

Letter of inquiry no. DA/10/05/2020

Wrocław, on 25.05.2020

Letter of inquiry

about the procurement process of purchase of service of software upgrade to MIDAS GTS NX for the needs of the Baltic Sea Underground Innovation Network (BSUIN) project no. R2.073 co-financed under Interreg Baltic Sea Region

DETAILED DESCRIPTION OF THE SUBJECT OF THE CONTRACT**I. CONTRACTING AUTHORITY:**

KGHM CUPRUM sp. z o.o. - Centrum Badawczo-Rozwojowe ul. Gen. Wł. Sikorskiego 2-8, 53-659 Wrocław	
REGON: 930093846 NIP: 8960001770 Tel. +48 71 78 12 201 Fax +48 71 34 43 536 www.cuprum.wroc.pl kghm@cuprum.wroc.pl	<u>Contact person for the inquiry:</u> Alicja Niedziela <u>e-mail: aniedziela@cuprum.wroc.pl</u> <i>Tel. +48 71 78 12 381, mobile +48 785 991 647</i>

II. CONTRACT AWARDING PROCEURE

The Contracting Authority pursuant to Article 3 of the Act of 29 January 2004 Public Procurement Law (Journal of Laws of 2013, item 907, hereinafter: "PPL ACT") is not an entity obliged to apply it. Therefore, subject of the contract for the project follows the principle of fair competition.

Due to the fact that this contract is co-financed by the European Regional Development Fund under the Interreg BSR program, the proceeding is based on:

- „Programme Manual for the period 2014-2020”,
- The principle of competitiveness set out in the "Eligibility of expenditure under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for 2014-2020" and other current provisions.

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III. THE PLACE OF PUBLICATION OF THE LETTER OF INQUIRY

1. Publication of the Letter of Inquiry on the Contracting Authority's website: <https://kgmccuprum.com/przetargi/> placing the Inquiry at the registered office of KGHM CUPRUM sp. z o.o. - Centrum Badawczo-Rozwojowe, ul. Gen. Wł. Sikorskiego 2-8, 53-659 Wrocław and sending to minimum 3 potential suppliers.

IV. DESCRIPTION OF THE SUBJECT OF THE CONTRACT

Common Procurement Vocabulary (CPV):

72262000-9- Software development services

48000000-8 - Software package and information systems

1. The subject of the contract is the purchase and delivery of 1 software upgrade to MIDAS GTS NX for the needs of the Baltic Sea Underground Innovation Network (BSUIN) project no. R2.073 co-financed under Interreg Baltic Sea Region. The purpose of the INTERREG Baltic Sea Region Program is to support integrated territorial development and cooperation for a more innovative, better accessible and sustainable Baltic Sea Region

The main goal of the BSUIN project is to create a network of underground laboratories in the Baltic Sea Region providing users (small and medium-sized enterprises) with easy access and a convenient environment for business development and innovation. The project's task is to develop the capabilities of underground laboratories to improve their service offer as an innovative potential

2. Upgrade to Midas GTS NX software intended for the numerical analysis of geotechnical and geomechanical objects in 2D and 3D should meet the following requirements:
 - a) PC version flexible licence with hardware key (USB key or other).
 - b) Software compatible with Windows 7 operating systems or higher.
 - c) Lifetime version of software.
 - d) 2D and 3D slope, tunnel and underground excavation modelling.
 - e) Linear and non-linear static analysis.
 - f) Consolidation, seepage and soil structure interaction modelling.
 - g) Strength Reduction Method (SRM), Stress Analysis Method (SAM) and dynamic analysis.
 - h) Comprehensive database of material models (Elastic, Plastic etc.)
 - i) Creation of 3D models based on digital maps and borehole data.
 - j) Access to training and tutorials.
 - k) Graphical analysis and viewing of results.
 - l) Creating stress/strain/deformation maps and animations,
 - m) Technical support after purchase

Please specify other useful functions not determined above. For this purpose, please attach an informational brochure relating to the detailed characteristics of the subject of the order determined above hereto.

Requirements necessary for the supplier:

- The Supplier shall ensure delivery to the Contracting Authority.
- The Contracting Authority requires the Supplier, together with the subject of the contract, to provide complete technical documentation for particular parts of the contract and other documents if required by the Contracting Authority or applicable laws.
- The Supplier shall be responsible for the correct, harmless delivery of the subject of the contract.
- the supplier will provide technical support service for a minimum period of 6 months from the date of the purchase.

