

CANDIDATE SELECTION REGULATION

for Restricted Competition

**Design and design supervision services for the
construction of the new line from Tallinn to Rapla**

(identification No: RBR 2018/10)



Co-financed by the European Union
Connecting Europe Facility

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REGULATION

1. GENERAL INFORMATION

- 1.1. The identification number of this restricted competition is No RBR 2018/10 (hereinafter – **Competition**).
- 1.2. The applicable CPV code is: 71000000-8 (Architectural, construction, engineering and inspection services).
- 1.3. The contracting entity is joint stock company „RB Rail AS”, legal address: Kr. Valdemāra iela 8 - 7, Riga LV-1010, Latvia (hereinafter – **Contracting authority**). The Contracting entity conducts this procurement for the benefit of the Ministry for Economic Affairs and Communications of the Republic of Estonia.
- 1.4. The Competition is co - financed by the Connecting Europe Facility (CEF).
- 1.5. This Competition is a restricted competition organised in accordance with the Public Procurement Law of Latvia in effect on the date of publishing the contract notice. The Competition consists of two stages:
 - 1.5.1. The first stage of the Competition – selection of candidates who will be invited to submit a proposal in the second stage of the Competition. General scope of the services to be procured is provided in Annex No 2;
 - 1.5.2. The second stage of the Competition – evaluation of the proposals submitted by candidates which were invited to submit a proposal and award of rights to conclude a contract. The detailed information on the scope of the services to be procured shall be provided to the candidates qualified in the first stage of Competition.
- 1.6. This restricted competition is carried out using E-Tenders system which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>).
- 1.7. The Competition regulation and all its annexes are freely available in Contracting authority's profile in the E-Tenders system at webpage <https://www.eis.gov.lv/EKEIS/Supplier> and the Internet webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 1.8. Amendments to the Competition Regulation and answers to suppliers' questions shall be published on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and the Contracting authority's Internet webpage <http://www.railbaltica.org/tenders/>. It is the supplier's responsibility to constantly follow the information published on the webpage and to take it into consideration in its proposal.
- 1.9. Contact persons of the Contracting authority for this Competition:
 - (a) In administrative aspects of the Competition: Lead Procurement Specialist Mārtiņš Blaus, telephone +371 2811 8533, e-mail address: martins.blaus@railbaltica.org;
 - (b) In aspects concerning subject-matter of the Competition: Project expert (Estonia), Karmo Kõrvek, telephone: +372 53423015, e-mail address: karmo.korvek@railbaltica.org.
- 1.10. The procurement commission and the supplier exchange information in writing in English or Latvian (accompanied by a translation in English), by sending documents electronically via e-mail (Section 1.9. (a)) or using E-Tenders system.
- 1.11. The supplier can request additional information regarding the Regulation. Additional information can be requested in writing, by sending it to the procurement commission electronically via e-mail or using E-Tenders system. Additional information must be requested in a timely fashion, so

that the procurement commission can give it a reply no later than 6 (six) days prior to the deadline for proposal submission. The procurement commission shall provide additional information within 5 (five) business days from the day of receipt of the request.

- 1.12. The supplier covers all expenses, which are related to the preparation of an application and its submission to the Contracting authority. The submitted applications are not returned to the candidate, unless specifically envisaged in the Regulations.

2. THE RIGHTS OF THE PROCUREMENT COMMISSION

- 2.1. The procurement commission has the right to demand at any stage of the Competition that the candidate submits all or part of the documents which certify the candidate's compliance to the requirements for the selection of candidates. The procurement commission does not demand such documents or information which are already at its disposal or are available in public data bases.
- 2.2. If the candidate submits document derivatives (e.g. copies) and the authenticity of the submitted document derivation is in doubt, the procurement commission can demand that the candidate shows the original documents.
- 2.3. During qualitative selection of candidates the procurement commission has the right to demand that information included in the application to participate in restricted competition is clarified.

3. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 3.1. The procurement commission ensures the documentation of the process of the Competition procedure.
- 3.2. The procurement commission ensures free and direct electronic access to the Competition procedure documents in the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier> and at the Internet webpage of the Joint-Stock Company "RB Rail AS" <http://railbaltica.org/tenders/>.
- 3.3. If an interested supplier has in a timely fashion in writing by post or electronically, or delivering in person, requested additional information about the requirements included in Competition procedure documents regarding the preparation and submission of the application or regarding the selection of candidates, the procurement commission provides a response electronically (if the supplier has requested that the answer be given electronically) within 5 (five) business days, but not later than 6 (six) days before the deadline for submitting proposals. Simultaneously with sending this information to the supplier who had asked the question, the Contracting authority publishes this information on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on the Contracting authority's Internet webpage <http://railbaltica.org/tenders/>, where Competition procedure documents are available, indicating the question asked.
- 3.4. If the Contracting authority has amended the Competition procedure documents, it publishes this information on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier> and on the Contracting authority's Internet webpage <http://railbaltica.org/tenders/>, where Competition procedure documents are available, no later than 1 (one) day after the notification regarding the amendments has been submitted to Procurement Monitoring Bureau for publication.
- 3.5. The exchange and storage of information is carried out in such a way that all data included in the applications are protected and the Contracting authority can check the content of the applications only after the expiration of the deadline for their submission. In time between the day of the submission of applications till the moment of opening thereof the Contracting authority does not disclose information regarding the existence of other applications. During the period of candidate assessment till the moment of the announcement of the results of the

candidate selection the Contracting authority does not disclose information regarding the assessment process.

