

Ożarów Mazowiecki, 16.09.2022

# Request for proposals No. IGA-23\_22 of 16.09.2022

## 1. General information

1.1 Contract: this request for proposals concerns a supply of goods required for a comprehensive implementation by VIGO Photonics Spółka Akcyjna (a joint-stock company) with its registered office in Ożarów Mazowiecki of the project named " **1.7 - 2.6  $\mu$ m InGaAs sensors development with integrated ASIC** " under the Intelligent Development Operational Program 2014 - 2020 co-financed by the European Regional Development Fund.

1.2 Ordering Party: VIGO Photonics Spółka Akcyjna with its registered office in Ożarów Mazowiecki, ul. Poznańska 129/133, 05-850 Ożarów Mazowiecki, entered into the Register of Entrepreneurs of the National Court Register kept by the Regional Court for the capital city of Warsaw in Warsaw, 14<sup>th</sup> Commercial Division of the National Court Register, under KRS No. 000011394, holding NIP (tax identification number): 5270207340, REGON (statistical number): 010265179, having share capital of PLN 729,000.00 (paid up in full).

## 2. Description of the subject of the contract

2.1 The subject of the order is a supply of:

Part	Material index	Quantity [pcs.]
Part I	Silicon Wafer 6"	50
Part II	Sapphire Wafer 6	25

in accordance with the detailed description of the subject of the order, contained in attachment no. 1 to this request for proposals.

2.2 Whenever the description of the subject of the contract mentions any trademark, patent, type or specific origin, it should be assumed that the indicated trademarks, patents, types or origins determine the technical, operational and utility parameters, which means that the Ordering Party shall accept tenders in this part of the subject of the contract with equivalent or better technical, operational and utility parameters. All indications of a particular type shall be considered exemplary and ancillary.

2.3 The Ordering Party shall accept partial offers. The Order might submit his offer in part or parts described in attachment 1 to this request for proposals.

2.4 The Ordering Party shall not accept variants.

2.5 Time-limit for completion of the Contract: **6 weeks from the date of signing the contract**. The term indicated above refers to handing over of the goods to the Ordering Party in accordance with the delivery terms (Incoterms 2020) indicated in the offer.

### 3. Code based on the Common Procurement Vocabulary (CPV)

No.	Code	Description
1.	31712330-2	Semiconductors

### 4. Participation conditions

4.1 The Contractor applying for the award of the contract:

- a. should have qualifications necessary to carry out specific activities or actions if so required by the provisions of the law;
- b. should have the necessary knowledge, experience as well as technical and human potential to perform the Order;
- c. should be in an economic and financial situation ensuring the performance of the Contract;
- d. should not be in arrears with payments of taxes, fees, or social insurance contributions.

4.2 The contract shall not be granted to entities affiliated personally or financially with the Ordering Party. Financial or personal relations shall be understood as mutual relations between the Ordering Party or the persons authorized to enter into commitments on behalf of the Ordering Party, or persons performing, on behalf of the Ordering Party, activities related to the preparation and implementation of the procedure for selecting the contractor and the contractor, consisting in particular of:

- a. participation in a company or partnership as a partner;
- b. holding at least 10% of shares;
- c. performing the function of a member of a supervisory or management body, a proxy, or an attorney-in-fact;
- d. remaining in a marital relationship, in consanguinity or affinity in a straight line, kinship of the second degree or affinity of the second degree in the secondary line, or in an adoption, guardianship or custody relationship.

4.3 The contractor shall submit, together with the offer, a **statement on fulfilling the conditions** for the participation in the procedure, specifically indicated in point 4.1 and 4.2. The abovementioned statement constitutes **attachment no. 3** to this request for proposals.

4.4 The Ordering Party might, in order to confirm participation conditions fulfillment, request the contractor to submit proper documents, especially permissions, concessions and certificates.

