

MINIMUM SET OF REQUIREMENTS FOR THE QUALIFICATIONS OF ECONOMIC OPERATORS

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1. Background

- 1.1. On 30 September 2016 RB Rail AS, Ministry of Economic Affairs and Communications of the Republic of Estonia, Ministry of Transport of the Republic of Latvia, Ministry of Transport and Communications of the Republic of Lithuania, Estonian Technical Regulatory Authority, Rail Baltic Estonia OU, Eiropas Dzelzceļa līnijas SIA, Lietuvos geležinkeliai AB and Rail Baltica Statyba UAB concluded an Agreement on the Contracting Scheme for the Rail Baltic/Rail Baltica project (**Agreement on Contracting Scheme**).
- 1.2. According to the Agreement on Contracting Scheme, the Ministries and their designated implementing bodies are authorised to conduct procurement of certain supplies, works and services under the supervision of RB Rail AS (**Supervised National Procurement**).
- 1.3. Section 5.2.3 of the Agreement on Contracting Scheme obliges Ministries and their designated implementing bodies to draft procurement documents for the Supervised National Procurement among other things on the basis of minimum set of requirements for the qualifications of economic operators, developed by RB Rail AS.

2. Minimum set of requirements

- 2.1. This document sets out the minimum set of requirements for the qualifications of economic operators which should be taken into account by the contracting authorities (contracting entities) when drafting procurement documents for the procurements within Rail Baltica project.
- 2.2. The minimum set of requirements for the qualifications of economic operators is outlined in the Appendix.
- 2.3. Contracting authorities (contracting entities) may set in relevant procurement documents additional requirements for the qualifications of economic operators insofar such are objectively justified and do not unnecessarily and inappropriately limit the competition between economic operators.
- 2.4. As an exception, in order to enhance the competition between the economic operators in a particular procurement and if setting of lesser requirements does not have a negative impact on the quality of the to-be-procured works, services or goods, the contracting authorities (contracting entities) may set in relevant procurement documents lesser requirements for the qualification of economic operators by motivating the need to enhance the competition. This could be done, if setting of lesser requirements will not have a negative impact on the quality of the to-be-procured works, services or goods and this will be based on set objective facts writing (as part of the minutes of the meeting of the procurement commission or as a separate decision). The contracting authorities can apply rules mentioned above in this section to the procurement with a value net, without VAT, estimated to be equal to or greater than thresholds set within

the Directive¹, if the Contracting authority has received prior written approval from Chief Operating Officer of RB Rail AS.

3. Status

3.1. In case of discrepancies between the mandatory provisions of national legislation and the requirements for the qualifications of economic operators which are set in this document the mandatory provisions of national legislation which apply to the particular procurement shall prevail.

3.2. This is a living document and RB Rail AS may update it as necessary. The newest version will be available on the web-page of RB Rail AS, as well as RB Rail AS will notify it to the involved contracting authorities (contracting entities).

¹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Article 4: EUR 5 186 000 for public works contracts; EUR 134 000 for public supply and service contracts.

APPENDIX

Requirement	Procurement of works e.g. railway, tunnels, bridges, stations, depots	Procurement of services e.g. construction supervision, engineering consultancy services	Procurement of goods e.g. sand, gravel, cement, rails, sleepers
1. Legal standing	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in a foreign state of its establishment if regulatory enactments of the respective state envisage such a requirement. - The Tenderer shall not comply with the exclusion grounds set in the applicable national legislations and the tender documents. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in a foreign state if its establishment if regulatory enactments of the respective state envisage such a requirement. - The Tenderer shall not comply with the exclusion grounds set in the applicable national legislations and the tender documents. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in a foreign state of its establishment if regulatory enactments of the respective state envisage such a requirement. - The Tenderer shall not comply with the exclusion grounds set in the applicable national legislations and the tender documents. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements.
2. Suitability to pursue the professional activity	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Register of Construction Merchants or an appropriate register of a foreign state of its establishment if regulatory enactments of the respective state envisage such a requirement. - If the Tenderer is a consortium, the member of the consortium 	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Register of Construction Merchants or an appropriate register of a foreign state of its establishment if regulatory enactments of the respective state envisage such a requirement. - If the Tenderer is a consortium, the member of the consortium 	

