

TERMS OF REFERENCE
(hereinafter referred to as the "Terms" or "ToR").

in proceedings based on the principle of competitiveness
co-financed by the European Regional Development Fund under the Operational Program
Intelligent Development 2014 – 2020, Measure 1.1. "R & D projects of enterprises",
Submeasure 1.1.2 "R & D works of enterprises connected with the production of a
pilot/demonstration plant".

**for the supply of equipment necessary for the development work aimed at launching a
demonstration line for the development of experimental continuous casting and
rolling technology of high-strength alloy steel rods under the Project no.
POIR.01.01.02-00-0044/15 pn. "Development of innovative technology for the
production of wire rods of high-strength aluminum alloys series 2xxx, 5xxx, 7xxx".**

Reference no.: 7/POIR/1.1.2/2017

I. Name and address of the Ordering Party:

Boryszew S.A.
Ul. Jagiellońska 76
03-301 Warszawa
Website: www.npa.pl
E-mail: oferty_poir@npa.pl
Contact person for the contract:
Piotr Uliasz, M.Sc. Ph.D., piotr.uliasz@npa.pl, tel. +48 12 276 09 25

II. Procedural information:

1. The contract shall be awarded in accordance with the principle of competitiveness set out in the Guidelines on the eligibility of expenditure under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014-2020
2. The Ordering Party is not obliged to apply the Act of 29 January 2004 - Public Procurement Law (Journal of Laws of 2015, item 2164, as amended), hereinafter "the Public Procurement Law".
3. The provisions of the Guidelines referred to in paragraph 1 above shall apply to matters not covered by the announcement and the Terms of Reference.
4. Type of contract: Supplies.

5. Estimated value of the contract: exceeds the equivalent of EUR 209,000.
6. Variant offers: The Ordering Party does not allow variant offers.
7. Partial offers: The Ordering Party **does not accept** the submission of partial offers for parts of the order indicated in point III of ToR – **the above parts constitute elements of one contract**).
8. The Ordering Party reserves the right to cancel the proceedings at any stage thereof without giving reasons.
9. The Ordering Party may at any time, before the deadline for submission of offers, change the content of the announcement, these ToR or the annexes. If justified, in particular if changes will have a significant impact on the content of bids prepared by the Contractors, the Ordering Party will extend the time limit for submission of bids.
10. The Ordering Party reserves the right, at the stage after the submission of bids and before the outcome of the proceedings, to negotiate the price offered with the Contractor, which is not subject to exclusion from the procedure and its bid is valid and in accordance with the criteria used in evaluating it constitutes the most favourable bid. Negotiations cannot lead to a change in the terms and conditions of the contract and its scope, nor result in loss by the Contractor's bid of the status of the most advantageous bid in accordance with the criteria used in the evaluation of bids.
11. In justified cases, the Ordering Party reserves the right to request additional information, documents or explanations of the submitted documents and the offer. Subject to point II.10. modification of the content of the offer is unacceptable.
12. Framework Action Plan:
 - 1) Site visit: between the 5th and 12th day from the date of publication of the contract notice, interested contractors are allowed to appear in Boryszew S.A. Branch Nowoczesne Produkty Aluminiowe Skawina (after prior appointment with the person indicated in point I. of ToR) to make a view of the location designated for installation of the subject of the order. The purpose of the site visit is to discuss location data, available utilities and confirm by the potential suppliers completeness of data necessary for presenting the offer.
 - 2) Inquiries for clarifications: up to 15 days from the date of publication of the contract notice, interested contractors have the possibility to refer to the Ordering Party to clarify the contents of the Terms of Reference and appendices and submit requests to make changes to the above mentioned documents with justification. Inquiries and requests addressed to the Ordering Party after the expiry of the aforementioned deadline the Ordering Party may leave with no response.
 - 3) Explanations and changes of ToR: up to 21 days from the date of publication of the contract notice, the Ordering Party shall provide explanations and make any changes to the Terms of Reference and/or the appendices.
 - 4) Submission of bids: 30 days from the date of publication of the contract notice - deadline for submission of bids (this time limit may be extended in accordance with point II.9.)
 - 5) Examination and evaluation of bids: The Ordering Party will examine and evaluate the bids and select the most advantageous bid (possible negotiating in accordance with point II.10. is possible) or cancel the Proceeding. The Ordering Party envisages the above mentioned actions to take place within 3 weeks after the

deadline for submission of bids.

