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**Answers to the questions provided by the Candidates
in competitive procurement procedure with negotiation „Design and design
supervision services for the construction of the Latvian North and South main line
section”, Id No RBR 2019/7**

RB Rail AS presents the following answers to the questions from the Candidates:

No	Questions	Answers
1.	<p>Last July 9th we have received a communication from RBR stating that the Authority intends to relax the contract conditions applied to all the previous contracts already procured, and that this contract changes shall be applied to contracts 2018/28 Pärnu-ES/LV border (already procured for Stage-1 and pending to the call for Stage-2) and this new contract 2019/7.</p> <p>Being this action very much appreciated and especially referred to this new 2019/7 contract, we would kindly request some evidence or a draft contract wording with the intended new contract conditions during this Stage-1 process in terms to secure that all the consortium members understand and accept the contract conditions and pursuant to submit an application for Stage-1, there shall not be any significant objections whatsoever by anyone of the consortium members for submitting an offer in Stage 2. This is to avoid problems occurred in the past, when some of the consortium members would had found the contract conditions unacceptable and their decision to withdraw for submitting an offer in Stage 2 has ultimately conditioned all the rest of consortium members, limiting very much the competition.</p> <p>By disclosing the new contract conditions in Stage 1, the Authority would secure that all the consortia submitting an application accept them and consequently would reduce objections during Stage 2 while granting a higher number of consortia applying for Stage-2.</p> <p>We kindly request the authority to disclose a draft of the new contract conditions intended to be applied for 2019/7.</p>	<p>Procurement Commission kindly informs that in accordance with the Regulations of Cabinet of Ministers No 107, at the first stage of the Competitive procedure with negotiations Contracting authority has published all available information and contract conditions shall be introduced only to the Tenderers in the second stage. If there is interest to get acquainted with the introduction of scope of the changed conditions please refer to the publication in RB Rail web page: http://www.railbaltica.org/rail-baltica-main-line-design%e2%80%aftenders-results-and-next-steps%e2%80%af/.</p>
2.	<p>We note that the contract 2019/7 contains 2 lots, and in this case (on the contrary to previous contracts already procured), the applicants may decide either to apply for only one lot or for the 2 lots. We would like to drive the attention of the Authority to the fact that previous contracts already procured were also composed by different sections or lots, but in that</p>	<p>Procurement commission kindly informs that subject matter of this particular procurement procedure is divided into two lots and please be aware there are no restrictions for the Tenderer to be awarded for one of the lots separately or both lots.</p>

	<p>case, it was not possible to apply for the sections/lots separately. We would like to ask the Authority which are the grounds for allowing separate bids for Lot 1 and Lot 2 for contract RBR 2019/7, and why in this case the Authority has not directly procured lots 1 and 2 under different contracts.</p> <p>In that case, please confirm whether the Authority would be open to award both lots to the same consultant, or in the contrary the Authority intends to award each lot to different consultants irrespective of scoring they reach in Stage -2.</p>	
3.	<p>Please, confirm that in case one consortium may decide to apply both for Lot 1 and Lot 2, the same technical references used for Lot 1 can be used for Lot 2, and it's not required that the references for both lots would be different.</p>	<p>Procurement commission kindly informs that there are no restrictions for the candidates to refer to the same projects' experience applying for both lots.</p>
