

ZP/2020/19

## SPECIFICATION OF ESSENTIAL TERMS OF THE CONTRACT (SETC)

**in the public procurement procedure for conducting surveys of employers regarding the forecasts of demand for employees in seven regions of Ukraine. The survey shall be conducted under the Polish component of the “EU4Skills” Programme founded by the European Union from the financial means for the reform of vocational education in Ukraine.**

This SETC has been approved by

Rafał Dzięciołowski, President of the Management Board, Solidarity Fund PL

### Chapter 1

#### GENERAL

##### 1.1. Contracting Authority:

Solidarity Fund PL  
02-482 Warszawa  
ul. Wołodyjowskiego 69a  
Tax Identification NIP: 526-226-42-92  
REGON: 012345095  
Website: [www.solidarityfund.pl](http://www.solidarityfund.pl)

1.2. The public contract award is conducted in an open-tender procedure, under the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2019, item 1843 and Journal of Laws of 2020, items 288, 1086), and implementing acts issued on its basis.

1.3. The value of the contract is less than the amounts specified in the provisions issued under Article 11 para. 8 of the Act of 29 January 2004 - Public Procurement Law in relation to the services.

1.4. The following terms and phrases used throughout this Specification of Essential Terms of the Contract (and Appendices thereto) shall have the meanings assigned to them below:

- a) “Act” — the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2019, item 1843 and Journal of Laws of 2020, items 288, 1086.)
- b) “SETC” — this Specification of Essential Terms of the Contract,
- c) “Contract” — the public contract whose subject has been specified in Chapter 2 of this SETC,
- d) “Procedure” — the public procurement procedure that this SETC refers to,
- e) “Contracting Authority” — Solidarity Fund PL.

- f) “Economic Operator” – a natural person, legal person or organizational unit not having legal personality, who competes for the award of the public contract, have submitted their tenders or concluded a public procurement contract.
- 1.5. The Economic Operator should familiarize thoroughly with this SETC and submit a tender according to the requirements specified herein.
- 1.6. The contract shall be financed by the European Union under “EU4Skills” Programme.

## Chapter 2

### DESCRIPTION OF THE CONTRACT SUBJECT

- 2.1. The subject-matter of the contract includes conducting surveys of employers regarding the forecasts of demand for employees in seven regions of Ukraine. The survey shall be conducted under the Polish component of the “EU4Skills” Programme founded by the European Union from the financial means for the reform of vocational education in Ukraine.
- 2.2. Contract codes and names according to the Common Procurement Vocabulary (CPV):  
73110000-6 Research Services  
79311000-7 Survey Services
- 2.3. A detailed description of the contract subject has been specified in Appendix 1 to SETC. Upon the conclusion of contract, it shall constitute an appendix thereto.

## Chapter 3

### TIME AND PLACE OF CONTRACT PERFORMANCE, FINANCIAL ALLOCATION

- 3.1. The contract shall be performed from the conclusion date of the agreement (not later than on 1 September 2020 r.) to 30 December 2020.
- 3.2. The contract shall cover surveys of employers in the following Ukrainian regions: Vinnytsya, Zaporizhzhya, Lviv, Mykolayiv, Poltava, Rivne, and Chernivtsi.
- 3.3. The total amount of financial means that Contracting Authority intends to allocate for the performance of contract shall amount to the maximum of PLN 560,000 gross.

## Chapter 4

### CONDITIONS FOR PARTICIPATION IN THE PROCEDURE

Eligible to compete for the contract shall be the Economic Operators who:

- 4.1. are not subject to exclusion,
- 4.2. meet the conditions for participation in the procedure, which are related to:
- 4.2.1. competences or authorizations to carry out specific professional activity; the Contracting Authority does not set any specific conditions in the abovementioned extent;

4.2.2. economic or financial standing; the Contracting Authority does not set any specific conditions in the abovementioned extent;

4.2.3. technical or professional capability;

The Contracting Authority shall deem the requirements related to technical capability to be met, if the Economic Operator demonstrates that:

- a) it has a network of interviewers in the regions where the survey is to be conducted.
- b) it has software to handle various types of computer-assisted interviews (CAPI, CATI, CAWI, etc.).
- c) it is able to provide the documentation of the survey quality monitoring, including recordings of telephone calls, time indicators and geolocation of interviewers and respondents.

