

Rīga

31.08.2020

Our Ref: 1.13p/LV-301

**Answers to questions from interested suppliers
in the open competition "Rail Baltica Transport demand
model development and analysis",
identification number RBR 2020/13**

RB Rail AS presents following answers to the questions received from interested suppliers until 31 August 2020:

| Nr. | Question | Answer |
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| 1. | <p>Please confirm whether there will be any conflict of interest for a company if it is awarded this "Transport demand model development and analysis" study in case the said company intends to participate in the upcoming tender for Shadow Operator services.</p> <p>In case there is any conflict, would it also apply to subcontractors to the main applicant for the Shadow Operator services tender?</p> | <p>In response to a question from an interested supplier, the Procurement commission indicates that the potential conflict of interest situations are assessed on a case by case basis in each procurement procedure separately. At this stage Procurement commission is not able to completely determinate that there may or may not be potential claims related to conflict of interest from involved parties in any upcoming procurement procedures.</p> <p>Considering the specifics of both subject-matters of the procurement procedures, <i>prima facie</i>, Procurement commission does not see a situation of conflict of interest in the described situation.</p> <p>However, Procurement commission kindly asks potential suppliers to pay attention to Section 4.8 of the Annex No 9 "Draft contract" of the open competition "Rail Baltica Transport demand model development and analysis" regulations that regulates conflicting activity situations, if such arises.</p> |
| 2. | <p>We are very much interested in this project, however, there is one clause in the tender documents that should be clarified in advance.</p> | <p>Procurement commission indicates that, in case transport demand model will be developed based on already existing model and/or software, only Rail Baltica transport demand model (including its source codes) shall become intellectual property of RB Rail AS (as</p> |

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| <p>In the "Technical specification for the open competition", chapter 2.2 (Running platform and software), the ToR describe model rights and ownership:</p> <ul style="list-style-type: none"> - "RBR shall have full and unrestricted use and ownership of the DM ... including their source code." - Chapter 2.11 adds: "The Rail Baltica demand model (including in original (source-file formats) shall become the intellectual property of RBR." <p>Based on the extremely tight time schedule – 8 months to develop the forecasts – we need to revert to existing models and software. These will be extended and modified to suit the needs of the Rail Baltica project. However, this means that while we can grant RBR "full and unrestricted use", we need to insist that we retain ownership of the base model which will remain our intellectual property.</p> <p>Under these circumstances, do you consider it sensible that we would participate in the tender process, i.e. would you be willing to reconsider and change these clauses, or shall we refrain from participating if we cannot comply with these conditions?</p> | <p>deliverable within the framework of the Contract). Contracting authority does not claim intellectual property rights towards the base model and/or software used to develop Rail Baltica transport demand model, but must have the ownership (independent stand-alone) of the Rail Baltica transport demand model and of all intellectual property required to reproduce, enhance and support that model.</p> |
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Sincerely,

Procurement commission chairperson

A. Benfelde