

**This Guide governs the basic issues
related to cost eligibility
in research and development projects
under the SG OP, Measure 4.3.**

It contains sections/appendices defining:

- Timeframes and rules for cost eligibility
 - Catalogue of eligible costs
 - Catalogue of ineligible costs

- Documenting of expenditures

- VAT as an eligible cost

COST ELIGIBILITY GUIDE UNDER MEASURE 4.3 OF THE SMART GROWTH OPERATIONAL PROGRAMME

The Cost Eligibility Guide under Measure 4.3 of the Smart Growth Operational Programme (the “Guide”) has been developed based on existing legal regulations.

The main aim of the Guide is to facilitate the classification of expenditures for beneficiaries, at the stage of project planning and during subsequent project settlement.

However, the foregoing shall not prohibit or limit the possibility of different arrangements and results of inspections carried out by competent authorities.

Definitions:

Beneficiary – recipient of a grant in the extra-stipendiary grant project of the Foundation for Polish Science – an entity specified in Art. 2(10) and Art. 63 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013; whenever the term “beneficiary” is used in this Guide it should also be understood as the partner and the entity authorised to incur expenditures specified in the project proposal, unless the Guide expressly states that it refers to the beneficiary as a party to the co-financing agreement.

1. Aim of the Guide

The aim of the Guide is to develop, clarify and illustrate the issue of cost eligibility, to facilitate beneficiaries’ development of a cost schedule within the prepared projects and the settlement of received funds, and to improve the monitoring of projects at various stages of evaluation, by providing effective and efficient public finance management and equal opportunities with respect to the access to funding by creating uniform, transparent rules of cost eligibility.

2. Legal grounds

This Guide has been developed taking into account the existing regulations governing finance management in projects subject to financing from the ERDF and the principles of project realisation under the Smart Growth OP.

3. Scope of the Guide

3.1 The Guide sets forth the rules of cost eligibility for projects realised under Measure 4.3, International Research Agendas, of the Smart Growth Operational Programme. It contains a catalogue of eligible costs and a catalogue of ineligible costs.

3.2 The eligibility of the given cost depends on compliance with general rules of eligibility, in particular those provided in the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020*, as well the specifics of the project and the inclusion of the given expenditure in the substantive scope of the project included in the project proposal, constituting an appendix to the co-financing agreement.

3.3 The rules refer to all eligible expenditures incurred by the beneficiary (also by potential partners), whether using the own funds of the beneficiary or the received funding.

3.4 Depending on the type of project, additional eligibility criteria may be specified in the applicable regulations or call for proposals documentation.

4. Rules for cost eligibility

§1 Timeframe of eligibility

4.1 The term “cost eligibility period” refers to the period during which eligible expenditures may be incurred and settled within the project. Expenditures incurred and settled outside the eligibility period shall be ineligible costs. The cost eligibility period for each project is specified in the co-financing agreement.

The incurred expenditures have to be listed in the report submitted by the beneficiary, on a cash basis; i.e. only actually incurred expenditures (cash payments or money transfers from the bank account of the beneficiary) may constitute eligible costs. The following are exceptions from this rule:

- expenditures settled in the form of a lump sum, e.g. expenditures settled at lump-sum rates;
- depreciation costs; and
- deductions specified in Art. 498 of the Polish Civil Code.

All expenditures listed in the report have to be actually incurred and paid during the cost eligibility period and prior to the submission of the report (in which they are listed).

In case of invoices or other accounting documents issued in foreign currency, the amount of the eligible expenditure should be converted into PLN at the foreign currency sales rate determined by the bank realising the payment on the date of the payment, i.e. the principle of reimbursement of actually incurred expenditures should be applied, at the exchange rate of the day on which the beneficiary settled the invoice or other accounting document (not of the date of listing of the invoice or other accounting document). If it is impossible to apply the sales exchange rate of the given bank, expenditures eligible for funding incurred in foreign currency should be converted at another rate compliant with the applicable legal regulations and the accounting policy adopted by the beneficiary. If the payment for the invoice or other accounting document issued in foreign currency is made in instalments, then the amounts of individual instalments of the eligible cost should be converted into PLN under the rules described above.

§2 Verification of cost eligibility

4.2 During the evaluation of the project proposal, the initial assessment of cost eligibility consists in the analysis of compliance with existing regulations (in particular the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020*) as well as with the call for proposals documents applicable to the given edition of the call and the version of the Guide in force as of the date of announcing the call for proposals. Verification shall be conducted basing on information contained in the project proposal.

During the evaluation of the report, the verification of cost eligibility consists in the analysis of its compliance with existing regulations (in particular the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the European Regional Development Fund, the*

European Social Fund and the Cohesion Fund for the years 2014–2020 and the Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020 in force as of the date of incurring the cost) as well as with the call for proposals documents for the given edition of the call, the co-financing agreement, and the Guide. Verification shall be conducted based on the project proposal, the report and the verification (at the premises of the beneficiary) of documents confirming the incurred expenditures.

In order to verify the correctness of agreements concluded as part of the realisation of the project as a result of conducted proceedings, the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020* in the version in force as of the date of initiation of the proceedings leading to the conclusion of the given agreement shall apply. Initiation of the proceedings means the publication of an announcement on the initiation of proceedings or the intention to award a public contract, as specified in section 6.5 of the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020*, or the recruitment of employees pursuant to an employment relationship, provided that the beneficiary proves the publication of the announcement on the initiation of proceedings.

Projects with a funding value exceeding PLN 3 million shall be subject to mandatory external audit pursuant to Art. 34 of the Act on the Rules for Financing of Science. The cost of the audit constitutes an eligible cost if the audit began after incurring of at least 50% but no later than incurring of 80% of the planned project expenditures.

§3 Eligible costs

4.3.1 The expenditure may be deemed eligible if all of the following conditions are met:

- The expenditure was actually incurred during the period specified in the co-financing agreement, pursuant to the conditions defined in section 6.1 of the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020*.
- It is compliant with applicable European Union and national law.
- It is compliant with the *Smart Growth Operational Programme 2014–2020* and the *Detailed Description of the Priority Axes of the Smart Growth Operational Programme 2014–2020*.
- It has been incurred in compliance with the co-financing agreement.
- It was included in the substantive scope of the project contained in the project proposal.
- It is necessary for the realisation of the project and was incurred in connection with the realisation of the project.
- It has been incurred in a transparent, rational and efficient way, in compliance with the principle of achieving the best effects from the given expenditures.
- It has been appropriately documented.
- It has been listed in the report.
- It refers to delivered goods, provided services or performed works.

- It has been incurred in compliance with the Public Procurement Law (if applicable) or the principle of competitiveness specified in Appendix No. 3, “*Manner of incurring expenditures in compliance with the principle of fair competition.*”
- It does not constitute an ineligible expenditure pursuant to European Union and national law.
- It is compliant with the conditions for deeming it an eligible expenditure specified in the call for proposals documentation.