- 6) Conclusion of contracts: After selecting the most advantageous bid, the Ordering Party will conclude a contract/contracts with a selected Contractor, corresponding to the contents of the bids and the Terms of Reference, whose key provisions required by the Ordering Party under the pain of rejection of the bid, constitute the Attachment 7 to the ToR while further, detailed provisions shall be determined by the parties during negotiations. In the case the selected contractor withdraws from signing the contract with the Ordering Party, the Ordering Party shall invalidate the Proceeding or conclude an agreement with the next contractor who received the highest number of points in the order awarding procedure.

III. Description of the subject of the order

1. Order name

Supply of equipment necessary for the development work aimed at launching a demonstration line for the development of experimental continuous casting and rolling technology of wire rods of high-strength aluminum alloys under the Project named: "Development of innovative technology for the production of wire rods of high-strength aluminum alloys series 2xxx, 5xxx, 7xxx" (hereinafter: "the Project").

2. About the Project

The subject of the order is **the supply of equipment necessary for the development work aimed at launching a demonstration line for the development of an experimental technology of continuous casting and rolling of wire rods of high-strength aluminum alloys under the Project** co-financed by the European Regional Development Fund under the Operational Program Intelligent Development 2014-2020, Measure 1.1. "R&D projects of enterprises", Submeasure 1.1.2 "R&D works of enterprises connected with the production of a pilot/demonstration plant".

The subject of the Project is the development of innovative continuous casting and rolling technology of wire rods, with homogeneous chemical composition and mechanical properties, of high strength aluminum alloys of 2xxx, 5xxx and 7xxx series for further mechanical applications (process innovation - leading in the Project). The developed technology will be implemented in the Ordering Party's business activity, which will enable to offer wire rods of high-strength aluminum alloys on the market designed for further plastic processing (product innovation). Within the framework of the Project, a demonstration production line will be created and launched, which will consist of three main elements:

- melting and preparation station for the chemical composition of aluminum
- refining and filtering station,
- casting and rolling unit.

Requirements necessary for the aforementioned line elements (technical parameters of individual devices and line elements) have been developed in the result of R&D works and are

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described below.

3. Subject of the order, parts (elements) of the order

The subject of the order consists of 3 elements (parts) of the line. Contractors may submit bids for **the entire order (3 parts)**. **Submission of bids not covering the entire order will result in rejection of the bid.**

Part 1:

Prototype casting and rolling unit - 1 pc.

The casting and rolling unit is an element designed to perform, in a continuous manner, the following technological processes: ingot casting, ingot straightening, ingot cutting, ingot milling, ingot temperature adjusting, ingot rolling, wire rod cooling, wire rod coiling. As a result of the described processes, a coil of wire rod of appropriate diameter and dimension and weight is obtained. The production capacity of the unit shall be 5000 kg/1h for aluminum in the EN AW 1370 grade. The supplied unit is supposed to enable research for development of the technology of 2xxx, 5xxx and 7xxx series of aluminum alloys production. The elements of the rolling unit were designed as a result of development work in the 1st stage of the project according to the possessed and developed unique know-how. The supplier of the unit is expected to provide all of its components, participate in their assembly and integration and demonstrate correct operation of the unit for typical aluminum alloys (aluminum alloys not included in the scope of the project).

Part 2:

R&D apparatus: Refining and filtering station – 1 pc.

The refining and filtering station is an indispensable element designed for the following technological processes: gas refining, filtration and structural modification. As a result of the performed processes liquid metal at a certain temperature and technological parameters is obtained. The production capacity of the station should guarantee the production capacity of the casting and rolling unit of 5000 kg/1h for EN AW 1370 aluminum grade. The elements of the station were designed as a result of development work in the 1st stage of the project according to the possessed and developed unique know-how.

