimed at distorting competition, in particular if they belong to the same group of companies within the meaning of the Act on Competition and Consumer Protection of 16 February 2007 and have submitted separate tenders, partial tenders or requests to participate, unless they prove that they prepared those tenders or requests independently of each other;

if, in the cases referred to in Article 85 (1), there has been a distortion of competition resulting from prior involvement of that Economic Operator or of an entity which is a member of the same group with the Economic Operator within the meaning of the Act on Competition and Consumer Protection of 16 February 2007, unless the distortion of competition caused thereby can be eliminated otherwise than by excluding the Economic Operator from participation in the procurement procedure.

1. Information on self-cleaning (Article 110(2) of the PPL Act): - The Economic Operator shall not be subject to exclusion in the circumstances referred to in Article 108(1)(a). 1, 2 and 5, if it proves to the Contracting Authority that it has fulfilled all of the following conditions:

(1) has made good or has undertaken to make good the damage caused by the offence, misdemeanour or its wrongful conduct, including by monetary compensation;

(2) has fully explained the facts and circumstances surrounding the offence, the misconduct or its wrongful conduct and the damage caused by it, actively cooperating with the competent authorities, including law enforcement authorities, or the Contracting Authority, as appropriate;

3) has taken specific technical, organisational and personnel measures appropriate to prevent further offences, misconduct or irregular conduct, in particular:

(a) has severed all links with persons or entities responsible for the Economic Operator’s misconduct,

(b) reorganised the staff,

(c) has a reporting and control system in place,

(d) set up internal audit structures to monitor compliance with laws, internal regulations or standards,

(e) has put in place internal regulations on liability and compensation for non-compliance with laws, internal regulations or standards.

1. **The absence of grounds for exclusion referred to in Article 108(1) of the PPL Act will be verified on the basis of a declaration submitted with the tender, which constitutes a provisional assurance by the Economic Operator that he is not subject to exclusion – in accordance with Appendix No. 2 to the ToR.**
2. The Contracting Authority shall assess whether the actions taken by the Economic Operator as referred to in Article 110(2) of the PPL Act are sufficient to demonstrate his reliability, taking into account the seriousness and special circumstances of the Economic Operator’s act. If the actions taken by the Economic Operator as referred to in Article 110(2) of the PPL Act are not sufficient to demonstrate his reliability, the Contracting Authority shall exclude the Economic Operator. An Economic Operator may be excluded by the Contracting Authority at any stage of the procurement procedure.
3. Exclusion of the Economic Operator shall be in accordance with Article 111 of the PPL Act.
4. **The Contracting Authority does not provide for the exclusion referred to in Article 109(1) of the PPL.**

# Part XVI Description of price calculation

1. The offer price must be stated in PLN. The Contracting Authority does not provide for settlement with the Economic Operator in foreign currency.
2. The price of the offer should cover the full scope of supplies specified in this ToR and take into account all costs related to the execution of the subject matter of the order, as well as all conditions, obstacles or circumstances that may affect the execution of the subject matter of the order.
3. In order to compare tenders, the Contracting Authority will take the gross price specified in the Offer Form.
4. The Economic Operator is obliged to fill in the OFFER FORM (Appendix no. 1 to ToR)
5. It is the responsibility of the bidder to complete the Offer Form, making calculations in accordance with recognised accounting principles.
6. All prices specified in the OFFER FORM shall be calculated to two decimal places.
7. Pursuant to Article 106 of the VAT Act of 11 March 2004 (Journal of Laws [*Polish Journal of Laws*] of 2020, item 106).
8. If a tender has been submitted, the selection of which would lead to the creation of a tax obligation for the Contracting Authority pursuant to the Act of 11 March 2004 on Value Added Tax, for the purpose of applying the price criterion, the Contracting Authority shall add the amount of value added tax that it would be obliged to settle to the price presented in that tender. When submitting such a tender, the Economic Operator is obliged to inform the Contracting Authority whether the selection of its tender will lead to the Contracting Authority’s tax obligation, indicate the name (type) of the goods or services whose supply or provision will lead to its arising, indicate the value of the goods or services subject to the Contracting Authority’s tax obligation, without the amount of tax, and indicate the rate of VAT which, to the Economic Operator’s knowledge, shall apply.