4.3.2 Eligible costs are costs calculated pursuant to currently binding accounting principles, the principles of proper finance management and the practices of the beneficiary (accounting policy). For the purposes of settlement of the project costs, each of the beneficiaries shall apply the practices (guidelines) adopted by its organisation. The possibility to settle the incurred expenditures pursuant to the accounting principles applied by the given organisation does not mean that the beneficiaries may create new principles especially for the purposes of the project.

4.3.3 The beneficiary of the project is obliged to incur expenditures in compliance with Art. 44(3) and Art. 162(3) of the Public Finance Act.

§4 Documenting incurred expenditures¹

4.4.1 The costs should be documented in a manner that enables the evaluation of the realisation of the project from the financial and substantive points of view.

4.4.2 Beneficiaries and partners realising the project are obliged to keep separate bookkeeping records for the project in a manner that enables the identification of individual accounting and banking operations.

4.4.3 Beneficiaries that are not obliged to maintain any bookkeeping records pursuant to the existing regulations (the Accounting Act, tax laws) are obliged to maintain a register of documents related to operations connected with the realisation of the project (respectively: accounting books and tax books).

4.4.4 The evidence of incurring an expenditure is an invoice or other accounting document of equivalent probative value along with confirmation of payment. Each original accounting document (invoice, receipt, etc.) has to be annotated specifying the following information:

- name (title) of the project as specified in the co-financing agreement;
- date and number of the co-financing agreement;
- amount of the eligible cost;
- description of the connection between the cost and the co-financing agreement – the description of the invoice should provide information about the category of expenditures approved in the co-financing agreement to which the expenditure documented by the given invoice refers;
- information about the financing of the project from ERDF funds – e.g. “Project co-financed from the funds of the European Regional Development Fund”;
- assignment and item number of the document;
- information about formal and substantive correctness;
- annotation on the method of payment (if not stated in the document);
- if the given accounting document is only partly connected with the project, the description should unequivocally state the part of the expenditure, divided into eligible and ineligible costs, that is connected with the project, by specifying certain elements or the percentage share of the expenditure in the project pursuant to the accounting document.

¹ Does not apply to simplified methods of expenditure settlement.

Invoices or other accounting documents issued in foreign currency should additionally contain the exchange rate used for the conversion of the foreign currency into PLN pursuant to the rules specified in section 4.1 of the Guide. If the payment for the invoice or other accounting document issued in foreign currency is made in instalments, then the annotation should also contain the exchange rates for specific instalments.

4.4.5 Documents confirming costs connected with depreciation incurred as part of the project are, in particular, accounting documents or excerpts from accounting records that reflect the amount of the incurred costs, certified for compliance with the original document by authorised persons, or, in the case of entities that are not obliged to revalue fixed assets, an appraisal prepared by an authorised entity.

4.4.6 If expenditures are documented by an electronic invoice, an accounting document recorded on a digital carrier should be presented which is the equivalent of a traditional accounting document, along with the description in the electronic version, in compliance with the requirements of the institution which is a party to the co-financing agreement.

§5 Prohibition of double financing

4.5.1 Total or partial double financing of a given cost is prohibited.

4.5.2 Double financing refers, in particular, to:

- listing the same cost as a part of several different projects co-financed from national or European funds;
- financing the costs of VAT from the funds of the co-financed project and then recovering the VAT from the state budget pursuant to the VAT Act of March 11, 2004 and regulations implementing the act;
- purchasing a fixed asset using funds from a national grant or EU co-financing and then listing the costs of depreciation of such asset under the co-financed project;
- listing a cost as part of settlement of a subsidy and then listing the same cost under the co-financed project;
- settlement of an expenditure incurred by the lessor for the purchase of a leased asset pursuant to financial leasing and then settlement of the instalments paid in connection with leasing of the asset as part of the project;
- financing pursuant to a civil-law contract of the tasks performed by a project staff member which fall into the scope of their normal duties under the employment relationship;
- purchase of a used fixed asset that was co-financed from national subsidies or EU co-financing² during the previous 7 years (10 years for real property);
- situations where the funds for pre-financing of the EU contribution had been obtained in the form of a loan which was later written off;
- receiving for the eligible costs of the given project or part of the project non-refundable financial support from several sources (national, European or other) in a total amount exceeding the maximum permitted amount of co-financing for the given project or part of the project;
- covering of the eligible costs of the project by both loan and guarantee support;

² The 7- or 10-year periods are calculated in calendar months, starting from the purchase date (e.g. 7 years from November 9, 2007 is the period from that date to November 9, 2014).

- settlement of the same expenditure as part of indirect and direct project costs.

Listing an incurred cost as part of the project shall not be deemed double financing if it was financed from own funds of the beneficiary (revenues obtained from business activity, other sources), even if they constitute public funds pursuant to the Public Finance Act.

5. VAT

5.1 VAT constitutes an eligible cost only if it was incurred by the beneficiary in connection with eligible costs and the beneficiary has no legal possibility to recover the VAT paid (VAT subject to recovery pursuant to the VAT Act shall not be deemed eligible, even if it was not actually recovered by the beneficiary, if there was a possibility to do so under legal regulations – in such case the VAT is always an ineligible cost).

5.2 The possibility to recover the VAT shall be determined pursuant to the VAT Act of March 11, 2004.

5.3 The beneficiary is obliged to submit a statement concerning the eligibility of the VAT.

5.4 The lack of a legal possibility to recover VAT occurs if the beneficiaries are not entitled to reduce the amount of output VAT (connected with the taxed operations within the project) by the amount of input tax (connected with the costs of the purchased goods and services and fixed assets).

Such situations may occur in the following cases:

5.4.1 The project does not or will not generate any revenues – the purchased goods, services or fixed assets are not used for taxed sale – or there is no direct, indisputable connection between the purchased goods, services or fixed assets and taxable operations.

5.4.2 The beneficiary is legally exempt from VAT.

5.4.3 The beneficiary performs only actions that are legally exempt from VAT.

5.5 If, as part of the proposed project, the beneficiary uses the purchased goods, services or fixed assets for the performance of actions that entitle it to reduce the output VAT by the input VAT as well as actions that do not entail such right, and if the beneficiary is able to determine the amount of input VAT connected with activities that do not entitle it to reduce the output VAT, the eligible cost may be only the part of the VAT that is connected to the activities that do not entitle the beneficiary to reduce the amount of output VAT by the amount of input VAT.

5.6 If the beneficiary is unable to separate the total or partial amounts specified in item 5.5 and thus settles the VAT by reducing the amount of output VAT by the portion of the input VAT that can be proportionally assigned to activities that entitle it to reduce the amount of output VAT (the “sale coefficient” as defined in Art. 90(2) of the VAT Act of March 11, 2004), then the VAT in such project constitutes an ineligible expenditure as a whole.

6. Own contribution

6.1 In certain cases, the beneficiary is obliged or has the possibility to make its own contribution in the declared amount to cover part of the eligible costs in the realised project.

6.2 An own contribution may be made in cash (cash disbursement or money transfer from the bank account during the project) or in a form specified in Appendix 1 (e.g. depreciation).