V. PRICE CALCULATION METHOD

1. The Supplier shall calculate the offer price taking into account all costs related to the execution of the subject of the contract which they will have to bear, in particular VAT, excise duty if, under separate regulations, the sale of goods is subject to these taxes, as well as other charges and tributes (including customs duty), the cost of delivery, transport and unloading. The price to be assessed will be the total price including all elements of the performance of the offer for each part. In particular, all prices should be given on the terms and conditions of Incoterms DDP - Delivery Duty Paid - i.e. the price must include delivery to the Contracting Authority's premises and duty paid.
2. The Contracting Authority allows for the possibility of submitting a bid in Polish zloty (PLN) or in foreign currency (to the second decimal place). The offer submitted in a foreign currency will be converted at the average exchange rate announced by the National Bank of Poland from the date of the announcement. An invoice issued in a foreign currency will be converted into PLN and paid in accordance with the accounting policy adopted by the National Bank of Poland of the average exchange rate on the day preceding the payment of the invoice.
3. When evaluating offers, the Contracting Authority will take into account the total amount of funds which it will be obliged to spend for the execution of the contract - i.e. the gross amount including also value added tax and customs and excise duty, if they are due under separate regulations. Foreign suppliers who, under separate regulations, are not obliged to pay VAT in Poland, indicate only the price with 0% VAT rate. When evaluating the offer in terms of the price criterion, the Contracting Authority, in order to compare these offers, will add to the offer price of Foreign Suppliers, the amount of VAT and customs duty (if applicable - Foreign Suppliers from outside the European Union), which the Contracting Authority would be obliged to pay to the appropriate tax office in accordance with applicable regulations.

VI. OFFER EVALUATION CRITERION

1. In accordance with the Guidelines on project implementation and financing, expenditure may be considered eligible if incurred in accordance with the provisions of the Public Procurement Law (if applicable) or in accordance with the principle of competitiveness.
2. The Contracting Authority will select the most advantageous offer, which will obtain the highest number of points, based on the criteria set out below and will sign an agreement with the selected Supplier.
3. Selection criteria for the offer:
 - a) The Contracting Authority will evaluate and compare only those offers which have been found to comply with the legal provisions, to comply with the conditions set out in this letter

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of inquiry and have not been rejected due to non-compliance with the conditions set out in this letter of inquiry.

b) The offer can get maximum 100 points = 100%

c) When selecting offers the Contracting Authority will be guided by the following criteria:

- **Criterion 1: Gross price for the whole subject of the contract - weighting of the criterion 100% (C) (maximum 100 points)**

$$C = \frac{C_{min}}{C_{of}} \times 100 \text{ point}$$

where:

C - number of points possible to obtain in the criterion PRICE

C_{min} - lowest gross price among the offers

C_{of} - price of the offer under consideration

4. The Contracting Authority reserves the right not to select any Supplier or to cancel the procedure at any stage. Suppliers are not entitled to any claims on this account.

5. The Contracting Authority reserves the right to negotiate the price orally or in writing with the Suppliers who agree to participate in the negotiations.

VII. CONTRACT EXECUTION DATE

Contract execution date: **maximum 14 days after signing the contract**

Place of contract execution (delivery): **KGHM CUPRUM sp. z o.o.
Centrum Badawczo-Rozwojowe
ul. Gen. Wł. Sikorskiego 2-8, 53-659 Wrocław**

VIII. DESCRIPTION OF HOW TO PREPARE OFFERS

Only offers completed on the offer form in accordance with the specimen presented in Appendix 1 hereto will be considered. At least 60-day offer validity period is required from the deadline for submission of offers:

The offer should:

1. Costs related to the execution of the order, prepared on the basis of all information contained in this Letter of Inquiry.
2. To be submitted on the Offer Form in accordance with the specimen constituting **Appendix 1** to this enquiry,
3. The offer should be consistent with the description of the subject of the order.
4. The offer must be drawn up in Polish or English.
5. The offer form should contain a company stamp and be signed by a person authorised to represent the tenderer, in accordance with the tenderer's registration document. If the documents are signed by a proxy, a power of attorney authorising to sign them should be attached to the offer. The signatures must be made in a way that makes it possible to identify the signatory. The authorisation of the persons signing the offer must result directly from the documents attached to the offer.