4.2.3.1. The Contracting Authority shall deem the requirements related to experience to be met, if the Economic Operator demonstrates that:

4.2.3.1.1 it has at least the following experience:

- d) the Economic Operator has carried out at least three surveys on a sample of at least 1000 respondents;
- e) the Economic Operator has carried out at least one survey of employers/enterprises;
- f) the Economic Operator has carried out at least three surveys in Ukraine;

The Economic Operator is experienced in performing contracts for the benefit of international organizations, and

4.2.3.1.2. it has the following personnel:

- a) One person acting as a survey coordinator, who jointly has:
  - a1 – at least three years of professional experience as a coordinator of research projects with a survey component,
  - a2 – experience in coordinating at least one survey of employers/enterprises,
  - a3 – experience in coordinating at least three surveys in Ukraine.
  - a4 – professional communication skills
    - in English (C1 level according to the Common European Framework of Reference for Languages)
    - in Ukrainian (C2 level).
- b) One person acting as a quantitative research specialist, who jointly has:
  - b1 – at least three years of professional experience in performing research projects with a survey component,
  - b2 – experience in carrying out at least one survey of employers/enterprises,
  - b3 – experience in carrying out at least three surveys in Ukraine.
  - b4 – professional communication skills
    - in English (B2 level according to the Common European Framework of Reference for Languages)
    - in Ukrainian (C2 level).

4.2.3.1.3. The functions of the survey coordinator and the quantitative research specialist must not be combined.

4.3. The Contracting Authority may, at any stage of the procedure, decide that the Economic Operator does not have required capabilities, if the involvement of the Economic Operator's technical or professional resources in other business undertakings may negatively influence the performance of the contract.

4.4. To confirm the compliance with the conditions for participation in the procedure, referred to in item 4.2 of SETC, the Economic Operator may, in certain situations and in relation to a specific contract or part thereof, rely on technical or professional abilities or financial or economic standing of other entities, regardless of the legal nature of relationships between the Economic Operator and these entities.

4.5. The Contracting Authority informs that "a certain situation" referred to in item 4.4 of SETC means a case when:

4.5.1. The Economic Operator, who relies on abilities or standing of other entities, demonstrates to the Contracting Authority that it will have necessary resources of these entities at its disposal when performing the contract, in particular, by presenting a written commitment of these entities to share the resources necessary to perform the contract.

4.5.2. The Contracting Authority shall evaluate whether the technical or professional abilities made available to the Economic Operator, or financial or economic standing of such entities allow the Economic Operator to demonstrate the fulfilment of conditions for the participation in the procedure, and examine whether the grounds for exclusion referred to in Article 24 para. 1 point 12 to 23 apply to such an entity.

4.5.3. In relation to the conditions relating to education, professional qualifications or experience, the Economic Operators may rely on capabilities of other entities, if those entities are able to carry out services that require such capabilities.

4.5.4. The following must indisputably and unambiguously result out of the commitment or other documents confirming the provision of resources by other entities, in particular:

- the scope of other entity's resources available to the Economic Operator; the manner of using other entity's resources by the Economic Operator in the contract performance;
- the scope and period of other entity's share in the performance of the public contract;
- whether the entity that the Economic Operator relies on in relation to the conditions for participation in the procedure regarding education, professional qualifications or experience will provide services that the indicated capabilities relate to.

4.6. The Economic Operators may compete for the contract jointly. In the event referred to the previous sentence, the Economic Operators shall appoint an authorized representative to represent them in the procurement procedure or in the procedure and conclusion of a public procurement contract. A power of attorney in writing (the original or a copy certified true by a notary) should be attached to the tender.

4.7. In the case of the Economic Operators applying jointly for the award of the contract, the conditions set forth in item 4.2.3.1 must be complied with by at least one Economic Operator individually or all Economic Operators jointly.

4.8. The Contracting Authority shall exclude from the contract award procedure the Economic Operators who:

4.8.1. fail to demonstrate the compliance with the conditions for the participation in the procedure, referred to in items 4.2.3 and 4.2.3.1,

4.8.2. fail to demonstrate that there are no grounds for exclusion in relation to them as set out Article 24 para. 1 point 12 to 23 of the Act.

## Chapter 5

### LIST OF DECLARATIONS OR DOCUMENTS TO BE SUBMITTED BY THE ECONOMIC OPERATORS

5.1. In order to confirm the compliance with the conditions for participation in the procedure set out in Chapter 4 and to demonstrate the absence of grounds for exclusion, the Economic Operators must submit the following declarations and documents along with the tender:

5.1.1. Declarations valid as at the submission date of tenders in the scope set out in Appendices 3 and 4 to the SETC. Information included in the declarations shall constitute the provisional confirmation that the Economic Operator is not subject to exclusion from the procedure and complies with the conditions for the participation in the procedure. The Economic Operator shall submit the declarations according to templates which constitute Appendices 3 and 4 to SETC.

5.1.2. A list of persons to participate in the contract performance according to a template which constitutes Appendix 7 to SETC,

5.1.3. A commitment by a third party, referred to in item 4.4 of SETC — if the Economic Operator relies on the resources or standing of the third party according to a template which constitutes Appendix 8 to SETC

5.2. Should the Economic Operators apply jointly for the contract, the declaration referred to in item 5.1.1 shall be submitted by each of the Economic Operators applying jointly for the contract. The declarations are to confirm the compliance with the conditions for participation in the procedure and the absence of grounds for exclusion in the extent that each of the Economic Operators demonstrates the compliance with the conditions for participation in the procedure and the absence of grounds for exclusion.