7. *Appendices*

Appendix No. 1. Catalogue of eligible costs under Measure 4.3 International Research Agendas

Appendix No. 2. Catalogue of ineligible costs

Appendix No. 3. Manner of incurring expenditures in compliance with the principle of fair competition

Eligible costs of beneficiaries under the Measure 4.3 of the SG OP include the following cost categories:

Direct costs	Remuneration (W) Subcontracting (E) <i>Cross-financing (C):</i> <ul style="list-style-type: none">- stipends- fellowships- training courses Other direct costs (Op) , including: <ul style="list-style-type: none">- costs of equipment and intangible assets- costs of land and buildings- other operational costs
Indirect costs (O)	

W – Remuneration costs

This category includes eligible **remuneration costs along with non-payroll labour costs**, such as social security and health insurance contributions, of **individuals employed for conducting research** (research workers, technical personnel, and other auxiliary staff members) and **technology brokers**, as far as the remuneration is directly connected with the realisation of the project subject to co-financing.

Documenting the work performed for the project:

- for **employment contracts – the payroll**
If the given employee is not involved in the project on a full-time basis, the eligible part of the remuneration is determined based on:
 - **delegating** the employee to the project on a part-time basis, with the specification of their scope of duties within the project (optimal solution),
 - **work time sheet** containing a description of the tasks performed – for employees who work for the co-financed project on an irregular basis;
- for **contracts of mandate – the invoice**, list of duties within the project, acceptance protocol.

Expenditures connected with the hiring of a person who performs tasks within the project(s) are eligible provided that:

- the resulting workload does not prevent the person from proper and effective performance of all tasks entrusted to him or her;
- the total professional involvement of such person in the realisation of all projects financed from structural funds and activities financed from other sources, including own funds of the beneficiary and other entities, does not exceed 276 hours per month;
- in the case of mandate contracts – the performance of tasks is confirmed by an acceptance protocol, confirming the proper performance of tasks, fulfilment of the conditions specified in points 1 and 2, and the number and specification of hours devoted to the performance of tasks under the project in the given month.

The above conditions should be met throughout the whole period of eligibility of the remuneration of the given employee in the project.

The following payroll and non-payroll elements of personnel remuneration constitute eligible costs, **proportionally to the involvement of the given employee in the project realisation:**

- base remuneration, bonuses and awards (apart from service anniversary awards), including appreciation bonuses resulting from the internal remuneration rules of the given organisation specifying uniform rules for all employees (also those not involved in the realisation of projects co-financed from the SG OP);
- allowances for the performance of tasks or duties in the project, provided that the base remuneration of the worker receiving such allowance is not financed from the funds of the project co-financed from the SG OP;
- function allowance for performing managerial functions in the given organisation;
- special allowance resulting from the specificity and nature of the performed tasks;
- allowance for long-term work;
- remuneration for the period of holiday leave (proportionally to the percentage of involvement of the given employee in the realisation of the project in the month when the leave took place, or if this is impossible to determine, in the month preceding the month in which the leave took place);

- remuneration for the period of inability to work pursuant to applicable social security regulations (proportionally to the percentage of involvement of the given employee in the realisation of the project in the month when the inability to work occurred, or if this is impossible to determine, in the month preceding the month in which the inability occurred);
- additional annual remuneration¹ including social security and non-insurance fund contributions is eligible proportionally to the period during which the employee performed the tasks for the purposes of the project;
- contributions for:
 - pension security, including the Employee Pension Plan,
 - disability insurance,
 - sickness insurance,
 - health insurance,
 - accident insurance;
- Labour Fund contributions;
- contribution for the Guaranteed Employment Benefit Fund;
- advance personal income tax payment.

E – Subcontracting costs

Subcontracting costs should be understood as **subcontracting to third parties part of the substantive work under the project** that is not performed on the premises and under direct supervision of the beneficiary, and the costs of resources made available by third parties, e.g. the costs of lease of the laboratory along with research equipment.

Auxiliary services necessary for the performance of project-related tasks, such as legal or accounting services, are not deemed to be subcontracting.

All contracts for the performance of specific work should also be settled within this category.

NOTE: In the case of contracts for the performance of specific work, the performance of tasks has to be confirmed by an acceptance protocol, confirming the proper performance of tasks and the number and specification of hours devoted to the performance of tasks under the project in the given calendar month.

Subcontracting costs are excluded from the basis for calculating the lump sum of indirect costs of the project.

NOTE: The call for proposals documentation may specify a limit for the E category, defined as a specific percentage of eligible costs.

C – Cross-financing

The following types of costs are eligible within this category:

- **stipends** for graduate and doctoral students involved in conducting research under the given project;
- **fellowships** of scientists or research team workers to the extent related to the research work conducted in the project, commercialisation of the research results, or work related to modern technologies or project management;
- **training** for scientists or research team workers to the extent related to the research work conducted in the project, commercialisation of the research results, or work related to modern technologies or project management.

¹ Additional annual remuneration of project staff members is eligible only if it results from the regulations of labour law.

NOTE: As far as **cross-financing costs (category C)** are concerned, the total amount of eligible expenditures in the project must not exceed **30% of the total eligible costs of the project**.

Cross-financing costs are excluded from the basis for calculating the lump sum of indirect costs of the project.

Op – other direct costs

I. Costs of research and development equipment and intangible assets

The following types of costs are eligible within this category:

- Expenditures for the purchase of **low-cost research equipment** (i.e. equipment of a value not exceeding PLN 500,000.00 for the exact sciences, technologies and life sciences or PLN 150,000.00 for humanities and social sciences) necessary for the realisation of the project – **up to 5% of the total eligible costs of the project**. **NOTE 1:** The application for funding should list the planned purchases of low-cost research equipment along with a substantive justification stating expressly that the unit realising the IRA does not possess any equipment that could be used as a substitute and that obtaining access to such equipment in another unit would be unreasonable from the economic point of view. Planned purchases of low-cost research equipment shall be subject to evaluation by experts.

NOTE 2: During the realisation of the project, not earlier than completion of the competition procedure and the selection of the research group leader in the unit realising the IRA, the beneficiary may submit to the Foundation for Polish Science an application for the purchase of specialist equipment, provided that:

- a) the application shall be submitted on demand of the Foundation for Polish Science, within the periods specified by the Foundation for Polish Science;
- b) the application shall be subject to evaluation by experts appointed specially for this purpose;
- c) the application shall be considered taking into account, among other things, the analysis of available similar equipment in Poland, based on available lists and equipment databases;
- d) a representative of the National Centre for Research and Development shall participate in the session of the evaluating panel as an observer;
- e) consent for the purchase of specialist equipment cannot be granted to projects realised with the participation of a scientific unit that has already received significant funding for research equipment under the Innovative Economy Operational Programme (IE OP) or the Infrastructure and Environment Operational Programme (IaE OP) with respect to the scope of research conducted in the IRA project. The Foundation for Polish Science shall consult the applications for the purchase of specialist equipment from such units with the Intermediate body for Axis IV of the SG OP (NCRD), in particular in order to confirm the receipt of significant funding and to confirm that the thematic scope of the IRA project coincides with the purpose for purchase of equipment under the IE OP or the IaE OP.

