

Rīga, 23 January 2018
No 6.1/2018-63

*Answers to the questions from the interested suppliers
on restricted competition "Design and design supervision services for the construction of
the new line from Pärnu to Rapla" ID. No RBR 2017/27*

RB Rail AS informs that the deadline for application submission for the Competition is postponed to 21 February 2018, 15:00 and presents the following answers to the questions received until 19 January 2018 from the interested suppliers:

No	Question	Answer
1.	Chapter 7.4 – Technical and professional ability, requirements. The condition "with the speed above 200 km/h" is mentioned in two requirements (requirement 1 and 2). Could you please confirm that for the two of them "design <u>equal to</u> 200 km/h or above" would be also acceptable?	Please be informed that the condition "speed above 200 km/h" in the clause 7.4 of the Regulations remains unchanged.
2.	Could you please confirm that no Apostile (The Hague) is needed for any document issued in a country member of the European Union for the purpose of this competition?	If the Candidate will be requested to submit evidences confirming absence of cases of exclusion stated in Clause 7.1 there can be such a case where Apostile can be submitted, if it is foreseen by national legislation of Country Tenderer is registered.
3.	Could you please clarify which is the the maximum budget for the Services Contract?	Please be informed that the budget for the subject matter of the Competition shall not be disclosed.
4.	Our company having design and consulting experience, working both with local and international partners, have analyzed Candidate selection regulation for the Competition and identified that general terms and the scope of building design in Estonia do not match the provisions of the Planning and Building Acts of the Republic of Estonia which are mandatory. Design and construction participants operating in the territory of the Republic of Estonia must follow the mandatory provisions of this legislation, when design and construction works are carried out. Due to mentioned reason, general terms and the scope of building design are not fully	Please be informed that in accordance to clause 1.5.2 of the Regulations, the detailed information on the scope of the services to be procured, as well as on the source information, shall be provided to the candidates qualified in the first stage of Competition. In accordance to the item 2 of the Annex No. 2 of the Regulations, the "Design and design supervision services for the construction of the new line from Pärnu to Rapla" shall be implemented under the construction legislation of the Republic of Estonia. Contracting authority has informed about the decision on the extension of the

	<p>understandable. Because of uncertainties, unclear tasks pose additional questions and raise the risks. Statement that additional and detailed description/information will be disclosed to the candidates who will be selected for submitting a proposal during the second stage of the Competition neither eliminate, nor reduce the uncertainties and risks.</p> <p>For the reasons listed above we kindly ask You:</p> <ol style="list-style-type: none"> 1. to explain and clarify the conformity of scope of services with mandatory Estonian legislation (the Planning and Building Acts of the Republic of Estonia); 2. to postpone the tender submission date for the first stage of the Competition for 2 weeks -to February 12th , 2018 	<p>deadline for the submission of applications separately through the online link: http://www.railbaltica.org/tenders/design-and-design-supervision-services-for-the-construction-of-the-new-line-from-parnu-to-rapla/ and in publication in E-Tenders system: https://www.eis.gov.lv/EKEIS/Procurement/Edit/9766</p> <p>Deadline for the application is postponed to 21 February 2018.</p>
5.	<p>.. wants to emphasize that E-Tender system (www.eis.gov.lv) directly influences practical ability to submit proposals for tenders "Design and design supervision services for the construction of the new line from Pärnu to Rapla", No. RBR 2017/27 and "Design and design supervision services for the construction of the new line from Kaunas to Ramygala", No. RBR 2017/29 and can be a limiting factor to participate in tender for foreign Tenderer. Contrary, E-Tender system should provide even abilities to submit proposals disregarding Tenderers' country of origin.</p> <p>We kindly ask to confirm State Regional Development Agency's (Valsts reģionālās attīstības aģentūras) opinion, that once Tenderer is signed in E-Tender system (www.eis.gov.lv), Tenderer's representative will be able to submit and sign proposal with electronic signature by just initiating button "Sign" in the system and external driver/service/medium/digital certificate for digitally signing of proposal is not needed.</p>	<p>The proposal can be signed by the tools provided in E-Tenders system (please see Clause 10.6 of the Regulation for more information).</p>
6.	<p>Can we see other supplier questions and answers?</p>	<p>All the questions from interested suppliers (without revealing their names) are collected and published together with the answers.</p>