5.3. The Economic Operator, who relies on other entities' resources, in order to demonstrate, in relation to them, the absence of grounds for exclusion and their compliance, in the extent in which the Economic Operator relies on their resources, the conditions for participation in the procedure, includes information on those entities in declarations referred to in item 5.1.1.

5.4. Declarations regarding the Economic Operator/the Economic Operators applying jointly, and other entities, on whose capabilities or standing the Economic Operator relies on the terms set out in Article 22a of the Act shall be submitted in the original. Documents other than declarations are submitted in the original or a certified true copy.

5.5. The Economic Operator, within 3 days from posting on the website the information referred to in Article 86 para. 5 of the Act, shall be obliged to provide the Contracting Authority with a declaration on belonging or not belonging to the same capital group, as referred to in Article 24 para.

1 point 23 of the Act. Along with the submission of the declaration, the Economic Operator may provide evidence that the relationship with another economic operator shall not lead to any distortion of competition in the contract award procedure. The template of declaration has been included in Appendix 5 to SETC.

5.6. The Contracting Authority may call on the Economic Operator whose tender has been evaluated as the best, to submit within a specified time limit, not shorter than 5 days, declarations or documents, valid as at the submission date, confirming the circumstances referred to in Article 25 para. 1.

5.7. If the Economic Operator's seat or the place of residence is outside the Republic of Poland, instead of the document referred to in item 5.5, the Economic Operator shall submit a document or documents issued in the country where it has its seat or place of residence, confirming respectively that: it has not been put into liquidation and no bankruptcy has been announced in relation to it, issued not earlier than 6 months before the tender submission due date.

5.8. If in the country of a person's residence or in the country where the Economic Operator has its seat or place of residence the documents referred to in item 5.6 are not issued, such needed documents shall be replaced with a document issued not earlier than 6 months before the tender submission due date, which document shall include respectively the Economic Operator's statement, indicating a person or persons authorized to represent the Economic Operator, or a statement of the person that the document was to concern, submitted before a notary public or a judicial or administrative authority or professional or business self-government authority competent for the Economic Operator's seat or place of residence or a place of residence of that person.

5.9. If the Economic Operator fails to submit declarations referred to in item 5.1 of SETC, the declarations or documents confirming circumstances referred to in Article 25 para. 1 of the Act, or other documents necessary to carry out the procedure, or the declarations or documents are incomplete, contain errors or raise doubts indicated by the Contracting Authority, the Contracting Authority shall request that they be submitted, supplemented, or corrected, or explanations to be provided within a time limit specified by the Contracting Authority, unless despite their submission, supplementation or correction, or despite explanations provided, the Economic Operator's tender would be subject to rejection or it would be necessary to cancel the procedure.

5.10. If the Economic Operator fails to submit the required powers of attorney or submitted defective powers of attorney, the Contracting Authority shall call on the Economic Operator to submit such powers of attorney within a time limit specified by the Contracting Authority, unless despite their submission, the Economic Operator's tender would be subject to rejection or it would be necessary to cancel the procedure.

5.11. Documents drawn up in a foreign language, except for documents submitted in English or Ukrainian, shall be submitted together with their translations into Polish.

5.12. Should the Economic Operator indicate that the declarations or documents referred to in Chapter 5 of SETC are available in an electronic form at certain websites from generally available and free of charge databases, the Contracting Authority shall download the declarations and documents indicated by the Economic Operator independently from such databases. If the declarations and documents referred to in the previous sentence are drawn up in a foreign language, except for

documents submitted in English or Ukrainian, the Economic Operator shall be obliged to provide their translations into Polish.

5.13. Whenever in SETC or Appendices to SETC, a requirement is set to sign documents or declarations, or to certify documents as true copies, it is to be understood that such declarations and documents should bear a handwritten signature (signatures) of a person (persons) authorized to represent the Economic Operator/an entity on whose resources or standing the Economic Operator relies, in accordance with the rules of representation specified in a relevant register or a person (persons) authorized to represent the Economic Operator/an entity on whose resources or standing the Economic Operator relies under a power of attorney.

5.14. The Economic Operator's signatures on declarations and documents must be placed in a manner that allows the identification of a signing person.

5.15. In the case of certifying documents as true copies, the documents must bear the Economic Operator's signatures, according to the terms set out above, as well as the "a certified true copy" („za zgodność z oryginałem”) clause. In the case of multi-page documents, every page of the document must be certified to be a true copy, or possibly the certification may be placed on one of the pages with the information on the number of certified pages.

5.16. A power of attorney referred to in item 4.6, an original or a copy certified true by a notary public, should be attached to the tender.

