

REGULATIONS

FOR THE OPEN COMPETITION

“ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT”

(IDENTIFICATION NO RBR 2021/3)



**Co-financed by the Connecting Europe
Facility of the European Union**

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1. ABBREVIATIONS AND TERMS

- 1.1. **Common procurement vocabulary (CPV)** – a nomenclature approved by the European Union which is applied in public procurement procedures;
- 1.2. **Contract** - signed agreement between Contracting authority and a Contractor to provide services defined in this agreement;
- 1.3. **Contracting authority** (also the Contracting entity) - the joint stock company RB Rail AS, registration number 40103845025, legal address: Kr. Valdemāra iela 8-7, Riga, LV-1010, Latvia. The Contracting Authority conducts this procurement for the benefit of the Ministry of Economic Affairs and Communications of the Republic of Estonia and Ministry of Transport and Communications of the Republic of Lithuania;
- 1.4. **Contractor** - service provider awarded the right to enter into the Contract in Open competition to provide services in accordance with requirements stipulated in Regulations and Contract;
- 1.5. **Identification number** – designation which includes the abbreviation of the name of the Contracting authority (the first capital letters), the relevant year and the procurement sequence number in ascending order (RBR 2021/3);
- 1.6. **Open competition (also the Procurement)** - a procurement procedure “Assessment body (ASBO) services for Rail Baltica Global Project” (identification number: RBR 2021/3) in which all interested Suppliers are entitled to submit their Proposals;
- 1.7. **Procurement commission** – commission the composition of which has been established by the joint stock company RB Rail AS, order No 1.9-2021-1 dated 5 February 2021, issued by the Management Board of joint stock company RB Rail AS;
- 1.8. **Proposal** - documentation package the Tenderer submits to participate in the Open competition;
- 1.9. **Regulations** – regulations of the Open competition “Assessment body (ASBO) services for Rail Baltica Global Project” (identification number: RBR 2021/3), as well as all the enclosed annexes;
- 1.10. **Supplier** – a natural person or a legal person, a group or association of such persons in any combination thereof which offers to perform works, supply products or provide services accordingly;
- 1.11. **Tenderer** – a Supplier which has submitted a Proposal.

2. GENERAL INFORMATION

- 2.1. The identification number of the Open Competition is No RBR 2021/3.
- 2.2. The applicable CPV code is 71630000-3 (Technical inspection and testing services). Additional CPV code is 71356100-9 (Technical control services) and 79417000 (safety consultancy services).
- 2.3. The Open competition is co-financed by the Contracting authority and Connecting Europe Facility (CEF).
- 2.4. This open competition is organised in accordance with the Public Procurement Law of Republic of Latvia in effect on the date of publishing the contract notice and is provided in accordance with order established in Cabinet of Minister Rules No.107 on Conducting procurement procedures and design contests (Iepirkuma procedūru un metu konkursu norises kārtība) of 28 February 2017.
- 2.5. Open competition is carried out using E-Tenders system (<https://www.eis.gov.lv/EKEIS/Supplier>) which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EIS/>).

- 2.6. The Regulations (except Annex No1 "Design Guidelines" of the Technical Specification (hereinafter- Design Guidelines)) is freely available on Contracting authority's profile in the E-Tenders system at webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and the webpage of the Contracting authority <http://railbaltica.org/tenders/>. **Procurement Commission will ensure the availability to the Design Guidelines starting from the day of announcement of the Procurement by providing dedicated online access to the respective documentation to the Tenderer after receipt of e-signed or scan (if hand-signed) of Mutual Non-Disclosure Agreement (Annex 10).** The Design Guidelines will not be publicly available, and this information has a restriction due to the nature and content of the information and due to the large amount of the information. Procurement Commission has the rights to refuse access to the Design Guidelines due to absence of undersigned Mutual Non-Disclosure Agreement from the Tenderer.
- 2.7. **In order the Design Guidelines are shared online with the Tenderer, the Tenderer (legal representative) shall request online access by sending this request in a timely fashion from Monday – Friday (except national holidays: 2 and 5 April, 4 May 2021), until 17:00 o'clock (Time Zone EEST (Eastern European Summer Time), Riga (Latvia)) to the contact person and e-mail indicated in the Clause 1.9. of Regulations, by providing the name, surname and registration number of the company (in case interested supplier is legal person), address, e-mail address, telephone number of the interested supplier and all persons supposed to have the access to respective information. If the request will be made after set time, access will be provided during the next business day. Prior sharing the access the Procurement Commission will request Tenderers to undersign and submit Mutual Non-Disclosure Agreement for granting access to the information (Annexes to the Technical Specification). The Tenderer will be requested to fill in, sign and send Mutual Non-Disclosure Agreement (Annex No 10) to the contact person e-mail indicated in the Clause 2.9. of Regulations. If Mutual Non-Disclosure Agreement is hand-signed - the originals (2 (two) copies) shall be sent by regular mail or delivered personally to the following address: RB Rail AS, Kr. Valdemāra iela 8-7, Riga, LV-1010, Latvia, not later than within 7 business days from the day when Procurement Commission has received the request to share the online access in e-mail. Contracting Authority has the rights to proceed all personal data within this open competition only for purposes of the respective procurement and by observing the protection of personal data specified in respective regulatory enactments.**
- 2.8. Amendments to the Regulations and answers to Suppliers' questions shall be published on Contracting authority's profile in the E-Tenders system at webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and the Contracting authority's webpage <http://railbaltica.org/tenders/>. It is the Supplier's responsibility to constantly follow the information published on the webpages and to take it into consideration in preparation of its Proposal.
- 2.9. Contact person of the Contracting authority for Open competition is Procurement Specialist - Lawyer, Natalja Vjatkina, telephone: +371 29817419, e-mail address: natalja.vjatkina@railbaltica.org.
- 2.10. The exchange of information between the Procurement commission and the Supplier shall be in writing (by sending documents electronically via e-mail or using E-Tenders system) in English (if information is submitted in Latvian, it shall be accompanied by a translation into English).
- 2.11. If the Supplier does not have access to the E-Tenders system, the Supplier shall follow the guidance for obtaining access to the system available on the Contracting authority's website at <http://www.railbaltica.org/procurement/e-procurement-system/>.
- 2.12. The Supplier can request additional information regarding the Regulations. Additional information can be requested in writing via the E-Tenders system or (in case the Supplier does not yet have access to the system) by sending it to the Procurement commission electronically via e-mail (see Section 2.9 of the Regulations). Any additional information must be requested in a timely fashion, so that the Procurement commission can reply on time - no later than 6

(six) days prior to the deadline of the Proposal submission. The Procurement commission shall provide response within 5 (five) business days from the day of receipt of the request from the Supplier.

- 2.13. The Supplier covers all expenses which are related to the preparation of the Proposal and its submission to the Contracting authority. Under no circumstances will the Contracting authority be liable for compensation of any costs and damages related to the preparation and submission of the Proposal (including, *inter alia*, costs associated with any site visits) or the Supplier's participation in the Procurement exercise.

3. THE RIGHTS OF THE PROCUREMENT COMMISSION

- 3.1. The Procurement commission has the right to demand at any stage of the Open competition that the Tenderer submits all or part of the documents which certify Tenderer's compliance to the requirements for the selection of Tenderers. The Procurement commission does not demand documents or information which is already at its disposal or is available in public data bases.
- 3.2. If the Tenderer submits document derivatives (e.g. copies), then, in case of doubt about the authenticity of the submitted document derivation, the Procurement commission can demand that the Tenderer shows the original documents.
- 3.3. During of Proposal assessment, the Procurement commission has the right to demand that the included information is clarified.
- 3.4. If the Procurement commission determines that the information about the Tenderer, its subcontractors and persons upon whose capacity the Tenderer is relying that is included in the submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies or expands the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion to the time which is required to prepare and submit such information. If the Procurement commission has demanded to clarify or expand upon the submitted documents but the Tenderer has not done this in accordance with the requirements stipulated by the Procurement commission, the Procurement commission is under no obligation to repeatedly demand that the information included in these documents be clarified or expanded upon. The Procurement commission has the right to reject all Proposals which are found not to comply with the requirements of the Procurement documentation.

4. THE OBLIGATIONS OF THE PROCUREMENT COMMISSION

- 4.1. The Procurement commission ensures the process documentation of the Open competition.
- 4.2. The Procurement commission ensures free and direct electronic access to the Open competition documents on Contracting authority's profile at the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
- 4.3. If an interested Supplier has in a timely fashion in writing by post or electronically (including via E-Tenders system), or delivering in person requested additional information about the requirements included in Open competition documents regarding the preparation and submission of the Proposal or regarding the selection of Tenderers, the Procurement commission provides a response electronically within 5 (five) business days but not later than 6 (six) days before the deadline for submitting Proposals. Simultaneously with sending this information to the Supplier who had asked the question, the Contracting authority publishes this information on Contracting authority's profile in the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and on its webpage <http://railbaltica.org/tenders/> where Open competition documents are available, indicating the question asked.

- 4.4. If the Contracting authority has amended the Open competition documents, it publishes this information on Contracting authority's profile in the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and on the Contracting authority's webpage <http://railbaltica.org/tenders/> where Open competition documents are available, no later than 1 (one) day after the notification regarding the amendments has been submitted to Procurement Monitoring Bureau for publication. If Supplier wishes to receive relevant updates/notifications by email regarding the Procurement exercise (e.g. when amendments to the procurement package documentation are published), Supplier shall register as an interested supplier on the E-Tenders system for the particular Procurement exercise accordingly.
- 4.5. The exchange and storage of information is carried out in such a way that all data included in the Proposals is protected and the Contracting authority can check the content of the Proposals only after the expiration of the deadline for their submission. During the time from the deadline of submission of Proposals until the opening of the Proposals the Contracting authority does not disclose any information regarding the existence of other Proposals therefore. During the time of Proposal assessment, the Contracting authority does not disclose any information regarding the assessment process until the announcement of the results.
- 4.6. The Procurement commission assesses the Tenderers and their Proposals based on the Public Procurement Law, Open competition documents, as well as other applicable regulatory enactments.
- 4.7. The Procurement commission prepares a report on the Open competition and publishes it on Contracting authority's profile in the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and on the Contracting authority's webpage <http://railbaltica.org/tenders/> within 5 (five) business days from the day when the decision about the results of the Open competition is made.