4.5 Contractors may run jointly for this contract. In such case:

- a. the involved entities shall appoint a representative for the contract award procedure or to represent the contractor in the procedure and to execute the contract and the agreement on the joint and several liability for contract performance under the terms of Article 366 of the Polish Civil Code; the Ordering Party requires submission of the power of attorney, indicating at least its scope, parties and the attorney-in-fact;
- b. the involved entities, if their tender is chosen as the most advantageous one, shall submit to the Ordering Party, before signing the contract, a copy of the agreement governing the cooperation between these entities, certified as a true copy of the original;
- c. none of the entities running jointly for the contract award may be subject to exclusion from the contract award procedure;
- d. when assessing the tender submitted by Contractors jointly applying for the award of the contract, the Contracting Party will take into account the Contractor's joint qualifications to perform the activities/ actions falling within the scope of the contract, their total technical or professional potential to perform the contract, and their combined economic or financial situation.

## 5. List of documents

5.1 In order to confirm that the offered subject of the contract meets the requirements indicated in the description of the subject of the contract (**Att. 1**), the contractor shall submit, together with the tender, a **description of the offered subject of the contract**.

5.2 The Ordering Party requires submission of the offer on the **proposal form**, enclosed as an **attachment no. 2** to this request for proposals.

5.3 The Ordering Party requires the contractors applying for the contract to submit valid **register document**, issued by the registration authority, **indicating the persons authorized to represent the contractor**. The Ordering Party shall not summon to submit the abovementioned subjective evidence if it is possible to obtain such evidence by means of complimentary and generally available databases, in particular public registers;

or, if the Ordering Party possesses such evidence as a result of previously realized procedures, in which it was submitted, provided that the contractor will express consent to use it and declare its validity.

5.4 The Ordering Party requires submission of the **statement on participation conditions' fulfillment**, contained in **attachment no. 3** to this request for proposals.

5.5 The Ordering Party provides for conclusion of the contract using model agreement. The **specimen contract** is enclosed as **attachment no. 4** to this request for proposals.

5.6 In case of submission of the offer signed by a person not indicated in the register document as entitled to represent the contractor, the proper power of attorney shall be attached. Exemplary power of attorney is an attachment no. 5 to this request for proposals. The Ordering Party shall not require submission of the power of attorney using the attached template.

## 6. Documents' preparation and submission

6.1 The contractor, in the proposal form, shall indicate:

- a. complete net price, including total cost of the subject of the order; the Ordering Party requires the contractor to express the price in polish zlotys (PLN), euros (EUR) or the US dollars (USD); the price shall be expressed with two decimal places;
- b. tax on goods and services (VAT), in the amount applicable on the day of submitting offers; the contractors having their registered office or place of residence outside of the territory of the Republic of Poland are not obliged to indicate the amount of VAT;
- c. delivery terms in accordance with the Incoterms2020, if they are not specified by the Ordering Party in point 2.7 of this request for proposals; unless otherwise indicated by the Ordering Party or the contractor, the EXW Incoterms2020 delivery principle shall be applied.
- d. payment terms, whereby payment may be effected only on the basis of an invoice or advance invoice; in case of lack of indication of the payment deadline, it shall be deemed 30 days from the proper delivery of the invoice to the Ordering Party.

6.2 **The offer and the attachments to the offer must be signed** in accordance with the forms attached to this request for proposals, whereby:

- a. "signed" shall be understood as provided with a legible handwritten signature consisting of at least the surname(s) of the person(s) authorized to represent the entity in accordance with the form of representation specified in the register document or another document proper for the contractor or a signature with aforementioned person's (persons') personal stamp or another signature, which allows the identification of the signing individual. Any corrections in the offer should be made legibly and signed and dated by the person(s) signing the offer;

6.3 The proposal form with its attachments must be submitted in the original form, and in the case of electronic submission of documents - in form of PDF scans or JPG (EXCEL in the case of other documents, which do not require a signature).

6.4 The Ordering Party provides for submission of the offer in written, documentary or electronic form, whereby:

a. the offer in writing should be submitted in the headquarters of the Ordering Party: **VIGO Photonics S.A., Poznańska 129/133 Street, 05-850 Ożarów Mazowiecki**, and if the offer is sent by post, the date of delivery of the offer to the Ordering Party is decisive for meeting the submission deadline;

b. the offer in documentary form or electronic form (with a qualified electronic signature) should be sent to the e-mail address: [tenders@vigo.com.pl](mailto:tenders@vigo.com.pl), with note that the moment of registration of the offer on the Ordering Party's servers is decisive for meeting the submission deadline. Maximum size of one e-mail cannot exceed 25 MB.

