



# How to succeed in RB Rail AS procurement – a guide to the process, requirements, and evaluation



## What we want to ensure?

- Better understanding of the public procurement principles, process and requirements;
- Improvement of overall quality of the applications/proposals.

## Where to get support?



Regular release of  
**Guidance**



**Info** on [railbaltica.org](http://railbaltica.org) and E-tendering system [eis.gov.lv](http://eis.gov.lv)



For additional **questions** use  
[procurement@railbaltica.org](mailto:procurement@railbaltica.org)

Rail Baltica Global project (RBGP) according to Inter-Governmental agreement (2017) and European Commission decision on RBGP implementation (2018) has two funding sources:

- 85% EU funding (CEF Grant agreements);
- 15% National (Estonia, Latvia, Lithuania) budget.



Procurements are carried out considering European Commission approved funding, which has been requested and indicated according to market research, assumptions etc.

Therefore there could be procurement procedures where

- certain phases of the scope are **limited to a particular budget figure** or proportion to cater for the funding approach related to grant agreements
- **latter phases of the scope are covered by further grant agreement** funding and thus to be implemented in an iterative manner

Such strategy in particular procurements have been chosen with aim to cover full scope with one procurement procedure – one supplier to ensure continuity of the services/works/goods.

01

## Legislative Requirements

- **Public Procurement Law of the Republic of Latvia**
- **Cabinet Regulation No. 107 of the Republic of Latvia**
- Law on Prevention of Conflict of Interest in Activities of Public Officials
- Law on Administrative Liability
- Latest Latvian Court Practices
- (EE and LT Court Practices)
- EU Directives
- European Court of Justice principles
- **Procurement Monitoring Bureau of the Republic of Latvia Practices**