- Expenditures on **transport, installation and start-up** of the research equipment purchased under the project along with **specialist training in the operation thereof**, expenditures on checking and testing the research equipment purchased under the project and **technical assistance** provided by the manufacturer during the initial period of operation of the research equipment purchased under the project, provided that **these expenditures do not increase the initial value of the tangible fixed asset pursuant to the Accounting Act**.

- Expenditures on the **modernisation of research equipment, devices and other elements of laboratory equipment** owned by the beneficiary or granted for use free of charge – only **upon written consent of the Foundation for Polish Science**.

- Expenditures on the **purchase** of technological know-how and patents, i.e. intangible assets (IA) in the form of patents, licences, know-how, technological knowledge not protected by patent, expert opinions, analyses and research reports, etc.

- **Depreciation expenses or costs of paid use of:**

- **research equipment** and other equipment used for the purposes of research;

- technological know-how and patents purchased or used pursuant to licences **obtained from third parties on market conditions**, i.e. **intangible assets (IA)** in the form of patents, licences, know-how, technological knowledge not protected by patent, expert opinions, analyses and research reports, etc.

within the scope and during the period necessary for the realisation of the project subject to co-financing.

1/ Depreciation

Depreciation expenses due to decrease in value constitute eligible costs if all of the following conditions are met:

- The equipment or IA is necessary for the proper realisation of the project and is used in direct connection with the project.
- The equipment or other devices for research purposes are listed in the register of fixed assets of entities that purchased them.
- Depreciation expenses have been calculated in compliance with accounting laws and in compliance with the accounting policy of the entity.
- The eligible value of depreciation expenses refers only to the period of realisation of the project.
- If the equipment or IA is also used for purposes other than the project realisation, then only the part of the depreciation expense corresponding to the proportional use of the asset in the project realisation is eligible.
- The purchase of equipment or IA was not co-financed from national subsidies or EU funds.
- The purchase of equipment or IA was not settled as an eligible cost of the project.
- Depreciation expenses refer to equipment or IA that have been purchased in a rational and efficient way, i.e. their prices do not exceed market prices and rates.

The residual value of the fixed tangible asset or the IA after the completion of the realisation of the project does not constitute an eligible cost.

2/ Paid use of equipment/IA

Expenditures incurred as a result of paid use of equipment (leasing, hire) or intangible assets (licence fees) constitute eligible costs to the extent and during the period necessary for the realisation of the project subject to co-financing.

As far as **leasing (operational or financial)** is concerned, the eligible cost is the amount of the **leasing instalment** issued for the beneficiary **connected with the repayment of the principal amount** (without interest and other fees) of the subject of the leasing agreement.

As far as leasing costs are concerned, the maximum amount of eligible costs must not exceed the market value of the goods subject to leasing. This means that the amount of eligible costs must not exceed:

- the amount stated on the receipt issued to the lessor by the provider of the co-financed goods – for goods purchased not earlier than 12 months prior to submission of the project proposal by the beneficiary;
- the market value of the goods subject to leasing specified in the valuation prepared by a certified appraiser or in the valuation prepared based on the methodology presented by the beneficiary –

for goods purchased earlier than 12 months prior to submission of the project proposal by the beneficiary. The valuation may be replaced with documentation justifying the selection of the subject of leasing in a tender procedure that guarantees compliance with the fair competition principle.

II. Costs of land and buildings

Costs of land and buildings are eligible within the scope and during the period necessary for the realisation of the project.

The following types of costs are eligible within this category:

- **land lease** – only lease instalments, without interest;
- **perpetual usufruct of land** – only perpetual usufruct fees, without interest;
- **depreciation of buildings** – if the buildings are also used for purposes other than the project realisation, then only the part of the depreciation expense corresponding to the proportional use of the buildings for the realisation of the co-financed project is eligible;
- expenses connected with **adapting the laboratory space** owned by the beneficiary.

As far as the **costs of land and buildings** specified above (land lease, perpetual usufruct of land, depreciation of buildings, and adaptation of space) are concerned, the total amount of eligible expenditures in the project **must not exceed 10%** of the total **eligible costs of the project**.

III. Other operational costs

Other operational costs include, among others, the costs of materials, consumables and similar products, incurred in direct connection with the realisation of the co-financed project.

The following types of costs are eligible within this category:

- **materials** such as raw materials, semi-finished products, and reagents;
- **laboratory equipment** (generally all purchases that do not meet the requirements to be qualified as fixed assets pursuant to the Accounting Act);
- **cost of maintenance of technological lines**, experimental installations etc., during the period and proportionally to their use in the project;
- **lease of laboratory space** (i.e. premises suitable for conducting research, e.g. due to the required certificates or applied security systems, without laboratory equipment);²
- **elements used for the construction and permanently installed in the prototype, pilot or demonstration installation;**
- costs of the **publication of project results** in journals listed in the JCR and costs of **presentation of project results during conferences** (without business travel expenses that should be settled as part of indirect costs);
- costs of **intellectual property management;**
- **operating costs of research equipment** owned by the unit realising the IRA or granted for use to such unit free of charge;
- costs of **international co-operation within the project and co-operation with businesses** (including the costs of realisation of part of the project under the supervision of a person delegated from the IRA unit in a strategic partner unit abroad or in a different unit co-operating within the project);

² The costs of lease of spaces other than laboratory space shall be covered within the lump sum of overall costs.

- cost of the **functioning of the International Research Agenda**, including costs of meetings of the International Science Committee or the Science Council, expert or supervisory bodies in Poland or abroad, and the travel and accommodation expenses connected with the stay in Poland of individuals involved in the realisation of the R&D project or in the functioning of the International Research Agenda, who are not employees of the IRA unit;
- **project promotion costs** (publication, website costs, etc. – without business travel expenses that should be settled as part of indirect costs) **up to 1% of the eligible costs of the project**;
- **cost of external audit** if the audit started after incurring of at least 50% but not later than 80% of the planned expenditures connected with the project realisation.

O – Indirect costs

Indirect costs include, among others, the following types of costs:

- a) Building lease or maintenance costs, including:
 - building lease, rent or depreciation costs;
 - utility costs (electricity, gas, water charges etc.)
 - cleaning and security costs of the premises;
 - costs of adapting the premises for the purposes of realisation of the project;
 - costs of property insurance;
 - costs of waste disposal;
 - costs of periodic maintenance and inspection of equipment;
- b) Administration costs, including:
 - stamp duties and notarial fees;
 - costs of postal service, telephones, Internet, courier mail etc.;
 - costs of banking services, except for the costs of maintaining a bank account;
 - costs of accounting, legal and similar services;
 - costs of office supplies;
- c) Costs of remuneration, including non-payroll elements of remuneration, of management and administrative personnel, including:
 - Costs of remuneration, including non-payroll elements of remuneration, of project management personnel;
 - Costs of remuneration, including non-payroll elements of remuneration, of service personnel (e.g. human resources, finance, accounting, administration services);
- d) Travel expenses of persons involved in the realisation of the project.