5. THE RIGHTS OF THE TENDERER

- 5.1. The Tenderer has the right to submit registration documents for the Electronic Procurement System (if the Tenderer is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurement-system/>).
- 5.2. The Tenderer can request and within 3 (three) business days after submitting the request receive a copy of the Proposal opening sheet which is an annex to the Proposal opening session minutes.
- 5.3. If the Contracting authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources and the Tenderer's submitted information differs from information obtained by the Contracting authority, the Tenderer in question has the right to submit evidence to prove the correctness of the information the Tenderer has submitted, if the information obtained by the Contracting authority does not conform to the factual situation.
- 5.4. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Public Procurement Law, Article 68, regarding the Tenderer selection requirements, Technical specification or other requirements relating to Open competition, or relating to the activities by the Contracting authority or the Procurement commission during the Open competition.

6. SUBJECT-MATTER OF THE OPEN COMPETITION

- 6.1. The subject-matter of the Procurement is delivery of the assessment services required under CSM-RA¹ regulation by single Assessment Body (AsBo) (hereinafter – Services). Services must be provided in accordance with Annex No 1 “Technical specification”.
- 6.2. The subject-matter is not divided into parts. The Tenderer shall submit a Proposal for the entire Procurement.
- 6.3. The delivery of the Services will take place in Latvia, Estonia and Lithuania.
- 6.4. Period of provision of Services shall be equal to the overall Rail Baltica Global project implementation life-cycle. Currently it is estimated until end of Year 2026, or longer - if project implementation will be prolonged and the funding for the next period services will be approved.
- 6.5. The Tenderer is not allowed to submit variants of the Proposal. If variants of the Proposal are submitted, then the Proposal will not be reviewed.

7. TENDERER

- 7.1. The Proposal can be submitted by:
 - 7.1.1. A Supplier who is a legal or natural person (hereinafter – the Tenderer) which offers on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers;
 - 7.1.2. A group of Suppliers (hereinafter also – the Tenderer, partnership) which offer on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers:
 - 7.1.2.1. A group of Suppliers who have formed a partnership for Open competition. In this case all the members of the partnership shall be listed in Annex No 2 “Application for participating in the Open competition”. If it will be decided to award contracting rights to such partnership, then prior to concluding the Contract the partnership shall at its discretion either enter into a partnership agreement (within the meaning of the Civil Law of the Republic of Latvia, Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of the Commercial Law of the Republic of Latvia (hereinafter – the Commercial Law), Division IX and X) and notify the Contracting authority in writing;
 - 7.1.2.2. An established and registered partnership (a general partnership or a limited partnership within the meaning of the Commercial Law, Division IX and X) which complies with the selection criteria for Tenderers.

8. SELECTION CRITERIA FOR TENDERERS

8.1. Exclusion grounds

Before making the decision to award the contract signing rights, Contracting Authority shall verify whether the Tenderer, to whom the contract signing rights should be awarded, is not a subject for exclusion grounds set in the Article 42 of Public Procurement Law of Republic of Latvia. The Contracting authority shall exclude the Tenderer from further participation in the Open competition in any of the following circumstances:

¹ Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment

No	Requirement	Documents to be submitted ²
1.	<p>Within previous 3 (three) years before submission of the Proposal the Tenderer or a person who is Tenderer's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, has been found guilty of or has been subjected to coercive measures for committing any of the following criminal offences by such a public prosecutor's order regarding punishment or a court judgement that has entered into force and may not be challenged and appealed:</p> <p>a) establishment, management of, involvement in a criminal organization or in an organized group included in the criminal organization or other criminal formation, or participation in criminal offences committed by such an organization,</p> <p>b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorized participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting or providing of benefits, trading influences,</p> <p>c) fraud, misappropriation or money-laundering,</p> <p>d) terrorism, terrorism funding, creation or organization of a terrorist group, traveling for terrorist purposes, justification of terrorism, calling to terrorism, terrorism threats or recruiting or training a person in performance of acts of terrorism,</p> <p>e) human trafficking,</p> <p>f) evasion from payment of taxes or similar payments.</p>	<ul style="list-style-type: none"> - For a Tenderer and a person who is Tenderer's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, who is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer and a person who is Tenderer's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, who is registered or residing outside of Latvia the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.
2.	<p>It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the procurement contract, the Tenderer has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory</p>	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the

² There is no obligation to submit documents, unless specifically requested by the Procurement commission.

No	Requirement	Documents to be submitted ²
	state social insurance contributions exceeding 150 euro in total in any of the countries.	competent authority of the country of registration or residence.
3.	Tenderer's insolvency proceedings have been announced, the Tenderer's business activities have been suspended, the Tenderer is under liquidation.	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.
4.	<p>A person who drafted the procurement procedure documents (Contracting authority's official or employee), Procurement commission member or expert is related to the Tenderer or is interested in selection of some Tenderer and the Contracting authority cannot prevent this situation by measures that cause less restrictions on Tenderer. A person who drafted the procurement procedure documents (Contracting authority's official or employee), Procurement commission member or expert is presumed to be related to the Tenderer in any of the following cases:</p> <p>a) If he or she is a current and/or an ex-employee, official, shareholder, procura holder or member of a Tenderer or a subcontractor which is legal person and if such relationship with the legal person was terminated within the last 24 (twenty-four) months;</p> <p>b) If he or she is the father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-brother, half-sister or spouse (hereinafter – relative) of a Tenderer's or subcontractor's, which is a legal person, shareholder who owns at least 10% of the shares in a joint-stock company, shareholder in a limited liability company, procure holder or an official;</p> <p>c) If he or she is a relative of a Tenderer or a subcontractor which is a natural person.</p> <p>If the Tenderer is a partnership, consisting of natural or legal persons, a relation to the Tenderer is presumed also if a person who drafted the procurement procedure documents (Contracting authority's official</p>	No obligation to submit documents, unless specifically requested by the Procurement commission.

No	Requirement	Documents to be submitted ²
	or employee), Procurement commission member or expert is related to a member of a partnership in any of the above-mentioned ways.	
5.	The Tenderer has an advantage that limits competition in the procurement procedure if it or its related legal person consulted the Contracting authority or otherwise was involved in preparing the Open competition, and the advantage cannot be prevented by less restrictive measures, and the Tenderer cannot prove that its or its related legal person's participation in preparing the procurement procedure documents does not restrict competition.	No obligation to submit documents, unless specifically requested by the Procurement commission.
6.	Within the previous 12 (twelve) months before submission of the Proposals by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed Tenderer has been found guilty of violating competition laws manifested as a horizontal cartel agreement, except for the case when the relevant authority, upon detecting violation of competition laws, has released the Tenderer from a fine or has decreased the fine for cooperation within a leniency program.	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence or other objective proof of good standing. For example, a link to the database of the competent authority's public database (website) listing all its decisions and validity thereof (provided that access to any such database/website is free of charge to the Contracting authority).
7.	Within the previous 3 (three) years before submission of the Proposals by such a decision of a competent authority, a court judgment or a public prosecutor's order which has entered into force and may not be challenged and appealed Tenderer has been found guilty and is punished for a violation manifested as employment of one or more persons who do not possess the required employment permit or if it is illegal for such persons to reside in a Member State of the European Union.	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence.
8.	Within the previous 12 (twelve) months before submission of the Proposals by such a decision of a competent authority, a court judgment or a public prosecutor's order which has entered into force and may not be challenged and appealed Tenderer has been found guilty and is	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself from publicly available databases. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the

No	Requirement	Documents to be submitted ²
	punished for a violation manifested as employment of a person without a written employment contract, by failing within the term specified in regulatory enactments to submit an informative employee declaration regarding this person, which must be submitted about persons, who start working.	competent authority of the country of registration or residence.
9.	The Tenderer has provided false information to prove its compliance with provisions of this Section 8.1 of the Regulations or qualification criteria or has not provided the required information at all.	No obligation to submit documents, unless specifically requested by the Procurement commission.
10.	The Tenderer is a registered offshore ³ company (legal person) or offshore association of persons.	<ul style="list-style-type: none"> - For a Tenderer which is registered in Latvia Contracting authority shall verify the information itself in publicly available databases. - For the Tenderer and each member of the partnership (if Tenderer is an unregistered partnership) which is a legal person registered abroad – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration.
11.	The owner or shareholder (with more than 25% of share capital) of the Tenderer who is registered in Republic of Latvia, is a registered offshore company (legal person) or offshore association of persons.	<ul style="list-style-type: none"> - For a Tenderer which is registered in Latvia: <ul style="list-style-type: none"> • Contracting authority shall verify the information itself in publicly available databases; • if such information by publicly available data bases is not provided, Tenderer shall submit self – declaration which approves fact that there are no registered owners or shareholders of the Tenderer (with more than 25% of share capital) who are registered offshore.
12.	The subcontractors indicated by the Tenderer whose share of services is equal to or exceeds 10% of the Contract price or person on whose capacities Tenderer is	<ul style="list-style-type: none"> - For a subcontractor whose share of services is equal to or exceeds 10% of the Contract price or person on whose capacities Tenderer is relying which is

³ **Offshore:** low tax or tax-free country or territory in accordance with Corporate income tax law of the Republic of Latvia except Member States of EEA (European Economic Area) or its territories, Member States of the World Trade Organization Agreement on State Treaties or territories and such countries and territories with which European Union and Republic of Latvia has international agreements for open market in public procurement area.