5.17. In the case of the Economic Operators applying jointly for the award of the contract, and in the case of other entities, on whose resources the Economic Operator relies on the terms set out in Article 22a of the Act, the copies of documents relating to the Economic Operator or those entities, respectively, may be certified true by the Economic Operator or those entities, or the Economic Operators applying jointly for the award of the public contract, respectively, in the scope of documents concerning each of them.

## Chapter 6

### REQUIREMENT FOR DEPOSIT

The Contracting Authority shall not require any deposit to be paid.

## Chapter 7

### DESCRIPTION OF THE MANNER OF THE TENDER PREPARATION

7.1. The Economic Operator may submit one tender exclusively. The submission of more than one tender shall result in the rejection of all tenders submitted by the Economic Operator.

7.2. The Contracting Authority shall not admit the submission of tenders for lots.

7.3. The Contracting Authority shall not admit the submission of variant tenders.

7.4. Tenders shall be submitted in written form, under pain of nullity.

7.5. The content of tender must comply with SETC.

- 7.6. Tenders (with appendices) must be legible.
- 7.7. Any modifications made by the Economic Operator in the content of the tender after its preparation must be initialled by the Economic Operator.
- 7.8. The tender must be signed by the Economic Operator, i.e. a person (persons) representing the Economic Operator, in accordance with the rules of representation specified in a relevant register or a person (persons) authorized to represent the Economic Operator.
- 7.9. If a person (persons) signing a tender (representing the Economic Operator or the Economic Operators applying jointly) acts under the power of attorney, this power of attorney in the original or a copy certified true by a notary public must be attached to the tender.
- 7.10. The tender along with its appendices must be drawn up in the Polish or English language. Each document comprising the tender or submitted along with the tender, drawn up in a language other than Polish, except for documents submitted in English or Ukrainian, must be accompanied by its translation into Polish.
- 7.11. The Economic Operator shall bear all costs related to the preparation and submission of the tender.
- 7.12. It is recommended that the pages of tender be permanently joined and numbered sequentially.
- 7.13. It is recommended that each tender page including any content be signed or initialled by the Economic Operator.
- 7.14. If the information included in the tender constitutes a business secret within the meaning of the Act on combating unfair competition, as to which the Economic Operator reserves that must not be made available to other participants of the procedure, must be marked by the Economic Operator with the following clause: "Proprietary information within the meaning of Article 11 para. 2 of the Act of 16 April 1993 on combating unfair competition". The Economic Operator shall demonstrate, not later than on the tender submission due date, that the proprietary information constitutes a business secret, in particular specifying how the conditions, referred to in Article 11 para. 2 of the Act of 16 April 1993 on combating unfair competition, have been fulfilled.
- 7.15. It is recommended that the company's proprietary information be permanently bound and separated from the other (open to public) part of the tender.
- 7.16. The Economic Operator must not restrict the information referred to in Article 86 para. 4 of the Act.
- 7.17. For the purpose of evaluation, the tender must comprise as follows:**
- 7.17.1. A Tender Form drawn up and filled in according to a template in Appendix 6 to SETC,
- 7.17.2. Declarations referred to in item 5.1 of SETC according to templates in Appendices 3 and 4 to SETC,
- 7.17.3. A power of attorney to represent the Economic Operator, if the tender is submitted by an authorized representative.
- 7.17.4. A third party's commitment referred to in items 4.5.1 and 4.5.4 of SETC, if the Economic Operator relies on resources or standing of a third party.

7.17.5. Appendix 7 to SETC (at the Contracting Authority's request)

7.18. A tender should be placed in two envelopes (one inside the other). The inner envelope/packaging should be secured in such a manner that its content cannot be read without breaching security measures before the tenders opening date.

7.19. The following markings shall be placed on each envelope/package:

7.19.1. Name, address, phone number, fax number, the Economic Operator's e-mail address,

7.19.2. Solidarity Fund PL, ul. Wołodyjowskiego 69a, 02-724 Warszawa.

7.19.3. **TENDER for conducting surveys of employers regarding the forecasts of demand for employees in seven regions of Ukraine.**

7.20. The following wording should be placed on the inner envelope: "Do not open before 10:45 on **31 August 2020**," („Nie otwierać przed dniem **31.08.2020** r. do godz. 10:45").

## Chapter 8

### SUBMISSION AND OPENING OF TENDERS

8.1. The tender along with documents, referred to in Chapter 5 is to be submitted by 10:00 on **31 August 2020** at the seat of the Solidarity Fund PL, ul. Wołodyjowskiego 69a, 02-724 Warszawa. Tenders may be submitted from 9:00 to 16:00, Monday to Friday.

8.2. Decisive for keeping the due date for the submission of tender shall be the date and time of tender receipt at the place indicated in item 8.1, and not the date of dispatch by post or courier mail.

8.3. When submitting tenders, in order to meet the deadline referred to in item 8.1, it is to be taken into account that the building, where tenders should be submitted, is under the access control system.