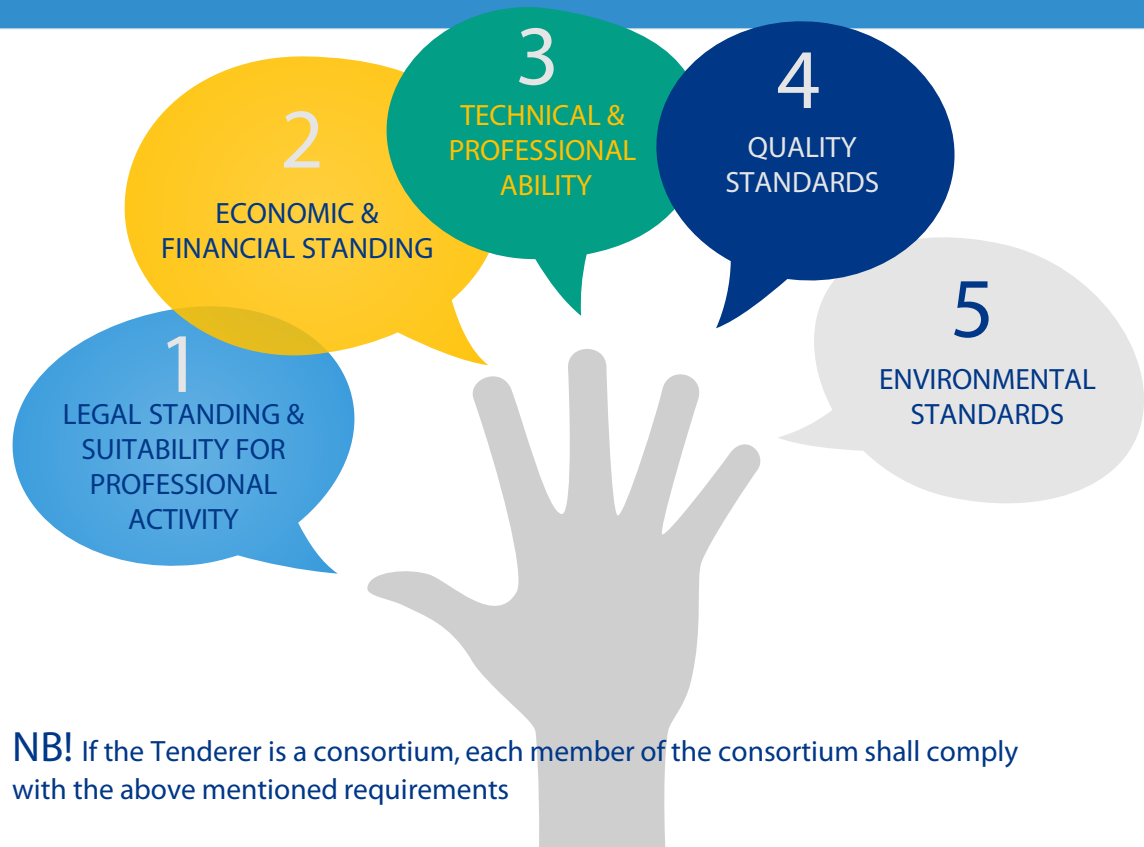
02

## Company & Project Rules and Policies

- Contracting Scheme Agreement
- Shareholders Agreement
- Inter-Beneficiary Agreement
- RB Rail AS Statutes
- **Common Procurement Standards and Guidelines**
- **In-house Procurement Regulations:**
  - **Regulations for Organisation of Procurements**
- Regulations on Representation Rights
- Other in-house rules & policies

Procurement Commissions are safeguarded by Legislation, Corporate Governance and applicable practice, de-politicised and empowered to act based on due professional diligence, following the Rail Baltica Global Project requirements.

# Minimum set of requirements for suppliers



Enrolment in a professional registry



Financial turnover & liquidity



Possession of expertise & experience



ISO 9001:2015 or equivalent



ISO 14001:2015 or equivalent

**NB!** If the Tenderer is a consortium, each member of the consortium shall comply with the above mentioned requirements

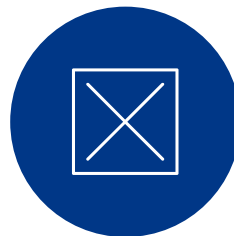
# Actions before the submission



Supplier can ask **questions** and **clarify requirements** and **request to amend** them

**NB! Please read the Q&A letters published in RBR website before asking your question!**

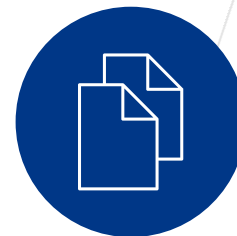
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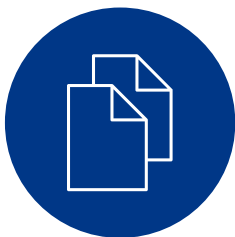
**No amendments after submission!**

Tenderer has accepted the requirements by submitting the proposal!

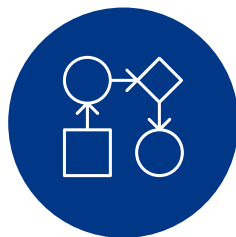
**NB! Please be aware and introduce yourself with the draft contract already before the submission of the proposals!**



**Draft agreement cannot be significantly changed either.** It is one for the annexes of the procurement regulations.



**Use the forms which have been provided in the procurement regulations** (usually annexes regarding supplier experience, experts experience, financial standing etc.)



**Annexes are prepared and structured in a way to assist the supplier** in the preparation of all requested information and not to miss some information.



**Consider the requirement included in the procurement regulations** and describe the compliance at least in the same detail.

**Requirement:** The Candidate within the previous 15 (fifteen) years (until the date of submission of the application) has gained experience as main contractor in provision of all following services in one reference project:

- a) Railway AC traction power simulation with the dedicated software tool;
- b) Traction power substation design.