No	Requirement	Documents to be submitted ²
	relying, is a registered offshore company (legal person) or offshore association of persons.	<p>registered in Latvia Contracting authority shall verify the information itself in publicly available databases;</p> <ul style="list-style-type: none"> - For a subcontractor or person on whose capacities Tenderer is relying which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration of legal persons in the country of their residence wherefrom at least the fact of registration.
13.	<p>International or national sanctions or substantial sanctions by the European Union (EU) or the North Atlantic Treaty Organization (NATO) Member State affecting the interests of the financial and capital market has been imposed to the:</p> <p>a) Tenderer or a person who is the Tenderer's management board or supervisory board member, beneficial owner⁴, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch,</p> <p>b) member of the partnership or a person who is the partnership's management board or supervisory board member, beneficial owner⁵, person with representation rights or a procura holder (if the Tenderer is a partnership),</p> <p>and such sanctions can affect the execution of the Procurement contract.</p>	<ul style="list-style-type: none"> - For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself from the Register of Enterprises of the Republic of Latvia. - For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence with all the information necessary for the examination regarding the Tenderer or a member of the partnership (if the Tenderer is a partnership), including but not limited, information about beneficial owner or the fact that there is no possibility to find out the beneficial owner.

8.2. Legal standing and suitability to pursue the professional activity

⁴ **Beneficial owner:** a natural person who is the owner of the customer – legal person – or who controls the customer, or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:

a) regarding legal persons – a natural person who owns, in the form of direct or indirect shareholding, more than 25 per cent of the capital shares or voting stock of the legal person or who directly or indirectly controls it;

b) regarding legal arrangements – a natural person who owns or in whose interests a legal arrangement has been established or operates, or who directly or indirectly exercises control over it, including who is the founder, proxy or supervisor (manager) of such legal arrangement.

⁵ Ibid.

No	Requirement	Documents to be submitted
1.	<p>The Tenderer or all members of the partnership (if the Tenderer is a partnership), a person on whose abilities a Tenderer relies to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value must be registered, licensed or certified in the Registry of Enterprises or Registry of Inhabitants, or other register in a country where the Tenderer is registered or residing, if the legislation of the respective country requires registration, licensing or certification of natural or legal persons in order to provide respective services.</p>	<ul style="list-style-type: none"> - For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) registered in Latvia the Contracting authority shall verify the information itself in publicly available databases. - For a Tenderer which is a natural person (or a member of a partnership, a person on whose abilities a Tenderer relies to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) – a copy of an identification card or passport and certificate or similar document. - For a Tenderer (or a member of a partnership, a person on whose abilities a Tenderer relies to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) which is a legal person registered abroad (with its permanent place of residence abroad) – a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration, licensing or certification of legal persons in the country of their residence and <u>wherefrom at least the fact of registration, licensing or certification, information about shareholders, board or supervisory board members, beneficial owners, officials and procura holders, persons who are authorised to represent the Tenderer in operations in relation to a branch (if any) can be determined.</u> - If a proposals is submitted by a partnership, the Proposal shall include an agreement of cooperation (or letter of intention to enter into such agreement) signed by all members on the participation in the procurement, which lists responsibilities of each of every partnership member and a commitment to fulfil the procurement contract in the respective area, and which authorises one key member to sign the proposal and other documents, to receive and issue orders on behalf of the partnership

No	Requirement	Documents to be submitted
		<p>members, and with whom all payments will be made.</p> <ul style="list-style-type: none"> - If the Proposal or any other document, including any agreement, is not signed by the legal representative of the Tenderer, members of the partnership, person on whose capabilities the Tenderer relies or sub-contractors, then a document certifying the rights of the persons who have signed the Proposal or any other documents, to represent the Tenderer is relying or a sub-contractor (powers of attorney, authorization agreements etc.) must be included.
2.	The representative of the Tenderer, a member of the partnership or a person on whose capacity Tenderer relies who has signed documents contained in the Proposal shall have the right of signature, i.e., it is an official having the right of signature or a person authorized by the Tenderer.	<ul style="list-style-type: none"> - A document confirming the right of signature (representation) of the representative of the Tenderer, a member of the partnership or a person on whose capacity Tenderer relies who signs documents contained in the Proposal. For a Tenderer, a member of the partnership, a person on whose capacity Tenderer relies which is a legal person registered in Latvia the Contracting authority shall verify the information itself in publicly available databases. - If the Tenderer, a member of the partnership or a person on whose capacity Tenderer relies submits a power of attorney (original or a copy certified by the Tenderer) additionally there shall be submitted documents confirming that the issuer of the power of attorney has the right of signature (representation) of the Tenderer, a member of a partnership or a person on whose capacity Tenderer relies respectively.

8.3. Economic and financial standing

No	Requirement	Documents to be submitted
1.	Tenderer's or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly) financial turnover within the last 3 (three) financial years (2017, 2018, 2019) is not less than 8 000 000 EUR (eight million euros).	<ul style="list-style-type: none"> - Filled and signed Annex No 3 "Confirmation of the Tenderer's financial standing" (by the Tenderer or each member of the partnership) or entity on whose capabilities the Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract). - Audited or self-approved (if the annual financial statement is not required by the law

No	Requirement	Documents to be submitted
	<p>In the event the average annual financial turnover of a limited partner of the limited partnership (within the meaning of The Commercial Law, Division X) exceeds its investment in the limited partnership, the average financial turnover shall be recognized in the amount of the investment in the limited partnership.</p> <p>In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) financial years, the requirement shall be met during the Tenderer's actual operation period.</p>	<p>of the country of residence of the Tenderer) annual financial statements for financial years 2017, 2018, 2019, showing the turnover of the Tenderer or each member of the partnership on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially responsible for the fulfilment of the Contract (if the Tenderer is a partnership), or other entity on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially responsible for the fulfilment of the Contract.</p> <ul style="list-style-type: none"> - If annual financial statement for financial year 2019 is not available yet, Tenderer shall submit other documents showing the annual financial turnover and values of the Tenderer for the financial year 2019. - For a limited partnership (within the meaning of the Commercial Law, Division X) - an additional document evidencing the amount of the investment by the limited partner (the partnership agreement or a document with a similarly binding legal effect). - If the previous 3 (three) reporting years of the Tenderer differ from the years specified in this Section 8.3.1 of the Regulations (2017, 2018, 2019), the financial turnover necessary must be indicated for the Tenderer's previous 3 (three) reporting years. - If the Proposal is submitted by a partnership, Tenderer shall indicate the member of the partnership on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract including this information in the agreement of cooperation (or letter of intent to enter into agreement) stipulated in Section 8.2.1 of the Regulations. - If the Tenderer is relying on any other entity's capacity to certify its financial and economic performance and this entity will be financially and economically responsible for the fulfilment of the Contract, Tenderer along with the Proposal submits confirmation or agreement on cooperation and/or passing of resources to the Tenderer, signed between such entity and the Tenderer (please see the Section 9 of the Regulations for detailed information).

No	Requirement	Documents to be submitted
2.	The Tenderer and each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract and other entity on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract, shall have stable financial and economic performance, namely, in the last financial year (2019) liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 (one) and shall have positive equity.	<ul style="list-style-type: none"> - Filled and signed Annex No 3 "Confirmation of the Tenderer's financial standing". - Audited or self-approved (if the audited annual financial statement is not required by the law of the country of residence of the Tenderer) annual financial statement for financial year 2019, showing the balance and calculation that proves liquidity ratio and positive equity. - If annual financial statement for financial year 2019 is not available yet, Tenderer shall submit other documents showing the annual financial turnover and values of the Tenderer for the financial year 2019. - If the Tenderer is a partnership, Tenderer shall indicate the member of the partnership on whose capacity it relies to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract, including this information in the agreement of cooperation or letter of intent to enter into agreement or in any other similar document, signed by all parties involved and submits it along with the Proposal (please see Section 9 of the Regulations for detailed information). - If the Tenderer is relying on any other entity's capacity to certify its financial and economic performance and this entity will be financially and economically responsible for the fulfilment of the Contract, Tenderer along with the Proposal submits confirmation or agreement on cooperation and/or passing of resources to the Tenderer, signed between such entity and the Tenderer (please see Section 9 of the Regulations for detailed information).

8.4. Technical and professional ability

No	Requirement	Documents to be submitted
1.	Under Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 "on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009" Tenderer (AsBo) shall be accredited as type "A" Assessment Body in accordance with EN ISO/IEC 17020:2012 "Conformity assessment — Requirements for the operation of various types of bodies performing inspection". The scope of accreditation of AsBo shall contain competence in assessment of:	Copy of CSM-RA Assessment Body accreditation.

No	Requirement	Documents to be submitted
	<ul style="list-style-type: none"> • Infrastructure; • Energy; • Control-command and signalling; • Rolling stock; • Traffic operation and management; • Maintenance; • System safe integration. 	
2.	<p>The Tenderer within the previous 10 (ten) years (2011 until the date of submission of the Proposal) has provided AsBo services (according to Regulation (EU) No 402/2013) or ISA services (according to CENELEC 50126, 50128, 50129) as part of 1 (one) or several railway infrastructure reference project(s)⁶, intended for TSI verification⁷ and EC certification⁸ for HSL⁹ or conventional railway lines, consisting at least in independent assessment of the following scope of works:</p> <ul style="list-style-type: none"> a) new infrastructure project including at least: 50 km of double track line 1435 mm, embankment, track system¹⁰, 2 road overpasses and 2 railway bridges; b) 1 (one) new railway station with more than 5 siding¹¹ tracks; c) Electrification subsystem deployed over 50 km of double track line 1435 mm; d) ERTMS trackside subsystem deployed over 50 km of double track line. 	<ul style="list-style-type: none"> - Filled and signed Annex No 4 "Description of the Tenderer's experience" where the Tenderer's experience is clearly specified. - Description of the reference project (not more than 2 pages per project). - The procurement commission shall be entitled to request the Tenderer to submit written references in order to verify the correctness of information provided by the Tenderer set out in the form. - The procurement commission shall make an assessment of reference projects relevance in each separate case. - The procurement commission reserves the right to contact clients for further information and verification.
3.	The Tenderer shall have a certified quality management system.	Provide a certificate or statement that the Tenderer has a quality management system compliant with ISO 9001:2015 (or newer version) or equivalent.