Indirect costs incurred in connection with the realisation of the co-financed project are settled on a lump-sum basis, as a percentage of the direct costs with the exclusion of subcontracting costs (category E) and cross-financing costs (category C), pursuant to the following formula:

$$O = (W + Op) \times \max 17\%$$

Costs settled on a lump-sum basis shall be deemed expenditures incurred. For the purposes of the project, the beneficiary is not obliged to collect or annotate accounting documents in order to confirm the incurred expenditures that have been settled as indirect costs.

NOTE: Costs settled on a lump-sum basis as part of indirect costs must not be listed as part of the direct costs of the project (in the W, E, C and Op categories).

Ineligible costs include, among others:

- Costs incurred outside the eligibility period specified in the grant agreement;
- Costs that do not meet the eligibility criteria specified in the Guide and in the *Guidelines of the Minister of Infrastructure and Development on cost eligibility*;
- Undocumented or inappropriately documented costs;
- VAT that may be recovered pursuant to the VAT Act of March 11, 2004 and regulations under the act;
- Commissions collected as part of foreign exchange transactions;
- Costs of maintaining bank accounts;
- Costs incurred in connection with the establishment of security for proper performance of the obligations resulting from the grant agreement, with the exception of expenditures on the establishment of security if the beneficiary realising the proposed project receives funding in the form of an advance payment, which have been provided for in the aid programme or in the terms and conditions of the call for proposals;
- Costs incurred in connection with the purchase of consulting services, including tax consulting, legal consulting, advertising or promotion, which constitute a part of the permanent or temporary operations of the business or are connected with ongoing operational expenses of the beneficiary;
- Expenditures incurred pursuant to the cross-financing principle that exceed the limit specified for the given project;
- Interest charged on debt;
- Costs of loans or credit incurred for the pre-financing of the grant;
- Fines and penalties;
- Settlement of the purchase of items owned by the beneficiary or rights to which the beneficiary is entitled by means of a debit note;
- Expenditures connected with the functioning of a disputes committee, expenditures related to court proceedings (including expenditures on the preparation and legal handling of court proceedings) and the costs of realisation of any decisions that may be issued by a court or by a disputes committee;
- Expenditures on the purchase of a second-hand fixed tangible asset that had been financed from EU funds or national subsidies for the preceding 7 years (10 years in case of real property);¹
- Expenditures incurred on the purchase of developed or undeveloped real property, perpetual usufruct right or the acquisition of other legal title to real property (e.g. limited property rights: lease, tenancy, usufruct) exceeding 10% of the total eligible costs of the project;

¹ The 7- or 10-year periods are calculated in calendar months, starting from the purchase date (e.g. 7 years from November 9, 2007 is the period from that date to November 9, 2014).

Appendix No. 2. Catalogue of ineligible costs

- Expenditures connected with filling out the project application for all projects and the application for confirmation of financial contribution – for large projects;
- Success fee for the co-author of the application who prepares, for example, the feasibility study, calculated as a percentage of the amount of co-financing obtained or applied for, paid by the beneficiary;
- Cost of external audits of expenditures on science if the audit started before realisation of 50% or after realisation of 80% of the planned project expenditures;
- Expenditures connected with leasing agreements other than the principal amount of the leasing instalment – tax, profit margin of the financing entity, interest on cost refinancing, insurance fees, overall costs, costs of assembly and adaptation of tangible fixed assets for use, and costs of replacement parts connected with the leased equipment;
- Transactions of a value exceeding EUR 15,000 settled in cash (regardless of the number of payments pursuant to the given transaction), in connection with the obligation specified in Art. 22 of the Business Freedom Act of July 2, 2004 (Journal of Laws 2013 item 672, as amended);
- The following payroll and non-payroll elements of remuneration:
 - anniversary bonus;
 - equivalent for unused holiday leave;
 - group life insurance contribution (treated as taxable income of the employee);
 - additional health subsidy;
 - cash equivalent (e.g. reduced payment for electricity);
 - electricity subsidy (treated as taxable income of the employee);
 - use of company car – commuting to/from work and home;
 - deductions for the Company Social Benefit Fund;
 - benefits realised from the Company Social Benefit Fund;
 - allowances financed from the state budget (e.g. nursing benefit, family benefit) or from the funds of the Social Insurance Institution (e.g. maternity, rehabilitation, paternity, attendance, compensation benefit);
 - benefit for the period of inability to work, pursuant to applicable social security regulations;
 - remuneration for overtime work;
 - costs of initial and periodic medical examinations;
 - glasses subsidy;
 - benefits for foreign languages, for non-smoking, and other benefits of this type introduced by the employer, compensation under a non-competition clause, or other compensation that the employer is obliged to pay;
 - food vouchers for employees;
 - contributions for the State Fund for Rehabilitation of Disabled Persons (PFRON);
 - redundancy pay for employees of the project;
 - retirement/pension severance pay;
 - holiday leave subsidies.

Costs incurred in a manner non-compliant with the Public Procurement Law or the principle of competitiveness (specified in Appendix No. 3 – *Manner of incurring expenditures in compliance with the principle of fair competition*) may be deemed ineligible in part or in whole.

Rules for implementation of public procurement

A **public contract** is a written contract for pecuniary interest concluded between a contracting entity and a contractor, having as its object services, supplies or works foreseen in the project, provided that this refers both to contracts awarded pursuant to the Public Procurement Law ("PPL") and contracts awarded pursuant to the principle of competitiveness.

General principles

Public contracts are awarded under the project pursuant to:

- a) The PPL, for beneficiaries that pursuant to PPL Art. 3 are obliged to apply the PPL;
or
- b) The principle of competitiveness, applicable to:
 - i. beneficiaries that pursuant to PPL Art. 3 are not obliged to comply with the PPL, for public contracts of a net value exceeding PLN 50,000 (i.e. exclusive of VAT),
 - ii. beneficiaries specified in item a):
 - for public contracts of a value not exceeding the amount specified in PPL Art. 4(8) but exceeding the net value of PLN 50,000 (i.e. exclusive of VAT), or
 - for sector contracts of a value not exceeding the amount specified in the regulations issued pursuant to PPL Art. 11(8) but exceeding the net value of PLN 50,000 (i.e. exclusive of VAT).

If application of the PPL is excluded pursuant to applicable legal regulations other than the PPL itself, the beneficiary specified in PPL Art. 3 shall conduct the public contract procedure pursuant to those regulations.

Should the beneficiary violate the terms and conditions or procedures for awarding a public contract, the Foundation for Polish Science shall deem the expenditures incurred under such contract, in whole or in part, to be ineligible, pursuant to the regulation of the competent minister for regional development issued pursuant to Art. 24(13) of the Act on Rules for Implementation of Cohesion Policy Programmes Financed under the 2014–2020 Financial Perspective of July 11, 2014 (Journal of Laws item 1146, as amended).

Preparation of documentation of public contract

The beneficiary is obliged to prepare and conduct the procedure for the award of a public contract under the project in a manner that ensures, in particular, fair competition and equal treatment of all contractors.