Part 3:

R&D apparatus: Melting and preparation station for the chemical composition of aluminum – 1 pc.

The aluminum melting station is an indispensable element for the performance of technological process of primary aluminum batch melting with a specified production capacity adjusted to the production capacity of the casting and rolling unit of 5000 kg/1h for EN AW 1370 aluminum grade. In a result of the melting process liquid aluminum at a certain temperature is obtained. The elements of the station were designed as a result of development work in the 1st stage of the project according to the possessed and developed unique know-how. The melting furnace, constituting a part of the station, must fulfil emission requirements adapted to the permission obtained by NPA Skawina.

The Contractor (for the needs of this ToR also called the supplier or the bidder) is expected to

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provide all line components, participate in its assembly and integration and demonstrate correct operation of the line for typical aluminum alloys (aluminum alloys not included in the scope of the project).

The contractor (supplier) is responsible for the integration (including the gravitational flow of metal, among other things) of the entire demonstration line:

- melting and preparation station for the chemical composition of aluminum
- refining and filtering station,
- casting and rolling unit.

The subject of the order encompasses the supply/transportation of elements constituting parts of the order to Boryszew S.A. Branch Nowoczesne Produkty Aluminiowe Skawina, including the supply to the Ordering Party of the CMR INTERNATIONAL CONSIGNMENT NOTE confirming the delivery.

The subject of the order also encompasses the supervision and technical support in the scope of preparing the location for installation of the supplied equipment, its assembly, integration and launching.

The technical support also includes a secondment by the Contractor of minimum one contract engineer, who will be present at the location of equipment installation during the entire period of work at the Ordering Party.

The technical support shall also encompass a secondment by the Contractor of an interdisciplinary technical team, necessary for timely execution of the contract.

The subject of the order encompasses two options described in the Attachment 1.3. to this ToR. The decision on the selection of the options shall be taken by the Ordering Party at the stage of evaluation of bids.

The Contractor shall provide at least 24-month guarantee for the performed supply (3 parts) (guarantee period counted from the moment of signing the acceptance report (SAT) of the subject of the order).

The Ordering Party requires that participation in the supply of goods coming from the Member States of the European Union, the Member States of the WTO Agreement on Government Procurement and the states parties to other international treaties of equal treatment to which the European Union is a party shall not be less than 50%.

The Ordering Party reserves the right to verify the origin of the offered supplies at the stage of contract performance. In case the supplies do not come from the aforementioned States, the Ordering Party reserves the right to immediately withdraw from the Contract due to the fault of the Contractor.

The Ordering Party requires that no later than in 60 days from the date of conclusion of the Contract, the Contractor demonstrate to the Ordering Party that it has at its disposal "the Technical Facilities" to remedy failures available at a distance of no more than 1500 km from the location of the supply, i.e. Boryszew S.A. Branch Nowoczesne Produkty Aluminiowe, ul. Piłsudskiego 23, 32-050 Skawina, and proves the possibility to take action within no more than 48 hours of the notification.

The distance from the Technical Facilities to the supply location shall be determined by means of a publicly available electronic road map at www.maps.google.com (the shortest car route).

Detailed information on the subject of the supply is included in:

Attachment 1.1. to ToR – Technical specification of the prototype casting and rolling unit

Attachment 1.2. to ToR – Technical specification of the refining and filtering station

Attachment 1.3. to ToR – Technical Specification of the melting and preparation station for the chemical composition of aluminum

Attachment 2 to ToR – View of the planned equipment layout in the part of rolling mill bay for the rolling mill line no. 4 and furnaces (A+B+C+D+E) - **PLAN 1** and a Vertical Cross-Section of the Rolling Mill Bay A – A – **PLAN 2**

Attachment 3 to ToR - Summary of utilities currently available at the installation site of the demonstration line – **UTILITIES**

5. Marking of the subject of contract according to the Common Procurement Vocabulary (CPV):

Industrial furnaces - 42341000-8

Casting machines - 43720000-6

Rolling mills - 42932100-9

6. Deadline for performance of the order:

The deadline for launching and technical acceptance of the demonstration line – **12 months from the day of the contract/contracts signing.**

A detailed schedule for the performance of the order shall be developed after the selection of the contractor.