8.5. Technical and professional ability of the experts

⁶ Currently ongoing project could be mentioned as a reference project as well if the Tenderer has delivered required scope of works.

⁷ Technical Specification for Interoperability (TSI) are specifications drafted by the European Railway Agency and adopted in a Decision by the European Commission, to ensure the interoperability of the trans-European rail system. The interoperability issues apply to the lines within the Trans-European Rail network. TSIs defines the technical and operational standards which must be met by each subsystem or part of subsystem in order to meet the essential requirements and ensure the interoperability of the railway system of the European Union. Verification by reference to TSIs is the procedure whereby a Notified Bodies checks and certifies that the subsystem complies with the relevant technical specifications for interoperability (TSI).

⁸ NoBo responsible for the verification assess the design, production and final testing of the subsystem draw up the Certificate of verification intended for the Applicant who in turn draws up the 'EC' Declaration of verification. The Certificate of verification must provide reference to the TSIs with which the conformity has been assessed.

⁹ High Speed line

¹⁰ Railway track system is the structure consisting of the rails, fasteners, railroad ties (sleepers) and ballast (or slab track) as well as the underlying subgrade.

¹¹ Sidings are tracks branching off running tracks that are not part of any running line, on which vehicles or trains are marshalled, stabled (to store locomotives and rolling stock), loaded, unloaded or serviced clear of a running line.

The Tenderer shall propose group of persons (Lead-experts) named in the table below Lead-experts shall meet all qualification requirements established in the table below for the respective expert. **Lead-experts named below in the table cannot serve several roles.** If the Lead-expert certifies its experience with the project / contract where all works / services (out of the scope of lead-expert's experience) have not been completed yet (project / contract is ongoing), date of approval of the respective services provided (experience obtained) by the Lead-expert to be specified/indicated in the Annex No 5.

No	Requirement	Documents to be submitted
1.	All Lead -experts shall have at least B2 Level (based on common European Framework of reference for Languages ¹²) English level skills in understanding, speaking and writing.	- Self-declared information about each Lead-expert's language skills in Annex No 5 "Description of the expert's experience" of the Regulations.
2.	Project Leader , meeting the following minimal requirements:	- Filled and signed Annex No 5 "Description of the expert's experience";
2.1.	within the previous ten (10) years (2011 until submission of the Proposal) has obtained experience as Project Manager responsible for delivery of AsBo services in design and construction, or integration and testing phases ¹³ of 1 (one) AsBo project which includes independent assessment of any item of the following scope of works:	- Curriculum vitae (CV).
	a) delivery of TSI compliant new infrastructure subsystem including at least: 50 km of double track line 1435 mm, embankment, track system, 2 road overpasses and 2 railway bridges;	
	b) delivery of 1 (one) new TSI compliant railway station with more than 5 siding tracks;	
	c) delivery of TSI compliant Electrification subsystem deployed over 50 km of double track line 1435 mm;	
	d) delivery of ERTMS trackside subsystem deployed over 50 km of double track line.	
	at least 5 years of experience as Project Manager in industrial or railway projects;	
2.2.	at least 10 years of experience of engineering or management work in railway industry.	
2.3.		
3.	Lead Assessor for generic railway system , meeting the following minimal requirements:	- Filled and signed Annex No 5 "Description of the expert's experience";
3.1.	within the previous ten (10) years (2011 until submission of the Proposal) has obtained	- Curriculum vitae (CV).

¹² See <https://europa.eu/europass/en/common-european-framework-reference>

¹³ Can be covered with a single reference of AsBo services project in design, construction, integration and testing phases.

No	Requirement	Documents to be submitted
	<p>experience as Technical Responsible¹⁴ for delivery of AsBo services in design, construction or integration and testing phases¹⁵ of 1 (one) project which includes any item of the following scope of works:</p> <ul style="list-style-type: none"> a) delivery of TSI compliant new infrastructure subsystem including at least: 50 km of double track line 1435 mm, embankment, track system, 2 road overpasses and 2 railway bridges; b) delivery of 1 (one) new TSI compliant railway station with more than 5 siding tracks; c) delivery of TSI compliant Electrification subsystem deployed over 50 km of double track line 1435 mm; d) delivery of ERTMS trackside subsystem deployed over 50 km of double track line. <p>3.2. at least 10 years of experience of work in railway infrastructure engineering area.</p>	
4.	<p>Lead Assessor for Risk management, meeting the following minimal requirements:</p> <p>4.1. within the previous 7 (seven) years (2014 until submission of the Proposal) has obtained experience as lead assessor for risk management (in the meaning of EU Regulation 402/2013) for delivery of AsBo services in design and construction or integration and testing phases¹⁶ of 1 (one) project which includes any two items of the following scope of works:</p> <ul style="list-style-type: none"> a) delivery of new infrastructure subsystem including at least: 50 km of double track line 1435 mm, embankment, track system, 2 road overpasses and 2 railway bridges; b) delivery of 1 (one) new railway station with more than 5 siding tracks; c) delivery of Electrification subsystem deployed over 50 km of double track line 1435 mm; b) delivery of ERTMS trackside subsystem deployed over 50 km of double track line. <p>4.2. at least 5 years of experience as Safety Assessor according to Regulation (EU) No 402/2013) or ISA services (according to CENELEC 50126, 50128, 50129.</p>	<ul style="list-style-type: none"> - Filled and signed Annex No 5 "Description of the expert's experience"; - Curriculum vitae (CV).

¹⁴ Technical responsible shall be the person entitled to approve deliverables as part of such AsBo services

¹⁵ Please refer to footnote No 11.

¹⁶ Please refer to footnote No 11

No	Requirement	Documents to be submitted
5.	Lead Assessor for Quality management , meeting the following minimal requirements:	- Filled and signed Annex No 5 "Description of the expert's experience";
5.1.	within the previous ten (10) years (2011 until submission of the Proposal) has obtained experience as expert responsible for Quality management implementation or as Quality management system (QMS) auditor, as part of railway engineering services delivered at 1 (one) project which includes any two items of the following scope of works: <ul style="list-style-type: none"> a) delivery of new infrastructure subsystem including at least: 50 km of double track line 1435 mm, embankment, track system, 2 road overpasses and 2 railway bridge; b) delivery of 1 (one) new railway station with more than 5 siding tracks; c) delivery of Electrification subsystem deployed over 50 km of double track line 1435 mm; d) delivery of ERTMS trackside subsystem deployed over 50 km of double track line. 	- Curriculum vitae (CV).
5.2.	at least 7 years of experience in QMS;	
5.3.	at least 5 years of experience of engineering or management work in railway industry.	
8.6.	Information, provided in the Proposal to prove the compliance with above-mentioned requirements for Economic and financial standing (Section 8.3 of the Regulations), Technical and professional ability (Section 8.4 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Contracting authority shall not be obliged to use additional sources of information to decide regarding Tenderer's compliance with the qualification requirements. The Tenderer shall remain fully responsible for the provision of sufficiently detailed information in the Proposal required to confirm clearly the compliance with qualification requirements set in the Regulations.	
8.7.	Notices and other documents mentioned in the Section 8.1 of the Regulations which are issued by Latvian competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 1 (one) month prior to the date of submission of particular notices and documents. Notices and other documents mentioned in the Section 8.1 of the Regulations which are issued by foreign competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 6 (six) month prior to the date of submission of notices and documents, if the issuer of the notice or document has not set shorter period of validity.	
8.8.	If the documents with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 8.1 of the Regulations are not issued or these documents are insufficient, such documents can be replaced with an oath or, if the regulatory enactments of the country in question do not allow for an oath, - with a certification by the Tenderer or by another person mentioned in Section 8.1 of the Regulations before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence). <u>Regarding all documents submitted based on an oath given under law (e.g. sworn-</u>	

statements, declarations on oath etc.), the Tenderer must provide (indicate) legal grounds to law or enactment in accordance with such statements or declarations an oath has been given.

- 8.9. If the Tenderer complies with any of the exclusion grounds mentioned in Section 8.1 of the Regulations (except Section 8.1.2, 8.1.10 – 8.1.13 of the Regulations), the Tenderer indicates this fact in Annex No 2 “Application for participation in the Open competition”.
- 8.10. The Tenderer to certify that it complies with the selection criteria for Tenderers may submit the European single procurement document (hereinafter - ESPD) as initial proof. This document must be submitted electronically and for each person upon whose capacity Tenderer relies to certify its compliance with the requirements stipulated in the Regulations and for each of their indicated subcontractors the share of whose work is equal to or exceeds 10 % (ten percent) of the value of the Contract, but if the Tenderer is a partnership – for each member thereof. To fill in the ESPD the Tenderer uses the "ESPD.xml" file at the Internet webpage <http://espd.eis.gov.lv/>.