6.5 Additionally, the Ordering Party informs about the possibility of submitting the offer via the module on the tender page on the website: <https://bazakonkurencyjnosci.funduszeuropejskie.gov.pl/> in the "Offers" → "Create Offer" section. Submitting an offer requires creating an account and logging in.

6.6 The offer (att. 2) and signed attachments to the offer (att. 3 and 5), and product description **must be submitted in Polish or English**. An excerpt from the company register is allowed in one of the EU official languages. In the case of register documents issued in another language, they should be submitted together with the translation into Polish or English.

6.7 In case of the contractors, who express the price in EUR or USD in accordance with point 6.1.a. above, the Ordering Party might, in order to enable offers comparison, convert the given amounts of a given currency at the average exchange rate announced by the National Bank of Poland on the day of opening the offers. In case of lack of the publication on the day referred to above, the Ordering Party shall apply the last announced exchange rate. If the day of opening of the offers is a Saturday, Sunday or a public holiday, the offers' opening shall take place on the following working day. The Ordering Party shall bear the foreign exchange risk.

6.8 Contractors bear all their own costs related to the preparation and submission of the offer, regardless of the outcome of the procedure. The Ordering Party shall in no case be liable for the costs incurred by the contractors in connection with the preparation and submission of the offer. The contractors undertake not to raise any claims in this respect against the Ordering Party.

## 7. Submission deadline

7.1 The tender should be submitted by: **23.09.2022**

7.2 The contractor shall be bound by the submitted tender for a period of at least **30 days**. The period indicated above commences after the elapse of submission deadline.

## 8. Offers' evaluation

Tenders will be evaluated according to the following criteria:

Criterion name	Number of points	Percentage
Net price of the offer	100.00	100.00

8.1 The method of calculating the criterion:

Net price of the offer - 100 points (100%); The method of calculating the criterion value in the range of the offer price: Points for the examined offer = (lowest net price for the subject of the Order / net price of the examined offer) x 100. 1% = 1 point. The maximum number of points to be obtained under this criterion is 100.

8.2 The selection of the most advantageous tender will be decided on the basis of the highest total number of points (max. of 100 points = 100%). All calculations will be rounded to second decimal place (rounding from 5 up). Other tenders will rank on subsequent places.

8.3 Each of the Parts of the subject matter of the contract specified in item 2.1 shall be evaluated according to the criteria specified in the above points. 8.1-8.2

8.4 If it is not possible to select the most advantageous offer due to the fact that two or more offers present the same balance of price the Ordering Party will call the Contractors who submitted these offers to submit, within the time limit specified by the Ordering Party, documents indicating environmental and climatic parameters, in order to select a more favorable offer in terms of environmental impact (in particular, lower energy consumption, water consumption, use of recycled materials).

8.5 Due to the division of the contract into parts, the Economic Operator may submit a tender for one or more parts of the contract.

## 9. Offer's examination

9.1 The contractor may correct obvious typographical or computational errors and other errors that do not significantly change the content of the offer or change or withdraw the offer before the expiry of submission deadline.

9.2 During review and evaluation of offers, the Ordering Party may:

- a. require the contractor to provide explanations regarding the content of the offer within the designated period;
- b. require the contractor to supplement the shortcomings of the offer within the designated period;
- c. correct obvious typographical or computational errors and other errors that do not cause significant changes in relation to the contents of the offers submitted by the contractors.

9.3 The contractor's failure to respond within the prescribed period, a response which does not dispel the doubts or failure to supplement shortcomings in the offer within the designated period shall be considered a withdrawal of the offer by the contractor.

9.4 The Ordering Party shall exclude a contractor who fails to meet the participation conditions.

9.5 The Ordering Party shall reject the offer, if:

- a. its contents do not correspond to the contents of the request for proposals;
- b. it contains errors in calculation of the price which cannot be eliminated in accordance with item 9.2 above;
- c. it contains a flagrantly low price for the subject of the contract and the contractor did not clarify this circumstance;
- d. the contractor has submitted more than one offer.