8.4. The opening of tenders shall take place at 10:45 on **31 August 2020** at the seat of the Solidarity Fund PL, ul. Wołodyjowskiego 69a, 02-724 Warszawa.

8.5. The Economic Operator may amend the submitted tender, provided that the Contracting Authority receives written notification of the amendments introduced to the tender prior to the expiry of the time limit for tender submission. The notification regarding the amendments must be submitted on the same terms as the submitted tender, in an envelope marked as specified in item 7.19 with an additional marking: "AMENDMENT" („ZMIANA").

8.6. The Economic Operator may withdraw the tender prior to the expiry of the time limit for the submission of tenders, by written notification signed by a person (persons) authorized to represent the Economic Operator.

8.7. The opening of tenders shall be public. The Economic Operators may attend the tender opening session.

8.8. Immediately after opening the tenders, the Contracting Authority shall put the following information on its website ([www.solidarityfund.pl](http://www.solidarityfund.pl)):

8.8.1. The amount that the Contracting Authority intends to allocate to finance the contract;

8.8.2. Companies (natural persons) and addresses of the Economic Operators who submitted tenders within the time limit;

8.8.3. Prices, contract performance due dates, warranty periods, and payment terms in the tenders.

8.9. Tenders submitted outside the time limit, referred to in item 8.1., shall be returned to the Economic Operators immediately.

## Chapter 9

### TENDER VALIDITY PERIOD

9.1. The Economic Operator shall be bound by the tender for a period of 30 days from the tenders submission due date.

9.2. The Economic Operator may, independently or at the Contracting Authority's request, extend the tender validity period, while the Contracting Authority may only once, at least three days prior to the expiry of the tender validity period, turn to the Economic Operators for their consent to extend this time for a specified period, however not longer than 60 days.

## Chapter 10

### PRICING

10.1. The price shall be specified in Polish zlotys (PLN), rounded to two decimal places. The price should be given as a whole, covering the survey in all 7 regions.

10.2. The price should include all expenses incurred by the Contracting Authority in relation to the service provided by the Economic Operator (VAT tax or the Economic Operator's and the Contracting Authority's — Payer's compulsory social security (ZUS) contributions resulting from laws in force), as well as the costs of accommodation in Ukraine, meals, insurance, local transport, flights/travelling between Poland and Ukraine (unless travels are commissioned separately by the Contracting Authority), computer equipment, mobile communications, and software (word processor/spreadsheet).

10.3. Financial settlements between the Contracting Authority and the Economic Operator shall be carried out in PLN or UAH, depending on the Economic Operator's tax residence.

## Chapter 11

### EXAMINATION OF TENDERS

11.1. In the course of examination and evaluation of tenders, the Contracting Authority may require explanations to be provided by the Economic Operators regarding the content of submitted tenders.

11.2. The Contracting Authority shall correct the following in the text of the tender:

11.2.1. Obvious misprints,

11.2.2. Obvious computational errors considering the calculation consequences of the conducted modifications,

11.2.3. Other errors consisting in non-compliance of the tender with SETC, which do not cause significant changes in the content of the tender,

- notifying immediately the Economic Operator whose tender has been corrected.

11.3. The Contracting Authority reserves that it may first evaluate the tenders and then examine whether the Economic Operator whose tender has been evaluated as the best is subject to exclusion or fulfils the conditions for participation in the procedure.

## Chapter 12

### DESCRIPTION OF CRITERIA WHICH CONTRACTING AUTHORITY SHALL APPLY IN TENDER SELECTION, THE WEIGHTS OF PARTICULAR CRITERIA AND THE METHOD OF TENDER ASSESSMENT

12.1. The Contracting Authority shall evaluate tenders, which have not been rejected, on the basis of the following assessment criteria:

No.	Name of Criterion	Weight
1	Project coordinator's experience in coordinating surveys, employer/enterprise surveys, and research in Ukraine	20
2.	Quantitative research specialist's experience in carrying out surveys, employer/enterprise surveys, and research in Ukraine	20
3.	The size of research sample	20
5.	The service price	40

12.2. Points shall be awarded on a point scale of total 100 points for all criteria, in accordance with the following:

12.2.1. Criterion: the project coordinator's experience in carrying out surveys, employer surveys, and research in Ukraine:

The assessment shall be carried out as specified below, i.e. the following points shall be awarded for the compliance with the below requirements:

- a) At least 8 years of experience in coordinating surveys, experience in coordinating at least 5 employer/enterprise surveys, and 8 surveys in Ukraine - 20 points.
- b) At least 6 years of experience in coordinating surveys, experience in coordinating at least 3 employer/enterprise surveys, and 6 surveys in Ukraine - 15 points.
- c) At least 4 years of experience in coordinating surveys, experience in coordinating at least 2 employer/enterprise surveys, and 5 surveys in Ukraine - 5 points.
- d) At least 3 years of experience in coordinating surveys, experience in coordinating at least 1 employer/enterprise survey, and 3 surveys in Ukraine - 0 points.
- e) Less than 3 years of experience in coordinating surveys or experience in coordinating less than 1 employer/enterprise survey or less than 3 surveys in Ukraine – the rejection of tender for formal reasons.