IV. Eligible contractors

The eligible contractors shall have the economic potential, human resources, and the knowledge and experience necessary to perform the contract, in particular they shall demonstrate that:

during the last 5 years before the deadline for submission of bids, they have performed with due diligence:

- minimum 1 supply with commissioning of a **brand-new** casting and rolling system for the continuous casting and rolling of aluminum and aluminum alloy wire rods, which a system constituted a part of a commissioned production line designed for casting and rolling of aluminum wire rods
- minimum 1 supply of a **brand-new machine/technological** line designed for the refining, filtration and modification of liquid aluminum and aluminum alloys, which

constitutes a part of a commissioned production line designed for casting and rolling of aluminum wire rods

- minimum 1 supply of a **brand-new machine**/technological line for melting and alloying of aluminum and aluminum alloys, which machine/line constituted a part of a commissioned production line designed for casting and rolling of aluminum wire rods

The aforementioned supplies could have been performed by the Contractor within the framework of one or more contracts.

V. Grounds for exclusion

1. The order may not be awarded to entities related to the Ordering Party personally or in equity (the Ordering Party shall exclude from the Procedure any related Contractor).

Capital or personal relations shall be understood as mutual connections between the Ordering Entity or persons authorized to undertake obligations on behalf of the Ordering Party or persons performing on behalf of the Ordering Party tasks associated with preparation and implementation of a procedure of bidder selection and the Contractor, in particular consisting in:

- a) participating in a company as a partner of a private partnership or general partnership,
- b) holding at least 10% of shares, unless the lower threshold is stipulated in the provisions of law or has not been defined by the Managing Authority in the program guidelines,
- c) holding a position of a member of the supervisory or management board, proxy, plenipotentiary;
- d) remaining in a marriage relationship, in a family or affinity relationship in a straight line, in a second degree relationship or affinity in the collateral line or in a relationship of adoption, guardianship or custody.

2. The Ordering Party shall exclude from the Procedure the Contractor, in respect of whom a liquidation was opened or whose bankruptcy was declared.

VI. List of documents/statements required from the Contractor to confirm the fulfilment of the Order conditions and the lack of grounds for exclusion:

1. A statement confirming the fulfilment of conditions along with a list of supplies completed within the last 5 years before the deadline for submission of the supply bids (under the requirement specified in point IV) prepared on the specimen "The List of Supplies" constituting the Attachment 4 to this ToR along with documents confirming due performance of the supplies (e.g. recommendations, the acceptance report confirming due performance of the supply).

He Ordering Party accepts replacement of the documents confirming due performance of the supplies by providing contact details in a form of address and e-mail data to

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persons who may confirm due performance of the supplies, providing that in the case of the lack of confirmation of due performance of the order by the appointed person or in the case of doubts as per the credibility of the confirmation, the Ordering Party may require from the Contractor a recommendation letter/ acceptance report under the pain of excluding the Contractor from the Proceeding.

2. A statement on the lack of grounds for exclusion, i.e. absence of personal and capital connections with the Ordering Party and no opening of liquidation proceeding or a declaration of bankruptcy shall be prepared on the specimen constituting the Attachment 5 to this ToR.

VII. Information on the manner of communication between the Parties in the proceeding, submitting statements and documents and providing explanations about the contents of this Terms of Reference.

Parties shall, in the course of this proceeding, communicate by electronic means.

In the case of a personal delivery or delivery by post/courier company, the date of delivery of the bid shall be determined by the date of receiving the bid by the Branch of the Ordering Party specified in point I. of this ToR.

VIII. Validity of bids

The Contractor shall be bound by the bid for a period of 90 days after the deadline for submission of bids. The bid validity period is commenced with the expiry of the deadline for submission of bids. This term may be extended by the Contractor prior to its expiry.