9.6 The Ordering Party may reject the offer, if:

- a. it contains a flagrantly high price, which is not justified by the subject of the order;
- b. it exceeds the budget expected by the Ordering Party, if such budget was indicated.

9.7 Ordering Party informs that the selection of the contractor does not provide for an appeal procedure against this decision. Contractors will be informed about the selection of the offer by announcing this information on the website of the published notice.

9.8 The offers submitted in a way that is contrary to the request for proposals or submitted after the submission deadline shall not be reviewed.

9.9 The Ordering Party reserves the right to invalidate this request for proposals at any time, without providing relevant grounds therefore.

9.10 The Ordering Party may at any time cancel, amend or modify the contents of this request for proposals without providing reasons. If the amendments or modifications affect the contents of the offers submitted in the course of the procedure, the Ordering Party shall extend the submission deadline.

## 10. Contact persons and asking a questions

10.1 Contractors may ask questions regarding the procedure, in particular regarding the content of the request for proposals, no later than 3 days before the submission deadline. Questions should be submitted only through the module "Add a Question", provided on the page of the advertisement in question, referred to in point 6.5 above. In case of receiving of the contractors' questions, the Ordering Party shall immediately publish the explanations in a manner appropriate for the publication of the request for proposals and provide this information to all contractors who have already submitted their offers.

10.2 The person responsible for the contact with the contractors is Ms. Klaudia Jachimowicz, tel.: +48 883 359 143, e-mail: [kjachimowicz@vigo.com.pl](mailto:kjachimowicz@vigo.com.pl). In order to avoid any doubts, the Ordering Party indicates that the person mentioned above is not authorized to make or receive declarations of will on behalf of the Ordering Party.

## 11. Information about selection of the most favorable tender

11.1 The Ordering Party reserves the right to commence negotiations with the contractors who properly submitted tenders in the course of the procedure. Negotiations aimed at improving the contract terms may pertain particularly to its price. Negotiations will be conducted in a manner that does not deteriorate the terms of the contract specified in the request for quotation, in a transparent manner and does not affect the access of all contractors to negotiations.

11.2 The Ordering Party will choose the most favorable offer out of the offers correctly submitted in the course of the procedure.

11.3 The Ordering Party may close the contract award procedure without choosing any offer.

11.4 The Ordering Party shall notify all contractors about the selection of the best offer (providing the name of the contractor's company, seat, offered price) or about closing the contract award procedure without selecting any offer. The notification shall be made in the manner provided for the publication of this request for proposals.

## 12. Contract conclusion

12.1 The contractor, whose offer has been chosen by the Ordering Party, shall execute the contract in writing or in electronic form (with a qualified electronic signature) with the Ordering Party within 14 days of the announcement on the offer selection.

12.2 If the contractor whose offer is selected evades conclusion of the contract within the prescribed period, the Ordering Party shall choose the most advantageous offer out of the remaining ones.

### 13. Conditions for a significant amendment to or modification of the executed contract

13.1 The Ordering Party provides for a possibility to amend or modify the executed contract in relation to the contents of the tender on the basis of which the Contractor has been selected, in the following cases:

- a. The changes are not significant within the meaning of the Guidelines on the eligibility of expenditure under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for 2014-2020;
- b. There will be a change in generally applicable laws to the extent that affects the performance of the Order, unless such change was known at the time the offer was made;
- c. It is necessary to change the way of fulfilling the obligation, if such a change is necessary for the proper performance of the contract;
- d. In the course of performance of the contract, there will be an objective need to prepare the product or perform the service, the performance of which will be agreed between the Parties, necessary (necessary) for the proper performance of the Order, which the Parties did not provide in the Description of the subject of the Order
- e. it is necessary to change the date or scope of the contract in the event of circumstances or events preventing the performance of the contract within the prescribed period, which were beyond the control of both parties (i.e. force majeure and the state of the pandemic described in points 7 and 8 of the Agreement;
- f. it is possible to use newer and more favorable technological or technical solutions for the Employer than those existing at the time of signing the contract. Solutions that meet the Employer's requirements to a greater extent from the point of view of maintenance costs, functionality, quality or utility should be regarded as more favorable for the Employer;
- g. the change does not change the nature of the contract and the following conditions have been met cumulatively:
  - (i) the need for the amendment or modification of the contract is due to circumstances that the Contracting Party, acting with due diligence, could not have foreseen,
  - (ii) the value of the amendment or modification does not exceed 50% of the Contract value as initially specified in the contract agreement,
- h. The Contractor to whom the Contracting Party has awarded the contract is to be replaced by a new contractor:
  - (i) under contractual arrangements referred to in items in Contract;