7.	How is question-answers organised? Through e-mail or EIS?	Questions can be submitted by e-mail stated in Clause 1.9. (a) of the Regulations or submitted in E-Tender system.
8.	Can the "7.3 Economic and financial standing" and "7.4 Technical and professional ability" be fulfilled with subcontractor's references?	Candidate can rely on the capabilities of a subcontractor, in such case Candidate has to state this situation by filling forms of the procurement Regulation meant for subcontractor and a person on whose capabilities Candidate relies on.
9.	Can the "building design" in 7.3 mean all the design modes including preliminary design?	The term "building design" shall cover the legally accepted design stage according to the construction legislation.
10.	Does designers and planners from earlier stages are also considered as preparer of procurement documentation?	Contracting authority is not in a position to foresee in advance the possible situations throughout the process of Rail Baltica Global Project implementation that could lead to any <i>conflict of interest</i> cases or to provide any response on the matter. All the cases and possible influence on the procurements at the later stage of the Global Project shall be evaluated according to procedures set out by national public procurement legislation
11.	With reference to tenders No: RBR 2017/27 and No: RBR 2017/29, we kindly ask if the award in design tender exclude the candidate from participation to subsequent construction tenders.	Contracting authority is not in a position to foresee in advance the possible situations throughout the process of Rail Baltica Global Project implementation that could lead to any <i>conflict of interest</i> cases or to provide any response on the matter. All the cases and possible influence on the procurements at the later stage of the Global Project shall be evaluated according to procedures set out by national public procurement legislation
12.	Regarding technical and professional ability, RB Rail AS has issued 1 requirement calling for the following references: 1) 2 completed designs of a value above 5M€, for a 1435mm gauge TSI compliant railway track with a speed above 200km/h; 2) 1 design service contract covering at least 50km long, 1435mm gauge TSI compliant railway track with speed above 200km/h. Is it possible to use references covering both point 1) and point 2) and therefore provide a total of 2 references, or shall the candidate provide a total of 3 references, i.e. 2 references for point 1) and 1 reference for point 2)?	The provided 2 design references fully covering both 1) and 2) experience requirements specified in sub-clause 1. of clause 7.4 of the Regulations shall be acceptable.
13.	Taking into consideration the fact that this restricted procedure is carried out using E-	Contracting authority has informed about the decision on the extension of the

	<p>Tenders system which is subsystem of the Electronic Procurement System (https://www.eis.gov.lv/EKEIS/Supplier), please note that our interested foreign company is having difficulties in registering into the system. We understand that the power of attorney from the supplier's administrator has to be signed by both the organization's authorized signatory and authorized administrator, and in case they don't own an electronic signature the registration forms must be sent by post; and only after three days since receiving the forms the SRDA will register the company in EPS.</p> <p>Thus, please take into consideration the possibility of extending the submission period with 2 more weeks, so that we could have the necessary time to be registered in the EPS and so that the participation of the highly experienced international companies wouldn't be artificially restricted.</p>	<p>deadline for the submission of applications separately through the online link http://www.railbaltica.org/tenders/design-and-design-supervision-services-for-the-construction-of-the-new-line-from-parnu-to-rapla/ and in publication in E-Tenders system: https://www.eis.gov.lv/EKEIS/Supplier/Procurement/9766</p> <p>Deadline for the application is postponed to 21 February 2018.</p>
14.	<p>Point 8.2 of the Candidate Selection Regulation. Could you confirm that the exclusion grounds also apply to a person on whose capabilities a candidate relies but supporting documents mentioned in Section 7.1(1) to 7.1(11) are not asked at this first stage?</p>	<p>Exclusion grounds apply to the person on whose capabilities Candidate relies on. If the candidate provides ESPD then it has to be provided for the person on whose capabilities it relies on and evidences will be requested from both if the Candidate will be selected for the second stage of the Competition.</p>
15.	<p>Point 8. RELIANCE ON THE CAPABILITIES OF OTHER PERSONS. May the candidate and a person on whose capabilities this candidate relies be related through a subconsultant agreement?</p>	<p>Candidate can rely on the capabilities of a subcontractor, in such case Candidate has to state this situation by filling forms of the procurement Regulation meant for subcontractor and a person on whose capabilities Candidate relies on.</p>
16.	<p>In the Candidate Selection Regulation for Restricted Competition :</p> <p>Point 7.4. Technical and professional ability. Comment 1 (at the bottom of the page) states "If a candidate is a partnership, members of the partnership together shall comply with the above requirements."</p> <p>And Point 8.1 states "For the fulfilment of the specific contract, in order to comply with the selection requirements for the candidates relating to the economic and financial standing and technical and professional ability (including regarding the team of key experts), the</p>	<p>The statements are not contradictory, each of them states different situation how Candidate can ensure compliance with the requirements set out by the Regulations. For fulfilment of requirements Candidate can enter into a partnership, rely on a capabilities of an other supplier, one does not excludes the other one.</p>