- 3.6. The procurement commission assesses the candidates and their submitted applications based on the Public Procurement Law, restricted competition procedure regulation, as well as other regulatory enactments.
- 3.7. If the procurement commission determines that the information included in the submitted documents about the candidate, its subcontractors and persons upon whose capabilities the candidate is relying is unclear or incomplete, the procurement commission demands that the candidate or a competent institution clarifies or expands the information included in the application. The deadline for submission of the necessary information is determined proportionally to the time which is required to prepare and submit such information. If the procurement commission has demanded to clarify or expand upon the submitted documents, but the candidate has not done this in accordance with the requirements stipulated by the procurement commission, the procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified or expanded upon and commission evaluates application based on the information available in the application.
- 3.8. The procurement commission prepares invitation to the second stage of the procurement consisting of Regulation of second stage of the restricted competition, Technical Specification and Draft Contract and sends it to the selected Candidates which would qualify for the second stage of the restricted competition.

4. THE RIGHTS OF THE CANDIDATE

- 4.1. If the Contracting authority receives the necessary information about the candidate directly from a competent institution, through data bases or other sources, the candidate in question has the right to submit a statement or a different document regarding the corresponding fact if the information that the Contracting authority received does not conform to the factual situation.
- 4.2. If a candidate believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the candidate has the right to submit a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Public Procurement Law regarding the candidate selection requirements, technical specifications or other requirements relating to this restricted competition, or relating to the activities of the Contracting authority or the procurement commission during the restricted competition procedure.
- 4.3. To submit tenderer's Electronic Procurement System registration documents (if the candidate/tenderer is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurementsystem/>).

5. SUBJECT-MATTER OF THE COMPETITION

- 5.1. The subject-matter of the Competition is to provide building design and design supervision services for the construction of railway track substructure, superstructure as well as related civil structures on the new standard gauge (1435 mm) high speed double track electrified railway Rail Baltica line section Tallinn to Rapla. A general description of the subject-matter of the Competition is included in the Annex No.2 of these Regulations. Detailed description of the subject-matter of the Competition will be disclosed to the candidates who will be selected for submitting a proposal during the second stage of Competition.
- 5.2. Design service period - 24 months, design supervision service period lasts until the full acceptance of construction works. General scope of the services to be procured is provided in Annex No 2.

6. CANDIDATE

6.1. The application can be submitted by:

6.1.1. A supplier, who is a legal or natural person and who complies with the selection criteria for candidates;

6.1.2. A group of suppliers that complies with the selection criteria for candidates:

- (a) A group of suppliers who have formed a partnership for this particular restricted competition. In this case all the members of the partnership shall be listed in Annex 1 "Application form". If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract the partnership shall at its discretion either enter into a partnership agreement (within the meaning of Civil Law of the Republic of Latvia Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of Commercial Law of the Republic of Latvia, Chapter IX and X) and notify the Contracting authority in writing.
- (b) An established and registered partnership (a general partnership or a limited partnership, within the meaning of Commercial Law of the Republic of Latvia, Chapter IX and X) which complies with the selection criteria for candidates.

7. SELECTION CRITERIA FOR CANDIDATES

7.1. Exclusion grounds

The contracting authority shall exclude the candidate from further participation in the Competition in any of the following circumstances:

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
|----|--|---|
| 1. | <p>Within previous 3 (three) years before submission of the application the candidate or a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, has been found guilty of or has been subjected to coercive measures for committing any of the following criminal offences by such a public prosecutor's order regarding punishment or a court judgement that has entered into force and may not be challenged and appealed:</p> <p>a) establishment, management of, involvement in a criminal organisation or in an organised group included in the criminal organisation or other criminal formation, or</p> | <ul style="list-style-type: none">- For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases.- For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate shall submit an appropriate statement from the competent authority of the country of registration or residence. |

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
|----|--|--|
| | <p>participation in criminal offences committed by such an organisation,</p> <p>b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorised participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting and providing of benefits, trading influences,</p> <p>c) fraud, misappropriation or money-laundering,</p> <p>d) terrorism, terrorism funding, calling to terrorism, terrorism threats or recruiting and training a person in performance of acts of terrorism,</p> <p>e) human trafficking,</p> <p>f) evasion from payment of taxes and similar payments.</p> | |
| 2. | <p>It has been detected that on the last day of application submission term or on the day when a decision has been made on possible granting of rights to conclude the procurement contract, the candidate has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory state social insurance contributions exceeding 150 euro in total in any of the countries.</p> | <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate shall submit an appropriate statement from the competent authority of the country of registration or residence. |
| 3. | <p>candidate's insolvency proceedings have been announced, the candidate's business activities have been suspended, the tenderer /candidate is under liquidation.</p> | <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify |

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
|----|---|---|
| | | <p>the information itself in publicly available databases.</p> <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate shall submit an appropriate statement from the competent authority of the country of registration or residence. |
| 4. | <p>A person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is related to the candidate, or is interested in selection of some candidate, and the contracting authority cannot prevent this situation by measures that cause less restrictions on candidates. A person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is presumed to be related to the tenderer/candidate in any of the following cases:</p> <ul style="list-style-type: none"> a) If he or she is a current or and ex-employee, official, shareholder, procura holder or member of a candidate or a subcontractor which are legal persons and if such relationship with the legal person terminated within the last 24 months. b) If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a candidate's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock company, shareholder in a limited liability company, procure holder or an official. c) If he or she is a relative of a candidate or a subcontractor which is a natural person. | <p>No obligation to submit documents, unless specifically requested by the procurement commission.</p> |

