

Riga

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**Answers to questions from the interested suppliers  
in competitive procedure with negotiations “Notified Body (NoBo)  
services for Rail Baltica trackside infrastructure  
TSI conformity assessment (verification)”,  
identification number RBR 2019/19**

RB Rail AS presents following answers to the questions received from the interested suppliers until 15 October 2019:

Nr.	Questions	Answers
1.	<p>Regarding above mentioned tender notification I kindly ask to elaborate the interpretation of the requirement as per Section 13.1. (2) of the Candidate Selection Regulation, cited as follows: The Candidate within the previous 10 (ten) years (until the date of submission of the Proposal) has provided NoBo services in at least 1 (one) cross-border project with comparable complexity and tasks:</p> <ul style="list-style-type: none"> <li>a) 100 km of double track line</li> <li>b) 3 stations with more than 3 tracks each</li> <li>c) Electrification</li> <li>d) ERTMS (GSM-R and ETCS L2).</li> </ul> <p>Does this requirement mean, that</p> <ol style="list-style-type: none"> <li>1. the Candidate has to provide evidence of “Cross Border”-projects in which he has conducted NoBo assessment in two or more countries (across borders) within the <u>same</u> project fulfilling above requirements or</li> <li>2. the Candidate has to provide evidence that he has so far conducted NoBo assessment in <u>more than just one country</u> regardless if the requirements above have</li> </ol>	<p>Procurement commission indicates that Candidate’s experience regarding the cross-border project experience will be considered as relevant to requirements set in Section 13.1.2 of the competitive procedure with negotiations “Notified Body (NoBo) services for Rail Baltica trackside infrastructure TSI conformity assessment (verification)”, ID No RBR 2019/19 (hereinafter – Procurement) regulations (hereinafter – Regulations), if Candidate within the previous 10 (ten) years (until the date of submission of the Proposal) has provided NoBo services in at least 1 (one) cross-border project (i.e. railway line between two neighbouring countries) notwithstanding if Candidate has provided NoBo services within one country only or all countries involved in the project.</p> <p>Cross-border projects require communication with national safety authorities of at least two countries, not obviously having the same approach on problem resolution, what may impact TSI assessment in each country involved</p>

	<p>been fulfilled by multiple projects from multiple clients in multiple countries.</p>	<p>Additionally, project has to meet all technical parameters mentioned in the Section 13.1.2 of the Regulations.</p> <p>Procurement commission stresses that evaluation according to evaluation criteria mentioned in Section 13.1. of the Regulations will take place only in situation if more than 7 (seven) candidates will comply with candidate selection criteria.</p>
<p>2.</p>	<p>Requirement 4.1.2:</p> <p>(1) Whether the requirement should be construed as requiring the Notified Body to present at least 1 project for which all the investments specified in subparagraphs (a) to (f) have been made (in aggregate)</p> <p>(2) or could it be several projects, one covering 150 km of double track, another involving electrification, and another involving 5 bridges or viaducts, etc.</p> <p>We would like to point out that in the case of the first interpretation (1) all investments within one project), in our opinion this requirement is disproportionate to the scope of the project and artificially restricts competition.</p> <p>The experience of the Body shows that in Europe, large investment projects are always divided into particular tasks, often carried out on a multi-annual basis, often carried out by different contractors and certified by several Notified Bodies. In the last 10 years in Poland, there has not been a single project that would simultaneously meet all the requirements - the construction of ERTMS takes place on lines that are already electrified, in which case the subsystem is subject to modernization and not electrification.</p> <p>At the same time, we believe that a Notified Body which, in the last 10 years, has carried out e.g. 100 certifications of separate projects (but not meeting the above mentioned requirements in one project), will be more competent than a unit which has only carried out 1 certification in 10 years.</p> <p>In addition, we note that part of GSM-R and ETCS is most often carried out by different companies for which certification is dealt with by different notified bodies. TSI CCS directly indicates the possibility of separate certification of GSM-R and ETCS (point 6.4.).</p>	<p>Procurement commission indicates that reference project must include all designated infrastructure characteristics mentioned in Section 4.1.2 subsection a) - f) of the Regulations to meet the requirements of the Section 4.1.2 of the Regulations. Additionally, NoBo services has to be provided for this project within the previous 10 years until the date of submission of the Proposal.</p> <p>Procurement commission has assessed and has included in the Regulations requirements that are reasonable, objective and commensurate to the subject-matter, that do not unreasonably restrict the competition. Requirements aim is to select a candidate which has the ability/experience to plan the assessment work for the subsystem's integration, while the subsystems (please refer to infrastructure characteristics in the Section 4.1.2) are developed and integrated in steps to the full-scale application. Therefore, integrated system supports the need of full understanding of the interfacing subsystems, supporting efficiency of the assessment process.</p> <p>Additionally, Procurement commission indicates that both GSM-R and ETCS belong to CCS subsystem and to achieve the subsystem integration GSM-R and ETCS should be assessed together with other subsystems.</p>