IX. Description of a bid preparation manner

1. Bids must be submitted in Polish along with a translation into English. **The subject to evaluation will be the bid submitted in Polish (a binding version). Failing to submit the bid in Polish will result in its rejection.**
2. The bid must be signed by a duly authorized representative of the Contractor.
3. The Contractor may submit only one bid covering the entire order.
4. All costs related to the preparation of the bid shall be borne by the Contractor.
5. The bid must contain all the information required in the Terms of Reference:
 - 1) the completed Bid Form (Attachment 6 to this ToR), containing all the information indicated therein
 - 2) completed and signed: Attachment no 1.1. to ToR – Technical specification of the prototype casting and rolling unit, no 1.2. do ToR – Technical specification of refining and filtering station, no 1.3. to ToR – Technical specification of melting and aluminum alloying stations

- 3) documents/statements required from the Contractor to confirm the fulfilment of the conditions and the lack of grounds for exclusion listed in Section VI of this ToR
- 4) layout with the proposal of arrangement of the individual elements of the bid
- 5) brief technical and technological description of each device.
6. If the bid contains information constituting a business secret of the Contractor, the Contractor may claim such information secret by identifying relevant pages of the bid by a working "BUSINESS SECRET". Such information will not be the subject of sharing, i.e. their contents will be made available only to employees and partners of the Ordering Party obliged to keep confidentiality.
7. The Contractor may not claim as confidential the Bid Form, which constitutes a non-confidential part.
8. The Ordering Party reserves the right to require the document confirming authorization of the person/persons signing the bid to represent the Contractor, such as an excerpt from a relevant register, power of attorney to represent the Contractor, including to sign the bid.

X. Place and deadline for submission of bids:

1. The bid should be submitted:

1) in writing, in person or by mail/courier to the address of the offices of the Ordering Party: Boryszew S.A. oddział Nowoczesne Produkty Aluminiowe Skawina, ul. Piłsudskiego 23, 32-050 Skawina

or

2) by electronic means (scan of a signed document) to the e-mail address: **oferty_poir@npa.pl**

- no later than to August 21, 2017 hours: 11-59-59 p.m.

2. The submitted bid may be changed or withdrawn by the Contractor before the deadline for submission of bids.

3. Bids submitted after the deadline shall not be evaluated.

XII. Description of the price calculation manner

1. The Contractor, in the Bid Form (Attachment 6 to the Terms of Reference), shall quote a price (net) separately for each Part of the order (including transportation, assembly, required technical assistance, technical documentation, etc.), option no 1, option no 2 and the total price as specified in the form.
2. The bid price should include all costs related to the performance of the subject of the order specified in this ToR.
3. The price should be quoted in EUR.
4. The values specified in the bid should be rounded to two decimal places using the mathematical rule of rounding numbers.
5. The quoted price shall be valid for the entire duration of the contract/contracts.

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XIII. Description of the evaluation criteria, their meaning and the method of bids evaluation:

Only the bids fulfilling the conditions and formal requirements described in the announcement and the Terms of Reference will be subject to evaluation.

Evaluation of bids in this proceeding shall be made according to total points awarded with the use of following criteria:

1. Evaluation criterion: Net price - 90 points.

In the Price criterion the points will be awarded according to the formula:

$$Pc = (Cn/Cb) \times 90 \text{ points}$$

where: Pc – points in price criterion,

Cn – the lowest net price among evaluated bids,

Cb – net price of the evaluated bid,

90 – weight of the criterion

As the subject of the order provides for two options described in the Attachment 1.3. to the ToR, the decision on the selection of one of the options will be taken by the Ordering Party at the stage of evaluation of bids. As part of the “Net Price” criterion, the price taking into account the selected options will be subject to evaluation. In the case the Ordering Party does not select the option/options, the price of such option/options shall not be considered in evaluation of the bids as part of the “Net Price” criterion.

2. Evaluation criterion: Guarantee Term - 10 points

In the Guarantee Term (expressed in months) criterion, points will be awarded according to the following formula:

$$Pg = (Gb/Gn) \times 10 \text{ points}$$

where: Pg - points in the guarantee term criterion,

Gn – the longest guarantee term among the evaluated bids,

Gb - guarantee term of the evaluated bid,

10 – weight of the criterion

The guarantee term should be expressed in months.