4.	<p>We appreciate that pursuant to the communication received last July 9th, the Authority is concerned respect the low number of consortia applying for the contracts in the past, and your intention is to allow a higher number of applicants for this new contract 2019/7. Despite of that, the technical requirements for the references requested for this contract are much more demanding than those requested in previous contracts. Upon the description of the lots, the new Lots 1 and 2 for contract 2019/7 are quite similar to other sections belonging to previous contracts, hence we would request that technical requirements for this new contract would be also similar to those requested previously. In particular:</p> <p>4.1. Respect section 1) correspondent to <i>section 4.1 Technical and professional ability of the Candidate Selection Regulation</i>, it is requested to provide 2 references with a contract value not less than 7m€, one of those with a length at least of 50kms of design. For previous contracts this requirements were considered separately. We kindly request to the Authority to preserve the same principle used for previous contracts, and therefore consider that the references with a contract value not less than 7m€ not necessarily may cover at least 50 kms of design, and vice versa the reference with at least 50 kms of design could be valid in case the contract value is less than 7m€.</p> <p>4.2. Also, for same reference number 1, please confirm whether in a contract with double track and pursuant to the purpose of setting forth the kms of design, in case the aggregate of kms of single track would be at least 50 kms, the reference could be considered valid. For instance, a contract with 30 kms of double track would contain 30x2=60 kms of track > 50 kms. Please confirm whether in this case the reference would be considered valid.</p> <p>4.3. Respect reference request number 2) correspondent to <i>section 4.1 Technical and</i></p>	<p>4. Procurement Commission kindly informs that each of the procurement procedures are separate processes and can have different conditions due to decisions of each separate Procurement Commission based on differences in specifics of subject matter of each procurement. Answers to particular questions are the following:</p> <p>4.1. The Qualification conditions are reflecting parameters of reference in the experience of the Tenderer required for fulfilment of the design services described in Technical Specification therefore Procurement Commission at this point do not see objective reason for a change of the conditions.</p> <p>4.2. Procurement commission notes that in clause 4.1. (1.) of regulation requirement for the length of the track design has to be applied independently from the fact is it is a single track or double track railway line.</p> <p>4.3. Contracting authority is entitled to ask for experience of the Tenderer consistent with the subject matter and in such case it is requested to provide experience in execution of at least one design contract with properties of a infrastructure element similar to the one described in subject matter of procurement, therefore at this point Procurement Commission does not see objective reason for a change of the condition.</p>

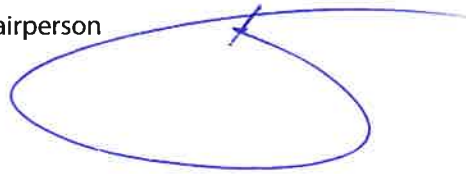
<p><i>professional ability of the Candidate Selection Regulation</i>, in addition to the length of the bridge or viaduct (1000m for Lot 1 and 500m for Lot 2), it has been included also a requirement for one span with a minimum length (100m for Lot 1 and 60m for Lot 2). Despite it has been common to request a minimum length in the bridges or viaducts in previous contracts, this is the first contract where there's also a request for a minimum span length. We would like to drive the attention of the Authority to the fact that this requirement for span length in addition to the entire length of the bridge and speed ≥ 201 km/h is quite restrictive. Please note that usually a bridge 1000m long for a high-speed railway line would have piers in the range of 40-80m high with spans of equal length (40-80m). A span of 100m would probably require piers 100m high, which ultimately would be applicable only to very singular crossings and bridges. We would kindly request that, in similar way the Authority considered for other previous contracts (such as 2018/12 Vangazi-Salaspils-Misa), it would be accepted the removal of the condition for minimum span length, or just in case the Authority may still wish to request a minimum span length, this could be considered separately to the length of the bridge. For instance, that the Authority may allow for the provision of one reference for a bridge with a length of 1000m, and other different reference with a bridge span at least 100m long, and both could be considered valid references irrespective they correspond to the same bridge or viaduct. Kindly note that for the technical point of view, if the concern is to demonstrate experience in designing long bridges with long spans, not necessarily the applicant may demonstrate this experience in one singular project, and still the capability for the consultant would be there.</p> <p>4.4. Both for Lot 1 and Lot 2, respect reference request number 3) correspondent to section 4.1 <i>Technical and professional ability of the Candidate Selection Regulation</i>, in accordance with the wording for the request of the 2 references in BIM environment, please confirm:</p> <p>4.4.1. That these references are supposed to not be necessarily referred to railway projects.