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
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| | <p>If the candidate is a partnership, consisting of natural or legal persons, a relation to the tenderer / candidate is presumed also if a person who drafted the procurement procedure documents (contracting authority's official or employee), procurement commission member or expert is related to a member of a partnership in any of the above mentioned ways.</p> | |
| 5. | <p>The candidate has an advantage that limits competition in the procurement procedure if it or its related legal person consulted the contracting authority or otherwise was involved in preparing the open competition, and the advantage cannot be prevented by less restrictive measures, and the tenderer / candidate cannot prove that its or its related legal person's participation in preparing the procurement procedure does not restrict competition.</p> | <p>No obligation to submit documents, unless specifically requested by the procurement commission.</p> |
| 6. | <p>Within previous 12 (twelve) months before submission of the application, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the tenderer / candidate has been found guilty of violating competition laws manifested as a horizontal cartel agreement, except for the case when the relevant authority, upon detecting violation of competition laws, has released the candidate from a fine or has decreased the fine for cooperation within a leniency program.</p> | <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate should submit an appropriate statement from the competent authority of the country of registration or residence. |
| 7. | <p>Within previous 3 (three) years before submission of the application, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the candidate has been found guilty of a</p> | <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in |

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
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| | violation manifested as employment of one or more persons which do not possess the required employment permit or if it is illegal for such persons to reside in a Member State of the European Union. | <p>Latvia, the Contracting authority shall verify the information itself in publicly available databases.</p> <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate should submit an appropriate statement from the competent authority of the country of registration or residence. |
| 8. | Within previous 12 (twelve) months before submission of the application, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the candidate has been found guilty of a violation manifested as employment of a person without a written employment contract, by failing within the term specified in regulatory enactments to submit an informative employee declaration regarding this person, which must be submitted about persons, who start working; | <ul style="list-style-type: none"> - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a candidate and a person who is the candidate's board or council member, person with representation rights or a procura holder, or a person who is authorised to represent the candidate in operations in relation to a branch, which are registered or residing outside of Latvia the candidate should submit an appropriate statement from the competent authority of the country of registration or residence. |
| 9. | Within previous 12 (twelve) months before submission of the application the Contracting authority has used a right provided for in the procurement contract or provisions of the framework agreement or concession agreement to withdraw unilaterally from a public supply, services or works contract, framework agreement on supply, services or works, or a concession agreement on works or services, due to the failure of the candidate (as a contracting party or a participant or a member of the contracting party, if the contracting party was a group of suppliers or a partnership), | No obligation to submit documents, unless specifically requested by the procurement commission. |

| No | Requirement | Documents to be submitted (<i>if the candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission</i>) |
|-----|--|--|
| | <p>the participant or the member of the candidate (if the candidate is a group of suppliers or a partnership), or a person on whose capabilities the candidate is relying in order to certify that its qualification complies with the requirements set in these Regulations, to perform the public contract, framework agreement or concession agreement concluded with the Contracting authority.</p> <p>The Contracting authority is entitled not to exclude a candidate from further participation in the Competition on the basis of this Requirement by envisaging additional contract performance security or such contract provisions which make non-performance of essential provisions of the procurement contract or framework agreement economically unprofitable for a candidate or tenderer.</p> | |
| 10. | <p>Within previous 12 (twelve) months before submission of the application, by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed, the fact that the candidate, or a member of the candidate (if the candidate is a partnership), or a person on whose capabilities the candidate is relying in order to certify that its qualification complies with the requirements set in these Regulations, has failed to fulfil the public contract, framework agreement or concession agreement concluded with a contracting authority or a public partner has been found.</p> | <p>Written confirmation where candidate confirms that provisions of this section are not applicable to candidate.</p> |
| 11. | <p>The candidate has provided false information to prove its compliance with provisions of this Section 7.1, or has not provided the required information at all.</p> | <p>No obligation to submit documents, unless specifically requested by the procurement commission.</p> |

7.2. **Legal standing and suitability to pursue the professional activity**

| No | Requirement | Documents to be submitted |
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1. The candidate or all members of the partnership (if the candidate is a partnership) must be registered in the Registry of Enterprises or Registry of Inhabitants, or an equivalent register in their country of residence, if the legislation of the respective country requires registration of natural or legal persons.
- For a candidate which is a legal person (or a member of a partnership, a person on whose capabilities a candidate relies,) registered in Latvia the Contracting authority shall verify the information itself in publicly available databases.
 - For a candidate which is a natural person (or a member of a partnership, a person on whose capabilities a candidate relies,) – a copy of an identification card or passport.
 - For a candidate (or a member of a partnership, a person on whose capabilities a candidate relies,) which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration, shareholders, officials and procura holders (if any) can be determined.
 - If an application is submitted by a partnership, the application shall include an agreement (or letter of intention to enter into agreement) signed by all members on the participation in the procurement, which lists responsibilities of each and every partnership members and a joint commitment to fulfil the procurement contract, and which authorises one key member to sign the application and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made.
 - If the application or any other document, including any agreement, is not signed by the legal representative of the candidate, members of the partnership, person on whose capabilities the candidate relies, then a document certifying the rights of the persons who have signed the application or any other documents, to represent the candidate, a member of the partnership, a person on whose capabilities the candidate is relying, (powers of attorney, authorization agreements etc.) must be included.