No	Information regarding candidates provided service contract:				Contracting Authority	Contact information for references
	Candidates status (only main contractor is acceptable)	Start and finish dates	Requirements in accordance with Section 4.1.2. of the Regulations			
1.			Required services:	Please indicate following description:		
			a) Railway AC traction power simulation with the dedicated software tool	Description covering the title of the tool used and outputs of the simulations		
			b) Traction power substation design	Description covering the number (and types and sizes) of traction substations designed		



- Qualification assessment is carried out according to **YES/NO principle**



- Evaluation according to award criteria

**NB! During the qualification assessment or evaluation Commission is not allowed to deviate from the qualification requirements or award criteria.**

**Commission is willing to clarify all unclear information in the proposal before it makes the decision regarding non-compliance, however...**

## **Commission must ensure:**

- Transparency
- Free competition
- Equal and fair treatment
- Effective use of the funds of RB

## **Dos and Dont's:**

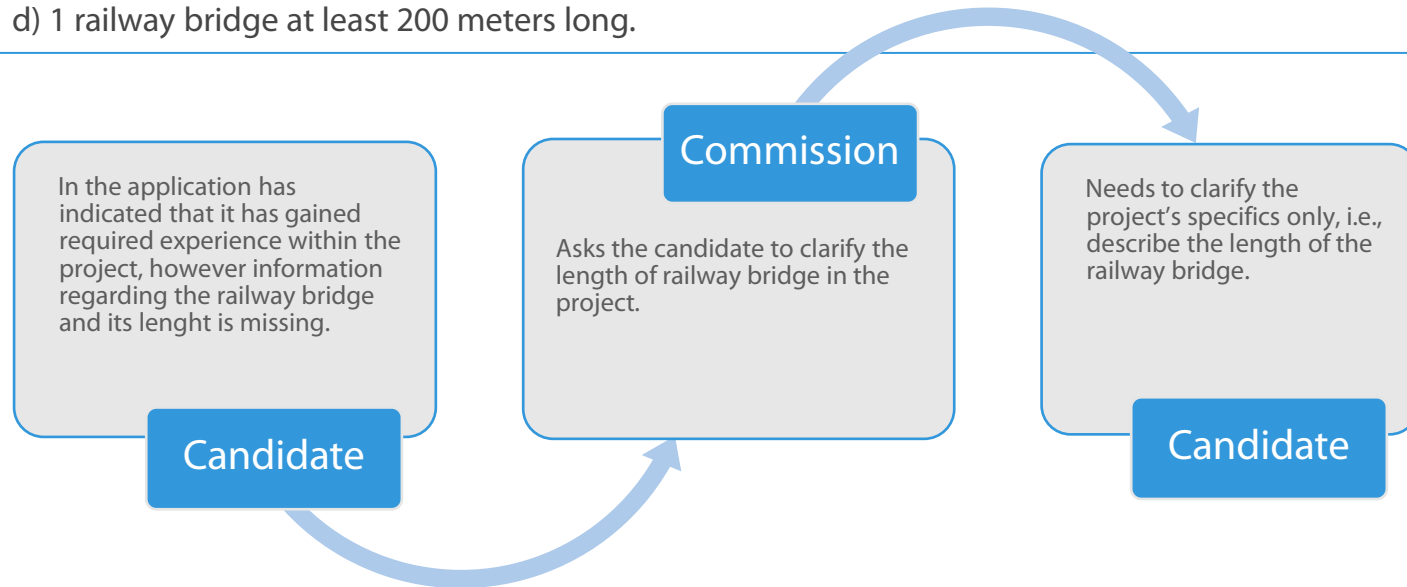
- It **is allowed** to clarify information which is included in the proposal (clarifications)
- It is **not allowed** to add totally new information to the proposal (amendments)

**NB! Commission cannot recognize as compliant agreements, documents etc. which are dated after the proposal submission deadline, except the exclusion ground documents.**

## Example: clarifications (allowed)

**Requirement:** The Candidate within the previous **15 (fifteen) years** (until the date of submission of the application) has gained experience in provision of Railway AC traction power simulation with the dedicated software tool in one **Reference project**.