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	which performs the respective works shall comply with the above requirements.	which performs the respective services shall comply with the above requirements.	
3. Economic and financial standing	<ul style="list-style-type: none"> - The Tenderer's average yearly turnover in the field of construction within the last three years shall be at least 100% of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the requirement shall apply to Tenderer's actual operation period. - The Tenderer shall have stable financial and economic performance, namely, in the previous audited year Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and the Tenderer shall have positive equity. - If the Tenderer is a consortium, the turnover of all members of a consortium together shall comply with the above requirement whereas the liquidity ratio of each member of the consortium shall comply with the above requirement. 	<ul style="list-style-type: none"> - The Tenderer's average yearly turnover regarding services that are similar to the subject-matter of the tender within the last three years shall be at least 100% of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the requirement shall apply to Tenderer's actual operation period. - The Tenderer shall have stable financial and economic performance, namely, in the previous audited year Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and the Tenderer shall have positive equity. - If the Tenderer is a consortium, the turnover of all members of a consortium together shall comply with the above requirement whereas the liquidity ratio of each member of the consortium shall comply with the above requirement. 	<ul style="list-style-type: none"> - The Tenderer's average yearly turnover within the last three years shall be at least 100% of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the requirement shall apply to Tenderer's actual operation period. - If the Tenderer is a consortium, the turnover of all members of a consortium together shall comply with the above requirement.

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<p>4. Technical and professional ability</p>	<ul style="list-style-type: none"> - Within the last 5 (five) years before the date of submission of the tender the Tenderer has gained experience as the main contractor in the execution of 2 (two) [railway/ tunnel/ bridge/ station/ depo] construction works contracts, each with the value of not less than 70% of the anticipated contract value of the ongoing tender. The contracts have to be completed. - For the purposes of railway road construction the Tenderer shall have the following key experts available throughout the term of the contract: <ol style="list-style-type: none"> 1. Responsible construction works manager who has the following qualifications: <ol style="list-style-type: none"> 1.1. Valid certificate for railway road construction work managing or equivalent; 1.2. Within the last 5 (five) years has gained experience in a role of a responsible construction works manager in 3 (three) construction works projects that have been completed in the 	<ul style="list-style-type: none"> - Within the last 3 (three) years until the date of submission of the tender the Tenderer has gained experience as the main contractor in the execution of 2 (two) contracts with the same subject-matter, each with the value of not less than 70% of the anticipated contract value of the ongoing tender. The contracts have to be completed. - For the purposes of railway construction supervision the Tenderer shall have available throughout the term of the contract a railway road construction supervisor who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate or equivalent for supervision of railway road construction works; 2. Within the last 5 (five) years until the date of submission of the tender has gained experience in a role as a railway road construction supervisor in at least 3 (three) railway road construction projects that have been completed in the agreed term and quality, 	<ul style="list-style-type: none"> - Within the last 3 (three) years until the date of submission of the tender the Tenderer has performed 2 (two) supplies of goods of a similar kind in the amount of 100% each of the anticipated supply amount of the ongoing tender. - If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements.

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	<p>agreed term and quality, from which:</p> <ul style="list-style-type: none"> ○ At least 1 (one) is a railway road construction project with the length of railway not less than 80% of the anticipated km of the ongoing tender; ○ Within at least 1 (one) external electricity networks have been installed with the length of not less than 80% of the anticipated km of the ongoing tender; ○ Within at least (1) one control, command and signalling system has been installed with the length of not less than 80% of the anticipated km of the ongoing tender. <p>2. Railway road construction works manager who has the following qualifications:</p>	<p>where he has supervised at least the following activities:</p> <ul style="list-style-type: none"> ○ Within at least 1 (one) project: construction of railway track with length of not less than 80% of the anticipated km of the ongoing tender; ○ Within at least 1 (one) project: installation of railway shunts. <p>- In addition, for the purposes of bridge construction supervision the Tenderer shall have available throughout the term of the contract a bridge construction supervisor who has the following qualifications:</p> <ol style="list-style-type: none"> 1. Valid certificate or equivalent for supervision of bridge construction works; 2. Within the last 3 (three) years until the date of submission of the tender has gained experience in supervising construction of at least 3 (three) railway bridges with the length of at least 100% of the anticipated length of a 	