7.3. Economic and financial standing

| No | Requirement | Documents to be submitted |
|----|---|--|
| 1. | The candidate's or all members' of the partnership together (if the candidate is a partnership), average financial turnover | <ul style="list-style-type: none"> - Filled in Annex No 4 accompanied with, - Audited or self-approved by a candidate (only in case when the audited yearly report |

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| <p>regarding railway building design services within last 3 (three) years (2015, 2016, 2017) is not less than 10 M Eur.</p> <p>In the event the average financial turnover of a limited liability member of a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) exceeds its investment in the limited partnership, the average financial turnover shall be recognised in the amount of the investment in the limited partnership.</p> <p>In the event the candidate or a member of a partnership (if the candidate is a partnership) has operated in the market for less than 3 (three) years, the requirement shall be met during the candidate's actual operation period.</p> | <p>is not required by the law of the country of residence of the Tenderer) yearly reports for financial years 2015, 2016, 2017 showing the turnover of the candidate and each member of the partnership on whose abilities the candidate is relying to certify its financial and economic performance and who will be financially responsible for the execution of the Agreement (if the candidate is a partnership) and a company on whose abilities the candidate is relying to certify its financial and economic performance. If yearly report for financial year 2017 is not available yet, candidate has to submit other documents showing the annual financial turnover of the candidate for financial year 2017.</p> |
| <p>2. The candidate or each member of the partnership (if the candidate is a partnership) on whose abilities the candidate is relying has to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract and entity on whose abilities the candidate is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract, shall have stable financial and economic performance, namely, in the last audited financial year liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and shall have positive equity.</p> | <ul style="list-style-type: none"> - For a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) an additional document evidencing the amount of the investment by the limited liability partner (the partnership agreement or a document with a similarly binding legal effect). - If an application is submitted by a partnership, the candidate shall indicate the member of the partnership on whose abilities the candidate is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract including this information in the agreement of cooperation (or letter of intention to enter into agreement) stipulated in Section 7.2. |

7.4. Technical and professional ability¹

| No | Requirement | Documents to be submitted |
|----|--|---|
| 1. | <p>Within the previous 7 years (year 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018 till the date of the submission of the application), the candidate has gained the following experience:</p> <p>1) as a main contractor of at least 2 (two) completed designs², where the value of each</p> | <p>Filled in and signed Annex No. 3 with attached written and signed references from the clients stating that the completed designs are approved by entitled authorities.</p> |

¹ If a candidate is a partnership, members of the partnership together shall comply with the above requirements.

² completed design shall be considered the one which has been approved according to national legislation.

contract is not less than 5 M EUR and they covers the design of 1435 mm gauge TSI verified railway track with the speed above 200 km/h.

- 1 (one) of the two completed designs to be done with a part in urban environment.

2) as a main contractor in the completion of 1 design service contract covering at least 50 km length 1435 mm gauge TSI verified railway track with the speed above 200 km/h.

3) in the completed design for 1 (one) railway bridge with the speed up to 160 km/h and with the total length of bridge at least 150 m.

7.5. Team of Key experts

| No | Requirement | Documents to be submitted |
|----|---|--|
| 1. | <p>The candidate shall ensure sufficient human resources capacity (detailed minimum requirements to be included in the second stage of the restricted competition) covering the expertise areas dedicated for the Key experts listed in Annex No. 2. The candidate shall ensure the experience (qualification) of every Key expert, covering at least the following</p> <p>1) experience in completion of at least one design project in a field of his/her particular expertise;</p> <p>2) very good English language skills.</p> <p>The candidate shall ensure sufficient human resources capacity (to be included in the second stage of the restricted competition) covering the following experience of <i>Design Manager, Railway track designer, Railway bridge designer</i> listed as Key experts in Annex No. 2:</p> <p>1) experience as lead designer³ in a completed railway design project, covering 1435 mm gauge and TSI verified railway with the speed above 200 km/h.</p> | <p>Filled in and signed Annex No. 1. (no other evidences regarding experience of the key expert is required at this stage)</p> |

7.6. The experience of Key experts (in the field of subject-matter) will be evaluated during the second stage of the competition as one among several criteria which will be evaluated in order to select the proposal.

7.7. Notices and other documents, which are issued by Latvian competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 1 (one) month prior to the date of opening of the applications. Notices and other documents, which are issued

³ The experience under definition "lead designer" covers full responsibility in accordance to a national legislation in a specific design field.

by foreign competent institutions, are accepted and recognized by the procurement commission, if they are issued no earlier than 6 (six) months prior to the date of opening of applications.

- 7.8. If the documents, with which a candidate registered or permanently residing abroad can certify its compliance with the requirements of Section 7.1, are not issued or these documents are insufficient, such documents can be replaced with an oath or, if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the candidate or by another person mentioned in Section 7.1(1) before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence).
- 7.9. If the candidate complies with any of the exclusion grounds mention in Section 7.1 (except tax debts), the candidate indicates this fact in Annex 1.
- 7.10. The candidate, in order to certify that it complies with the selection criteria for candidates, may submit the European single procurement document as initial proof. This document must be submitted for the candidate and for each person upon whose capabilities the candidate relies, but if the candidate is a partnership – for each member thereof. The candidate may fill in the European single procurement document at the Internet webpage <https://ec.europa.eu/tools/espd/filter?lang=en>.