</p> <p>4.4.2. That for these references, ongoing contracts would be valid, since in accordance with the wording of section 4.1 <i>Technical and professional ability of the Candidate Selection Regulation</i>, the concept of "completed design" is not applicable to this requirement ("Have experience in developing design project documentation and deliverables in BIM environment"), but only to references for points 1) and 2).</p>	<p>Procurement commission kindly notes that requirement for previous experience in developing design project documentation and deliverables in BIM environment shall not be referred only to railway projects. Previous experience in developing design project documentation and deliverables in BIM environment shall be considered valid even the project is still ongoing.</p>
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5.	<p>Respect the Key Experts required, they are listed for both lots in Annexes 2.1 and 2.2 respectively. We understand that the minimum requirements which shall be required during Stage 2 for the main 4 Key Experts (Project Manager, Design Manager, Railway Track Designer and Railway Bridge Designer) are already defined in the Candidate Selection Regulation, section 4.2.</p> <p>In spite of this, section 4.4 states "The ability to perform tasks assigned to the Team of Key Experts proposed by the Tenderer in accordance with the Technical specification shall be assessed in the second stage of the Competition by requesting additional information about their involvement in other contracts..."</p> <p>According to the requirements for KEs in Stage 2 in other previous contracts, these requirements tend to be much more specific and demanding than the minimum requirements outlined in the Candidate Selection Regulation.</p> <p>In those previous procurements, the scoring for KEs for Stage 2 was a 10% of total points for the tender evaluation. This is to say that although covering the minimum requirements, there's a risk that the applicant may finally score too low for KEs during Stage 2 in case not achieving the additional requirements. For instance, for the 4 KEs it was required to present for each candidate credentials for 4 different projects in the last 10 years for scoring the maximum points.</p> <p>We kindly request to the Authority to anticipate these additional requirements for the future Tender scoring criteria for future Stage 2 in this Stage 1 just as an information data. This action would allow the applicants to consider this request as a condition when they are conforming the Consortia members for Stage 1, giving them the chance to strengthen the teams as much as possible during this Stage 1, while granting the Authority that all the Consortia bidding for Stage 2 would have had the opportunity to secure the best resources so far related to KEs from this very early stage.</p>	<p>The Procurement commission kindly informs that contract award criteria and evaluation methodology for this particular procurement procedure currently isn't available and according to the regulations of the Cabinet of Ministers No 107 will be included to the regulations of the 2nd stage (Invitations to submit initial bids) of this Competition.</p>
6.	<p>In case the applicant may rely the technical capability in one or several subcontractor who would provide part of the technical references required in section 4.1 <i>Technical and professional ability of the Candidate Selection Regulation</i>:</p> <p>6.1. Please confirm that reference made in section 5.1.3 of the Candidate Selection Regulation regarding the necessity to establish a joint and several liability between the applicant and the entity (subcontractor) in which the applicant may rely for completing the technical requirements (references) only applies for financial and economical capabilities and not for technical capabilities.</p>	<p>Procurement commission kindly notes that requirement for joint and several liability shall be applied mandatory to entities on whose financial and economical abilities the candidate/ tenderer is relying and who will be financially and economically responsible for fulfilment of the procurement contract. If the candidate will rely on the technical capabilities of other entity to meet specific requirements, anyway the candidate shall provide evidences how these competences will be transferred to the candidate and used by the candidate to prove and assure Procurement Commission that the resources shall be available and sufficient abilities present for the provision of services.</p>

	<p>6.2. In that case, please confirm that within the future contract conditions to be disclosed in Stage 2, the Authority shall not impose to such subcontractor the same liabilities and responsibilities than those to be applicable to the applicant, being at the discretion of the applicant the contract conditions to be applied among the applicant and their subcontractors, as long as the applicant by their own shall commit with the contract conditions as defined by the Authority.</p>	<p>The Contract conditions shall be introduced to the Tenders in the Second stage of the Procurement.</p>
