

**INVITATION TO TENDER**

**Scheduled air services between Oradea and Warsaw**

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## 1. INTRODUCTION

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### 1.1. General information

Pursuant to Article 16(1) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (“**Air Services Regulation**”), Bihor County Council decided, as per Resolution no. [...]/[...].[...]2023, to impose a public service obligation (“**PSO**”) for scheduled air services between Oradea (IATA code: **OMR**) and Warsaw (IATA code: **WAW**) airports (“**Route**”).

In view of the aforementioned, the contracting authority, Bihor County Council (“**Public Authority**”) is organising a tender for scheduled air services according to the PSO which will result in the conclusion of a services agreement with the winning bidder (“**Agreement**”). The period of validity of the Agreement shall be from 1 June 2024 to 31 May 2028 (“**Duration of the Agreement**”).

As a rule, there is an unrestricted right to establish scheduled air services within the EEA. This tender is effective on condition that no air operator has, within 60 days of the publishing of the notice for tender in the Official Journal of the European Union (“**OJEU**”), notified of its intention to begin operating scheduled air services on the Route, in compliance with the PSO, without exclusive rights and with no financial compensation.

### 1.2. Purpose of the invitation to tender

The purpose of this invitation to tender is to attract bids that can be used as the basis for awarding exclusive rights to operate a scheduled air services in accordance with Articles 16 and 17 of the Air Services Regulation.

### 1.3. Outcome of the tender

The winning tenderer shall arrange the PSO and the scheduled air services according to this invitation to tender.

The Public Authority shall pay the winning tenderer a compensation according to the Agreement. In addition to this, the winning tenderer shall be entitled to keep the revenue from ticket sales and any other sales revenue, including those from ancillary services or advertising.

### 1.4. Details about the Public Authority

<b>Official name</b>	<b>Bihor City Council</b>
<b>Address</b>	Parcul Traian no. 5 Oradea 410033, Bihor, Romania
<b>E-mail address</b>	psa@cjbihor.ro
<b>Contact person</b>	Mihaela Roşan

## 2. ROUTE AND SCHEDULE

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### 2.1. Route under the scope

The invitation to tender applies to the following Route (round trip):

Airport 1	Airport 2	Seats	Frequencies	Flights/year
Oradea (OMR)	Warsaw (WAW)	min. seats (per flight): 75	4/7	expected flights: 416 (4 x 2 x 52)

*\*The minimum number of flights might fall below 4 in certain weeks to factor special circumstances that are outlined in the agreement.*

### 2.2. Schedule

The proposed schedule for the Route is as follows:

Airport 1	Airport 2	Departure time Airport 1	Departure time Airport 2
Oradea (OMR)	Warsaw (WAW)	13:00 – 19:00 local time Best suited for connectivity	10:00 – 16:00 local time Best suited for connectivity

The schedules are preliminary and can be modified according to proposed schedules with the agreement of the two parties and maintaining the minimum PSO imposed frequency and other technical characteristics. Regarding the time of departure from OMR, it must also be taken into account that deviations from the presented schedule are possible for a justified reason related to aircraft, slot availability and also to reach the maximum number of onward connections.

## 3. COMPENSATION

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The operation of the Route shall be financially compensated by the Buyer.

### 3.1. Rules for tendering on financial compensation

- ⇒ The requested compensation must be based on an assessment of the expected costs and revenues, and it must consider the minimum requirements of the PSO and the requirements of this invitation to tender;
- ⇒ The costs which may be included in the compensation are defined in the net cost calculation model **Appendix 3 – Net cost calculation model**, which must be filled in and attached to the bid;

- ⇒ When filling in **Appendix 3 – Net cost calculation model**, tenderers must clearly indicate the required compensation in EUR for operating the Route per calendar year and per the entire Duration of the Agreement, in accordance with the Schedule under Section 2.2 herein;
- ⇒ Compensation shall be paid quarterly, based on duly submitted documentation, up to the maximum value of the approved compensation;
- ⇒ The compensation paid may only cover the expenses from the actual operation of the air services and the expenses related to operations on OMR and WAW airports. In addition, the compensation may cover a part of the bidder's indirect and overhead costs relevant to the Route. The compensation shall not include expenses created on other routes or other airports;
- ⇒ During the Duration of the Agreement, changes to fuel prices may lead to adjustments of compensation. Apart from this, the compensation is limited to the amount stated in the bid;
- ⇒ The compensation paid to the winning tenderer must comply with the EU State aid legislation. As per Article 17(8) of the Air Services Regulation, the paid compensation may not exceed the amount required to cover the net costs incurred in discharging the PSO, taking into account the revenue relating thereto kept by the air operator and a reasonable profit. The reasonable profit, expressed as a percentage over the entire costs allocated to the scheduled air services, shall not exceed 5%;
- ⇒ The winning tenderer is responsible for meeting the obligations set out in the Agreement. If the air operator fails to meet the obligations in the Agreement or if they have been performed inadequately, the Public Authority may reduce the amount of compensation.