8. RELIANCE ON THE CAPABILITIES OF OTHER PERSONS

- 8.1. 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 candidate may rely upon the capabilities of other persons, regardless of the legal nature of their mutual relationship. In this case:
 - 8.1.1. The candidate indicates in the application all persons upon whose capabilities it relies by filling in the table which is attached as Annex No. 1, fills necessary information in E-Tenders system and proves to the Contracting authority that the candidate shall have available all the necessary resources for the fulfilment of the contract, by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the candidate between such persons and the candidate. The confirmations and agreements on cooperation and passing of resources can be replaced by the candidate with any other type of documents with which the candidate is able to prove that the necessary resources will be available to the candidate and will be used during the term of fulfilment of the contract.
 - 8.1.2. Documents on cooperation and passing of resources have to be sufficient to prove to the Contracting authority that the candidate will have the ability to fulfil the contract, as well as that during the validity of the contract the candidate will in fact use the resources of such person upon whose capabilities the candidate relies.
 - 8.1.3. The Contracting authority may require joint and several liability for the execution of the Contract between the candidate and a person on whose capabilities the candidate is relying.
- 8.2. The Contracting authority shall evaluate the person, on whose capabilities the candidate to whom the rights to conclude the Contract should be assigned is relying. In case such person will comply with any of the exclusion grounds which are mentioned in Section 7.1(1) to 7.1(11), the Contracting authority shall request the candidate to change such person. If the candidate shall not submit documents about another person which complies with the selection criteria within 10 (ten) business days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such candidate from further participation in the Competition.

9. SUBCONTRACTING

- 9.1. Candidates will be required to provide information about their subcontractors during the second stage of the Competition.

- 9.2. During the second stage of the Competition the Contracting authority shall evaluate subcontractors, whose share of work is equal to or exceeds 10% of the Contract price, of the Tenderer to whom the rights to conclude the contract should be assigned. In case such subcontractors will comply with any of the exclusion grounds which are mentioned in Section 7.1 (2) to 7.1 (10), the Contracting authority shall request the Tenderer to change such subcontractor.
- 9.3. Contracting authority reserves the right to request Tenderer to identify all the subcontractors involved in delivery of services irrespective of the amount of participation in the provision of services.

10. CONTENTS AND FORM OF THE APPLICATION

- 10.1. Application must be submitted electronically in E-Tenders subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>), in accordance with the following options for the Candidate:
- 10.1.1. by using the available tools of E-Tender subsystem, filling the attached forms of the E-Tender subsystem for this procurement procedure;
- 10.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to relevant requirements (in this situation, the candidate/tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
- 10.1.3. by encrypting electronically prepared application outside subsystem of E-Tenders with data protection tools, provided by third parties, and protection with electronic key and password (in this situation, the candidate takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples as well as ensuring capability to open and read the document);
- 10.2. During preparation of the Application, the candidate / tenderer respects:
- 10.2.1. Application form must be filled in a separate electronic document, in line with forms attached to procurement process of E-Tenders subsystem in a Microsoft Office 2010 (or later) format and attached to the designated part of the procurement procedure;
- 10.2.2. Upon submission, the candidate signs the Application with secure electronic signature and time-stamp or with electronic signature provided by Electronic Procurement System. The candidate / tenderer can use secure electronic signature and time-stamp and sign Application form separately. Application (its parts, if signed separately) are signed by authorized person, including authorization document (e.g. power of attorney).
- 10.3. The documents shall be included in the Application (hereinafter – Application):
- 10.3.1. Filled Application form in accordance with Annex No. 1.
- 10.3.2. Information and documents confirming compliance of the candidate with the selection criteria for the candidates (Section No 7), or the corresponding European single procurement documents.
- 10.3.3. Information regarding Candidate's experience as required by Section 7.4 in accordance with Annex No 3.
- 10.3.4. Information and documents relating to entities on whose capabilities the candidate is relying, or the corresponding European single procurement documents.
- 10.4. The Application must be submitted in written form in accordance with Section 10.2. in English or Latvian. If the application is submitted in Latvian, upon request by the procurement commission the candidate shall provide a translation in English within the deadline requested by the procurement commission. If the application is submitted in English, upon request by the procurement commission the candidate shall provide a translation in Latvian within the deadline requested by the procurement commission.

- 10.5. The application may contain original documents or their derivatives (e.g. copies). In the Application or in reply to a request of the procurement commission the candidate shall submit only such original documents which have legal force. For the document to gain legal force it has to be issued and formatted in accordance with the Law on Legal Force of Documents and Law on Electronic Documents, but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law. When submitting the Application, the candidate has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.
- 10.6. The Application must be signed using an electronic signature according to regulatory acts on status of electronic documents and electronic signature or tools provided by E-Tender system or using signature tool which provides confirmation of identity of the document's signer by a person who is legally representing the candidate or is authorized to represent the candidate in this restricted competition procedure.
- 10.7. Applications submitted after the expiry of the deadline for the submission of Applications shall not be reviewed.

11. ENCRYPTION OF THE APPLICATION INFORMATION

- 11.1. E-Tender system which is subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the proposal documents.
- 11.2. If the Tenderer applied additional encryption to the information in the proposal (according to Section 11.1), Tender has to provide Procurement Commission with electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after deadline of the proposal submission.