# Part XVII Description of the criteria for evaluation of tenders, together with the relative weightings of those criteria and how to evaluate tenders

1. The following criteria will be used by the Contracting Authority to select the most advantageous offer:

**Offer assessment criteria**

**1.1. Offer price (C) - 60%**

**1.2. Time of Delivery (TD) - 40%.**

Ad. 1.1. The evaluation of the offers for the criterion outlined below will be carried out in accordance with the following principles:

**the criterion of the OFFER PRICE (C):**

 C min.

 C = ---------- x 60

 C of.

 where:

 C min.  - the lowest price among the tenders examined,

 C of. - price of the tested offer,

Ad. 1.2. The following criterion will be used for the evaluation of the offers

in accordance with the following principles:

**criterion TIME OF DELIVERY (TD):**

 TD min.

 TD = ---------- x 40

 TD of.

where:

TD min.  - the shortest possible delivery time,

TD of.  - the delivery date of the tested offer,

 - the shortest possible delivery period is **15** **working** **days** and the maximum is **26** **working** **days** from the date of the order placed by the Contracting Authority

**PLEASE NOTE: In the criterion of Time of Delivery (TD), the number of points will be calculated on the basis of the data provided by the Economic Operator in the Bid Form (in accordance with appendix no. 1 to the ToR).
If the Economic Operator does not enter the offered time of delivery, the Contracting Authority will accept the maximum period allowed, i.e. 26 working days.**

**The offer which obtains the highest number of points P calculated in accordance with the formula will be selected as the most advantageous offer:** P = (C) + (TD)

The gross price will be used by the Contracting Authority to compare offers.

# Part XVIII Information on formalities which should be completed following offer selection with a view to concluding a public procurement contract

1. Subject to Article 577 of the PPL Act, the Contracting Authority shall conclude the public procurement contract within a period not shorter than 5 days from the date of sending the notice of selection of the most advantageous offer, if the notice was sent by means of electronic communication, or 10 days if it was sent in another manner.

2. The Contracting Authority may conclude a public procurement contract before the expiry of the deadline referred to above if only one tender has been submitted in the basic procurement procedure.

3. Prior to the conclusion of the contract, the Economic Operator shall, at the request of the Contracting Authority, provide all information necessary to complete the content of the contract.

4. If Economic Operators are selected as jointly applying for the award of the contract, they will be obliged to submit a copy of the contract governing the cooperation of those Economic Operators, if the Contracting Authority requires so, before the conclusion of the contract.

5. If the Economic Operator whose offer was selected as the most advantageous evades the conclusion of the contract, the Contracting Authority may re-examine and evaluate the offers from among the offers of the remaining Economic Operators in the procedure or cancel the procedure.

# Part XIX Information on legal remedies available to the Economic Operator

* 1. An Economic Operator, as well as any other entity if he has or had an interest in obtaining a given contract and if he has suffered or may suffer damage as a result of an infringement of the provisions of this Act by the Contracting Authority, shall be entitled to the remedies specified in Section IX “Legal Remedies” of the PPL Act.
	2. The legal remedies specified in Section IX "Legal remedies" of the Act against the announcement initiating the contract award procedure and the contract documents shall also be available to organisations included in the list referred to in Article 469(15) and to the Ombudsman for Small and Medium Enterprises.
	3. The appeal is against:

3.1. an action taken by the Contracting Authority in the course of the contract award procedure which is incompatible with the provisions of the Act, including the draft contractual provisions;

3.2. failure to take an action in the contract award procedure which the Contracting Authority was obliged to take under the Act;

* 1. An appeal shall be lodged with the President of the Chamber within 5 days from the date of communication of information on the Contracting Authority's actions constituting the basis for lodging the appeal, if the information was transmitted by electronic means of communication, or within 10 days - if the information was transmitted in a different manner.
	2. The rules for filing legal remedies in this procedure are governed by the provisions of Chapter 2, Unit 2 of Section IX of the PPL Act.

# Part XX Information on the conditions of participation in the procedure and the method of provisional confirmation of their fulfilment:

**Economic Operators who:**

1. **are not subject to** exclusion due to the lack of grounds for exclusion referred to in Part XV of the ToR,

2. **fulfil the conditions for participation in the procedure concerning:**

2.1. capacity to act in business - the Contracting Authority does not specify the condition,

2.2. authorisation to conduct a specific business or professional activity, if it results from separate regulations - the Contracting Authority does not specify the condition

2.3. economic or financial standing - the Contracting Authority does not specify the condition

2.4. technical or professional capacity - the Contracting Authority does not stipulate a condition.