## **4. TICKETS**

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### **4.1. Ticket prices**

Ticket prices shall be unilaterally set by the bidder.

### **4.2. Ticket sales and reservation system**

The tenderer must have access to an international reservation and ticketing system valid in Romania and have (or will ensure at the start of operations) an interline agreement with through-pricing and luggage-handling arrangements with at least five airlines. Information concerning prices and timetables must be included in the international reservations and ticketing system. Additionally, tickets must be available on a GDS platform and own online website.

## **5. TENDER REQUIREMENTS**

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This tender is open to all air operators that meet the minimum qualification requirements set out below. tenderers who do not meet all the minimum qualification requirements set out in this section will be disqualified.

### **5.1. Eligibility requirements**

The tenderer must:

- a. Qualify as airline operator within the EU, as defined in Article 2 (11) of the Air Services Regulation;
- b. Have a valid operating licence granted by a competent licensing authority of an EU member state and an air operator certificate, in accordance with Articles 3 and 6 of the Air Services Regulation, which are commensurate with the requirements of the PSO;
- c. Have an aviation-specific liability insurance for air operators in respect of passengers, luggage, cargo and third parties, in accordance with Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators;
- d. Not have been banned from operating in Europe; in this respect, the tenderer must not be on the European Commission's blacklist containing the airlines which fail to meet European safety standards, as listed in Annex A at the following address: [https://transport.ec.europa.eu/transport-themes/eu-air-safety-list\\_en](https://transport.ec.europa.eu/transport-themes/eu-air-safety-list_en);
- e. The tenderer, its direct or indirect shareholders, entities controlling the bidder, its parent companies, subsidiaries and their legal representative, including any member of the board of directors or supervisory board, employees or their respective nominees, are not or have not been subject to any international sanctions imposed by the United Nations, the European Union or any other authority having jurisdiction upon them or is not located in a country that is included in the European Union's blacklists.

### **5.2. Technical capacity**

The tenderer must:

- a. Ensure that the aircraft used in the operation has at least 75 seats;
- b. Have at its disposal a fleet of a minimum of 50 owned or leased (including wet lease) jet aircraft;
- c. Be able to provide a replacement aircraft which meets the requirements herein within 12 hours, in case of malfunctions with an existing aircraft.

### **5.3. Experience**

The tenderer must:

- a. Have at least 15 (fifteen) years of experience in scheduled air services for passengers;
- b. Provide evidence of constant active operation, without interruptions, on scheduled flights during the last 15 (fifteen) years;
- c. Have handled a minimum of 10 (ten) million passengers in the last 15 (fifteen) years of operation (cumulative for all the years).

#### **5.4. Subcontracting**

The tenderer may use a subcontractor for the performance of the Agreement, but such subcontractor must also meet the requirements stated Section 5.1 above.

If the tenderer will use a subcontractor, the tender must state which share of the services is to be subcontracted. In this respect, the tenderer must ensure that the subcontractor has the necessary technical capability to perform the part of the Agreement for which it is subcontracted, in accordance with the requirements of this invitation to tender. The tenderer is responsible for the subcontractor's actions as for its own.

### **6. SELECTION CRITERIA**

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The Public Authority makes its selection from the pre-qualified bids which comply with the invitation to tender and meet the minimum requirements stated in Section 5.

The selection criterion is the total cost of the compensation required by the tenderer for the Duration of the Agreement, as calculated in accordance with Section 3.1 herein.

### **7. TENDER STEPS AND PROCEDURE**

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#### **7.1. General information**

The tender will be conducted in accordance with Article 17 of the Air Service Regulation. The bids shall be individually examined and the winning tenderer shall be determined by an evaluation committee organised at the level of the Public Authority ("**Committee**").