12.2.2. Criterion: the experience of a person appointed to perform the contract as a quantitative research specialist in carrying out surveys, employer/enterprise surveys, and research in Ukraine.

The assessment shall be carried out as specified below, i.e. the following points shall be awarded for the compliance with the below requirements:

- a) At least 8 years of experience in carrying out surveys, experience in carrying out at least 5 employer/enterprise surveys, and 8 surveys in Ukraine - 20 points.
- b) At least 6 years of experience in carrying out surveys, experience in carrying out at least 3 employer/enterprise surveys, and 6 surveys in Ukraine - 15 points.
- c) At least 4 years of experience in carrying out surveys, experience in carrying out at least 2 employer/enterprise surveys, and 5 surveys in Ukraine - 5 points.
- d) At least 3 years of experience in carrying out surveys, experience in carrying out at least 1 employer/enterprise survey, and 4 surveys in Ukraine - 0 points.
- e) Less than 3 years of experience in carrying out surveys, no experience in carrying out employer/enterprise surveys, no experience in carrying out at least 3 surveys in Ukraine – the rejection of tender for formal reasons.

The coordination of surveys shall mean at least the supervision over the development of survey methodology and tools, sample selection, field implementation, and the elaboration of survey results.

Carrying out a survey shall mean the participation in the development of survey methodology and tools, supervision of quantitative research, quality control of results, and analysis of results.

#### 12.2.3. Criterion: the size of research sample:

1 point shall be awarded for each percent of the increase in research sample (for all 7 regions) as defined in Appendix 1 to SETC. The maximum of 20 points may be obtained.

No proposal to increase the research sample – 0 points.

#### 12.2.4. Criterion: the service price

- a) Under the “service price” criterion, the tender shall be assessed based on the total contract performance price specified by the Economic Operator in the tender, calculated in accordance with Chapter 10 of SETC.
- b) The score based assessment under the “service price” criterion shall be calculated as follows:

$$P = P_{\min}/P_{\text{of}} \times 40 \text{ points}$$

where:

$P_{\min}$  – the lowest proposed price

$P_{\text{of}}$  – the price of assessed tender

$P$  – the number of points awarded to the assessed tender in the price criterion, rounded to the full number.

12.3. The tender with the highest number of points shall be selected as the best (most advantageous).

12.4. The maximum score that the tender may be awarded under the selection criteria is 100 points.

## CONTRACT AWARD

13.1. The Contracting Authority shall award the contract to the Economic Operator whose tender has been selected as the best (most advantageous).

13.2. The Contracting Authority shall immediately inform all Economic Operators about:

13.2.1. the selection of the best tender, providing the company name or the first and last name, registered office or place of residence and address, where such an address is the place of business of the Economic Operator whose tender has been selected, and the company names or first and last names, registered office or place of residence and addresses, where such addresses are places of business of the economic operators who have submitted tenders, as well as scores awarded to the tenders in each contract award criterion, and the total scores,

13.2.2. excluded Economic Operators,

13.2.3. the Economic Operators whose tenders have been rejected, with reasons for the rejection,

13.2.4. the cancellation of procedure,

- providing factual and legal substantiation.

13.3. In cases referred to in Article 24 para. 8 of the PPL Act, the information referred to in para. 13.2.2. shall contain explanation of the reasons for which evidence presented by the Economic Operator was deemed by the Contracting Authority to be insufficient.

13.4. The Contracting Authority shall make the information referred to in para. 13.2 available on the website.

13.5. The Contracting Authority shall not be obliged to disclose the information referred to in para. 1 if such disclosure would be contrary to important public interest.

## Chapter 14

### INFORMATION ON FORMALITIES TO BE COMPLETED FOLLOWING THE SELECTION OF TENDER IN ORDER TO CONCLUDE THE PUBLIC PROCUREMENT CONTRACT

14.1. The persons representing the Economic Operator, when signing the contract, should have documents to confirm their authorization to represent the Economic Operator, unless such authorization results from the documents attached to the tender.

14.2. If the tender of the Economic Operators applying jointly for the contract award has been selected, prior to entering into a public procurement contract, the Contracting Authority may request for an agreement which governs the cooperation between these Economic Operators.

14.3. If the tender of the Economic Operators applying jointly for the contract award has been selected, the Economic Operators shall appoint an authorized representative to conclude the public procurement contract.

## Chapter 15

## REQUIREMENTS CONCERNING THE SECURITY ON DUE PERFORMANCE OF THE CONTRACT

The Contracting Authority shall not require any performance bond.