6. The offer should be accompanied by a current excerpt from the appropriate register or from the central register and information on business activity (or information corresponding to the current excerpt from the appropriate register or from the central register and information on business activity), if separate regulations require an entry in the register or record; issued not earlier than 6 months before the deadline for submission of offers.
7. If the Supplier has its seat or place of residence outside the territory of the Republic of Poland, instead of a current excerpt from a proper register or from a central register and information about business activity (or information corresponding to a current excerpt from a proper register or from a central register and information about business activity), it shall submit a document or documents, issued in the country, in which it has its seat or place of residence, confirming that its liquidation has not been opened or bankruptcy has not been declared, issued not earlier than 6 months before the deadline for submitting offers. If no such documents are issued in the place of residence of the person or in the country, where the Supplier has its seat or place of residence, such documents shall be replaced by a document containing a declaration, which also specifies persons authorized to represent the Supplier, submitted before a competent judicial, administrative or professional or economic self-government body of the country of residence of the person or the country, respectively, where the Supplier has its seat or place of residence, or before a notary public, issued not earlier than 6 months before the deadline for submitting the offers. The document should be submitted in Polish or English
8. A tax residence certificate for foreign entities (if applicable) should be attached to the offer.

IX. PLACE, METHOD AND TIMING OF SUBMISSION OF OFFERS

1. Offers can be submitted in following forms:
 - a) written, signed by the person(s) authorized to represent the Supplier. The offer should be submitted by post or courier or submitted in person in a sealed envelope to the address of the Contracting Authority's office: KGHM CUPRUM sp. z o.o. - CBR, 53-659 Wrocław, ul. Gen. Wł. Sikorskiego 2-8, room 603, sixth floor (the Contracting Authority's office is open from Monday to Friday from 8:00 a.m. to 3:00 p.m., except on public holidays).

The envelope must be marked: *Offer for purchase and delivery of service of software upgrade to MIDAS GTS NX*

DO NOT OPEN BEFORE: 02.06.2020, 10:00 a.m.

- b) electronic, in the form of a signed scan to: aniedziela@cuprum.wroc.pl.
E-mail, should be titled: *Offer for purchase and delivery of service of software upgrade to MIDAS GTS NX*

Deadline for submission of offers: 02.06.2020 by 10.00 a.m.
(the date and time of receipt by the Contracting Authority is decisive)

2. Offers submitted after the deadline will not be considered.

X. AWARD/SELECTION OF THE OFFER

Offers shall be opened within 7 working days of the end of the procedure. The results of the offer selection process will be published on the Contracting Authority's website: <https://kgmccuprum.com/przetargi/>. The supplier may amend or withdraw its offer before the opening date. During the examination and evaluation of offers, the Contracting Authority may request the Suppliers to clarify the contents of submitted offers.

XI. INFORMATION ON HOW THE CONTRACTING AUTHORITY COMMUNICATES WITH BIDDERS

Form and rules of communication:

- 1) The Supplier may request the Contracting Authority to clarify the content of the Request for Offer by e-mail not later than 3 working days before the deadline for submission of offers.
- 2) The Contracting Authority reserves the right to leave any questions received after this date unanswered.
- 3) The content of inquiries together with explanations (without disclosing the source of the inquiry) will be published by the Contracting Authority on the website at the address indicated in point III.1. and will notify the Suppliers who have expressed their interest in the procedure. The Contracting Authority shall answer the questions asked by the Suppliers at the latest 2 working days before the deadline for submitting offers.
- 4) In justified cases, the Contracting Authority may, before the deadline for submission of offers, change the content of the letter of inquiry. The Contracting Authority will make the change public on website at the address indicated in point III.1. and will inform electronically the Bidders to whom the Letter of inquiry was forwarded.
- 5) If, as a result of a change in the contents of the Letter of inquiry, additional time is necessary to introduce changes in offers, the Contracting Authority shall extend the deadline for submission of offers by informing about it on the website at the address indicated in point III.1 and shall electronically inform about it the Bidders to whom the Letter of inquiry was forwarded.