**Reference project requirement:** As a reference project shall be considered a project where specific services have been provided and the service scope included at least the following TSI compliant railway infrastructure:  
d) 1 railway bridge at least 200 meters long.



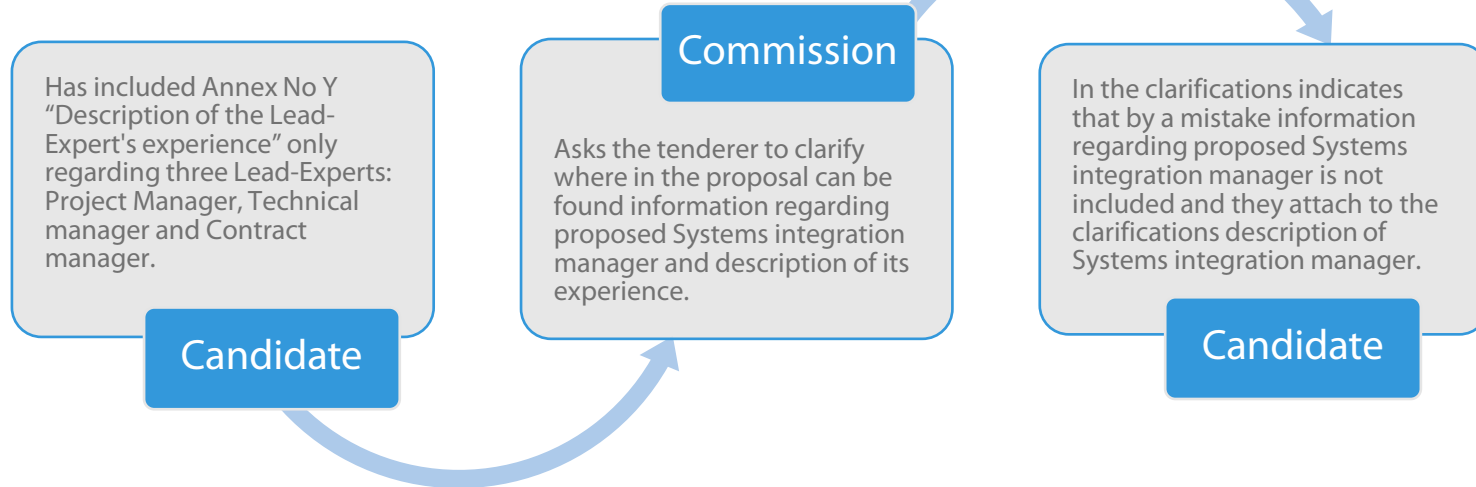
# Example: amendments (not allowed)

**Requirement:** Technical proposal shall be prepared according to Section 5 of the Invitation and shall include:

5.1.2. Proposed Lead-Experts:

5.1.2.1. Experience according to requirements of Chapter X of the Annex No 1 "Scope of Services" and Annex No Y "Description of the Lead-Expert's experience".

In the Chapter X of the Annex No 1 "Scope of Services" have been mentioned following **four Lead-Experts: Project manager, Technical manager, Contract manager, Systems integration manager.**





Exclusion ground non-existence is a fact that must be verified by the Commission **according to law**.



Suppliers are kindly asked to **read the Commissions request letter carefully** as the it is structured to assist the supplier in the preparation of all requested documentation.

**NB! Please be aware that according to Public Procurement Law of Latvia supplier can have tax debts less than 150 EUR. If the tax debt will exceed 150 EUR, tenderer will be excluded form the procurement.**



**Check the validity** – if it is issued not more than 6 months before the submission of the specific document



**Follow the decision of the governments** as in some countries State authorities have prolonged validity of specific documents until the end of exceptional situation

There are no restrictions in any of RB Rail AS Procurements regarding the form in which supplier/-s can participate in the procurement.

**However, in case supplier plans to participate in the procurement as partnership there are specific requirements, such as:**



In the proposal a **cooperation agreement must be submitted** where it is agreed upon liability and responsibility of each member of the partnership.