### Chapter 16

#### MATERIAL PROVISIONS OF CONTRACT

16.1. A draft of contract constitutes Appendix 2 to SETC.

16.2. The contract shall be concluded with the Economic Operators whose tenders have been selected as the best (most advantageous), on the terms set out in item 16.1.

16.3. The Contracting Authority provides for the possibility of introducing significant modifications to the concluded contract in relation to the content of the tender submitted in this procedure due to circumstances not attributable to the Contracting Authority and/or the Economic Operator or the persons involved in the performance of the contract subject, which could not have been foreseen on the conclusion date of the contract. The modifications referred to above are defined in particular as:

16.3.1. A change of legal regulations applicable to the contract performance;

16.3.2. A change of VAT rate in relation to the entire subject-matter of the contract, in the event of a change in the provisions of the Act on tax on goods and services;

16.3.3. A change of the contract performance date due to reasons that are the consequence of a “force majeure” event (i.e. a sudden unexpected event independent of the Parties to the Contract, beyond the control of the Parties to the Contract, for the duration of which the Parties have no influence whatsoever, and which prevents the fulfilment of any obligations under the Contract).

16.4. The contract performance date may be changed, if the Economic Operator reports an obstacle in the performance of a task, which is attributable to the Contracting Authority.

16.5. The contract concluded for a period longer than 12 months shall contain the provisions regarding the rules for changing the amount of remuneration due to the Economic Operator, in the event of a change of:

16.5.1. VAT rate,

16.5.2. The amount of the minimum remuneration for work or the amount of the minimum hourly rate, set out under the provisions of the Act of 10 October 2002 on minimum remuneration,

16.5.3. The rules of social insurance or health insurance or the amount of social insurance or health insurance premium rates,

16.5.4. The rules for collecting and the amounts of contributions to employee capital plans referred to in the Act of 4 October, 2018 r. on employee capital plans,

– if such changes have impact on the costs of contract performance by the Economic Operator.

16.6. Any amendment to the contract may be exclusively made upon written consent of both parties, and shall be drawn up in the form of an annex under pain of nullity.

### Chapter 17

#### DESCRIPTION OF THE METHOD OF PROVIDING EXPLANATIONS

## AND CHANGES TO THE CONTENT OF SETC

- 17.1. The Economic Operator may request the Contracting Authority to explain the content of SETC.
- 17.2. The Contracting Authority shall provide explanations without delay, however, not later than 2 days prior to the expiry of the time limit for the submission of tenders, providing the questions along with explanations to those Economic Operators, who have received SETC, without disclosing the source of question, as well as the Contracting Authority shall post such information on its website, provided that the request for explaining SETC content was received by the Contracting Authority not later than at the end of a day when the half of the time limit for tender submission expires.
- 17.3. The Contracting Authority may amend the content of SETC prior to the tender submission due date. The Contracting Authority shall provide the SETC amendment without delay to those Economic Operators, who have received SETC, and post the amendment on its website.
- 17.4. If, as a result of amending the content of SETC, which does not lead to the change in the content of the contract notice, additional time is required to introduce changes to the tenders, the Contracting Authority shall extend the time limit for tenders submission, as well as it shall notify those Economic Operators who have received SETC, and post such information on its website.
- 17.5. In the event of any discrepancy between the content of SETC and the content of the provided explanation and changes, the information containing the later the Contracting Authority's declaration shall prevail.

## Chapter 18

### INFORMATION ON THE MANNER OF COMMUNICATION BETWEEN CONTRACTING AUTHORITY AND ECONOMIC OPERATORS

- 18.1. The contract award procedure shall be conducted in Polish.
- 18.2. In the contract award procedure, the Contracting Authority and the Economic Operators shall submit declarations, requests, notices, and other information (hereinafter referred to as "correspondence") in writing or by electronic means of communication.
- 18.3. If the Contracting Authority or the Economic Operator submits correspondence by electronic means of communication, each Party, at the request of the other party, shall confirm the receipt thereof.
- 18.4. In the absence of the Economic Operator's confirmation regarding the receipt of correspondence, the Contracting Authority shall presume that the correspondence sent by the Contracting Authority at the e-mail address provided by the Economic Operator, has been delivered to the Economic Operator in a manner that enables the Economic Operator to familiarize with the content thereof.
- 18.5. Any correspondence related to this procurement procedure should be submitted at the following address: Solidarity Fund PL, ul. Wołodyjowskiego 69a, 02-724 Warszawa, e-mail: [sekretariat@solidarityfund.pl](mailto:sekretariat@solidarityfund.pl) (reference number to be provided in the title of e-mail: ZP/2020/03).
- 18.6. In all correspondence related to this procedure, the Economic Operators should use the following reference number: ZP/2020/03.
- 18.7. A person authorized to communicate with the Economic Operators for procurement issues shall be Adam Sauer, e-mail: [sekretariat@solidarityfund.pl](mailto:sekretariat@solidarityfund.pl)

## Chapter 19

### INFORMATION ON LEGAL PROTECTION MEASURES

19.1. Each Economic Operator, as well as any other entity, if it has or had an interest in being awarded the contract, and has suffered or may suffer damage as a result of a breach by the Contracting Authority of the provisions of the Act, shall be entitled to legal protection provided for in Title VI of the Act, as for proceedings below the amount specified in the implementation regulations issued under Article 11 para. 8 of the Act.