<p>7.</p>	<p>Regarding the tender for the design and design supervision services for the construction of the Latvian North and South main line section I have the following question:</p> <p>In Annex 3.1 and 3.2 the requirement is set on design speed equal to or greater than 201 km/h. In the previous tender (design and design supervision services for the construction of the new line from Tall inn to Rapla) the design tender the design speed was set on equal to or greater than 200 km/h.</p> <p>Can you explain the difference of 1 km/h extra? And is it possible to set the requirement back to equal to or greater than 200 km/h for this specific tender?</p>	<p>Procurement commission informs that required parameters meets the standards of speed of the railway line to be designed and has to meet the required experience for the design of railway line with the traffic code at least P2 in accordance with TSI Categories of railway lines (passenger train speed above 200 km/h up to 250 km/h or higher).</p>
<p>8.</p>	<p>Do we have to submit two bunches of documents? One per lot? Or it will be enough with one saying that we are interested in both lots?</p>	<p>Please be aware that in E-Tenders system (https://www.eis.gov.lv/EKEIS/Procurement) proposals (including respective documentation) shall be submitted for each lot separately.</p>
<p>9.</p>	<p>About the letter of association, the same question, can we submit one letter saying that we are interested in collaborate in both lots?</p>	<p>Please be aware that in E-Tenders system (https://www.eis.gov.lv/EKEIS/Procurement) proposals shall be submitted for every lot separately. If the candidate applies for both lots, it is allowed that one letter of association is prepared covering both lots, but in E-Tenders system shall be uploaded under each lot.</p>
<p>10.</p>	<p>Another question about the letter of association, as we are in a preliminary stage, we are not able to submit a complete list of responsibilities for each member, it will be enough if we include a text like the following? "Company 1 and Company 2 will be jointly and severally responsible to the Client for the performance of the Contract for the services. The participation percentages and tasks to be develop by each party will be defined in the letter of association to be submitted in tender stage".</p>	<p>Procurement commission kindly informs that it will be sufficient if legal representatives of all members of the partnership will sign letter of association (intention) where is stated that "Member 1, Member 2, Member n.... will be jointly and severally responsible to the client for the performance of the Contract for the services and the participation percentages and tasks to be developed by each party will be defined in the letter of association to be submitted in 2nd stage of this competition.</p>
<p>11.</p>	<p>Completed design shall be considered the one which has been approved according to national legislation. Taking into account that there is no design offices in Latvia with 1435mm design experience, it means that general company will have to export its services from another EU country to Latvia. Returning to the sentence from procurement: „Completed design shall be considered the one</p>	<p>Procurement Commission is not into position to provide you with the guidelines of such approval process due to the reason that each country where the design and construction is taking place there are country specific rules and regulations of the issuance of the building permit and approval of the design before construction works can be started.</p>

<p>which has been approved according to national legislation" or it may be possible to publish detailed guidelines „Approval" according to national legislation? /</p> <p>Ņemot vērā to faktu, ka Latvijā nav neviens projektēšanas birojs ar 1435 mm projektēšanas pieredzi, paliek pašsaprotami, ka ģenerālprojektētājam (ģenerāluzņēmumam) būs jāeksportē savi pakalpojumi no kādas citas ES valsts uz Latviju.</p> <p>Atgriežoties pie teikuma no iepirkuma: "Completed design shall be considered the one which has been approved according to national legislation" vai ir iespējams publicēt detalizētas vadlinijas "Approval" procesam "according to national legislation"?</p>	<p>Iepirkuma komisijas kompetencē nav nodrošināt vadlinijas šādam apstiprināšanas procesam, ņemot vērā katras valsts, kurā tiek veikti projektēšanas darbi un būvdarbi, atšķirīgo normatīvo regulējumu, kas reglamentē būvniecības atļauju izsniegšanu un būvprojektu apstiprināšanas kārtību pirms būvdarbu procesa uzsākšanas.</p>
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