9. RELIANCE ON THE CAPACITY OF OTHER PERSONS

- 9.1. For the fulfilment of the specific contract, to comply with the selection requirements for the Tenderers relating to the economic and financial standing and technical and professional capacity, Tenderer may rely on the capacity of other persons regardless of the legal nature of their mutual relationship. In this case:
 - 9.1.1. The Tenderer indicates in the Proposal all persons on whose capacity it relies by filling in the table which is attached as Annex No 6 “A list of other entities on whose capabilities Tenderer relies” and proves to the Contracting authority 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. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the Contract.
 - 9.1.2. Documents on cooperation and passing of resources must be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the Contract, as well as that during the validity of the Contract Tenderer will in fact use the resources of such person upon whose capacity it relies.
 - 9.1.3. The Contracting authority shall require joint and several liability for the execution of the Contract between the:
 - 9.1.3.1. Tenderer and a person on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract;
 - 9.1.3.2. Each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying and who will be financially and economically responsible for fulfilment of the Contract.
- 9.2. The Contracting authority shall evaluate the person on whose capacity Tenderer to whom the rights to conclude the Contract should be assigned is relying according to Section 8.1.1 - 8.1.8 and Section 8.1.12 - 8.1.13 of the Regulations. In case such person will comply with any of the exclusion grounds which are mentioned in Section 8.1.1- 8.1.8, 8.1.12 and 8.1.13 of the Regulations the Contracting authority shall request Tenderer to change such person. If the Tenderer shall not submit documents about another person which complies with the selection criteria within 10 (ten) working days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such Tenderer from further participation in the Open competition.

10. SUBCONTRACTING

- 10.1. The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is attached as Annex No 7 “A list of subcontractors”.
- 10.2. The Contracting authority shall evaluate the subcontractor of the Tenderer to whom the rights to conclude the Contract should be assigned according to Sections 8.1.2 – 8.1.8 and Sections 8.1.12 to 8.1.13 of the Regulations. In case such subcontractor whose share of services is equal to or exceeds 10% of the Contract price, will comply with any of the exclusion grounds which are mentioned in Section 8.1.2 – 8.1.8, 8.1.12 and Section 8.1.13 of the Regulations, the Contracting authority shall request Tenderer to change such subcontractor. If the Tenderer shall not submit documents about another subcontractor which complies with the selection criteria within 10 (ten) working days from the date when the request was issued or sent to the Tender, the Contracting authority shall exclude such Tenderer from further participation in the Open competition.

11. FINANCIAL PROPOSAL

- 11.1. The Financial proposal shall be submitted as part of Annex No 8 “Financial proposal” of Regulations including attached Detailed Financial proposal, which is Annex No 1 of the “Work packages & pricing requirements” (Annex No 4 of the Technical specification).
- 11.2. Detailed Financial proposal must be filled in the provided MS Excel file (Annex No 1 of “Work packages & pricing requirements”, which is Annex No 4 of the Technical specification) and submitted in MS Excel format.
- 11.3. Prices specified by the Tender in the Detailed Financial proposal must comply with the deliverables pricing requirements set out in the Clause 2.2. of the Annex No 4 “Work packages & pricing requirements” of the Technical specification in such a way, that proposed prices don't not exceed price weight set out for the specific deliverables.
- 11.4. The proposed contract price shall include all taxes (excluding VAT), fees and payments, all costs¹⁷ as specified in the Technical Specification, Technical proposal and Draft Contract and related to the fulfilment of the Contract.
- 11.5. Tenderer shall include any travel expenses (if any arise) in proposed contract price. Contracting authority won't additionally reimburse any travel expenses incurred by Tenderer during the provision of Services.
- 11.6. The costs shall be specified in EUR.
- 11.7. The costs must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.
- 11.8. The prices are fixed for all the term of the fulfilment of the Contract and are not recalculated, except in cases stipulated in the Contract (if any).
- 11.9. If the Tenderer fails to submit the Financial proposal in accordance with requirements indicated in Section 11 of the Regulations, the Financial proposal will be deemed non-compliant and will not be evaluated.

12. CONTENTS AND FORM OF THE PROPOSAL

- 12.1. Proposal must be submitted electronically in E-Tenders subsystem of the Electronic Procurement System in accordance with the following options for the Tenderer:

¹⁷ Including Additional cost which is 30% of the General Price according to Section 3.1. of the Annex No 4 “Work packages & pricing requirements” of the Technical specification.

- 12.1.1. by using the available tools of E-Tenders subsystem, filling the attached forms of the E-Tenders subsystem for Procurement procedure;
 - 12.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to relevant requirements (in this situation the Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
 - 12.1.3. by encrypting electronically prepared Proposal outside of E-Tenders subsystem with data protection tools provided by third parties, and protection with electronic key and password (in this situation, Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples as well as ensuring capability to open and read the document by the Contracting authority).
- 12.2. During preparation of the Proposal, Tenderer shall respect the following requirements:
- 12.2.1. Each document mentioned in Section 12.3 of the Regulations must be filled separately, each in a separate electronic document in line with forms attached to Procurement on Contracting authority's profile in E-Tenders subsystem (<https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036>) in a Microsoft Office 2010 (or later) format and attached to the Procurement;
 - 12.2.2. Upon submission, the Tenderer signs the Proposal with secure electronic signature and time-stamp or with electronic signature provided by Electronic Procurement System. The Tenderer can use secure electronic signature and time-stamp and sign Application form, Financial proposal and other documents separately. Proposal (its parts, if signed separately) are signed by authorized person, including authorization document (e.g. power of attorney).
- 12.3. Proposal shall contain the following parts and documents/forms :
- 12.3.1. Application for participating in the Open competition in accordance with Annex No 2;
 - 12.3.2. Technical proposal in accordance with Annex No 1 and requirements set in Section 18.1;
 - 12.3.3. Description of Tenderers experience in accordance with Annex No 4 (including Description of the reference project) and documents confirming compliance of the Tenderer with the requirements set out in Clause 8.4.1. and 8.4.3.;
 - 12.3.4. Financial proposal in accordance with Annex No 8;
 - 12.3.5. Confirmation of Tenderers financial standing in accordance with Annex No 3;
 - 12.3.6. Information and documents confirming compliance of the Tenderer with the selection criteria for the Tenderers (set in Section 8 of the Regulations), or the corresponding ESPD;
 - 12.3.7. Information and documents relating to other entities on whose capacity Tenderer is relying (in accordance with Annex No 6), or the corresponding ESPD;
 - 12.3.8. Information and documents relating to subcontractors (in accordance with Annex No 7) and/or the corresponding ESPD;
 - 12.3.9. Filled in Annex No 5 "Description of the Expert's experience" and signed by the relevant Lead-expert confirming compliance of the Tenderer with the evaluation criteria for the Tenderers set in Section 8.5. of the Regulations, CV attached.
- 12.4. The Proposal may contain original documents or their derivatives (e.g. copies). In the Proposal or in reply to a request of the Procurement commission Tenderer shall submit only such original documents which have legal force. For the document to gain legal force it must be issued and formatted in accordance with the Law on Legal Force of Documents of the Republic

of Latvia (<https://likumi.lv/ta/en/id/210205-law-on-legal-force-of-documents>) but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law of the Republic of Latvia (<https://likumi.lv/ta/en/en/id/155411-document-legalisation-law>). Public documents issued abroad can be self-approved by the Tenderer, if it is applicable by the legislation of the respective country. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.

- 12.5. The Proposal must be signed by a person who is legally representing the Tenderer or is authorized to represent the Tenderer in this Open competition.
- 12.6. The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/28533>.
- 12.7. The Proposal must be submitted in a written form in English or Latvian (if submitted in Latvian, translation in English of the Proposal must be provided together with the Proposal).

13. ENCRYPTION OF THE PROPOSAL INFORMATION

- 13.1. E-Tenders system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.
- 13.2. If the Tenderer applied additional encryption to the information in the Proposal (according to Section 12.1.3 of the Regulations), Tenderer must provide the Procurement commission with the electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after the deadline of the Proposal submission.

14. SUBMISSION OF A PROPOSAL

- 14.1. The Proposal (documents referred to in the Section 12.3 of the Regulations) shall be submitted electronically using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> by:

12 May 2021 till 15:00 o'clock (Time Zone EEST (Eastern European Summer time), Riga (Latvia)).

- 14.2. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the E-Tenders system.
- 14.3. Only Proposals submitted via E-Tenders system will be accepted and evaluated for participation in the Open competition. Any Proposal submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the Open competition.

15. OPENING OF PROPOSALS

- 15.1. The Proposals will be opened on the E-Tenders system on **12 May 2021** starting at **15:00** (Time Zone EEST (Eastern European Summer time), Riga (Latvia)) during the opening session. On the E-Tenders system it is possible to follow the opening of submitted Proposals online.
- 15.2. The Proposals are opened by using the tools offered by E-Tenders system. The proposed price and other information that characterizes the Proposal (excluding confidential information) shall be published in the E-Tenders system.
- 15.3. The information regarding the Tenderer, the time of Proposal submission, the proposed price and other information that characterizes the Proposal is generated at the opening of the Proposals by E-Tenders system and written down in the Proposal opening sheet which shall be published on E-Tenders system and Contracting authority's webpage.

16. VERIFICATION OF PROPOSALS FOR COMPLIANCE

- 16.1. Following of the opening of Proposals Procurement commission shall proceed with the verification of compliance of Proposals received and opened in accordance with the opening procedure.
- 16.2. The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in Section 12 of the Regulations and whether all required information and documents are submitted and selects for further evaluation the compliant Proposals.
- 16.3. In accordance with Paragraph 16 of the Cabinet regulations No 107 of 28 February 2017 "Procedures for Procurement Procedures and Design Contests" Procurement commission is entitled to carry out the eligibility check only of the Tenderer to whom the Contract should be awarded.

17. VERIFICATION OF FINANCIAL PROPOSALS

- 17.1. The Procurement commission verifies whether Tenderers have completed Annex No 8 "Financial proposal" in accordance with the requirements.
- 17.2. The Procurement commission verifies whether there are any arithmetical errors, whether an abnormally low Proposal has been received, as well as assesses and compares the contract prices proposed.
- 17.3. The Procurement commission informs the Tenderer whose arithmetical errors have been corrected about the correction of arithmetical errors and the corrected Financial proposal.
- 17.4. When evaluating the Financial proposal, Procurement commission takes corrections into account.
- 17.5. The Procurement commission has the right to demand that the Tenderer explains the calculation upon which the Financial proposal is based and other related aspects to ascertain the objectivity of the Financial proposal and whether an abnormally low Proposal has been submitted.

18. VERIFICATION OF TECHNICAL PROPOSALS

- 18.1. The Tenderer shall draft a Technical Proposal in accordance with Annex 1 of Regulations and this Section 18 of Regulations, to describe the methodology for successful execution of the Contract within the set deadlines and quality expected. The Technical Proposal shall illustrate the Tenderer's understanding of the assignment and scope of the Services. Technical Proposals should not exceed 100 pages on A4 paper and the font size for general text parts shall not be less than approximately size 10 in a well readable and recognisable font type.
- 18.2. Tenderer shall submit Technical Proposal containing the descriptions of the following aspects ((Criteria 2 a "Quality of the Technical proposal") for scoring purposes):

A1-Understanding of the Objectives and Case Studies	<p>Tenderer's understanding of the intended objectives and scope of work within the Rail Baltica context.</p> <p>Tenderer's ability in the AsBo area by describing up to three cases where Tenderer's organisation has previously provided</p>
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	<p>similar services¹⁸, and how the lessons learned will be applied to this project. In relation to the examples above, describe:</p> <ul style="list-style-type: none"> • Your arrangements for ensuring the quality of output and general performance in tight timeframes were effective in preventing or reducing incidents of sub-standard delivery; • Other challenges faced, including technical coverage and changing levels of workload, and how they were successfully addressed; • How you provided efficient services; • How you have worked as part of a collaborative team; • How you managed communication with your clients, including liaison as with stakeholders and other relevant third parties, to ensure responsiveness to issues and continued delivery of services that met their needs; and • How you managed actual or perceived conflicts of interest. <p>For all elements, reference how the experience and lessons learnt apply to the Rail Baltica Global project.</p>
A2- Methodology	<p>The method, how Tenderer is planning to achieve a comprehensive execution of the contract and deliver works required under each work package.</p> <p>Provide details about your understanding of the range, volumes and timings of the work as set out in the scope of work in the Technical specification and your assessment of the level of resources required to deliver the service and method how intended to handle multiple work packages assigned within common time frame based on previous experience.</p> <p>Tenderer's proposed typical time frame for individual assessment of one work package.</p>
A3-Organisation	<p>Tenderers proposed organisation providing overview of the involved personnel, providing the following information:</p> <ul style="list-style-type: none"> - qualification, skills and experience of the personnel to demonstrate their suitability for the proposed role; - availability of the proposed personnel (in-house or sub-contractors), identify your plans to recruit additional resources if applicable.

19. CONTRACT AWARD CRITERIA

19.1. The Proposal selection criterion is the most economically advantageous proposal according to the evaluation methodology described in this Section below.

19.2. The economically most advantageous proposal shall be Proposal which will receive the highest sum of scores for the following criteria:

No	Evaluation criteria	Maximum possible score
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¹⁸ AsBo services for HSL or conventional railway line

1.	Financial proposal , which will be evaluated in accordance with Section 19.3. of the Regulations	40
A	Total contract price, EUR excl. VAT	30
B	Lead-Expert hourly rate sum for undefined scope of work, EUR excl. VAT	3
C	Advanced services for Infrastructure Work Packages, EUR excl. VAT	7
2.	Technical proposal which will be evaluated in accordance with Section 19.4 of the Regulations	60
A	Quality of Technical proposal	60
	Total	100

19.3. Evaluation of the Financial proposal

19.3.1. The maximum number of points for criterion “Financial proposal” can receive is **40 points**.

19.3.2. The Financial proposal shall be evaluated based on following evaluation criteria:

No	Evaluation criteria of Financial proposal	Maximum possible points
A	Total contract price, EUR excl. VAT	30
B	Lead-Expert hourly rate sum for undefined scope of work, EUR excl. VAT	3
C	Advanced services for Infrastructure Work Packages, EUR excl. VAT	7

19.3.2.1. Financial proposals in specific evaluation criteria shall receive points in accordance with the following formulas:

A) Total contract price:

$$\text{score} = \frac{\text{lowest proposed price from the compliant proposals}}{\text{Tenderer's proposed price}} \times 30$$

B) Lead-Expert hourly rate sum for undefined scope of work:

$$\text{score} = \frac{\text{average lowest proposed hourly rate from the compliant proposals}}{\text{Tenderer's proposed average hourly rate}} \times 3$$

Average hourly rate will be calculated by summing up all hourly rates for proposed experts in Section “Undefined scope variations key expert hourly rate (Variations). Undefined scope of Work package assessment according to Regulation 402/2013” according to submitted Financial proposal and dividing by number of the proposed experts.

C) Advanced services for Infrastructure Work Packages:

$$\text{score} = \frac{\text{lowest proposed hourly rate sum from the compliant proposals}}{\text{Tenderer's proposed hourly rate sum}} \times 7$$

- 19.3.3. The Procurement Commission shall obtain the final score for each Financial proposal in this criterion by summing up all points obtained by the particular Financial proposal in this criterion. The points shall be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.

19.4. Evaluation of the Technical proposal

- 19.4.1. The maximum number of points that the Tenderer can receive for criteria "Technical proposal" is 60.

- 19.4.2. The Technical proposal will be evaluated based on following evaluation criteria:

No	Evaluation criteria of Technical proposal	Maximum possible points
A	Quality of Technical proposal	60
A1	Understanding of the Objectives and Case Studies	20
A2	Methodology	20
A3	Organisation	20

- 19.4.2.1. Quality of Technical proposal will be evaluated according to the following criteria:

Evaluation methodology for criterion A1 "Understanding of the Objectives and Case Studies"		
Level of detail	Description	Points awarded
Highly Detailed	<p>The Tenderer has produced a detailed, reasoned and well-structured description on understanding of the scope and specifics of planned Services.</p> <p>Tenderer has demonstrated three cases of previously provided similar services, demonstrating experience, performance, efficiencies and indicated how lessons learnt will be applied to the Rail Baltica Global project. At least one of the demonstrated cases relates to the provision of AsBo services for HSL railway line.</p> <p>The description demonstrates Tenderer's expertise and clear understanding of the subject-matter and related assignments described in Technical Specification, thus allowing the Contracting Authority to ascertain the competence of the Tenderer and its ability to provide Services in a highest quality, leaving no doubts, questions or space for interpretation.</p>	20

Medium level of detail	<p>The Tenderer has produced a detailed, reasoned and well-structured description on understanding of the scope and specifics of planned Services.</p> <p>Tenderer has demonstrated up to two cases of previously provided similar services, demonstrating experience, performance, efficiencies and indicated how lessons learnt will be applied to the Rail Baltica Global project.</p> <p>The description demonstrates Tenderer's expertise and understanding of the subject-matter and related assignment described in Technical Specification, thus allowing the Contracting Authority to ascertain the competence of the Tenderer and its ability to provide Services in expected quality.</p>	14
Low level of detail	<p>The Tenderer has produced a general description of the scope and specifics of the planned Services.</p> <p>Tenderer hasn't demonstrated cases of previously provided similar services or provided description is insufficient to demonstrate obtained experience, performance and efficiencies, and/or Tenderer hasn't indicated how lessons learnt will be applied to the Rail Baltica Global project.</p> <p>The description does not demonstrate Tenderer's expertise and complete understanding of the subject-matter and related assignment described in Technical Specification and does not allow the Contracting Authority to ascertain in complete of the competence of the Tenderer and ability to provide Services in expected quality.</p>	8
Insufficient level of detail	<p>The Tenderer has produced a description which does not address any or majority of the significant requirements deriving from the Technical Specification.</p> <p>The description is prepared in a poor quality and does not demonstrate Tenderer's understanding of the subject-matter and related assignment described in Technical Specification and in no manner allows the Contracting Authority to ascertain the competence of the Tenderer and its ability to provide Services in the expected quality and in accordance with all requirements stipulated in Technical Specification.</p>	0

Evaluation methodology for criterion

A2 "Methodology"

Level of detail	Description	Points awarded
Highly Detailed	<p>The Tenderer has produced a highly detailed, reasoned and well-structured description of the proposed methodology, which demonstrates deep understanding of the Contracting authority's requirements and establish a clear and robust approach, identifying the likely issues and solutions that will occur during the project.</p> <p>The description fully allows the Contracting Authority to ascertain of the competence of the Tenderer and its ability to provide Services in a highest quality, leaving no doubts, questions or space for interpretation.</p>	20
Medium level of detail	<p>The Tenderer has produced a detailed, reasoned and structured description of the proposed methodology, which demonstrates good understanding of the Contracting authority's requirements and establish a clear and robust approach, identifying the likely issues and solutions that will occur during the project, at the same time lacking some less vital details.</p> <p>The description in general demonstrates complete understanding of quality needs for the provision of Services and allows the Contracting Authority to ascertain of the competence of the Tenderer and its ability to provide Services in expected quality.</p>	14

Low level of detail	The Tenderer has produced a general description of the proposed methodology, for the provision of the Services, however, without any further detalisation. The description contains some minor issues in relation with the requirements in a sufficient manner and/or leaving open risks/interpretation. The description does not demonstrate complete understanding of quality needs for the provision of Services and does not allow the Contracting Authority to ascertain in complete of the competence of the Tenderer and ability to provide Services in expected quality.	8
Insufficient level of detail	The description does not demonstrate understanding of methodology needs for the provision of Services and in no manner allows the Contracting Authority to ascertain of the competence of the Tenderer and ability to provide Services in the expected quality and in accordance with all requirements stipulated in Technical Specification and Contract.	0

Evaluation methodology for criterion

A3 "Organisation"