During the procedure for the award of a public contract the internal procedures of the beneficiary on awarding public contracts, e.g. in the form of internal instructions or by-laws, shall be applied. These procedures should take into account all stages of the procedure along with the specification of individual actions and positions responsible for their performance.

Detailed schedule of works

With respect to the most risky procedures¹ it is recommended to develop a detailed schedule of works with the aim of enabling proper and efficient performance of the public contract. The schedule of works should be developed at the initial stage of project realisation, before the procedure is conducted, and it should contain the dates of realisation for each stage, i.e.:

- a) preparation of documentation related to the public contract, including the description of the subject of the contract,
- b) initiating the procedure for award of the public contract,
- c) conducting the procedure for award of the public contract,
- d) conclusion of the contract,
- e) performance of the public contract,
- f) acceptance of performance of the public contract documented by an acceptance protocol,
- g) verification of invoices issued by the contractor.

At a minimum, the schedule of works should cover information about the procedure for awarding the public contract, the commencement and end dates of each stage, and identification of the individuals responsible for the performance of each task. In order to provide an audit trail, the schedule of works should be archived together with the project documentation.

Decentralised contract

In order to obtain the most competitive offers, and considering the ban on dividing public contracts in order to avoid the application of statutory provisions, in the case of beneficiaries that are central units realising the project with the help of local/field units, it is recommended to conduct the public contract procedure on the central level, unless certain prerequisites exist that justify a different approach. The decision to award a decentralised contract may be taken provided that the analysis of both purchase methods demonstrates the financial benefits and higher competitiveness of the decentralised solution. The existence of these prerequisites should be documented in the form of an estimate and comparison of costs and benefits connected with the selection of both purchase methods: central and decentralised.

Estimating the value of the contract

The estimated value of the public contract should be based on the current market prices of the contracted goods. For this purpose, whenever possible, a market analysis should be conducted among at least three potential contractors for the given public contract.² If there are fewer than three potential contractors on the market, a justification stating the objective grounds confirming this should be presented. The estimation of the value of the public contract may also be conducted based on similar public contracts awarded during the period specified in PPL Art. 35(1), provided that the contractors were selected in a competitive procedure. Documentation concerning the manner of estimating the value of the public contract should be archived together with the documentation of the public contract.

The value of the public contract should be estimated with all due diligence, taking into account any possible supplementary contracts, and must be documented. It is forbidden to divide the public contract so as to lower its estimated value; however, for the purposes of establishing the value of the public contract it should be considered that all of the following conditions have to be met:

- a) the services, supplies and works are identical with respect to function or kind,
- b) the public contract may be awarded at the same time,

¹ Risk assessment should take into account factors such as the contract value, time limits resulting from the project schedule, availability of potential contractors, the feasibility of the contract, the level of complexity of the subject of the contract, and logistical issues.

² Does not apply to contracts for recurring services or supplies, specified in PPL Art. 34(1).

c) the public contract may be performed by a single contractor.

If the public contract is granted in parts (due to certain economic, organisational or substantive reasons), the value of the public contract shall be calculated as the total value of the individual parts.³

The estimated value of the public contract should be valid at the time of publication of the contract notice pursuant to PPL Art. 35. If circumstances affecting the calculation of the contract value change after the calculation is made, the contracting entity shall amend the calculation prior to the start of the award procedure. The manner of estimating the value of the public contract should be documented.

Description of the subject of contract and dates

The description of the subject of the public contract shall be prepared using the terms and codes specified in the Common Procurement Vocabulary⁴ specified in Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (Official Journal L 340 of 16.12.2002, p. 1, as amended; Official Journal, Polish special edition, chap. 6, vol. 5, p. 3).

The dates for all stages of the public contract award procedure shall be determined pursuant to national legal regulations and the *Guidelines on cost eligibility under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020*, and in a manner that ensures compliance with such dates (this refers to both the shortening and prolongation of periods). The schedules should be determined taking into account the complexity of the public contract award procedure, the nature and subject of the contract, and the available personnel of the contracting entity⁵ and their duties, skills and experience.

Conditions for participation in the procedure and bid evaluation criteria

All contractors shall have the same access to information related to the contract, none of the contractors shall be privileged in comparison to the others, and the procedure shall be conducted transparently.

The terms and conditions for participation in the public contract award procedure shall be determined in a manner appropriate to the subject of the public contract, but they must not limit competition by establishing requirements that exceed the needs required for achievement of the project objectives and lead to discrimination against contractors.

The evaluation criteria for bids submitted in the public contract award procedure shall contain requirements connected to the subject of the contract, and:

- a) the criteria must not limit competition by establishing requirements that exceed the needs required for achievement of the project objectives and lead to discrimination against contractors;
- b) generally, apart from requirements related to price, the criteria should also specify other requirements related to the subject of the contract, such as quality, functionality, technical parameters, environmental, social and innovative aspects, servicing, period of performance, and maintenance costs.

³ For beneficiaries obliged to apply the PPL—does not apply to contracts specified in PPL Art. 6a.

⁴ The Common Procurement Vocabulary is available, among other places, at http://www.uzp.gov.pl/cmsws/page/?D:923;wspolny_slownik_zamowien.html.

⁵ The “contracting entity” should be understood as the beneficiary (applicant) or an authorised entity that conducts the public contract award procedure on behalf of the beneficiary.

Bid evaluation criteria may refer to the characteristics of the contractor only for services of a non-priority nature, specified in the regulations issued pursuant to PPL Art. 2a and 2b.⁶

Special conditions for performance of public contracts awarded pursuant to the PPL

Selection of the manner of awarding the public contract

Procedures for the award of public contracts are subject to the basic modes of awarding public contracts, i.e. open or restricted tendering.⁷ If the public contract is awarded in a manner other than the basic modes, it is required to provide written documentation stating that the statutory conditions for the use of that manner have been fulfilled. Failure to prove the fulfilment of the conditions justifying the use of a given mode may result in deeming the expenditures under the public contract ineligible. In order to provide an appropriate audit trail, the documents justifying the selected mode should be archived together with the documentation concerning the public contract.

Shortening periods

The time limits for individual stages of the procedure may be shortened (accelerated procedure) for public contracts of a value at or above the amounts specified in the regulations issued pursuant to PPL Art. 11(8) only in circumstances provided for by EU and national law, including urgent need to award a public contract. Such urgent need must not result from causes on the part of the contracting entity which it could have foreseen acting with all due diligence.⁸ If such urgent necessity to award a public contract arises, it should be documented. The documentation should be attached to the protocol of the procedure for award of the public contract.