12. SUBMISSION OF THE APPLICATION

- 12.1. Application (documents referred to in the Section 10) shall be submitted electronically using the tools offered by the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier> **by 15 May 2018 till 16:00 o'clock.**
- 12.2. The Tenderer may recall or amend its submitted Application before the expiry of the deadline for the submission of Applications by using the tools provided in E-Tenders system.
- 12.3. Only Applications submitted to the E-Tenders system will be accepted and evaluated for participation in the procurement procedure. Any Application submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the procurement procedure.

13. OPENING OF APPLICATIONS

- 13.1. The opening of Applications will be held in the E-Tenders system 15 May, 2018 16:00 o'clock during the open meeting. It is possible to follow the opening of submitted Applications online in the E-Tenders system.
- 13.2. The Applications are opened by using the tools offered by E-Tenders system, the public information of the Applications shall be published in E-Tenders system.
- 13.3. The information regarding the Tenderer, the time of Application submission and other information that characterizes the Application is generated at the opening of the Applications by E-Tenders system and written down in the Application opening sheet, which shall be published in E-Tenders system and Contracting authorities web page.

14. VERIFICATION OF APPLICATIONS

- 14.1. The procurement commission verifies whether submitted Applications comply with the requirements of this Regulation. If the Application does not comply with some of the requirements of this Regulation, the procurement commission decides on the possibility of further evaluation of the Application.
- 14.2. The procurement commission:
 - 14.2.1. Verifies whether the exclusion grounds mentioned in Section 7.1. (Article 42.(1) and 42.(2) of the Public Procurement Law) are applicable to the candidate;
 - 14.2.2. Verifies whether the candidate complies with the candidate selection requirements specified in Section 7.2.-7.5.of the Regulation.
- 14.3. In the event the candidate or partnership member (if the Candidate / Tenderer is a partnership) fails to comply with requirements stipulated in Section 7.1 and has indicated this in the Application, upon request by the procurement commission it submits an explanation about the implemented measures in order to restore reliability and prevent occurrences of the same or similar violations in future, as well as attaches evidence which proves the implemented measures, such as but not limited to evidence about compensating damages, on cooperation with investigating authorities, implemented technical, organisational or personnel measures, an assessment of a competent authority regarding the sufficiency of the implemented measures etc. The procurement commission assesses such information. If the procurement commission deems the measures taken to be sufficient for the restoration of reliability and the prevention of similar cases in the future, it makes the decision not to exclude the candidate from participation in the Competition. If the measures taken are insufficient, the procurement commission makes the decision to exclude the candidate from further participation in the Competition. If the candidate, within the indicated time, does not submit the requested information, the procurement commission excludes the candidate from participation in the Competition.
- 14.4. If the candidate has failed to submit some of documents which shall be submitted according to the Regulation or the contents of submitted documents does not comply with the Regulation, the procurement commission decides to exclude the candidate from further participation in the Competition.
- 14.5. Only those candidates who have been qualified will be invited to submit a proposal in the second stage of the Competition.

15. DECISION MAKING, ANNOUNCEMENT OF RESULTS

- 15.1. The procurement commission selects the candidates in accordance with the set selection criteria for candidates, verifies the compliance of the Applications with the requirements stipulated in the Regulation.
- 15.2. Within 3 (three) business days from the date of decision about the selection of candidates the procurement commission informs all candidates (to the refused candidate the reasons for refusing its application as well) about the decision made by sending the information by post or electronically and keeping the evidence of the date and mode of sending the information, as well as about the deadline by which the candidate may submit a complaint to the Procurement Monitoring Bureau regarding violations of the public procurement procedure.
- 15.3. If only 1 (one) candidate complies with all the candidate selection requirements, the procurement commission makes the decision to terminate the public procurement procedure.
- 15.4. If the public procurement procedure is terminated, within 3 (three) business days of the termination, the procurement commission simultaneously informs all candidates of all the reasons why the Competition procedure was terminated and informs about the deadline within

which a candidate may submit an application to the Procurement Monitoring Bureau on the violations of the public procurement procedure.

- 15.5. When informing of the results, the procurement commission has the right not to disclose specific information if it may infringe upon public interests or if the candidate's legal commercial interests or the conditions of competition would be violated.

16. GENERAL INFORMATION FOR THE SECOND STAGE OF THE COMPETITION

- 16.1. Professional liability insurance for the value of 20 million EUR shall be provided by the Contractor, with the conditions to be specified in the Second stage of Competition.
- 16.2. Proposal (Bid) security shall be provided in the amount of 50 000 EUR with validity period of 90 days from the date of Proposal opening.
- 16.3. Performance security guarantee shall be provided for the value equal to 5% of the proposed contract price.
- 16.4. The Proposal selection criterion is the most economically advantageous proposal, according to the evaluation methodology to be described in the Second stage of Competition.
- 16.5. The Contract price shall be paid to the Contractor according to payment schedule presented in the draft agreement in second stage of the Competition. No advance payments are foreseen by the draft Contract.
- 16.6. Payments for due and proper Services rendered under this Agreement shall be made within 60 (sixty) days from the day when the Employer has accepted.
- 16.7. All the results of intellectual and industrial activities and the related rights acquired during the execution of the Agreement, including copyright and other Intellectual Property rights shall be the property of the Contracting authority.
- 16.8. The liability of the Parties shall be determined pursuant to the applicable Laws of the Country and this Agreement. The Parties shall properly fulfil their obligations undertaken under this Agreement and shall refrain from any actions that may lead to damage to each other or that could impede the other Party's fulfilment of the obligations undertaken.

