

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 an experimental technology of continuous
casting and rolling of wire rods of high-strength alloy under the Project titled
"Development of innovative technology for the production of wire rods of high-
strength aluminium alloys of 2xxx, 5xxx, 7xxx series".**

Reference no.: 6/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 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 variants.
7. Partial offers: the Ordering Party **does not accept** the submission of partial offers for parts

1

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 bids, 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 is 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 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 item II.10. changing the content of the offer is unacceptable.
12. Framework Action Plan:
 - 1) Site visit: between 5th and 12th day from the date of publication of the contract notice, interested contractors are allowed to appear in Boryszew S.A. Oddział Nowoczesne Produkty Aluminiowe Skawina (after prior appointment with the person indicated in item I. ToR) to make a view of the local place designated for installation of the subject of the order. The purpose of the site visit is to discuss location records, available utilities and confirm by the potential suppliers completeness of data needed to present 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 section 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 II.10.) or cancel the Proceeding. The Ordering Party envisages the above mentioned actions within 3 weeks of the deadline for submission of bids.
 - 6) Conclusion of contracts: After selecting the most advantageous tenderers, the Ordering Party will conclude contracts with a selected Contractor, corresponding to the contents of the bids and the Terms of Reference, detailed during the negotiations. In 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 award procedure.

III. Description of the subject matter of order

1. Name of the order

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 alloy under the Project titled "Development of innovative technology for the production of wire rods of high-strength aluminum alloys of 2xxx, 5xxx, 7xxx series" (hereinafter "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 alloy 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 it to offer on the market wire rods from high-strength aluminum alloys for further plastic processing (product innovation). Within the framework of the Project, a demonstration production line will be created and run consisting 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 as a result of R & D and are described below.

3. Parts of the order

The subject of the order has been divided into 3 parts. **Contractors may submit bids for the entire contract (3 parts). The Ordering Party does not accept placing bids for the submission of offers covering fewer than 3 parts of the order (placing a bid for fewer parts of the order than 3 will result in rejection of the bid).**

Part 1:

Prototype casting and rolling unit - 1 pc.

Casting and rolling unit is an element designed to perform, continuously, the following technological processes: ingot casting, ingot straightening, ingot cutting, ingot milling, ingot temperature control, ingot rolling, wire rod cooling, wire rod winding. As a result of the described processes, a circle of rods 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 into the development of the technology of 2xxx, 5xxx and 7xxx aluminum alloys production. The elements of the rolling mill 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 to provide all of its components, participate in assembly and integration, and demonstrate correct operation of the unit for typical aluminum alloys (aluminum alloys not included in the scope of the project). The supplier of the casting and rolling unit is responsible for the integration (including the provision of gravitational flow of metal) of the three main components of the demonstration line:

- melting and preparation station for the chemical composition of aluminum
- refining and filtering station (subject to Part 2 of the contract),
- casting and rolling unit (subject to Part 3 of the contract).

Part 2:

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

Refining and filtering station is an indispensable element for the following technological processes: gas refining, filtration and structural modification. As a result of the performed processes liquid metal is obtained at a certain temperature and technological parameters. The production capacity of the station is to guarantee the production capacity of the casting and rolling unit of 5000 kg/1h for EN AW 1370 grade aluminum. 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 supplier of the station is to provide all of its components, participate in assembly and integration, and demonstrate correct operation of the station for typical aluminum alloys (aluminum alloys not included in the scope of the project).

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 technological melting process of a metallurgical aluminum batch with a specific production capacity adjusted to the production capacity of a casting and rolling mill of 5000 kg/1h for aluminum in the grade EN AW 1370. The melting process results in liquid aluminum at a certain temperature. 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 supplier of the station is to provide all of its components, participate in assembly and integration, and demonstrate correct operation of the station for typical aluminum alloys (aluminum alloys not included in the scope of the project). The furnace must meet the emission requirements adapted to the permit obtained by NPA Skawina.