# Part XXI Information on subject-matter evidence

**The Contracting Authority shall call upon the Economic Operator whose tender was awarded the highest** score to submit, within the designated time limit, **not shorter than 5 days** from the date of the call, instead of subjective evidence – in order to confirm the absence of grounds for exclusion – a statement of the Economic Operator confirming that the information contained in the statement on the absence of grounds for exclusion submitted with the tender is up-to-date as of the date of submission – **in accordance with Appendix No. 6 to the ToR**.

# Part XXII Description of lots if the Contracting Authority authorises split tenders

 The Contracting Authority **does not allow** the possibility of submitting partial tenders. The tender submitted must cover the entire material and quantitative scope of the contract.

# Part XXIII The number of lots for which an Economic Operator may submit a tender, or the maximum number of lots for which the contract may be awarded to the same Economic Operator, as well as the criteria or rules applicable for determining which lots will be awarded to one Economic Operator if his tender is selected for more than the maximum number of lots

The Contracting Authority **does not provide for the possibility** of submitting a partial tender.

# Part XXIV Information on variants, including information on how variants may be presented and the minimum conditions to which variants must conform, if requested or permitted by the Contracting Authority

The Contracting Authority **does not allow** the possibility of submitting a variant offer.

# Part XXV Employment requirements under the circumstances referred to in Article 95 of the PPL Act

The Contracting Authority **does not require the employment** by the Economic Operator or a subcontractor on the basis of an employment relationship of persons performing activities within the scope of the contract.

# Part XXVI Employment requirements for persons referred to in Article 96(2)(2) of the Public Procurement Act, if the Contracting Authority provides for such requirements

The Contracting Authority **shall not lay down** any requirements relating to the performance of the contract that involve the employment of persons indicated in Article 96(2)(2) of the PPL Act.

# Part XXVII Information on reserving the right to apply for the award of the contract to Economic Operators referred to in Article 94 of the PPL Act, if the Contracting Authority provides for such requirements

The Contracting Authority **does not reserve** the possibility of applying for the award of the contract only by the Economic Operators referred to in Article 94 of the Act.

# Part XXVIII Guarantee requirements

The Contracting Authority **shall not require** payment of a security deposit.

# Part XXIX Information on intended contracts referred to in Article 214(1)(8) of the PPL Act, if the Contracting Authority envisages awarding such contracts

The Contracting Authority **does not foresee** award of the contract referred to in Article 214(1)(8) of the PPL Act.

# Part XXX Information concerning the possibility for the Economic Operator to carry out a site inspection or to verify the documents necessary for the performance of the contract referred to in Article 131(2) of the PPL Act, if the Contracting Authority provides for the possibility or requires submission of a tender after the site inspection or verification of such documents

The Contracting Authority **does not require** a site visit.

# Part XXXI Information concerning foreign currencies in which settlements between the Contracting Authority and the Economic Operator may be carried out, if the Contracting Authority provides for settlements in foreign currencies

All settlements relating to the subject matter of the contract will be made **in PLN**.

The Contracting Authority **does not allow for** settlement in foreign currencies.

# Part XXXII Information concerning the reimbursement of the costs of participation in the procedure, if the Contracting Authority provides for their reimbursement

There will be no reimbursement of costs of participation.

# Part XXXIII Information on the obligation of the Economic Operator to perform key tasks personally, if the Contracting Authority makes such a reservation pursuant to Article 60 and Article 121 of the PPL Act

The Contracting Authority informs that it does not reserve the obligation for the Economic Operator to personally perform the key tasks comprising the subject matter of this tender.

# Part XXXIV Maximum number of Economic Operators with which the Contracting Authority will conclude a framework Contract, if the Contracting Authority envisages concluding a framework Contract

The procedure is not being conducted with a view to concluding a framework Contract.

# Part XXXV Information on the intended selection of the most advantageous tender by electronic auction, together with the information referred to in Article 230 of the PPL Act, if the Contracting Authority envisages an electronic auction

The Contracting Authority does not provide for the selection of bids using an electronic auction.