**Content of the partnership (members) cannot change** during the procurement procedure. Choose the potential partners carefully to minimize the risk of future disagreements!

**NB! Agreement must be signed by all members of partnership.**

# Entities on which capabilities supplier is relying

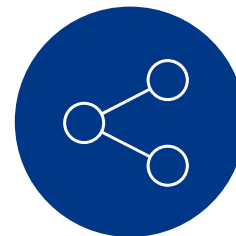
These are entities which experience, financial status etc. supplier is relying upon to comply with qualification requirements.



All Entities must be **clearly indicated** in the annex attached to the procurement regulations.



There must be **signed agreement or other document** between the supplier and the Entity indicating that the resource on which it is relying will be available during the contract.



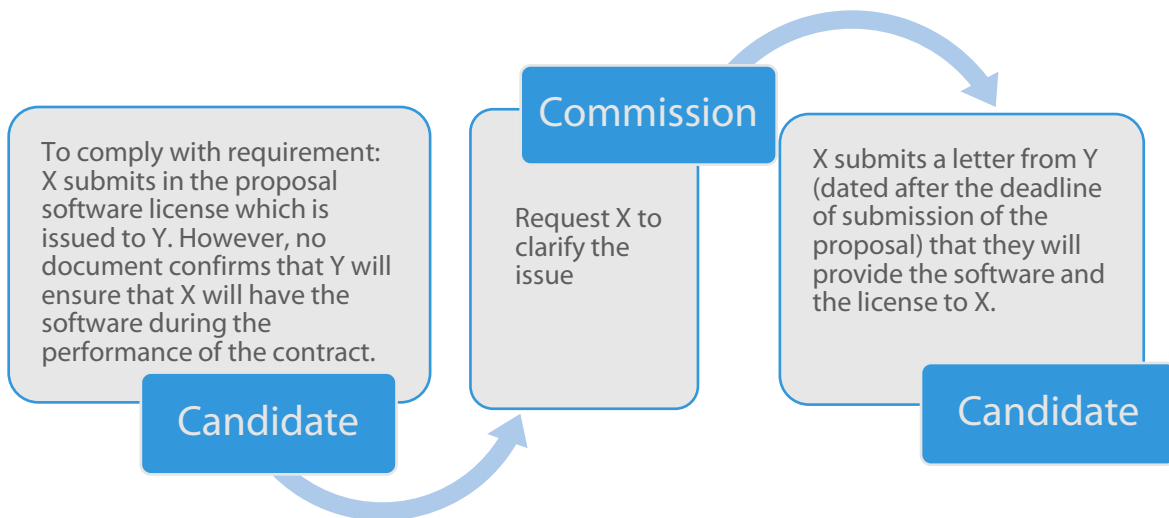
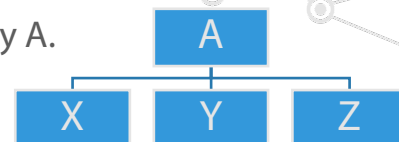
**Entity and subcontractor** is not the same, but a third party can be Entity and subcontractor at the same time.

**NB! Employees of the tenderer are not Entities or subcontractors.**



**Requirement:** tenderer shall be the owner or licensed user of the software that the tenderer is proposing to use for the provision of the Services.

Proposal have been submitted by company X, which is a part of holding and is owned by A.

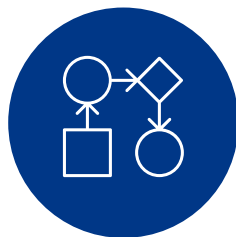


## Conclusions:

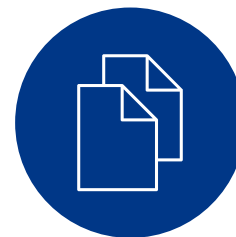
- Even if the companies are from one holding, **each of them is treated as separate legal entity** and to rely on other «sister» company capabilities general rules must be applied;
- **Agreement on the resources must be done** before the deadline of submission of the proposal.