XII. ADDITIONAL INFORMATION

1. The costs of participation in the proceedings shall be borne by the Suppliers.
2. Suppliers who want to participate in the procurement process must fulfil following conditions:
 - a) entitlements to perform specific activities, if law impose an obligation to possess such entitlements;
 - b) meet the conditions for having the necessary knowledge and experience and have the appropriate technical potential and persons capable of performing the task,
 - c) are in a stable financial and economic situation which guarantees the performance of the abovementioned contract
 - d) are not in arrears with the Tax Office and ZUS (if applicable)
3. The Supplier's remuneration shall be paid after the subject of the order has been handed over to the Ordering Party, confirmed by signing by both parties of the Acceptance Protocol indicating that the Ordering Party has no comments regarding the order..
4. In order to execute the order, the selected Supplier shall conclude the concluded contract.
5. The Contracting Authority requires that the offered subject of the contract be free from any physical and legal defects and be brand new.

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6. The Contracting Authority requires the Supplier, together with the subject of the contract, to provide complete technical documentation of the contract and other documents if required by the Contracting Authority or applicable laws
7. If a defect is found that prevents the proper use of the subject of the contract, the Supplier guarantees to repair or send the item back to the manufacturer for repair within 14 working days from the date of detection.
8. Transportation costs to the Contracting Authority's headquarters and insurance shall be covered by the Supplier.
9. This contract may be awarded to Suppliers who:
 - a) are not related or subsidiary, co-dependent or dominant entity within the meaning of the Accounting Act of 29 September 1994 (Journal of Laws No. 121, item 591, as amended) in relation to the Contracting Authority
 - b) are not an entity remaining with the Contracting Authority in such a factual or legal relationship, which may raise justified doubts as to the impartiality of selection of the Supplier of goods or services, in particular when they are married, relationship of kinship or affinity up to and including the second degree, adoption, custody or guardianship relationship, also through membership in the authorities of the Supplier of goods or services;
 - c) are not affiliated or partner to the Contracting Authority within the meaning of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General Block Exemption Regulation);
 - d) are not personally or capital related to the Contracting Authority within the meaning of art. 32 section 2 of the Act of 11 March 2004 on Goods and Services Tax (Journal of Laws No. 54 item 535, as amended).

** Capital or personal relations shall be understood as mutual relations between the Contracting Authority or persons authorised to contract liabilities on behalf of the Contracting Authority or persons performing on behalf of the Contracting Authority activities related to the conduct of the procedure for selecting a contractor and the contractor, consisting in particular in the following:*

 - participating in the company as a partner in a civil partnership or a partnership,
 - holding at least 10% of shares or stocks, unless a lower threshold is required by law,
 - acting as a member of the supervisory or management body, proxy, attorney,
 - married, in a relationship of kinship or direct or secondary affinity or in adoption, custody or guardianship.
 - e) which is not in dispute with KGHM CUPRUM Sp. z o.o.- CBR or its subsidiary, and no ruling has been issued from which it can be concluded that KGHM CUPRUM Sp. z o.o.- CBR or its subsidiary is entitled to claims for damages against the Supplier.
10. The Supplier undertakes to keep all information received and the content of documents secret.
11. The Ordering Party does not allow partial or variants of tenders
12. Payment terms for purchasing the service – up to 60 days.
13. The Contracting Authority reserves the right to make changes, including the extension of the contract completion date, in the agreement concluded with the Supplier, which will be selected as a result of the conducted procedure. Possible amendments to the provisions of the agreement will be made in the form of a written annex, and may be made in particular for reasons of:
 - The occurrence of justified changes in the scope and manner of execution of the subject of the contract, including ordering additional or replacement works;