# Part XXXVI Requirement or possibility of submitting tenders in the form of electronic catalogues or attaching electronic catalogues to the tender, in the situation specified in Article 93 of the PPL Act

The Contracting Authority does not require that the tender be submitted in the form of an electronic catalogue or that an electronic catalogue be attached to the tender.

# Part XXXVII Information concerning the performance bond, if provided by the Contracting Authority.

The Contracting Authority **shall not require** the provision of a performance bond.

# Part XXXVIII INFORMATION CLAUSE PURSUANT TO ART. 13 OF THE GDPR RELATING TO THE PROCESSING OF PERSONAL DATA FOR THE PURPOSE OF THE PUBLIC PROCUREMENT PROCEDURE

Pursuant to Article 13(1 -2) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 04.05.2016, p. 1), hereinafter "GDPR", I inform you that:

* the Data Administrator of your personal data is the Medical University of Bialystok with its seat at Jana Kilinskiego 1, 15-089 Bialystok, NIP 542-021-17-17, REGON 000288604, represented by the Rector;
* The Medical University of Bialystok has appointed a Data Protection Officer who can be contacted about matters related to personal data by sending information to the following e-mail address: iod@umb.edu.pl or through other contact details provided at the University’s website,
* Your personal data will be processed for the purpose related to the conduct of a public procurement procedure on the basis of Article 6(1)(c) of the GDPR (i.e. a legal obligation incumbent on the administrator - the Public Procurement Law),
* the recipients of your personal data may be persons or entities to whom the documentation of the procedure will be made available pursuant to Article 18(1) and Article 74 of the Act of 11 September 2019. - Public Procurement Law (i.e. Journal of Laws 2021, item 1129.), hereinafter the 'PPL Act' , persons requesting public information, the owner of the platform for publishing public procurement procedure,
* Your personal data in connection with the openness of the public procurement procedure may be transferred to third countries,
* Your personal data will be stored, pursuant to Article 78(1) of the PPL Act, for a period of 4 years from the date of completion of the contract award procedure, and if the duration of the contract exceeds 4 years, the storage period shall cover the entire duration of the contract, or for a longer period in the case of procedures financed by EU funds;
* the obligation for you to provide personal data concerning you directly is a statutory requirement under the provisions of the PPL Act relating to participation in a public procurement procedure; the consequences of failure to do so result from the PPL Act;
* decisions will not be taken in relation to your personal data by automated means as referred to in Article 22 of the GDPR;
* you have:
* on the basis of Article 15 GDPR, the right of access to personal data concerning you;
* pursuant to Article 16 GDPR, the right to rectify your personal data

(the exercise of the right of rectification must not affect the integrity of the minutes and their annexes),

* pursuant to Article 18 GDPR, the right to request the administrator to restrict the processing of personal data, subject to the cases referred to in Article 18(2) GDPR
* The Right to Lodge a Complaint with the President of the Personal Data Protection Office Stawki 2, 00193 Warsaw, if you consider that the processing of your personal data violates the provisions of the GDPR.
* you are not entitled to:
* the right to erasure of personal data in relation to Article 17(3)(b), (d) or (e) of the GDPR;
* the right to data portability as referred to in Article 20 of the GDPR;
* the right to object to the processing of your personal data, on the basis of Article 21 GDPR, as the legal basis for the processing of your personal data is Article 6(1)(c) GDPR.

# Part XXXIX Annexes to the ToR

1. Offer form - Appendix 1,
2. Declaration of non-exclusion from the procedure - Appendix 2,
3. Description of the Object of Contract - Appendix 3,
4. List of subcontracted parts of the contract – Appendix no. 4,
5. Model contract - Appendix 5,
6. Economic Operator’s statement that the information on grounds for exclusion is current and valid –
Appendix no. 6.

***APPENDIX NO. 2 TO THE ToR***

………………………………………………….