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	<p>2.1. Valid certificate for railway road construction works managing or equivalent;</p> <p>2.2. Within the last 5 (five) years has gained experience in a role of a railway road construction works manager in 1 (one) railway construction works project with the length of railway not less than 80% of the anticipated km of the ongoing tender that has been completed in the agreed term and quality.</p> <ul style="list-style-type: none"> - In addition, for the purposes of constructing bridges the Tenderer shall have available throughout the term of the contract a bridge construction works manager who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate for bridge construction works managing or equivalent; 2. Within the last 5 (five) years has gained experience in a role of a bridge construction works manager with regard to construction of 3 (three) 	<p>bridge of the ongoing tender that have been completed in the agreed term and quality.</p> <ul style="list-style-type: none"> - In addition, for the purposes of tunnel construction supervision the Tenderer shall have available throughout the term of the contract a tunnel construction supervisor who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate or equivalent for supervision of tunnel construction works; 2. Within the last 5 (five) years until the date of submission of the tender has gained experience in supervising construction of at least 3 (three) railway tunnels with the length of at least 100% of the anticipated length of a tunnel of the ongoing tender that have been completed in the agreed term and quality. - In addition, for the purposes of station and depo construction supervision the Tenderer shall have available throughout the term of the contract an electric installations', electronic 	

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	<p>railway bridges with the length of at least 100% of the anticipated length of a bridge of the ongoing tender that have been completed in the agreed term and quality.</p> <ul style="list-style-type: none"> - In addition, for the purposes of constructing tunnels the Tenderer shall have available throughout the term of the contract a tunnel construction works manager who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate for tunnel construction works managing or equivalent; 2. Within the last 5 (five) years has gained experience in a role of a tunnel construction works manager with regard to construction of 3 (three) railway tunnels with the length of at least 100% of the anticipated length of a tunnel of the ongoing tender that have been completed in the agreed term and quality. - In addition, for the purposes of constructing stations and depots the Tenderer shall have available throughout the term of the contract an electric installations', electronic communications 	<p>communications systems' and grid, heating systems', ventilation systems', recuperation and cooling systems', water and sewage systems' construction works supervisor (a supervisor for each system) with the following qualifications:</p> <ol style="list-style-type: none"> 1. Valid certificate or equivalent for the respective construction works supervision; 2. Within the last 3 (three) years has gained experience in supervising the respective construction works with regard to construction of 3 (three) respective systems in public or industrial buildings of a comparable size to the size of buildings in the ongoing tender that have been completed in the agreed term and quality. <ul style="list-style-type: none"> - If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements. The key expert and/or the member of the consortium upon whose qualification the consortium 	

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	<p>systems' and grid, heating systems', ventilation systems', recuperation and cooling systems', water and sewage systems' construction works manager (a manager for each system) with the following qualifications:</p> <ol style="list-style-type: none"> 1. Valid certificate or equivalent for managing of the respective construction works managing; 2. Within the last 5 (five) years has gained experience in a role of the respective construction works manager with regard to construction of 3 (three) respective systems in public or industrial buildings of a comparable size to the size of buildings in of the ongoing tender that have been completed in the agreed term and quality. <p>- If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements. The key expert and/or the member of the consortium upon whose qualification the consortium</p>	<p>relied in order to qualify must provide the respective services for which the respective qualification was required.</p>	

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	relied in order to qualify must fulfil the respective works for which the respective qualification was required.		
5. Quality assurance standards	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements.
6. Environmental management standards	<ul style="list-style-type: none"> - The Tenderer shall have environmental management system that complies with ISO 14001:2015 standard or equivalent. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 		<ul style="list-style-type: none"> - The Tenderer shall have environmental management system that complies with ISO 14001:2015 standard or equivalent. - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements.