

Rīga, 28.06.2019

Our Ref: 6.1p/241

Answers to the questions from the interested suppliers No 2

RB Rail AS presents the following answers to the questions received within open competition "Rail Baltica control-command and signalling (CCS) subsystems procurement and deployment strategy" No RBR 2019/6 until 28 June, 2019 from the interested suppliers:

No.	Questions	Answers
1.	<p>For the Proposal (Bid) Security (5000 EUR) – paragraph 10 of the Regulation we will use a bank guarantee. We need to provide our bank with a postal address so that it can issue the guarantee and the name of a contact person. Could you please confirm that we can give <u>your name</u> and that the <u>following postal address</u> is correct?</p>	<p>We would like to clarify, that for requested purposes Principal postal address is: <u>RB Rail AS</u> K. Valdemara street 8 – 7 RIGA LV-1010 Latvia Contact person for Procurement exercise is <u>Asta Žaltauskiene</u>, Lead Procurement specialist.</p>
2.	<p><u>Question relates Regulations clause 7.3.:</u></p> <p>"Documentation that proves its possession of a valid insurance certificate for at least 600 000,00 EUR (six hundred thousand euros) <u>during the whole term of performance of the Agreement</u>, or a written statement of an insurance institution <u>specifying that in case the Tenderer is awarded the Agreement, the insurance institution will issue the insurance certificate</u> for at least 600 000,00 EUR (six hundred thousand euro) per claim (please see Section 21.7.2. of the Regulations for additional information regarding requirements of Professional risk indemnity insurance – it will be applicable only to the Tenderer, to whom the rights to enter into contract will be awarded)."</p> <p>Is a general confirmation of cover/certificate of insurance from the insurance company enough to prove valid insurance or does the insurance company specifically need to ensure coverage in case of job execution?</p>	<p>We would like to clarify that:</p> <ol style="list-style-type: none"> 1) If there is a valid insurance certificate and the cover of the insurance certificate is at least 600 000,00 EUR per claim, then it's enough to submit a general confirmation of cover/certificate of insurance from the insurance company, including information regarding existing cover. 2) If there is a valid insurance certificate, but the cover of the insurance certificate is less than 600 000,00 EUR per claim, then there must be submitted: <ol style="list-style-type: none"> a. a general confirmation of cover/certificate of insurance from the insurance company; b. confirmation of the insurance company that in case the tenderer is awarded the Agreement, the cover will be exceeded to 600 000,00 EUR per claim. <p>If there is not a valid insurance certificate, then there must be submitted confirmation of the insurance company that in case the tenderer is awarded the Agreement, the insurance company will issue a certificate of insurance with cover at least 600 000,00 EUR per claim.</p>

3.	<p><u>Question relates Regulation clause 7.4:</u> "Filled in and signed Annex No 7 of the Regulations. The procurement commission shall be entitled to <u>request the Tenderer to submit written references</u> in order to verify the correctness of information provided by the Tenderer set out in the form. The procurement commission shall make an assessment of reference projects relevance in each separate case. The procurement commission reserves the right to contact clients of the tenderer for the provision of further details and verification of the provided information. "</p> <p>What is meant by written references in this case? Are there specific details that need to be mentioned within additional references or is an official customer confirmation meant by this? Regular references are given within Annex No. 7 as you already mentioned above.</p>	<p>The procurement commission has right to clarify any information regarding reference projects as stated in Regulation Section 7.4. and can request the tenderer to submit written references which means written letter from the client (Company) where is stated main information about the reference project, indicative characteristics, experts involved/project amount and other issues about the services provided</p>
4.	<p><u>Question relates Regulation clause 13.3.7:</u> "Information and documents relating to <u>entities</u> on whose capabilities the Tenderer is relying, or the corresponding European single procurement documents." Which human resources are demanded by the label "entities"? Are freelancers, assistants or optional human resources included when talking about "entities" or does it only have to cover key experts which we are referring to within the proposal?</p>	<p>We would like to clarify, that tenderer is free to choose resources and type of legal bounds how to enter for competition. Tenderers can rely on the capabilities (skills and capacity) <u>of third parties</u>, to satisfy <u>qualification requirements</u> of the Regulation. Word "entities" in this case means any legal or natural person on which capabilities the tenderer is relying to comply with qualification requirements of the Regulation. For example, natural person which is proposed as an expert and is an employee of a tenderer is not an "entity", but a natural person which is proposed as an expert and is a freelancer is an "entity". If the Tenderer decides to rely on the capabilities of third parties, information should be included into proposal as stated in Section 13 of Regulations. In case the tenderer is not relying on the third-party capacities to comply with qualification requirements of the Regulation, the information of such third parties should not be included.</p> <p>Please note, that Section 13.3.7. does not refer to Technical proposal.</p>
5.	<p>What specific number is meant by of the Tenderer or members of the partnership within Annex 1 (Application)?</p>	<p>The meaning of "registration number" mentioned in Annex 1 is a number that issued by competent authority of the country of registration or residence of a company.</p>

6.	<p>Please refer to Criteria B Experience of CCS key experts in Page 24 of 74 of the Regulation (RBR 2019/6).</p> <p>We understand that Criteria B Experience of CCS key experts will be evaluated considering the CVs of the 'Team lead, Key expert CCS' and the 'Second expert CCS' only, please confirm. Furthermore, there are five sub-criteria defined (b.1 to b.5) with 5 points allocated to each sub-criteria, nevertheless, it seems that if both the 'Team lead, Key expert CCS' and the 'Second expert CCS' cover the same sub-criteria, we could obtain 10 points in one sub-criteria. In this way, it will not be required to fulfil the five sub-criteria to obtain the highest possible number of points (25 points). Please confirm.</p>	<p>We would like to clarify that:</p> <ol style="list-style-type: none"> 1. Criteria B "Experience of CCS key experts" will be evaluated considering the CVs of the "Team lead, Key expert CCS" and the "Second expert CCS". 2. If both the "Team lead, Key expert CCS" and the "Second expert CCS" cover <u>the same</u> sub-criteria, Tenderer receives 5 points (not 10 points). 25 points can be received only in case if <u>all sub-criteria are fulfilled</u>.
7.	<p>In order to fulfil the requirement of the proposal (bid) security we are going to prepare a bank guarantee. From our previous experience submitting proposals to Rail Baltica, it is normally stipulated that the guarantor must pledge to pay the Contracting authority the sum of the Security in the following cases:</p> <ol style="list-style-type: none"> 1. the Tenderer revokes its Proposal while the Security is in force; 2. the selected Tenderer fails to submit necessary documents for the entering into the procurement Agreement and requested contract performance security; 3. the Tenderer, whose Proposal is selected in accordance with the contract award criteria, does not sign the Contract in the term stipulated by the Contracting authority. <p>Please confirm that the three cases have to be included in the bank guarantee.</p>	<p>Upon the first request of the Contracting authority the Security giver shall pay the sum of the Security to the Contracting authority, if at least:</p> <ol style="list-style-type: none"> 1. the Tenderer revokes its Proposal while the Security is in force, 2. the Tenderer, whose Proposal is selected in accordance with the contract award criteria, does not sign the Contract in the term stipulated by the Contracting authority. <p>Tenderer can include additional criteria, if they are not in contradiction with terms stated in Regulation. Please note, that <u>there is no performance security required for this contract</u>.</p>
8.	<p>Please refer to requirement no. 3 of clause 7.3 Economic and financial standing in Page 13 of 74 of the Regulation (RBR 2019/6).</p> <p>It is stated that the tenderer should have a valid Professional risk indemnity insurance with limit of liability of at least 600 000,00 EUR (six hundred thousand euros) per claim and in the aggregate for the policy period covering all experts mentioned in Proposal with extended reporting period 5 (five) years.</p>	<p>We would like to clarify that if annual renewal of the policy <u>covers the right of Contracting authority to report a claim occurred 5 years ago</u> then this is valid but should be explained in the proposal explicitly. If annual renewal of the policy doesn't cover rights mentioned before, Tenderer must submit confirmation from the Insurance company, that in case Tenderer will be awarded the Agreement, reporting period will be extended to 5 years.</p>

	Our Professional Liability Insurance provide a reporting period of 36 months. We are committed to comply with such period through the annual renewals that occur from this policy. Please confirm if this is valid for Rail Baltica 2019/6 procurement process.	
9.	<p>Please refer to clause 4.6 in Page 18 of 74 of the Regulation (RBR 2019/6).</p> <p>It is stated that the “Claims and disputes in relation to this insurance policy shall be examined in the court of the Republic of Latvia in accordance with the laws of the Republic of Latvia”.</p> <p>Please confirm that the aim is the insurance’s geographical scope of cover is extended to include the Country of the Project. Given that the placement can be done with any EU insurer compliant with financial rating, hence the jurisdiction and law applicable to resolve controversies around the insurance contract could be its respective EU country. Please confirm.</p>	<p>We would like to draw your attention that correct clause is 10.4.6. and this clause relates to Proposal Bid security.</p> <p>If Tenderer chooses to submit insurance policy as bid security, the bid security- insurance policy must be issued by the insurer who has the rights to perform insurance services in the Republic of Latvia. Claims and Disputes related to this type of bid security has to be examined in Latvian court according to applicable Latvian law.</p>
10.	<p>Please refer to clause 7.1 pages 5 to 11 and clause 7.8 in page 16 of the Regulation (RBR 2019/6).</p> <p>For some requirements in clause 7.1 Exclusion grounds it is stated that the “Tenderer should submit an appropriate statement from the competent authority of the country of registration or residence”. In our country of registration, it is not clear who is the competent authority responsible for providing these statements. Therefore, following the instructions described in clause 7.8 (Page 16), we are going to submit statements signed by our Managing Director before a sworn notary, please confirm that this will be accepted.</p>	<p>We would like to clarify, that only in exceptional cases Tenderer is allowed not to submit appropriate legal documents regarding exclusion grounds i.e. when there is no state authority in specific country which can confirm non-existence of specific exclusion ground.</p> <p>In such cases Tenderer must act as described in clause 7.8 “Regarding all documents submitted based on an oath given under law (e.g. self-statements, sworn-statements/declarations on oath), the Tenderer has to provide (indicate) legal grounds to law or enactment in accordance with such self-statements or declarations on oath have been given.”</p> <p>We would like to note, that there is e-Certis (https://ec.europa.eu/tools/ecertis/about) system, that could be used as a reference tool, to find and identify different certificates requested in procurement procedures across EU.</p>
11.	<p>7.3 Annex 6:</p> <p>Do annual reports also have to be translated into English or would German just be fine? I am asking since there is mainly figures shown.</p>	<p>We would like to clarify, that Annual reports do not have to be fully translated into English. German (or other language) could be accepted in case if in English has been translated:</p> <ol style="list-style-type: none"> 1. the title page of the document; 2. balance sheet (to check the liquidity ratio and positive equity); 3. income statement (to check the turnover).

		Please note, that according to Regulation Clause 13.7. when submitting the Proposal, the Tenderer must certify the correctness of all submitted documents' translations.
12.	Is there an official deadline for supplier questions? I did not see a note within the procurement deadline overview on EIS concerning supplier question.	We would like to clarify, that communication regarding additional information between Procurement commission and Interested supplier is stated into Regulations Section 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. <u>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.</u> The procurement commission shall provide additional information within 5 (five) Working Days from the day of receipt of the request."
13.	Regulation document/ 7.3 Number 3: Please clarify if a general confirmation of cover/certificate of insurance from the insurance company is sufficient prove of a valid insurance for the tender or does the insurance company specifically need to ensure a future coverage in case of job execution?	Please refer to the answer of Question No. 2. of this Document.
14.	Registration documents /7.4 Number 1: "The procurement commission shall be entitled to request the Tenderer to submit written references in order to verify the correctness of information provided by the Tenderer set out in the form." What is meant by written references in this case? Are there specific details that need to be mentioned within additional references or is an official customer confirmation meant by this? Regular references are given within Annex No. 7 as you already mentioned above.	Please refer to the answer of Question No. 3. of this Document.

15.	<p>Regulation documents / 13.3.7: "Information and documents relating to entities on whose capabilities the Tenderer is relying, or the corresponding European single procurement documents." Which human resources are described by the label "entities on whose capabilities the Tenderer is relying"?</p> <p>Are subcontractors meant by this term? If entities in this case does not describe subcontractors but internal persons (besides key experts), are freelancers, assistants or optional human resources meant?</p>	<p>Please refer to the answer of Question No. 4. of this Document regarding term "entities" and human resources.</p> <p>Additionally, we would like to explain that also Subcontractors are <u>third parties</u>, but the difference is that subcontractor is a third party to whom part of the performance of the contract is assigned. In case when the Tenderer rely on capabilities of a third party to comply with any qualification criteria and at the same time this third party also is assigned to perform a part of the contract, then this third party will be entity and subcontractor at the same time (then both - Annex No. 4. and No. 5. must be filled in).</p> <p>Please take into account that employees of the Tenderer are not entities or subcontractors.</p> <p>For additional information please see also Section 8 and 9 of the Regulations.</p>
16.	<p>Annex No.1: Can you please clarify what specific number is meant by the term "registration number" of the Tenderer? In case of a partnership, are all members of the partnership obliged to state their information within this document? May the members' information be separated via slash?</p>	<p>The meaning of "registration number" mentioned in Annex 1 is a number that issued by competent authority of the country of registration or residence of a company.</p> <p>In case of partnership for this open competition all the members of the partnership shall be listed in Annex No 1 "Application" of the Regulations. (Regulation Clause 6.1.2.)</p> <p>There are no restrictions how the information should be displayed.</p>
17.	<p>Regulation documents / 7.3 Annex 6: Do annual reports/documents mainly consisting of figures need to be translated into English as well?</p>	<p>Please refer to the answer of Question No. 11. of this Document.</p>

Procurement Commission Chairman



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