17. ANNEXES:

1. Application Form on 1 page;
2. General terms and the scope of building design in Estonia on 3 pages;
3. Table "Experience of candidate" on 1 (one) page;
4. Confirmation of Candidates Financial and Economic standing on 1 (one) page.

Procurement commission chairman

Mārtiņš Blaus

Annex No. 1
to the Regulation
for restricted competition No RBR 2018/10
*“Design and design supervision services for the
construction of the new line from Tallinn to Rapla”*

[form of the candidate’s company]

2018.____. _____
No _____

APPLICATION FOR PARTICIPATION IN THE CANDIDATE SELECTION IN THE PROCUREMENT
“Design and design supervision services for the construction of the new line from Tallinn to Rapla”

Candidate _____, reg. No. _____,
(Name of the candidate or names of the members of a group of suppliers)
represented by _____
(Name, surname and position of the manager or an authorized person)

by submitting this application:

1. We confirm participation in the restricted competition organized by the RB Rail AS “Design and design supervision services for the construction of the new line from Tallinn to Rapla” No RBR 2018/10;
2. (If applicable): Informs that the following persons comply with the following exclusion grounds:

| Name of the entity (person) | Exclusion ground and brief description of the violation |
|-----------------------------|---|
| [•] | |
| [•] | |
| [•] | |

3. We declare that for the purposes of qualifying for the restricted competition we rely on the capabilities of the following entities:

| No | Name, registration number and registered address of the entity | Capabilities on which the candidate relies |
|----|--|--|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| | | |

4. We confirm sufficient human resources capacity complying with the requirements specified in Section 7.5 of the Regulations applicable for the Key experts listed in Annex No. 2.
5. We confirm that the Regulation for the restricted competition is clear and understandable, we do not have any objections and complaints and in the case of granting the right to enter into second stage of the restricted competition as well as granting rights to enter into a contract we shall undertake to fulfil all conditions of this Regulation.
6. We confirm the period of validity of our application for 90 days from the day of opening of the application.
7. We meet the criteria of (please mark):

a small medium other

sized enterprise⁴ as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise;⁵

(Signature)

Address of the Candidate

telephone (fax) number, e-mail address.

Position, name and surname of the manager or the authorized person of the Candidate

⁴ The information on the size of the Candidate is used solely for statistical purposes and are not in any way whatsoever used in the evaluation of the Candidates and their Requests to participate.

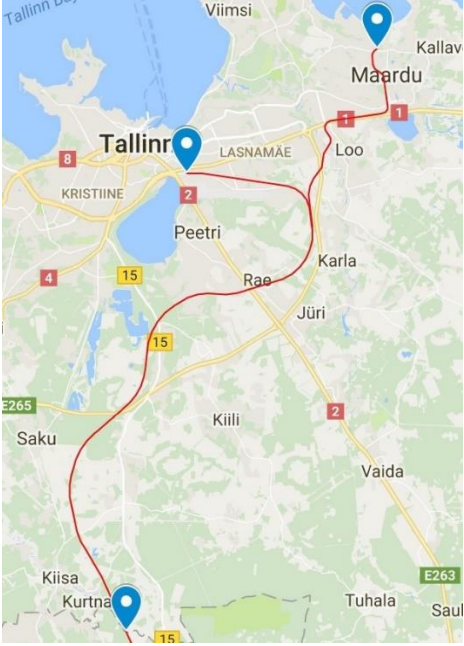
⁵ Available here - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC

General terms and the scope of building design in Estonia

For the procurement of “Design and design supervision services for the construction of the new line from Tallinn to Rapla”

| No. | Title | Description |
|------|---|--|
| 1. | Services being procured | Design, design author’s supervision |
| 1.1. | Contract period, deadline of the Activity | Design (up to 24 months ⁶), design supervision (until the full acceptance of construction works) |
| 1.2. | Applicable procurement law | Latvian |
| 1.3. | Contracting authority | RB Rail AS |
| 1.4. | Contracting party | RB Rail AS (RB Rail Estonian branch) |
| 1.5. | Source information | County Plans, SEA report, preliminary design, Consolidated Preliminary Technical Design by RB Rail AS |
| 2. | Applicable construction law | Estonian |
| 3. | Scope | |
| 3.1. | General scope of the contract | <ul style="list-style-type: none"> a) Master design, b) Value engineering studies (including analysis and evaluation of recommendations included in the Consolidated preliminary technical design), c) Design solutions analysis, presentation and relevant approval, d) Spatial planning solutions development (if necessary), e) Public consultation, f) Detailed technical design, g) Design author’s supervision. |
| 3.2. | Key milestones of design process | <ul style="list-style-type: none"> a) Site surveys (including geological investigation; topographical layout); b) Application for design specifications from competent authorities and technical conditions from utility owners; c) Design proposal (Master Design), including necessary technical surveys and alternatives; d) Approval of Basic design (Master Design in current contract); e) Basic Design expertise (to be procured separately by contracting authority); |

