

Rīga

14.09.2020

Our Ref: 1.13p/LV-334

**Answers to questions from the interested supplier  
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 the interested supplier until 14 September 2020:

Nr.	Question	Answer
1.	<p>References.</p> <p>Do the references of a possible subcontractor count into the fulfillment of the criteria of a bidder's (bidder or also partnership) technical and professional ability?</p>	<p>Procurement commission indicates that, if Tenderer has intention to use the references of other company to meet the requirements stipulated in the open competition "Rail Baltica Transport demand model development and analysis", ID No RBR 2020/13 (hereinafter – Procurement), regulations (hereinafter – Regulations), this company will become the person on whose capacity Tenderer relies and Tenderer must follow the conditions stipulated in the Section 9 of the Regulations, in particular that Tenderer shall prove that "the Tenderer shall have available all the necessary resources for the fulfilment of the Contract by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer".</p> <p>If this company on whose capacity Tenderer relies will be a subcontractor as well, then additionally to the Section 9 of the Regulations, Section 10 of the Regulations applies.</p>
2.	<p>References.</p> <p>Can we give references of our subsidiary without the subsidiary being part of our bidding consortium?</p>	<p>Yes, but in this case subsidiary company becomes the person on whose capacity Tenderer relies. Please refer to answer given on the question No 1.</p>

<p>3.</p>	<p>ISO certification.</p> <p>Does every partner within a partnership necessarily need to have ISO 9001:2015 certification?</p> <p>For example, our company has an internal QMS but does not have ISO 9001:2015 certification.</p> <p>What would be an equivalent to ISO 9001:2015 certification?</p> <p>Is our consortium still compliant with the tender requirements if our partnership lead company has ISO 9001:2015 certification but we don't?</p>	<p>Procurement commission indicates that in accordance with Section 8.4.5 of the Regulations Tenderer or each member of the partnership (if the Tenderer is a partnership) shall have quality management system that complies with ISO 9001:2015 standard or equivalent in place. That means that, if Tenderer is a partnership, each member of the partnership needs to have quality management system that complies with ISO 9001:2015 standard or equivalent.</p> <p>In accordance with Section 20, Paragraph 5, Clause 2 of the Public Procurement Law, if the Contracting authority includes a reference to a specific standard in the technical specification, then each reference must include the words "or equivalent". Tenderer will meet the requirement stipulated in the Section 8.4.5 of the Regulations, if it has internal quality management system that complies with the same requirements for quality management system as ISO 9001:2015 certification. Additionally, Procurement commission points out that proof of equivalence is the responsibility of the Tenderer and, when submitting a proposal for the Procurement, the Tenderer shall provide evidences that the Tenderer's quality management system is equivalent to the ISO 9001:2015 standard.</p> <p>In response to a question about the consortium, the Procurement Commission states that Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent in place. That means, if Tenderer itself does not have ISO 9001:2015 certification or equivalent quality management system in place, it can refer to other companies quality management system only in case if this other company is person on whose capacity Tenderer relies (please refer to answer given on the question No 1).</p>
<p>4.</p>	<p>ISO certification.</p> <p>Do subcontractors need to have ISO 9001:2015 certification to be compliant with the tender requirements?</p>	<p>No, Section 8.4.5 of the Regulations does not apply to the subcontractors.</p>
<p>5.</p>	<p>Bidder constellation.</p> <p>Can our company be subcontractor to a subsidiary of our company or can our subsidiary be a subcontractor of our company?</p>	<p>The Public Procurement Law and the Regulations do not restrict the participation of interested suppliers in the procurement (regardless of the legal status of the company and the legal nature of the relationship between the companies), but one of the main</p>

	<p>Is a subcontractor allowed to participate in the tender being subcontractor to different bidders and therefore appear as subcontractor in more than one offer?</p>	<p>public procurement principles specified in the Public Procurement Law must be followed - free competition of economic operators.</p> <p>As, <i>prima facie</i>, companies mentioned in questions are legally separate companies, they are not prohibited from participating in the Procurement as separate Tenderers or submitting a proposal as Tenderer at the same time being a subcontractor of another Tenderer, but the Procurement commission draws attention that proposals shall be developed independently and each Tenderer shall certify this by signing the application for participation in the Procurement (please see Clause 6 of the Annex No 2 "Application" of the Regulations).</p> <p>If a possible violation of Competition Law has been occurred, the Procurement commission is obliged to report it to the Competition Council of the Republic of Latvia and the Tenderer may be penalized.</p>
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Sincerely,

Procurement commission chairperson

A. Benfelde