19.2. Legal protection measures related to the contract notice and SETC are also granted to organizations included in the list referred to in Article 154 para. 5 of the Act.

## Chapter 20

### OBLIGATION TO PROVIDE INFORMATION

In accordance with Article 13 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and the Act of 25 May 2018 on the protection of personal data (Journal of Laws of 2018, item 1000 as amended) (UODO), be informed that:

20.1. The Solidarity Fund PL with a registered seat in Warsaw, address: ul. Wołodyjowskiego 69a, 02 - 724 Warszawa is the controller (hereinafter referred to as Data Controller) of personal data collected under the public procurement procedure carried out in the course of Act of 29 January 2004 - Public Procurement Law.

20.2. The Solidarity Fund PL in Warsaw has appointed a data protection officer who is responsible for the compliance with data protection legislation, and may be contacted at the following e-mail address: [iod@solidarityfund.pl](mailto:iod@solidarityfund.pl)

20.3. Personal data are processed on the basis of Article 6 item 1 letter c) of GDPR for the purpose related to the public contract award in an open-tender procedure.

20.4. The recipients of personal data shall be the persons or entities to whom the documentation regarding the contract award procedure is disclosed pursuant to Article 8 and Article 96 para. 3 of the Act of 29 January 2004 - Public Procurement Law (PPL).

20.5. Personal data collected in this procurement procedure shall be processed in accordance with the purposes and the basis for processing lawfulness, and PPL Act, for a period of 4 years from the date of completion of this contract award procedure, and if the term of contract exceeds 4 years, the data storage period shall cover the whole term of the contract.

20.6. The obligation to provide data is a statutory requirement specified in the provisions of the PPL Act, related to the participation in the public contract award procedure. The consequences of a failure to provide required data result from the PPL Act.

20.7. Please, be informed that, in relation to collected data, no automated decision-making is carried out, pursuant to Article 22 of GDPR.

20.8. In relation to personal data processed in this contract award procedure, you have a right to:

20.8.1. access your personal data (request for providing a copy of data). This right may exclusively be exercised by sending an e-mail at the following address: [iod@solidarityfund.pl](mailto:iod@solidarityfund.pl)

20.8.2. the rectification of data (update). We hereby inform that the data update shall not cause the erasure of data from before the update, which is related to an obligation to maintain the consistency of data processed by Controller for a specific purpose. This right may be exercised by sending an e-mail at the following address: [iod@solidarityfund.pl](mailto:iod@solidarityfund.pl)

20.8.3. request for the erasure of your related personal data ('right to be forgotten'). The Controller shall recognize the right, unless they are legally obliged to preserve, and thus process, data, despite the right to be forgotten has been exercised. In this case, the legal basis for processing shall be a legal provision (PPL Act), which means that in accordance with Article 17 para. 3 letter b), the designated right shall not apply.

20.8.4. the restriction of processing, the right to request the Data Controller to restrict the personal data processing, subject to the cases referred to in Article 18 para. 2 of GDPR.

20.8.5. object to the processing of personal data referring to the particular situation. We inform that the Controller shall recognize the indicated right exclusively, if the performance of a specific action is not contrary to the applicable provisions of law, which oblige the Controller to process the data. The indicated right does not apply as the legal basis for processing is Article 6 para. 1 letter c) of GDPR.

20.8.6. data portability referred to in Article 20 of GDPR. The indicated right does not apply due to the absence of technical capability to execute the one.

20.8.7. The Economic Operator declares that it has fulfilled its obligation to provide information referred to in Article 13 or Article 14 of GDPR in relation to data of natural persons whose personal data have been acquired directly (employees, contractors) or indirectly (third parties) and made available for the purpose of applying for the public contract award in this procurement procedure.

## Chapter 21

### APPENDICES TO SETC

The following Appendices constitute an integral part of this SETC:

Appendix 1 — Description of the Contract Subject,

Appendix 2 — Draft of Contract,

Appendix 3 — Template of the Declaration that the Economic Operator Complies with Participation Requirements,

Appendix 4 — Template of the Declaration on No Grounds for Exclusion,

Appendix 5 — Template of the Information that the Economic Operator Does not Belong/Belongs to a Capital Group - to be submitted within 3 days from posting on the website the information on opening tenders independently (without any call from the Contracting Authority)

Appendix 6 — Tender Form,

Appendix 7 — List of Personnel – to be submitted when the tender is selected (at the Contracting Authority's request).

Appendix 8 — Third Party's Commitment if the Economic Operator Relies on the Resources or Standing of the Third Party