	<p>candidate may rely upon the capabilities of other persons, regardless of the legal nature of their mutual relationship."</p> <p>Due to the fact that a person on whose capabilities the candidate relies is not the candidate (this person is not a member of the group of suppliers), these two statements are contradictory. The first states that only the candidate (members of the partnership, if a partnership) may fulfill the technical and professional ability requirements, however, the latter let the candidate rely upon the capabilities of other persons. Could you kindly clarify which statement prevails?</p>	
17.	Once the second stage of this procedure is launched and a more detailed description of the required key experts are known, may the candidate rely upon the capabilities of any additional person not declared at this first stage?	For the second stage Candidate may attract additional persons on whose capabilities to rely for fulfilment of procurement requirements.
18.	Referring to the slow speed of the administrative procedures and taking consideration of the high value and importance of the project, we request to postpone the Submission of Applications as minimum 1 month, ie 01.03.2018.	<p>Contracting authority has informed about the decision on the extension of the deadline for the submission of applications separately through the online link http://www.railbaltica.org/tenders/design-and-design-supervision-services-for-the-construction-of-the-new-line-from-parnu-to-rapla/ and in publication in E-Tenders system: https://www.eis.gov.lv/EKEIS/Supplier/Procurement/9766</p> <p>Deadline for the application is postponed to 21 February 2018.</p>
19.	Please give us "yes" or "no" answer: Can the "7.3 Economic and financial standing" and "7.4 Technical and professional ability" be fulfilled with subcontractor's references?	Yes, "7.3 Economic and financial standing" and "7.4 Technical and professional ability" criteria can be fulfilled with subcontractor's references if all the conditions stipulated in the Regulations are met.
20.	Referring to your answer of No 6.1/2018-34 we understand that "building design" in 7.3 is meaning the design of all design phases including preliminary design. Could you please confirm your answer to that with "yes" or "no".	Please note that, that before the opening of the proposals and detailed investigation of the Proposal Procurement commission cannot pre-evaluate nor confirm or decline conformity of the Tenderers proposal with the qualification criteria.
21.	Why the answers to questions are published only in RB webpage (http://www.railbaltica.org/tenders/design-and-design-supervision-services-for-the-construction-of-the-new-line-from-parnu-to-rapla/) and not in EIS?	All the answers are published in E-Tenders system (please look for tab "Documents (actuals)" in the publication of the procurement) and for the interested suppliers who are not yet registered we

		provide information on RB Rail AS Web page http://www.railbaltica.org/tenders).
22.	Does the registered interested supplier see only their asked questions in EIS or the system should show under procurement document sector all the questions asked by other suppliers also?	Please contact State Regional Development Agency for the consultation (contacts: https://www.eis.gov.lv/EIS/Publications/PublicationView.aspx?PublicationId=1&systemCode=CORE). As we know answers on the questions are publicly available to any interested supplier.
23.	Annual reports do not include breakdown of very specific turnover streams like railway design services asked in current tender. Could you please advise how should tenderers in that case prove the railway design turnover?	Please be advised, that Tenderer should be able to count and sum up contracts for the railway design services annually and provide total annual amounts. In case of any unclarities Procurement commission shall be entitled to ask for clarifications.
24.	We would like to point out that tender was announced at the end of the year when most of the people are away from work and registration to the Latvian e-procurement system EIS took at least one week. Also submitting and receiving questions is incomprehensible and thus suppliers does not have all needed information to prepare documents that correspond to procurement requirements. Under the above circumstance and taking consideration the size and complexity of the Project and the technical requirements, we request for an extension of time for tender submission at least 2 weeks.	Contracting authority has informed about the decision on the extension of the deadline for the submission of applications separately through the online link http://www.railbaltica.org/tenders/design-and-design-supervision-services-for-the-construction-of-the-new-line-from-parnu-to-rapla/ and in publication in E-Tenders system: https://www.eis.gov.lv/EKEIS/Supplier/Procurement/9766 Deadline for the application is postponed to 21 February 2018.

Procurement Commission chairman



Mārtiņš Bīlais