Commission must verify that the proposal and other respective documents have been **signed by a person who has representation rights.**



If the person/-s in the company registration certificate differs from the one signing the proposal, it is mandatory to **submit the respective power of attorney** or other document that verify the persons rights to represent the supplier.



In some cases the chain between the person indicated in the company registration certificate and the person who has signed the proposal consist of **several documents.**

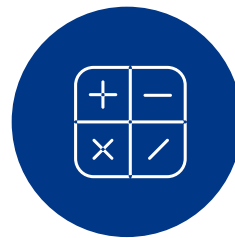
**NB! All chain of documents (PoA) must be provided to the Commission.**

Amendments to the contract can be done in exceptional cases and in full compliance with contract conditions and Article 61 of Public Procurement Law of Republic of Latvia.

**Substantial amendments to the contract can be done in cases, for example, when:**



The procurement documents and the procurement contract clearly and unequivocally **provides for a possibility** of amendments

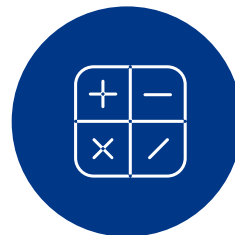


Additional construction work, services, or supplies are needed which were not included in the initial procurement, and a **change of the supplier would cause significant increase of costs**

If during the performance of the contract any of the proposed experts have to be changed, following conditions should be considered:



If the expert or its experience have been proposed to meet any qualification requirement – the new one must comply with the same qualification requirements as the initial one



If the expert or its experience have been proposed to gain more points – the new ones must gain the same (or more) amount of points as the initial one.

**NB! Change of the proposed expert is allowed only after the signing of the procurement contract. It is not allowed to change the proposed expert during the procurement process.**

Website: [www.eis.gov.lv](http://www.eis.gov.lv)

RB Rail AS profile: <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001>



Supplier must be sure that the person which tries to submit the proposal on **E-tendering system has rights** to sign the proposal.



As the E-tendering system initially is developed for national procurements, suppliers are kindly asked to upload the documents and submit the proposal in **timely manner** to avoid any misunderstandings

**NB! If your company is not registered in Latvian E-tendering system, please be aware that registration in the system takes up to one week.**



Must be **justified**



Must be sent in  
**timely fashion**



Reasons why commission usually reject the request:

- No justification
- Tight timeline of the procurement (which is related to overall RBGP timeline)
- Already reasonable time for submission has been provided
- Already reasonable extension has been provided

## Bank guarantee

or

## Insurance Policy

The guarantee is irrevocable.

The insurance policy is irrevocable.

The Unifrom Rules for Demand Guaranties, ICC Publication No. 758, issued by the International Chamber of Commerce (ICC), are applicable to the guarantee.

Claims and disputes shall be examined in the court of the Republic of Latvia in accordance with the laws of the Republic of Latvia.

Be carefull and read all the rules in Regulation section "Proposal ( Bid) security".

Please note, preparation of bid security takes time and could cost some fee for you.

Thank you!

Time for Q&A session!





# Useful Links

- RBR website: <https://www.railbaltica.org/tenders/>
- RBR Procurement plan 2021: <https://www.railbaltica.org/procurements/>
- RBR procurements in E-tendering system: <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001>
- Public Procurement Law of the Republic of Latvia: <https://likumi.lv/ta/id/287760-publisko-iepirkumu-likums>
- Cabinet Regulation No. 107 of the Republic of Latvia: <https://likumi.lv/ta/id/289086-iepirkuma-proceduru-un-metu-konkursu-norises-kartiba>
- Procurement Monitoring Bureau of Republic of Latvia website: <https://www.iub.gov.lv/en>
- EU public procurement directive: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0024>
- European Court of Justice judgements: [https://curia.europa.eu/jcms/jcms/j\\_6/en/](https://curia.europa.eu/jcms/jcms/j_6/en/)