	Therefore, most of the bodies in one project have experience in GSM-R or ETCS.	
3.	<p>Requirement 4.1.3:</p> <p>As above, please explain to RAIL BALTIC whether the experience must necessarily include a <b>project that meets all the technical specifications set out in point 4.1.2.</b></p> <p>In such a case, the requirement would be disproportionate to the scope of the project and would artificially restrict competition. The number of employees who have experience in so few projects is very limited. Assuming that RAIL Baltica's intention is only to achieve the highest level of quality, we point out that it is much more technically difficult to upgrade the existing infrastructure. Therefore, we are of the opinion that if an employee has experience with e.g. 20 investments, the interests of the contracting authority are better protected.</p>	Please refer to answer No 2.
4.	<p>Requirement 4.3.1:</p> <p>What is the correct understanding of the average financial turnover requirement?</p> <p>(1) Does Rail Baltica expect the Notified Body to have a financial turnover of <b>approximately €10 million in each of the years</b> (for example, €9 million - 2016, €10 million - 2017, €12 million - 2018)?</p> <p>(2) Or Is more the aggregated turnover of 3 years with a ceiling of 10 million euros (for example: 3 million - 2016, 4 million - 2017, 5 million - 2018)?</p> <p>In the case of the first interpretation (1), we point out that, assuming lower costs (and thus lower financial turnover) in the new EU countries, such a high threshold favours Bodies from rich countries and at the same time is harmful to the contracting authority itself, which will receive a more expensive service.</p>	<p>Procurement commission indicates that Candidate or all members of the partnership together (if the Candidate is a partnership and confirms the average financial turnover jointly) average financial turnover within the last 3 (three) financial years (2016, 2017, 2018) is not less than 10 000 000,00 EUR (ten million euros zero cents), meaning that sum of financial turnover of last 3 (three) financial years (2016, 2017 and 2018) divided with 3 (three) has to be at least 10 000 000,00 EUR (ten million euros zero cents). So, that first example mentioned by interested supplier is the right one.</p> <p>Procurement commission kindly asks to pay attention that average financial turnover within the last 3 (three) financial years has to be <b>at least</b> 10 000 000,00 EUR (ten million euros zero cents), not approximately 10 000 000,00 EUR (ten million euros zero cents).</p> <p>Section 4.3.1. of the Regulations meets the requirements of Public Procurement Law of the Republic of Latvia and amount of the average financial turnover is set considering the estimated contract price of the Procurement.</p>
5.	Requirement 4.8:	Procurement commission indicates that the European Single Procurement Document (ESPD) is single self-declaration

	<p>The tender requirements include information (point 4.8) that the candidate may send a completed ESPD form containing declarations of compliance with some of the requirements. Considering that there is no indication as to which requirements the contracting authority allows this, and that Chapter 4 refers to certificates from the relevant authorities as a means of documenting compliance, the candidate is <b>not sure which requirements can be met through statements in ESPD and for which official endorsements can be requested.</b></p>	<p>form of suitability, financial status and abilities of a company used as preliminary evidence. In the Section 8.3. of the Regulations there is indicated which documents can be replaced with ESPD as initial proof (documents which confirm the compliance with selection criteria).</p> <p>Procurement commission indicates that in case if Candidate will submit ESPD as initial proof, Procurement Commission in evaluation of the application will require the Candidate to submit more detailed information to verify the compliance to the requirements included in the Regulations. Therefore, Procurement commission advise Candidates to submit the documentation mentioned in Sections 4.1. – 4.3. of the Regulations already in the application.</p> <p>Regarding the evidences of non-existence of the exclusion grounds (mentioned in Section 4.4. of the Regulations), Procurement commission indicates that if the Candidate will qualify for the second stage of the Procurement, Procurement commission will request all documents that proves that information included in ESPD (regarding non-existence of the exclusion grounds) is correct and Candidate meets all the requirements mentioned in the Section 4.4. of the Regulations (including the documents that are issued by third parties (relevant authorities etc.).</p>
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Procurement commission chairperson

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