#### **7.2. Deadline**

Tender must be submitted **within 61 days** of the publishing of the notice for tender in the OJEU in accordance with Article 17(4) of the Air Services Regulation.

#### **7.3. Language of the tenders**

The tenders must be submitted in Romanian and/or English.

#### **7.4. Validity of the tenders**

Tenders must be unconditional, binding and valid for 120 days after the deadline defined in Section 7.2. The Public Authority may request an extension of the validity of bids in exceptional circumstances requiring such an extension or where this is necessary for the evaluation procedure.

## 7.5. Tender submission

Tenders must be submitted in electronic format by e-mail to [psa@cjbihor.ro](mailto:psa@cjbihor.ro) with the subject line “*PSO tender – OMR-WAW Route*”. The participation documents will be sent in one or several e-mails if they cannot be sent in one e-mail due to the size of the attachments.

The documents must be submitted in electronic format (*i.e.* PDF or, if necessary, Excel). All participation documents which are not originally issued in an electronic format shall be scanned individually, saved as PDF files and signed by the authorised representative with an electronic signature obtained from a qualified provider. A single signature is required regardless of the number of pages of the document.

The bids must reach the Public Authority no later than on the date specified in Section 7.2. The date and time of transmission of the bids shall be the date and time that the Public Authority received the last e-mail containing all documents that form part of the bid. Bids submitted after the deadline will not be taken into consideration and will not be evaluated.

Alternative bids from the same tenderer and for the same destination will not be accepted.

If the tenderer finds that the tender includes confidential information such as business or trade secrets, the tenderer must clearly mark such information as “*confidential*”. The fact of submission of a tender or the amount of compensation cannot be deemed confidential.

In case the Public Authority has any doubts regarding the authenticity of the submitted documents, it shall have a right to request that the originals of the documents are submitted.

## 7.6. Participation documents

The following documents shall form the bid:

- a. Tender as per **Appendix 2 – Tender template**;
- b. Compensation calculation as per **Appendix 3 – Net Cost Calculation Model**;
- c. A copy of a valid air operating licence in accordance with the Air Services Regulation;
- d. A copy of a valid air operator certificate in accordance with the Air Services Regulation;
- e. A copy of a valid tax certificate;
- f. A copy of valid insurance;
- g. A copy of financial statements for the previous financial year;
- h. Signed affidavit as per template in **Appendix 5 – Affidavit template**;
- i. Signed GDPR information notice as per template in **Appendix 6 – GDPR template**;
- j. Signed power of attorney as per template in **Appendix 7 – PoA template**;
- k. Any other proofing documents deemed necessary by the bidder.



## 7.7. Clarifications

Tenderers may ask the Public Authority questions regarding this invitation to tender within 15 days of the publishing of the notice for tender in the OJEU. Questions received after this will not be answered. All questions must be submitted via e-mail to [psoc@cbihor.ro](mailto:psoc@cbihor.ro). Questions submitted to other e-mail addresses will not be answered. The e-mail's subject must be: “*PSO tender – OMR-WAW Route – clarifications*”.

Within 10 days of the submission deadline, the Public Authority shall submit the answers to the questions to all clarifications properly addressed by bidders.

## **8. SELECTION OF THE WINNING TENDERER AND EXECUTION OF THE AGREEMENT**

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After rejection of the disqualified tenders, the Committee will evaluate all pre-qualified tenders and shall apply the selection criterion mentioned in Section 6. The Public Authority will notify all tenderers in writing about the award decision and will invite the winning tenderer to negotiate the Agreement attached as template herein in **Appendix 4 – Draft of the services agreement**.

Until the signing of the Agreement, the Public Authority reserves the right to defer the start of the planned operations. Delaying the starting date shall not affect the time when the operating period ends. If the circumstances or conditions for organising the PSO have changed in a way that the planned operations are not appropriate or cannot be carried out as presented in this invitation to tender, the Public Authority may cancel the tender.

## **9. APPEALS**

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The Public Authority shall inform the tenderers about the results of the evaluation by e-mail. The results of the tender may be appealed against before the competent courts of law in Romania.

## **10. APPENDICES**

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Appendices to the invitation to tender:

- Appendix 1** Decision on the PSO imposition
- Appendix 2** tender template
- Appendix 3** Net Cost Calculation Model
- Appendix 4** Draft of the services agreement
- Appendix 5** Affidavit template
- Appendix 6** GDPR template
- Appendix 7** PoA template