In case a guarantee term longer than 60 months is offered, for the purpose of bids evaluation under the above criterion, the Ordering Party shall assume that the Contractor has offered a 60-month guarantee period counted from the day of signing the acceptance report (SAT) of the subject of the order.

The results of all the calculations made for each criterion are subject to rounding to two decimals while maintaining the mathematical rule of rounding numbers.

Points awarded in each criterion of a particular bid will be summarised.

The Ordering Party will award the contract to the Contractor whose bid obtained the highest number of points.

In case of obtaining the same number of points by two or more Contractors, the position and the ranking list will be determined by the date (time and date) of submitting the bid (the bid submitted earlier will be positioned higher on the list).

The Ordering Party shall inform the Contractors, who have submitted bids, about the selection of the most advantageous offer.

XIV. The Contract

1. After selecting the most advantageous bids, the Ordering Party will conclude a written contract with the selected Contractor. The content of the contract must match the content of the bid and the ToR as well as **the key requirements of the contract specified in the Attachment no 7 to this ToR**. Detailed provisions of the contract beyond the scope of the key requirements, content of the bid and ToR shall be determined by the parties in the course of negotiations.

Failing to accept in the bid the key requirement of the contract specified in the Attachment 7 to the ToR will result in rejection of the bid.

The contract will provide for the obligation to contribute the equivalent of 10% of the bid price as a performance bond, no later than on the date of conclusion of the contract.

2. Terms of Contract amendments:

Significant amendments to the provisions of the concluded contract in relation to the contents of the ToR and the bid constituting the basis of the selection of the Contractor shall not be accepted, unless:

a) amendments relate to the implementation of additional supplies from the existing contractor, not covered by the basic contract, provided that they have become indispensable and the following conditions have been met:

- i. change of the contractor cannot be made for economic or technical reasons, in particular the interchangeability or interoperability of the equipment, services or installations ordered under the basic contract,
- ii. change of the contractor would result in a significant inconvenience or significant cost increase for the Ordering Party,
- iii. value of each subsequent change does not exceed 50% of the contract value originally specified in the contract,

b) the amendment does not modify the nature of the contract and the following conditions are jointly met:

- i. the need to amend the contract is due to circumstances that the Ordering Party, acting

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with due care, could not foresee,

ii. value of the amendment does not exceed 50% of the contract value originally specified in the contract,

c) the amendment does not lead to a change in the nature of the contract and the total value of the amendments does not exceed EUR 209,000 and at the same time is less than 10% of the original contract value.

Any amendment to the contract must be done in writing, under the pain of invalidity.

XV. Advice on legal protection measures available to the Contractor during the procurement procedure

Not applicable

XVI. Appendices

Attachment 1.1. to ToR – Technical specification of the prototype casting and rolling unit

Attachment 1.2. to ToR – Technical specification of the refining and filtering station

Attachment 1.3. to ToR – Technical Specification of the melting and preparation station for the chemical composition of aluminum

Attachment 2 to ToR – View of the planned equipment layout in the part of rolling mill bay for the rolling mill line no. 4 and furnaces (A+B+C+D+E) - PLAN 1 and Vertical cross-section A – A – of the rolling mill bay - PLAN 2 (Attachment common to Part 1 - 3 of the order)

Attachment 3 to ToR - Summary of utilities currently available at the installation site of the demonstration line (Attachment common to Part 1 - 3 of the order) - UTILITIES

Attachment 4 to ToR - Specimen of the statement confirming the fulfilment of the conditions along with the list of completed supplies (compliant with the requirement specified in point IV)

Attachment 5 to ToR – Specimen of the statement on the lack of grounds for exclusion, i.e. absence of personal and capital links with the Ordering Party and no opening of liquidation or declaration of bankruptcy

Attachment 6 to ToR – Specimen of the Bid Form

Attachment 7 to ToR – Key Conditions of the Contract