Notice of intention to award public contract

Prior to the formal initiation of a negotiated procedure without publication pursuant to PPL Art. 62(1)(3), a single-source procurement pursuant to PPL Art. 67(1)(1)(a) or (b)⁹ or 67(1)(1a), or a request for quotations, in order to guarantee an appropriate level of publication of the information to all potential contractors, a notice of intention to award the public contract (“contract notice”) must be published. The contract notice shall be published on the website of the contracting entity, if it has one, and at its registered office, provided that the range of publication should be appropriate to the importance of the contract for potential contractors, including contractors from other Member States. The contract notice shall contain in particular a description of the subject of the contract, the evaluation criteria for initial bids, conditions for participation in the procedure and a description of the manner of evaluation of fulfilment thereof, as well as the time limit for submitting preliminary bids, which should not be shorter than 7 calendar days from the date of publication of the contract notice.

The negotiated procedure without publication pursuant to PPL Art. 62(1)(3) and the request for quotations procedure shall apply to selected preliminary bids, and, if preliminary bids are non-existent or have been rejected, with respect to selected contractors on the market. Should the contracting entity intend to apply the single-source procedure pursuant to PPL Art. 67(1)(1)(a) or (b)

⁶ Non-priority services are specified in the Regulation of the Prime Minister of January 28, 2010 on the List of Priority and Non-Priority Services (Journal of Laws 2010 No. 12 item 68) and the Regulation of the Prime Minister of December 3, 2012 on the List of Priority and Non-Priority Services in the Field of Defence and Security (Journal of Laws 2012 item 1361).

⁷ For sector contracts an additional acceptable mode is negotiations with publication (pursuant to PPL Art. 134(1)).

⁸ For example, the need for timely performance of specific tasks in the project resulting from the fact that the contracting entity failed to provide sufficient time for conducting the tender procedure or did not initiate such procedure in advance does not constitute “urgent necessity”. Neither is “urgent necessity” justified by delays in previous public contract award procedures. Thus, it is only possible to confirm the existence of “urgent necessity” if the contracting entity can demonstrate that acting with all due diligence, it was unable to foresee the occurrence of certain circumstances.

⁹ Does not apply to public contracts specified in PPL Art. 67(3)(1).

or 67(1)(1a), if more than one offer is submitted that is not subject to rejection there are no grounds for the use of such procedure.

Announcement of the intention to conclude a contract

In situations where the use of a non-competitive procedure without publication pursuant to the PPL was preceded by a procedure for award of a public contract conducted in the basic mode or if an urgent necessity occurred not due to foreseeable reasons on the part of the contracting entity, as well as in the case of supplementary contracts, an announcement of the intention to conclude the contract shall be published, as specified in PPL Art. 62(2a) and Art. 66(2).

Special conditions for performance of public contracts awarded in compliance with the principle of competitiveness

Exclusion of the principle of competitiveness

The principle of competitiveness shall not apply to:

- a) public contracts concerning the services and supplies specified in PPL Art. 4, with the exclusion of supplies and services specified in PPL Art. 4(8), but in the case of supplies and services specified in PPL Art. 4(3)(i) and with respect to a public contract whose subject is the acquisition of other title to real property, in particular lease or tenancy, it will not apply only if there are no capital or personal ties;
- b) expenditures settled using the simplified method.

As far as beneficiaries specified in General principles item b(ii) are concerned, it is possible not to apply the principle of competitiveness for the awarding of public contracts to which the provisions of the PPL on the negotiation procedure without publication or single-source procedure apply, provided that the requirements contained in the Special conditions for the performance of public contracts awarded pursuant to the PPL are met.

As far as beneficiaries specified in General principles item b(ii) are concerned, the principle of competitiveness is deemed to be complied with if the procedure for award of the public contract is conducted pursuant to the terms and conditions and in the manner specified in the PPL, provided that the requirements contained in the Special Conditions for performance of public contracts awarded pursuant to the PPL are met.

As far as beneficiaries specified in General principles item b(ii) are concerned, the value of the public contract is calculated with respect to the given project, considering the conditions and procedures specified in the section "Preparation of documentation of public contract."

Conditions of compliance with the principle of competitiveness

In order to comply with the principle of competitiveness it is necessary to:

- a) publish the request for quotations in compliance with the terms and conditions described below, provided that the request for quotations should contain at least:
 - i. a description of the subject of the public contract, which should not refer to a specific product or source or trademarks, patents, types or specific origin, unless such reference is justified by the subject of the procurement and the scope of equivalence has been determined (when necessary to protect trade secrets it is permissible to limit the scope of the description of the subject of the public contract, however the excluded part of the description of the subject of the public contract must be sent to a potential contractor who has undertaken to maintain the confidentiality of the information received);
 - ii. the conditions for participation in the procedure and the manner of evaluation of the fulfilment thereof, although formulating such conditions is not mandatory;
 - iii. bid evaluation criteria;

- iv. information about the weighted score or percentage assigned to individual bid evaluation criteria;
 - v. the manner of awarding a score for fulfilment of specific bid evaluation criteria;
 - vi. the time limit for the submission of bids, provided that such limit must not be shorter than 7 calendar days from the date of publication of the request for quotations for supplies and services or 14 calendar days from the date of publication of the request for quotations for construction works; the period of 7 or 14 calendar days shall commence on the day after the date of publication of the request for quotations and expire at the end of the last day;
 - vii. information about the scope of exclusion (with respect to affiliated entities);
 - viii. specification of the terms and conditions for introducing modifications to the contract concluded as a result of the procedure, if the possibility of introducing such modifications has been foreseen;
- b) select the most advantageous of the submitted bids that meet the conditions for participation in the public contract award procedure¹⁰ in compliance with the evaluation criteria specified in the request for quotations; the selection of the bid shall be documented in the protocol of the public contract award procedure.

Publication of request for quotations

Publication of a request for quotations shall be deemed as initiating the public contract award procedure under the project.

Publication of a request for quotations consists of:

- a) Publication:
- i. on the website specified in the communication of the competent minister for regional development, published on the website of the competent minister for regional development,¹¹ or, until such website is launched,¹² by sending the request for quotations to at least three potential contractors, provided that there are three such contractors for the given public contract on the market, and by publishing the request for quotations at least on the website of the beneficiary; or
 - ii. on a website other than that specified in item a(i), designed for the publication of requests for quotations, although this refers only to beneficiaries described in General principles item b(ii);

and

- b) For public contracts of a value not exceeding the amount specified in the regulations issued pursuant to PPL Art. 11(8),¹³ additional publication in the Official Journal of the EU within the scope and period specified in the PPL for public contracts of such value.

Capital or personal ties

In order to avoid conflicts of interest, public contracts, with the exception of sector contracts, awarded by a beneficiary which is not an entity obliged to comply with the PPL pursuant to PPL Art. 3

¹⁰ If the contracting entity accepts the submission of partial bids, the procedure may lead to the selection of several contractors.

¹¹ The website will enable beneficiaries to publish announcements. Applicants who start the realisation of the project at their own risk before signing the co-financing agreement should publish the request for quotations by sending it to at least three potential contractors, provided that there are three potential contractors for the given public contract available on the market, and publish the request at least on the beneficiary's website, if it has one.

¹² The Managing Authority of the Operational Programme guarantees that the beneficiaries will be notified of the communication in writing or via an IT system, which is understood as the central IT system (SL2014) or a local IT system (LIS), not later than 10 days before the launch of the website.

