

Rīga

22.11.2019

Our Ref: 6.1p/406

**Answers to the questions from the interested supplier
in procurement "Legal services",
identification number RBR 2019/22**

RB Rail AS presents following answers to the question received from the interested supplier until 20 November 2019:

Nr.	Questions	Answers
1	<p>Among other things the regulations envisage that the tenderer must submit a case study, whose description is given in Clause 11 of the Terms of Reference (Technical Specification) for the procurement. We would be grateful if the procurement committee could clarify with respect to the facts of the case study: shall the answers be provided assuming that the designing contract is based on FIDIC Client/Consultant Model Services Agreement 5th Ed (2017 White Book) or shall we assume that the designing contract contains no provisions deviating from national legislation (even non-mandatory)?</p>	<p>The Procurement Commission clarifies that the Tenderer shall prepare a short and high-level legal opinion based on requirements set-forth in point 11.1 of Terms of Reference by considering EU legislation, EU case law and national legislation in three (3) Baltic States, and provide answers assuming that design contracts are not deviating from national legislation. The Tenderer shall not consider FIDIC contractual conditions.</p>
2	<p><u>Regarding Section 3.1. (3) of the Terms of Reference (Technical Specification)</u></p> <p>Section 3.1. (3) of the Terms of Reference states the minimal project experience requirements for the Construction, Real Estate and Environment law expert. According to the requirements, the expert has to have gained experience as lead construction, real estate and/or environment law expert in 3 large scale projects, which meet both of the criteria described in the respective Section.</p> <p>We would like to clarify:</p> <p>1.1. Does this requirement mean that each of the three or more large-scale projects have to simultaneously meet both the requirements of criteria 1 and 2 (supported by either 1(a) or 1(b) and 2(a) or 2(b))? Or rather just alternatively either criteria 1 or criteria 2 (supported by either 1(a) or 1(b) or 2(a) or 2(b))?</p>	<p>To clarify and correct requirements of Section 3.1.(3) of the Terms of Reference (Technical Specification) the Procurement Commission amended it as follows:</p> <p><u>"Construction, Real Estate and Environment law expert</u> meeting the following minimal project experience requirements: within the last five years (from <u>2014</u> until the Tenderer's proposal submission date) has gained experience as lead construction, real estate and/or environment law expert in 3 large-scale projects, which meet one of the <u>following criteria</u>:</p> <p>1) has advised in construction and/or design contract drafting and/or negotiation and</p> <p>a) legal services were provided for not less than 200 (two hundred) billable hours for the case or</p> <p>b) legal fee for the provided services in the case was equal or higher than 20 000 EUR, excluding VAT.</p>

	<p>1.2. A correction is needed in our opinion in criteria 1, where "or" should be replaced with "and" to express that not either one of the criteria 1 and 1 (a) and 1 (b), but rather criteria 1 supported by either 1 (a) or 1 (b) is required to meet the requirement.</p>	<p>2) has been representative of the client in the construction and/or design contract claims or litigation/arbitration process and</p> <p>a) legal services were provided for not less than 200 (two hundred) billable hours for the case or</p> <p>b) legal fee for the provided services in the case was equal or higher than 20 000 EUR, excluding VAT.</p> <p><i>Tenderer can receive 3 points if at least one Construction, Real Estate and Environment expert as lead expert has experience on drafting construction contract based on FIDIC standards (regardless if the project is Large-scale project. It is not a minimum qualification requirement for expert's).</i></p> <p>The Procurement Commission draw your attention that due to amendments to the Regulations "Legal Services" Id RBR 2019/22 the deadline for the submission of the proposals is extended until 29 November 2019 15:00 o'clock</p>
3	<p><u>Regarding the Case Study, Section 11 of the Terms of Reference (Technical Specification), Question 4:</u></p> <p>Shall we answer Question 4 still assuming that the contract is governed by the Latvian law (as given in the Facts section), while the event (damage to the rotary drill) has taken place in the territory of Estonia/Lithuania, or the answer shall be based on the law of the respective country (Estonia/Lithuania)?</p>	<p>The Procurement Commission clarifies that answer to the question 4 of Case study should be based on assumption that works in the territory of Estonia/Lithuania were performed according to the contracts governed by law of respective country (Estonia/Lithuania accordingly).</p>

Sincerely,

J.Lukševics

Procurement commission chairperson