Level of detail	Description	Points awarded
Highly Detailed	Tenderer has proposed clear and highly detailed organisation and identified involved personnel, including all Lead-Experts according to the Table 3 of the Annex No 1 "Technical specification" and following experts required in the Table 4 of the Annex No 1 "Technical specification": Key technical expert in railway infrastructure, Key technical expert in superstructures, Key technical expert in energy systems, Key technical expert in fire & explosion safety and Key technical expert in EMC. Tenderer has provided relevant description of the experts mentioned above in terms of qualification, skills, experience, suitability for the proposed role and availability. Tenderer has provided CV for all proposed additional experts.	20
Medium level of detail	Tenderer has proposed clear organisation and identified involved personnel, including all Lead-Experts according to the Table 3 of the Annex No 1 "Technical specification" and at least two of the following experts required in the Table 4 of the Annex No 1 "Technical specification": Key technical expert in railway infrastructure, Key technical expert in superstructures, Key technical expert in energy systems, Key technical expert in fire & explosion safety and Key technical expert in EMC. Tenderer has provided relevant description of the experts mentioned above in terms of qualification, skills, experience, suitability for the proposed role and availability. Tenderer has provided CV for proposed additional experts.	10
Low level of detail	Tenderer has proposed "Organisation" description which does not satisfy requirements set out by level of detail (mentioned in the table above), but allows to ascertain basic idea of proposed organisation.	0

19.4.2.1.1. The Procurement Commission shall obtain the final score for each Technical proposal in criteria "Quality of Technical proposal" by summing up all points obtained by particular Technical proposal in this criterion and dividing the sum with the number of members of the Procurement Commission which participated in the evaluation. The points shall be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered. **If the Technical Proposal is scored with 0 (zero) points in any of A1-A2 criteria set out by Section 19.4.2.1. such Proposal will be rejected and will not be evaluated further.**

19.5. The Procurement commission shall obtain the final score for each Proposal by summing up points that particular Proposal obtained in accordance with the procedures set out in Section

19.3 – 19.4 of the Regulations. Contract shall be awarded to the Tenderer whose Proposal obtains the highest final score according to Section 19.2 – 19.4 of the Regulations.

- 19.6. In case several Proposals will obtain equal highest final score (points), Procurement Commission shall award the right to conclude the contract to the Tenderer which will obtain higher score for its Financial Proposal. If also this score will be equal, then the Procurement Commission will invite representatives of those particular Tenderers and will organize a draw. In situation, when representatives of Tenderers mentioned before chose to not be present at the draw, Procurement commission will carry out the draw without representatives of Tenderers present.

20. TENDERER CHECK PRIOR TO MAKING THE DECISION REGARDING THE CONCLUSION OF THE CONTRACT

- 20.1. Prior to making the decision about assigning rights to conclude the Contract, Procurement commission performs a check regarding the existence of grounds of exclusion for Tenderers, members of a partnership (if the Tenderer is a partnership), persons on whose capacity Tenderer is relying to certify its compliance with the requirements and subcontractors.
- 20.2. If in accordance with the information published on the day of the last data update in a public database on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract is made, the Tenderer, member of a partnership (if the Tenderer is a partnership), a subcontractor whose share of services is equal to or exceeds 10% of the Contract price or a person on whose capacity Tenderer is relying to certify its compliance with the requirements, have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, Procurement commission informs the Tenderer and sets a deadline – 10 (ten) days from the day of issuing or receiving information – for the submission of a statement evidencing absence of tax debt, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Contract was made.
- 20.3. If the Tenderer fails to submit required evidence before the deadline, Procurement commission excludes the Tenderer from participation in the Open competition.
- 20.4. Change of persons on whose capacity Tenderer is relying to certify its compliance with the requirements or subcontractors whose share of services is equal to or exceeds 10% of the Contract price is performed in accordance with Sections 9.2 and 10.2 of the Regulations respectively.
- 20.5. In the event the Tenderer or partnership member (if the Tenderer is a partnership) fails to comply with requirements stipulated in Section 8.1 of the Regulations and has indicated this in the Proposal, upon Procurement commission's request it submits an explanation about the implemented measures in order to restore reliability and prevent occurrences of the same or similar violations in future, as well as attaches evidence which proves the implemented measures, such as but not limited to evidence about compensating damages, on cooperation with investigating authorities, implemented technical, organizational or personnel measures, an assessment of a competent authority regarding the sufficiency of the implemented measures etc. The Procurement commission assesses such information. If the Procurement commission deems the measures taken to be sufficient for the restoration of reliability and the prevention of similar cases in the future, it makes the decision not to exclude the Tenderer from participation in the Open competition. If the measures taken are insufficient, Procurement commission makes the decision to exclude the Tenderer from further participation in the Open competition. If the Tenderer within the indicated time does not submit the requested information, Procurement commission excludes the Tenderer from participation in the Open competition.

21. DECISION MAKING, ANNOUNCEMENT OF RESULTS AND ENTERING INTO A CONTRACT

- 21.1. The Procurement commission selects Tenderers in accordance with the set selection criteria for Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulations and chooses the Proposal in accordance with the contract award criteria as described in Section 19 of the Regulations.
- 21.2. Within 3 (three) Working Days from the date of decision about the Open competition results Procurement commission informs all Tenderers about the decision made by sending the information by post or electronically (including via the E-Tenders system) and keeping the evidence of the date and means of sending the information. The Procurement commission announces the name of the successful Tenderer, indicating:
 - 21.2.1. to the refused Tenderer - the reasons for refusing its Proposal;
 - 21.2.2. to the Tenderer who has submitted an eligible Proposal - the characterization of the successful Proposal and the relative advantages;
 - 21.2.3. the deadline by which the Tenderer may submit a complaint to the Procurement Monitoring Bureau regarding violations of the public procurement procedure.
- 21.3. If the Proposal has been submitted by only one Tenderer, Procurement commission prepares and includes in the Open competition report a justification of the fact that the set requirements for Tenderer selection are objective and commensurate. If the Procurement commission cannot justify that the set requirements for Tenderer selection are objective and commensurate, Procurement commission makes the decision to terminate the Procurement.
- 21.4. If the Procurement is terminated, Procurement commission within 3 (three) working days simultaneously informs all Tenderers about all the reasons because of which the Open competition is terminated and informs about the deadline within which a Tenderer may apply regarding the violations of the public procurement procedure to the Procurement Monitoring Bureau.
- 21.5. The Procurement commission when informing about the results has the right not to disclose specific/confidential information, if it may infringe upon public interests or if the Tenderer's legal commercial interests or the conditions of competition would be violated.
- 21.6. As soon as possible but not later than within 5 (five) working days from day when the decision about the results of the Open competition is taken, Procurement commission prepares a report on the Open competition and publishes it on the Contracting authority's profile in E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Supplier/Procurement/53036> and on Contracting authority's webpage <http://railbaltica.org/en/procurements>.
- 21.7. **The selected Tenderer upon receiving the notification from Procurement commission must:**
 - 21.7.1. within 5 (five) working days – to submit to the Contracting authority a copy of partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under Section 7.1.2.1 of the Regulations;
 - 21.7.2. within 10 (ten) days upon receiving the invitation - to sign the Contract.
- 21.8. The Contract is concluded based on the selected Tenderer's Proposal and in accordance with Annex No 9 "Draft contract".
- 21.9. The Procurement commission has the right to choose the next most economically advantageous proposal, if the Tenderer in the time stipulated by the Regulations:
 - 21.9.1. refuses to conclude a partnership contract or to establish the partnership in the cases and deadlines defined by the Regulations or in the cases and deadlines defined by the Regulations does not submit a copy of the partnership contract, or does not inform of the founding of a partnership company;

- 21.9.2. refuses to conclude the Contract or does not submit a signed Contract within the deadlines defined in the Regulations.
- 21.10. In any of such a case mentioned in Section 20.9 of the Regulations Procurement commission is entitled to terminate this Open competition without selecting any Proposal or to select the next most economically advantageous proposal. For either of these decisions a written decision must be made.
- 21.11. Prior to making the decision regarding the conclusion of the Contract with the next Tenderer, the Procurement commission assesses whether the next Tenderer is one market participant together with the initially selected Tenderer. If the next selected Tenderer is found to be one market participant together with the initially selected Tenderer or it does not comply with requirements set in the Section 21.7 of the Regulations, Procurement commission decides to terminate the Open competition without selecting any Proposal.

ANNEXES:

1. Technical specification;
2. Application for participation in the Open competition;
3. Confirmation of the Tenderer's financial standing;
4. Description of the Tenderer's experience;
5. Description of the Expert's experience;
6. A list of other entities on whose capacity Tenderer relies on;
7. A list of subcontractors;
8. Financial proposal;
9. Draft contract;
10. Mutual Non-Disclosure Agreement.