¹³ Regulation of the Prime Minister of December 23, 2013 on the Value of Contracts and Design Contests Imposing an Obligation to Submit Notices to the EU Publications Office (Journal of Laws 2013 item 1735).

must not be awarded to entities with capital or personal ties to the beneficiary. Capital or personal ties are understood to mean mutual ties between the beneficiary or persons authorised to incur obligations on behalf of the beneficiary or persons who perform actions connected with preparing and conducting the contractor selection procedure on behalf of the beneficiary and the contractor, consisting, in particular, in:

- a) participation in a partnership as a partner in an ordinary partnership [*spółka cywilna* under the Civil Code] or other partnership [*spółka osobowa* under the Commercial Companies Code],
- b) holding at least 10% of a company's shares,
- c) holding the position of a member of supervisory or management bodies, proxy, or authorised representative,
- d) being spouses, direct relatives or relatives by affinity, collateral relatives or relatives by affinity up to the second degree, or relatives by adoption, custody or guardianship.

If the Foundation for Polish Science discovers that a public contract has been awarded to an entity related in a manner other than those specified in points a)–d), it must demonstrate that the existing ties actually infringe the principle of competitiveness.

Protocol of the public contract award procedure

For documentation purposes, the contract concluded with the contractor and the protocol of the public contract award procedure must be in writing.

The protocol of the public contract award procedure shall contain at least:

- a) information about the manner of publication of the request for quotations;
- b) a list of quotations submitted in response to the request specifying the dates of receipt of the quotations by the contracting entity;
- c) information confirming that the contractors meet the conditions forbidding the award of contracts to affiliated entities;
- d) information confirming that the contractors meet the conditions for participation in the procedure, if such conditions were established;
- e) information about the score or percentage weight assigned to specific evaluation criteria and the manner of assigning scores to specific contractors for the fulfilment of the given criterion;
- f) specification of the selected bid along with a justification;
- g) the date of preparation of the protocol and signature of the contracting entity;
- h) the following appendices:
 - i. confirmation that the request for quotations was published on the website,
 - ii. submitted quotations,
 - iii. statement(s) confirming the lack of ties between the beneficiary and the contractors who submitted quotations, signed by the beneficiary or persons authorised to incur obligations on behalf of the beneficiary or persons who perform actions connected with preparing and conducting the contractor selection procedure on behalf of the beneficiary and the contractor as well as performance or modification of the contract concluded with the contractor.

Information about the result of the procedure

Information about the result of the procedure shall be published on a publicly available website; however, if the request for quotations has been published on the website specified in the communication of the competent minister for regional development, published on the website of the competent minister for regional development, the information about the result of the procedure shall be published at least on such website, or until such website is launched the information shall be

sent to each of the contractors who submitted quotations and published on the website of the beneficiary, if it has one. The information about the result of the procedure must contain, at least, the name of the selected contractor. The beneficiary is obliged to make available the protocol of the public contract award procedure on request of a contractor who has submitted a quotation, although this does not apply to the submitted quotations.

Conclusion of the contract

After completion of the procedure governed by this document, the contract shall be concluded with the contractor¹⁴ selected in compliance with the principle of competitiveness. If the contractor withdraws from signing the contract with the contracting entity, it is possible to conclude a contract with the other contractor who received the second-highest score in the public contract award procedure.

If despite proper publication of the request for quotations:

- a) only one quotation not subject to rejection is submitted, the principle of competitiveness shall be deemed fulfilled;
- b) no quotations are submitted, it is permissible to conclude the contract with a contractor selected without following the procedure specified herein; however, the contract may be concluded only upon the consent of the National Centre for Research and Development and if the affiliated entity meets the conditions for the participation in the procedure.

Supplementary and additional contracts

It is possible to award to the contractor supplementary public contracts, of a value not exceeding 50% of the value of the public contract specified in the contract concluded with the contractor, provided that such public contracts are consistent with the subject of the original public contract and the possibility of awarding such supplementary public contracts was provided for in the request for quotations and in the contract with the contractor. In such event application of the principle of competitiveness is not required.

It is possible to award to the current contractor for services or construction works additional public contracts not included in the original public contract and of a value not exceeding 50% of the value of the currently performed public contract, required for the proper performance thereof, if the performance of such contracts becomes necessary due to circumstances that could not have been foreseen, if:

- a) due to technical or economic reasons the separation of the additional contract from the original contract would result in incurring unreasonably high costs, or
- b) the performance of the original contract depends on the performance of the additional contract.

In such event the application of the principle of competitiveness is not required.

Performance of the contract

It is not possible to introduce substantial modifications in the concluded contract with respect to the content of the bid that constituted the basis for the selection of the contractor, unless the possibility of introducing such modifications was provided for in the request for quotations and the conditions for the introduction of such modifications were specified.

The manner of performance of the public contract shall be monitored and acceptance shall be confirmed by a protocol. For this purpose, it is recommended to apply internal procedures specifying the manner of performance and acceptance for public contracts, including the scope of responsibility

¹⁴ If the contracting entity accepts the submission of partial bids, the procedure may lead to the conclusion of agreements with several contractors.

and the tasks and time limits on the part of the beneficiary as well as template documents (in particular a template of the acceptance protocol for the subject of the public contract, which enables, among other things, verification that all elements of the public contract have been performed in compliance with the contract).

Improper performance of the public contract, e.g. due to delays on the part of the contractor, incorrect performance of the contract, or incomplete performance of the contract (including e.g. failure to comply with the terms of a guarantee), shall result in penalties specified in the contract concluded with the contractor. Waiver of imposition of such penalties requires written documentation stating the grounds.

If the contractor fails to fulfil the conditions of the public contract and contractual penalties are not imposed, then the competent institution which is a party to the contract may deem part of the expenditures connected with the public contract to be ineligible.

Additional provisions – market analysis

For expenditures of a net value from PLN 20,000 to PLN 50,000, i.e. exclusive of VAT, and for public contracts to which the selection procedures described hereinabove do not apply, the beneficiary is obliged to conduct and document market research, at least by means of publishing a request for quotations along with information about the result of the procedure, by publication of the following elements on the website:

- ✓ specified in the communication of the competent minister for regional development;
- ✓ until such website is launched, it is sufficient to publish the request for quotations on the website of the beneficiary, if it has one, and to send the request for quotations to at least three potential contractors, provided that three such contractors exist on the market;

or

- ✓ on the website of the Intermediary Authority of the SG OP (National Centre for Research and Development) or the Implementing Authority of the SG OP or on another website specified by the Managing Authority, Intermediary Authority or Implementing Authority of the SG OP.

Pursuant to the rules set forth above, the National Centre for Research and Development hereby specifies the website of the beneficiary as the correct place for publication of requests for quotations.

The announcement of the public contract must contain at least a description of the subject of the contract, the bid evaluation criteria, and the time limit for submitting bids. The selection shall be documented at least by a bid selection protocol, which shall contain, at least, the specification of the number of bids submitted along with the names of the bidders and scores assigned to individual bids, as well as the specification of the best bid, with a justification.