- (ii) as a result of a merger, division, transformation, bankruptcy, restructuring or acquisition of the existing Contractor or its undertaking, as long as the new contractor meets the conditions for participation, there are no grounds for exclusion of that contractor and it does not entail any other significant changes to the contract,
- (iii) As a result of the Purchaser's assumption of the Contractor's obligations towards its subcontractors,
- i. the change does not change the nature of the contract and the total value of the changes is lower than the EU thresholds within the meaning of Art. 3 Public Procurement Law (Journal of Laws of 2019, item 2019 and Journal of Laws of 2020, item 288, as amended), and at the same time less than 10% of the order value originally specified in the contract,
- 14.1.10 in other cases permitted by the Guidelines on Eligibility of Expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the Years 2014-2020 in section 6.5.2 point 20.

#### 14. Statement and information clause under Art. 13 GDPR

According to Art. 13 sec. 1 and 2 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46 / EC (general regulation on data protection) (Journal of Laws UE L 119 of 04/05/2016, p. 1), hereinafter referred to as "GDPR", I would like to inform you that:

14.1 The administrator of your personal data is VIGO Photonics S.A. with headquarters in Ożarów Mazowiecki, the contact person regarding data processing is Ms. Sylwia Wiśniewska-Filipiak, e-mail: [ado@vigo.com.pl](mailto:ado@vigo.com.pl).

14.2 Your personal data will be processed on the basis of art. 6 sec. 1 lit. f GDPR in order to conduct a procurement procedure in the project "**1.7 - 2.6  $\mu$ m InGaAs sensors development with integrated ASIC**" under the Intelligent Development Operational Program 2014 – 2020 co-financed by the European Regional Development Fund.

14.3 The recipients of your personal data will be persons or entities to whom the documentation of the procedure will be made available on the basis of the concluded project financing agreement referred to in point 2.

14.4 Your personal data will be stored in accordance with the concluded co-financing agreement for the period necessary for the proper settlement of the project and due to legal provisions and the co-financing agreement regulating reporting, maintaining project durability

and other generally applicable provisions of law aimed at preserving the rights and obligations of the Administrator and the data entrusting entity.

14.5 The obligation to provide your personal data directly concerning you is a requirement specified in the guidelines regarding the eligibility of expenditure under the above-mentioned project, necessary to participate in the procurement procedure.

14.6 With regard to your personal data, decisions will not be made in an automated manner, in accordance with art. 22 GDPR;

14.7 You have:

- a. pursuant to art. 15 GDPR, the right to access personal data;
- b. pursuant to art. 16 GDPR, the right to rectify personal data;
- c. pursuant to art. 18 GDPR, the right to request the administrator to limit the processing of personal data, subject to the cases referred to in art. 18 sec. 2 GDPR;
- d. the right to lodge a complaint to the President of the Personal Data Protection Office, if you feel that the processing of your personal data violates the provisions of the GDPR.

14.8 You are not entitled to:

- a. in connection with art. 17 sec. 3 lit. b, d or e GDPR, the right to delete personal data;
- b. the right to transfer personal data referred to in art. 20 GDPR;
- c. pursuant to art. 21 GDPR, the right to object to the processing of personal data, as the legal basis for the processing of your personal data is art. 6 sec. 1 lit. f GDPR.

## 15. Attachments

15.1 the following documents are attached to this request for proposals:

- a. attachment no. 1 – order description;
- b. attachment no. 2 – proposal form;
- c. attachment no. 3 – statement on participation conditions fulfillment;
- d. attachment no. 4 – specimen contract;
- e. attachment no. 5 – power of attorney template.