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- The occurrence of objective reasons beyond the control of the Contracting Authority and the Supplier that affect the subject of the Agreement;
 - The occurrence of circumstances resulting from force majeure;
 - Where administrative procedures are extended beyond the periods indicated in the relevant legislation for reasons beyond the control of the Parties;
 - Changes in the law;
14. The Contracting Authority informs that in accordance with Article 13 of the General Data Protection Regulation of 27 April 2016 (Official Journal of the European Union L 119 of 04.05.2016) hereby inform that:
- a) controller of your personal data is KGHM CUPRUM sp. z o.o. - CBR 53-659 Wrocław, ul. Gen. Wł. Sikorskiego 2-8.
 - b) contact with the Data Protection Officer - iod@cuprum.wroc.pl
 - c) your personal data will be processed for the purpose of implementing the agreement - pursuant to Article 6(1)(b) of the General Data Protection Regulation of 27 April 2016.
 - d) the data will be disclosed to members of the bodies, employees of KGHM - CUPRUM SP. Z O.O. - CENTRUM BADAWCZO ROZWOJOWE and entities and their employees providing legal, financial, accounting and IT services, as well as KGHM Polska Miedź S.A. and Interreg Baltic Sea
 - e) your personal data will be kept for a minimum of 5 years.
 - f) you have the right to demand from the controller the access, rectify, erase, transfer or restriction the processing of personal data.
 - g) you have the right to complain to the supervisory authority.
 - h) providing personal data is voluntary; however, a refusal to provide data may result in a refusal to conclude a contract.
15. In the content of the offer, the Suppliers are obliged to include a statement on meeting all requirements provided for in this Letter of Inquiry, in accordance with the provisions included in point III of Appendix 1.

APPENDICES:

- Appendix 1 - Offer form.


PREZES ZARZĄDU
Lech Szyszkowicz


PREZES ZARZĄDU
Radosław Pilut

Annex to the Letter of inquiry no. DA/10/05/2020

....., on

Name of the bidder
Address of the bidder
NIP (Tax ID no.)
Tel.
E-mail:
Contact person
Bank account number for payment	

CONTRACTING AUTHORITY:

KGHM CUPRUM sp. z o.o.

Centrum Badawczo - Rozwojowe

Gen. Władysława Sikorskiego 2-8,

53-659 Wrocław

OFFER FORM

about the procurement process of purchase of service of software upgrade to MIDAS GTS NX for the needs of the Baltic Sea Underground Innovation Network (BSUIN) project **no. R2.073** co-financed under Interreg Baltic Sea Region

I present the offer:

I. SUBJECT OF THE CONTRACT

The subject of the contract is the purchase and delivery of 1 software upgrade to MIDAS GTS NX for the needs of the Baltic Sea Underground Innovation Network (BSUIN) project **no. R2.073** co-financed under Interreg Baltic Sea Region. The purpose of the INTERREG Baltic Sea Region Program is to support integrated territorial development and cooperation for a more innovative, better accessible and sustainable Baltic Sea Region

II. PRICE AND DATE

Net price for whole object of the contract y
Gross price for whole object of the contract y
including VAT of ... %

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In words, the net price of the entire contract:

.....

The validity of the offer	minimum 60 days
Contract execution date	Maximum 14 days after signing the contract
Date of payment	Transfer up to 60 days

III. STATEMENTS

I declare that:

- 1) The prepared offer meets all the requirements specified in the Letter of inquiry No. DA/10/05/2020 of 25.05.2020, hereinafter referred to as the Letter of inquiry.
- 2) I declare that:
 - a) I have met the conditions described by contracting authority, including necessary knowledge, experience, and qualifications. I have also the appropriate technical potential and people capable of performing the task;
 - b) I have the permission to perform specific activities, if acts impose an obligation to have such permissions;
 - c) I am in a stable financial and economic situation which guarantees the performance of the contract in question;
 - d) my company is not undergoing liquidation or bankruptcy proceedings and is not in bankruptcy;
 - e) the subject of the order is free from any physical and legal defects and is brand new;
 - f) I do not stay with the Contracting Authority in the relationship referred to in point XII section 9 of the Letter of Inquiry;
 - g) I've read the point XII section 14 of the Letter of Inquiry concerning GDPR
 - h) I am not in arrears with the Tax Office and ZUS (if applicable)
- 3) I have read the Letter of Inquiry and, if my offer is selected, I undertake to sign the agreement at the date and place indicated by the Contracting Authority and deliver in accordance with the terms and conditions specified in the Letter of Inquiry.
- 4) I have read the detailed scope of the contract contained in the Letter of Inquiry and all the information necessary to complete the contract in a sufficient and necessary manner. Ignorance of the above condition cannot be a reason for additional financial claims.
- 5) I undertake to keep confidential all information obtained in the course of the proceedings.
- 6) I hereby give my consent to the processing of my personal data for the purposes of the Inquiry procedure no. DA/10/05/2020 conducted by KGHM CUPRUM Sp. z o.o. CBR.

.....
Place, date

.....
Signature of the authorised person

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