⁶ Design of priority objects shall be shorter. The priority objects shall be defined at the second stage of procurement

| | | |
|------|--|--|
| | | <ul style="list-style-type: none"> f) Building permit acquired; g) Approval of Working design (Detailed Technical Design in current contract); h) Working design expertise (to be procured separately); i) Possible NoBo inspection report (to be procured separately). |
| 4. | Key milestones of design author's supervision | <ul style="list-style-type: none"> a) Construction completion act signed b) As-built documentation accepted c) NoBo inspection report |
| 5. | Indicative design scope | |
| 5.1. | Section | <p>Tallinn - Rapla section (approx. 50 km of railway line)</p>  |
| 5.2. | Indicative amounts (based on EIA studies / spatial planning design / preliminary design) | <p>Length of the section 50 km including Muuga section (double track)</p> <p>Amounts:</p> <ul style="list-style-type: none"> Number of bridges: 10 Number of road viaducts: 11 Number of railway viaducts: 6 Number of eco-ducts: 4 Number of culverts: 46 Number of stations (with passing loops): 3 (Kurtna, Rae, Depoo station). Ülemiste and Muuga terminals not included |
| 6. | Required contractor's personnel | |
| 6.1. | Key experts: | <ul style="list-style-type: none"> Project manager Design manager Railway track designer Construction designer |

| | | |
|------|--|--|
| | | <p>Road designer</p> <p>Railway bridge designer</p> <p>Geotechnical expert</p> <p>Environment expert</p> |
| 6.2. | Additional experts (non-exhaustive list) | <p>Spatial planning expert</p> <p>Public relations coordinator</p> <p>Construction planning expert</p> <p>Cultural heritage expert</p> <p>Architect</p> <p>Power networks designer</p> <p>Railway signalling expert</p> <p>Railway catenary expert</p> <p>Geospatial data expert</p> <p>Stakeholder management coordinator</p> <p>Technical translator (from/to Estonian-English language)</p> |
| 7. | Stakeholder management process | Alignment with related involved stakeholders and relevant approvals of design process, analysis, and proposed design solutions. |
| 8. | Relevant regulations and studies mandatory to be considered during building design implementation (non-exhaustive list) | <ul style="list-style-type: none"> a) Design guidelines; b) BIM strategy; c) Operational plan; d) Infrastructure management study; e) Climate change impact assessment study; f) Visual, architectural and landscaping guidelines stud; g) Mineral materials supply study; h) Related Studies carried out by National Implementing Bodies (archeology investigations, freight terminals, maintenance depots, etc.); i) Value engineering study methodology; j) Rail Baltica railway superstructure components and railway infrastructure elements supplier market studies; k) Energy subsystem including electrification procurement and deployment strategy for Rail Baltica; l) Control, command and signalling (including ERTMS) subsystem procurement and deployment strategy for Rail Baltica; m) Technical study on functional layout and preliminary design of infrastructure maintenance facilities; n) Reliability, availability and maintainability and safety study; o) Other studies. |

Annex No. 3
to the Regulation
for Restricted Competition No RBR 2018/10
“Design and design supervision services for the construction of the new line from Tallinn to Rapla”

Experience of the Candidate

Within the previous 7 years (year 2011, 2012, 2013, 2014, 2015, 2016, 2017 and 2018 till the date of the submission of the application), the candidate has gained the following experience:

| No | Name of project | Date of completion of the contract ⁷ | Contracting authority | Description of the responsibilities according to contract, which characterize the experience, mentioned in respective subsection of Section 7.4 ⁸ | Contract price (EUR*, excl. VAT), Value of the Design | Contact information for references |
|---|-----------------|---|-----------------------|--|---|------------------------------------|
| 7.4. 1) as a main contractor of at least 2 (two) completed designs, where the value of each contract is not less than 5 M EUR and they covers the design of 1435 mm gauge TSI verified railway track with the speed above 200 km/h; - 1 (one) of the two completed designs to be done with a part in urban environment. | | | | | | |
| 1. | | | | | | |
| 2. | | | | | | |
| ... | | | | | | |
| 7.4. 2) as a main contractor of 1 (one) completed design covering at least 50 km length 1435 mm gauge TSI verified railway track with the speed above 200 km/h; | | | | | | |
| 1. | | | | | | |
| 2. | | | | | | |
| ... | | | | | | |
| 7.4. 3) in the completed design for 1 (one) railway bridge with the speed up to 160 km/h and with the total length of bridge at least 150 m. | | | | | | |
| 1. | | | | | | |
| 2. | | | | | | |
| ... | | | | | | |

⁷ if the design is a part of the contract where all works/services has not been completed then please specify date of approval of the design according to national legislation.

⁸ please note the responsibilities of the company which performed the works/services by stating the role (i.e. main contractor; responsible for design, etc.) in the contract and description of the subject matter of the contract with respect to details required for particular criteria.

Confirmation of Candidates Financial Standing

1. (7.3.1) The candidate's or all members' of the partnership together (if the candidate is a partnership), average financial turnover regarding railway building design services within last 3 (three) financial years (2015, 2016, 2017) is not less than 10 M Eur.

| No | Year | Total Turnover in EUR | Turnover regarding railway building design services in EUR | Notes |
|--|------|-----------------------|--|-------|
| Candidate or member of the partnership (if the Candidate is Partnership) | | | | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| Average within last three financial years | | | | |
| <i>If the Candidate is partnership, please continue and provide info regarding each member and partnership in total.</i> | | | | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| ... | | | | |

2. (7.3.2) The candidate or each member of the partnership (if the candidate is a partnership) on whose abilities the candidate is relying has to certify it's financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract and entity on whose abilities the candidate is relying to certify it's financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract, shall have stable financial and economic performance, namely, in the last audited financial year liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and shall have positive equity.

Name of the Candidate/member of partnership/entity

$$liquidity\ ratio = \frac{current\ assets}{short - term\ liabilities} = \underline{\hspace{2cm}}$$

**Please continue and provide information regarding each entity to which this requirement applies.*