

**Infrastructure Management Legal Study
Meeting with potentially interested suppliers
Session minutes**

21 May 2018, 12:00
K. Valdemāra ielā 8-7, Rīga, LV-1010

Participants:

RB Rail AS, General Counsel Ģirts Rūda
RB Rail AS, Senior Lawyer Baiba Zauere

Minutes kept by Toms Pelčers Procurement Specialist, RB Rail AS

Interested parties that have registered for the telephone conference:

Agnes Koko, Eversheds Sutherland law office
Māris Logins, Eversheds Sutherland Bitāns law office
Bruno Cantier, Hogan Lovells law office
Raivo Raudzeps, Sorainen law office
Vitālija Tamavičiute, Sorainen law office
Tammy Samuel, Stephenson Harwood law office
Māris Klūga, SSC Latvijas Radio
Gints Vilgerts, Vilgerts law office
Kalīne Ozola, Vilgerts law office
Marina Surkova, Herbert Smith Freehills law office
David Moore, Dentons law office
Māris Brizgo, Ellex Kļaviņš

Meeting led by Ģirts Rūda, General Counsel, RB Rail AS

Ģirts Rūda shares the presentation (attachment no 1), followed by Q&A session.

Questions:

Gints Vilgerts / Vilgerts: Can we bid for a specific country? Can we bid for Latvia and that's it? Is that an option?

Ģirts Rūda: No, because the whole package is related to one Rail Baltica project. We expect, and we ask the participating teams to find the experts in each of the Baltic States, because one of the tasks will be to deliver analysis in 3 countries and then to prepare the contract for 3 countries. Study is for the complete project covering all countries.

Gints Vilgerts / Vilgerts: Are only 3 Baltic countries concerned, no other jurisdictions?

Ģirts Rūda: No, not at this stage, we are not discussing Polish and Finnish involvement.

Agnes Koko / Eversheds Sutherland : Considering that in EU are only few cross-border projects, can the experience be international (beyond Europe)?

Baiba Zauere: Experts must have EU cross-border project experience, additional international project experience might provide additional bonus points in the scoring but will not be considered sufficient for qualification stage.

Ģirts Rūda: At this point we consider only EU cross-border project experiences. If you believe international cross-border experiences should be the starting point, please send us an e-mail with your comments on why we should take into account it. We have 2 days to finalize the Regulations, so please provide us with your input.

Raivo Raudzeps / Sorainen: Regarding experience of the experts – will you take into account all experience of the expert covering all professional life of the expert, or will you limit that experience to some number of years?

Ģirts Rūda: Currently, we are envisioning professional experience of last 5 years, starting from 2013 until date of submission - June 2018.

Māris Brizgo / Ellex Klavins: regarding deliverables – analysis and the agreements to be drafted. Will you have some guidelines for the study that you would like to receive? And, regarding the agreements - do you have some templates which you would like us to work on?

Ģirts Rūda: Regarding the analysis, we don't have yet any template available. If you have any recommendations or available suggestions how this should be run, please provide in your technical proposal. We currently think that it should be completed in 2, maximum 3 weeks. So, by the time you submit a proposal, you should have the idea how you should cover Infrastructure Management issues and legislation in Baltic States. Regarding draft documents, Inter-Governmental Agreement concluded in 2017 can be used as an example, also check the documents that have been agreed among different stake-holders of Rail Baltica project. We have the Contracting Scheme Contract, the Inter-beneficiary agreement etc. to see how parties have been regulating these issues. In respect to the Infrastructure Management contract, we just ask to advise on the EU requirements and the best practise from other EU countries.

Agnes Koko / Eversheds Sutherland : Regarding the structure that has been considered at the moment, all structures are Fourth Railway Package compliant. In addition, would infrastructure management be doing maintenance and renewals and enhancement?

Ģirts Rūda: In case of individual approach, it will be 3 national infrastructure management companies controlling daily maintenance, and, in case of single company approach, it will be 1 company. There might be certain matters that the countries will have to agree among themselves on whether minimum set of requirements or the approach shall be followed, even if there will be independent managers in place.

Agnes Koko / Eversheds Sutherland : Regarding capacity charges, in terms of Atkins model, it should foresee how the charging should take place when it's individual and when it's 1 infrastructure manager?

Ģirts Rūda: Atkins report might cover this topic. The Inter-governmental agreement will have to have provisions in place to not allow behaviours by 3 companies, which will prevent smooth running of operations, meaning, to have different track access charges to be charged on national basis, to

such extent, that this traffic flow on Rail Baltica will be impacted. There will be a set of rules to be agreed in order to prevent behaviours that could come out of national basis.

Agnes Koko / Eversheds Sutherland : that would be dealt with in intergovernmental agreement?

Ģirts Rūda : Yes, that is the place where, we believe, the governments need to agree, that there will be Rail Baltica line. In case of individual approach, it would be a little bit like a virtual route, because it will be 3 managers in place, but at the same time, bad behaviour should be eliminated.

Agnes Koko / Eversheds Sutherland : That's right. And are you expecting lawyers to give you framework for doing that as well?

Ģirts Rūda : In the technical proposal you can elaborate that and show your experience and expertise in these questions, to point out what are the risks that need to be dealt with, and then, at least at a general level, to elaborate on these issues, so that we can then take into account and, perhaps, plan it, address it as early as possible, for when we will be dealing with national beneficiaries.

Māris Brizgo / Ellex Klavins : Regarding the Atkins model and the second scenario with 1 independent manager to be chosen, are we talking about Latvia as the country of incorporation?

Ģirts Rūda : We do not have the answer at this time whether it would it be Latvia, Lithuania or Estonia based company.

Ģirts Rūda : Any other questions? If not, thank you for participation! If you have some more questions or comments, please send them to us by Wednesday to manage the good suggestions incorporation in Regulations. We hope to hear from you by 11 June 2018 and then to work on this, so we can complete the process late in autumn this year.

Contact person for correspondence is Linda Kalniņa (linda.kalnina@railbaltica.org).

Session closed at 12:50.