The Contractor shall provide at least 24-month guarantee for the supply completed (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 60 days from the date of conclusion of the Contract, the Contractor demonstrate to the Ordering Party that he has at his disposal "the Technical Facilities" to remedy failures at a distance of no more than 1500 km from the location of the delivery, i.e. Boryszew S.A. Nowoczesne Produkty Aluminiowe branch, ul. Piłsudskiego 23, 32-050 Skawina, and proves the possibility of take action within no more than 48 hours of the notification.

The distance from the Technical Facilities to the location of delivery will 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 delivery is included in:

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

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

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

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

Appendix 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 order fulfilling:

The deadline for commissioning and technical acceptance of the demonstration line – June 30, 2018

A detailed schedule for the implementation of the order will be developed once the contractor has been selected.

IV. Terms of participation in the proceedings

Contractors who have the economic potential, human resources, and the knowledge and experience necessary to perform the contract may apply for the award of 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:

- a minimum of 1 delivery with commissioning of a **brand-new** casting and rolling system for the continuous casting and rolling of aluminum and aluminum alloy wire rods, which system constituted a part of a commissioned production line designed for casting and rolling of aluminum wire rods
- a minimum of 1 delivery 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 delivery 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 deliveries could have been performed by the Contractor within the scope of one or more contracts.

V. Basis of exclusion

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

Capital (in equity) or personal ties are understood as the relationship between the Ordering Party or the persons authorized to incur liabilities on behalf of the Ordering Party or persons performing on behalf of the Ordering Party activities related to the preparation and conduct of contractor selection procedure and the contractor consisting in particular of:

- a) participating in a company as a partner in a private partnership or general partnership,
- b) holding at least 10% of shares if the lower threshold does not stem from legal regulations or has not been specified by the MA in the program guidelines,
- c) acting as a member of a supervisory or management body, proxy, attorney,
- d) being in marriage, kinship or affinity in a straight line, second degree affinity or second degree affinity in a side-line or adoption, care or guardianship.

2. The Purchaser 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 that the conditions are met and no grounds for exclusion:

1. A statement confirming the fulfilment of conditions, together with the list of a minimum 1 delivery completed within the last 5 years before the deadline for submission of delivery bids (in accordance with the requirement specified in item IV) prepared on the specimen of the List of Deliveries constituting the Appendix 4 to this ToR together with documents confirming the properness of the delivery (e.g. references, the acceptance report confirming proper delivery).
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 prepared on the specimen constituting the Appendix 5 to this ToR.

VII. Information about how the parties communicate in this proceeding, submitting statements and documents and providing explanations about the contents of the Terms of Reference

Parties will, in the course of this proceeding, communicate through electronic communications.

In case of personal delivery or delivery of the offer by post/courier, the date of delivery of the offer shall be deemed the date of receiving the offer by the branch of the Ordering Party specified in item I. ToR.

VIII. Deadline for bid bond

The Contractor will be bound by the bid for a period of 90 days from the deadline for submission of bids. The bid binding period starts with the expiry of the time limit for submission of bids. This term may be extended by the Contractor prior to its expiry.

IX. Description of how to prepare a bid

1. Bids must be submitted in Polish with a translation into English. Evaluated will be the Polish version (binding version).
2. The bid must be signed by a duly authorized representative of the Contractor.
3. The Contractor can 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 Offer Form (appendix 6 to ToR), containing all the information indicated therein
 - 2) documents/statements required from the Contractor to confirm the fulfilment of the conditions and no grounds for exclusion listed in Section VI of the ToR
 - 3) documents confirming the authorization of the person/persons signing the contract to represent the contractor, such as an excerpt from the relevant register, power of attorney to represent the contractor, including signing the bid
 - 4) layout with the proposal of placement of the individual elements of the bid

- 5) brief technical and technological description of each device.
6. If the bid contains information that is a business secret of the Contractor, the Contractor may reserve this information by marking the relevant pages of the bid with "BUSINESS SECRET". This information will not be shared, i.e. their contents will be made available only to employees and co-workers of the Ordering Party committed to confidentiality.
7. The Contractor may not claim the confidentiality of the Bid Form, which is an open element.

X. Place and deadline for submission of bids:

1. The offer should be submitted:
 - 1) in writing, in person or by mail/courier to the address of the branch of the Ordering Party: Boryszew S.A. oddział Nowoczesne Produkty Aluminiowe Skawina, ul. Piłsudskiego 23, 32-050 Skawina or
 - 2) electronically (scan of the signed document) to the e-mail address: oferty_poir@npa.pl
- no later than June 19, 2017 23-59-59 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 will not be considered.

XII. Description of the way of price calculation

1. The Contractor shall provide the price (net) in the Bid Form (Appendix 6 to the Terms of Reference), separately for each Part of the order and the total price.
2. The offer price should include all costs related to the execution of the subject of the order specified in this ToR.
3. The price should be stated in EUR.
4. The quoted values in the bid should be rounded to two decimal places using the mathematical rule of rounding numbers.
5. The stated price will be valid for the entire duration of the contract.

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

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

The evaluation of bids in this proceeding will be made by the sum of the scores according to the following criteria:

1. Criterion of evaluation: Net price - 90 points.

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

$$P_c = (C_n / C_b) \times 90 \text{ points}$$

where: P_c – points in price criterion,
 C_n – the lowest net price from the evaluated bids,
 C_b – net price of the evaluated bid,
90 – weight of the criterion

2. Evaluation criterion: Guarantee Term - 10 points

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

$$P_g = (G_b / G_n) \times 10 \text{ points}$$

where: P_g - points in the guarantee term criterion,
 G_n – the longest guarantee term from the evaluated bids,
 G_b - guarantee term of the evaluated bid,
10 – weight of the criterion

The guarantee term should be stated in months.

In case a guarantee term longer than 60 months is offered, for the purpose of evaluating bids in the above criterion the Ordering Party will assume that the contractor has offered a 60-month guarantee period counted from the time of signing the acceptance report (SAT) of the subject of the order.

The results of all the calculations made in each criterion are rounded to two decimal places while maintaining the mathematical rule of rounding numbers.

Points awarded in each criterion of a given bid will be added to each other. The Ordering Party will award the contract to the Contractor whose bid has the highest number of points.

In case of obtaining the same number of points by two or more Contractors, the place and the ranking list will be decided based on the date (time and date) of submitting the offer (the offer submitted earlier will be higher on the list).

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

XIV. 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. Detailed provisions of the contract beyond the content of the bid and ToR will be determined by the parties in the course of negotiations.

The contract will provide for the obligation to contribute 3% of the bid price as a performance bond, no later than on the date of conclusion of the contract.

The Ordering Party shall attach to this request for bids published on <https://bazakonkurencyjności.gov.pl> and on <http://www.npa.pl/projekty.html> the required key terms and conditions in a form of an attachment.

2. Conditions for amending the Contract:

It is not possible to make significant changes to the provisions of the agreement concluded in relation to the contents of the ToR and the bid on the basis of which the contractor was selected, unless:

a) amendments concern the implementation of additional deliveries from the existing contractor, not covered by the basic contract, provided that they have become necessary 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 cause 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 change the nature of the contract and the following conditions are jointly met:

- i. the need to change the contract is due to circumstances that the Ordering Party, acting with due care, could not foresee,
- ii. value of the change 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 change is less than EUR 209 000 and simultaneously is less than 10% of the original contract value.

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

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

Not applicable

XVI. Appendices

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

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rolling mill line no. 4 and furnaces (A+B+C+D+E) - PLAN 1 and Vertical cross-section A – A – of rolling mill hall - PLAN 2 (appendix common to Part 1 - 3 of the order)

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

Appendix 4 to ToR - Specimen of the statement confirming fulfilment of the conditions together with the list of completed deliveries (compliant with the requirements specified in section IV)

Appendix 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

Appendix 6 to ToR – Specimen of the Bid Form