*(name and surname, registered office)*

*or residence and address of the Economic Operator )*

Contracting Authority:

**MEDICAL UNIVERSITY OF BIALYSTOK**

**ul. Jana Kilinskiego 1**

**15089 Bialystok**

**Statement pursuant to Article 125(1) of the PPL Act**

**ON NOT BEING EXCLUDED FROM THE PROCEDURE**

By submitting a tender in the public procurement procedure: **Supply, installation and implementation of a LIMS system for the management of a research laboratory for the Medical University of Bialystok** conducted by the **Medical University** of Bialystok*:*

1. I declare that **I am not subject to exclusion** from the procedure pursuant to Article 108 (1) of the PPL **Act\***
2. I declare that **there are grounds for exclusion of me** from the procedure **pursuant** to Article ............. of the PPL Act. of the PPL Act (state applicable grounds for exclusion from among those listed in Article 108(1)(1), (2), (5) of the PPL Act). At the same time, I declare that I have taken the following corrective measures pursuant to Article 110(2) of the PPL Act in connection with the above circumstance**:\***

……………………………………………………………………………………………………………

***\* delete as appropriate***

STATEMENT ON THE INFORMATION PROVIDED

I declare that all the information presented are current and true and have been presented with full knowledge of the consequences of misleading when presenting the information.

***signature***

*APPENDIX NO. 4 TO THE ToR*

………………………………………………….

*(name and surname, registered office)*

*or place* *of domicile and address of the Economic Operator )*

**LIST OF PARTICIPANTS TO BE SUBCONTRACTED BY THE ECONOMIC OPERATOR****INTENDS TO SUBCONTRACT**

I/We declare that the performance of the subject matter of the contract concerning:

**Delivery, installation and implementation of the LIMS system for the purpose of management of the research laboratory meeting the requirements of the Medical University of Bialystok,** I intend to carry out together with subcontractors.

|  |  |  |
| --- | --- | --- |
| No. | Parts of the contract to be performed by the subcontractor | Company (name and address) of subcontractor  |
| **1.** |  |  |
| **2.** |  |  |
| **3.** |  |  |

***signature***

***APPENDIX NO. 6 TO THE ToR***

………………………………………………….

*(name and surname, registered office)*

*or residence and address of the Economic Operator )*

Contracting Authority:

**MEDICAL UNIVERSITY OF BIALYSTOK**

**ul. Jana Kilinskiego 1**

**15089 Bialystok**

**STATEMENT THAT THE INFORMATION IS UP TO DATE**

**contained in the declaration provided for in Article 125(1) of the PPL Act;**

**CONCERNING THE ABSENCE OF GROUNDS FOR EXCLUSION**

In relation to the submission of a tender in the public procurement procedure: **Delivery, installation and implementation of the LIMS system for the purpose of management of the research laboratory meeting the requirements of the Medical University of Bialystok**, conducted by **the Medical University of Bialystok**

**i declare that the information contained in the statement referred to in Article 125(1) of the PPL Act, submitted with the tender, regarding the grounds for exclusion** referred to in:

* + - * 1. [Art. 108(1)(3)](https://sip.lex.pl/#/document/17337528?unitId=art(108)ust(1)pkt(3)&amp;cm=DOCUMENT) of the PPL Act,
				2. [article 108(1)(4)](https://sip.lex.pl/#/document/17337528?unitId=art(108)ust(1)pkt(4)&amp;cm=DOCUMENT) of the PPL Act concerning the imposition of a prohibition to tender for a public contract as a preventive measure,
				3. [article 108(1)(5)](https://sip.lex.pl/#/document/17337528?unitId=art(108)ust(1)pkt(5)&amp;cm=DOCUMENT) of the PPL Act, concerning the conclusion with other Economic Operators of an Contract aimed at distorting competition,
				4. [Art. 108(1)(6)](https://sip.lex.pl/#/document/17337528?unitId=art(108)ust(1)pkt(6)&amp;cm=DOCUMENT) of the PPL Act,

**are still relevant.**

A STATEMENT OF THE INFORMATION PROVIDED:

I declare that all the information given in the above statement is true and has been provided in full knowledge of the consequences of misleading the Contracting Authority when presenting it.

***signature***

1. In accordance with the KIO ruling 1451/20, the Contracting Authority, if it does not specify the accepted data formats in the ToR, should accept tenders in any readable format. The Tender Committee recommends that the formats contained in Appendix No. 2 to the REGULATION OF THE COUNCIL OF MINISTERS of 12 April 2012 on the National Interoperability Framework, minimum requirements for public registers and information exchange in electronic form and minimum requirements for ICT systems. However, the decision rests with the Contracting Authority. [↑](#footnote-ref-1)