ANNEX NO 1**TECHNICAL SPECIFICATION**

(please refer to a separate document)

ANNEX NO 2

APPLICATION FOR PARTICIPATION IN THE OPEN COMPETITION “ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT” (ID NO RBR 2021/3)

Name of the Tenderer or all members of the partnership	
Registration number of the Tenderer or all members of the partnership	
VAT payer registration number of the Tenderer or all members of the partnership	
Name, surname and position of the person authorized to represent the Tenderer or name of nominated representative (in case of established partnership)	
Legal address of the Tenderer or all members of the partnership	
Correspondence address of the Tenderer or all members of the partnership	
Bank of the Tenderer or all members of the partnership	
Bank code (SWIFT) of the Tenderer or all members of the partnership	
Bank account (IBAN) of the Tenderer or all members of the partnership	
Contact person and contact information of the Tenderer (name, surname, position, telephone number, e-mail)	

By submitting the Proposal, the Tenderer hereby:

1. Confirms participation in the Open competition “Assessment body (ASBO) services for Rail Baltica Global Project”, ID No RBR 2021/3;
2. (Only if applicable): Informs that the following entities and/or persons comply with the following exclusion grounds (if any):

Name of the entity (person)	Exclusion ground and brief description of the violation
[•]	
[•]	
[•]	

3. Confirms that, if the Tenderer will be awarded the Contract, Tenderer will provide the services in accordance with the requirements of the Annex No 1 “Technical specification”;

4. Confirms that Regulations is clear and understandable, that it does not have any objections and complaints and that in the case of granting the right to enter into a Contract it shall fulfil all conditions of the Regulations as well as enter into a Contract in accordance with the Draft contract enclosed with the Regulations (Annex No 9);
5. Confirms that in the preparation and submission of its Proposal, Tenderer has fully considered all the clarifications issued by the Contracting authority;
6. Confirms that the Tenderer has no conflict of interest that would prevent impartiality;
7. Confirms that the Tenderer personnel involved in certification or assessment for Contracting authority are impartial to Contracting authority and other parties involved in the Rail Baltica Global project;
8. Agrees that the Contracting authority reserves itself the right to reject any or all Proposals and cancel the procurement process before entry into Contract on the grounds specified in the Regulations or the law;
9. Guarantees that all information and documents provided are true;
- 10. Confirms¹⁹ that meets the criteria of (please indicate by ticking relevant box):**

☐ a small ☐ medium ☐ other

sized enterprise²⁰ as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.²¹

[date of signing]

[name and position of the representative of the Tenderer]

¹⁹ Tenderer must indicate size of enterprise for each member of the partnership, if the Tenderer is a partnership.

²⁰ The information on the size of the Tenderer is used solely for statistical purposes and is not in any way whatsoever used in the evaluation of the Tenderer or the Proposal.

²¹ Available here - http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC

**CONFIRMATION OF THE TENDERER'S FINANCIAL STANDING
FOR THE OPEN COMPETITION
"ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT"
(ID NO RBR 2021/3)**

1. Section 8.3.1 of the Regulations

Tenderer's or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly) average annual financial turnover within the last 3 (three) financial years (2017, 2018, 2019) is not less than 8 000 000 EUR (eight million euros).

In the event the average annual financial turnover of a limited partner of the limited partnership (within the meaning of The Commercial Law, Division X) exceeds its investment in the limited partnership, the average financial turnover shall be recognized in the amount of the investment in the limited partnership.

In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) financial years, the requirement shall be met during the Tenderer's actual operation period.

No	Year	Total Turnover in EUR	Notes
The Tenderer or member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance (Section 8.3.1 of the Regulations) and who will be financially and economically responsible for fulfilment of the Contract or other entity on whose capacity Tenderer is relying (if the Tenderer is relying on other entity's capacity) to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract:			
Name of the Tenderer/member of a partnership/other entity			
1.	2019		
2.	2018		
3.	2017		
Average annual turnover within the last 3 (three) financial years			

2. Section 8.3.2 of the Regulations

The Tenderer and each member of the partnership (if the Tenderer is a partnership) on whose financial and economic capabilities the partnership is relying and who shall be financially and economically responsible for fulfilment of the procurement contract or entity on whose financial and economic capabilities the Tenderer is relying to certify its financial and economic performance and who shall be financially and economically responsible for fulfilment of the procurement contract shall have stable financial and economic performance, namely, in the last audited financial year liquidity ratio (*Current Assets divided by Short-term Liabilities*) shall be equal to or exceed 1 and shall have positive equity capital (*Total Assets minus Total Liabilities*).

Name of the Tenderer/member of partnership/other entity

$$\text{liquidity ratio} = \frac{\text{current assets}}{\text{short – term liabilities}} = \text{_____}^{22}$$

$$\text{equity} = \text{total assets} - \text{total liabilities} = \text{_____}^{23}$$

[date of signing]

[name and position of the representative of the Tenderer]

²²Please identify all amounts

²³ ibid

ANNEX NO 4

**DESCRIPTION OF THE TENDERER'S EXPERIENCE
FOR THE OPEN COMPETITION
"ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT"
(ID NO RBR 2021/3)**

The Tenderer within the previous 10 (ten) years (2011 until the date of submission of the Proposal) has provided AsBo services (according to Regulation (EU) No 402/2013) or ISA services (according to CENELEC 50126, 50128, 50129) as part of 1 (one) or several railway infrastructure reference project(s)²⁴, intended for TSI verification²⁵ and EC certification²⁶ for HSL²⁷ or conventional railway lines, consisting at least in independent assessment of the following scope of works:

- a) new infrastructure project including at least: 50 km of double track line 1435 mm, embankment, track system²⁸, 2 road overpasses and 2 railway bridges;
- b) 1 (one) new railway station with more than 5 siding²⁹ tracks;
- c) Electrification subsystem deployed over 50 km of double track line 1435 mm;
- d) ERTMS trackside subsystem deployed over 50 km of double track line.

²⁴ Currently ongoing project could be mentioned as a reference project as well if the Tenderer has delivered required scope of works.

²⁵ Technical Specification for Interoperability (TSI) are specifications drafted by the European Railway Agency and adopted in a Decision by the European Commission, to ensure the interoperability of the trans-European rail system. The interoperability issues apply to the lines within the Trans-European Rail network. TSIs defines the technical and operational standards which must be met by each subsystem or part of subsystem in order to meet the essential requirements and ensure the interoperability of the railway system of the European Union. Verification by reference to TSIs is the procedure whereby a Notified Bodies checks and certifies that the subsystem complies with the relevant technical specifications for interoperability (TSI).

²⁶ NoBo responsible for the verification assess the design, production and final testing of the subsystem draw up the Certificate of verification intended for the Applicant who in turn draws up the 'EC' Declaration of verification. The Certificate of verification must provide reference to the TSIs with which the conformity has been assessed.

²⁷ High Speed line.

²⁸ Railway track system is the structure consisting of the rails, fasteners, railroad ties (sleepers) and ballast (or slab track) as well as the underlying subgrade.

²⁹ sidings are tracks branching off running tracks that are not part of any running line, on which vehicles or trains are marshalled, stabled (to store locomotives and rolling stock), loaded, unloaded or serviced clear of a running line.

No	Name of the reference Railway infrastructure project	Start and finish (if project is finished) dates of the contract	The reference Railway infrastructure project according to Section 8.4. (2) of the Regulations		Client, Client's contact information for references ³⁰
			independent assessment of the following scope of works:	Description that proves compliance with the requirement	
1.	<i>Name of the project</i>	<i>(month/year-month/year)</i>	a) new infrastructure project including at least: 50 km of double track line 1435 mm, embankment, track system, 2 road overpasses and 2 railway bridges		<i>Name of the client, name of representative, phone, e-mail</i>
			b) 1 (one) new railway station with more than 5 siding tracks		
			c) Electrification subsystem deployed over 50 km of double track line 1435 mm		
			d) ERTMS trackside subsystem deployed over 50 km of double track line		

[date of signing]

[name and position of the representative of the Tenderer]

Attached reference project description on ____ (____) pages³¹.

³⁰ In case of doubt, the Contracting authority has the right to contact the Client to verify that the services specified complies with the requirements set in Section 8.4.1 (2) of the Regulations.

³¹ Reference project description no more than 2 pages.

ANNEX NO 5

DESCRIPTION OF THE EXPERT'S EXPERIENCE FOR THE OPEN COMPETITION "ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT" (ID NO RBR 2021/3)

Experience of the Choose an item. : Name, surname

Table No 1 (Section 8.5. of the Regulations)³²

No	Name of the project	Start and finish dates of expert's involvement in the project	Project description ³³	Expert role /responsibilities in the project	Client, Client's contact information for references
1.		(month/year - month/year)			Name of the client, name of representative, phone, e-mail
n+1					

English language skills³⁴:

Understanding		Speaking		Writing
Listening	Reading	Spoken interaction	Spoken production	
Enter level	Enter level	Enter level	Enter level	Enter level

Levels: A1/A2 - Basic user; B1/B2 - Independent user; C1/C2 - Proficient user.

³² Complete Annex No 5 for each Lead-expert separately

³³ Project description that demonstrates compliance with the requirements to the projects according with Clause 8.5.

³⁴ Language skill level is based on Common European Framework of Reference for Languages (see <http://europass.cedefop.europa.eu/resources/european-language-levels-cefr>)

I confirm that I have consented that my candidature is proposed in the Open competition “Assessment body (ASBO) services for Rail Baltica Global Project”, ID No RBR 2021/3. I confirm that in case the Tenderer [name of the tenderer or members of the partnership] will conclude the Contract as the result of the Open competition I will participate as Lead expert in the execution of the Contract.

In addition, I confirm that I have consented that my personal data (name, surname and signature) are processed by the Contracting Authority during this open competition.

[date of signing]

[signature]

[name of the expert]

Attached CV on ____ (____) pages.

ANNEX NO 6

**A LIST OF OTHER ENTITIES ON WHOSE CAPACITY TENDERER RELIES ON
TO MEET THE REQUIREMENT OF THE OPEN COMPETITION
"ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT" (ID NO RBR
2021/3)**

No	Name of the entity (registration No., legal address)	Description of the capacity
1		
2		
n+1		

[date of signing]

[name and position of the representative of the Tenderer]

ANNEX NO 7

**A LIST OF SUBCONTRACTORS
FOR THE OPEN COMPETITION
"ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT" (ID NO RBR
2021/3)**

No	Name of the sub-contractor (registration No., legal address)	Description of the sub-contracted task	Sub-contracted tasks		Size of the enterprise ³⁵
			Amount, EUR (without VAT)	% from the proposed price	
I	Total amount of the sub-contracted tasks is equal to or exceeds 10% from the proposed contract price				
1					
2					
n+1					
Total:					
II	Total amount of the sub-contracted tasks is smaller than 10% from the proposed contract price				
1					
2					
n+1					
Total:					
Total (I+II)					

[date of signing]

[name and position of the representative of the Tenderer]

³⁵ Please indicate the size of enterprise (small, medium or other) as defined in the Article 2 of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise. Available here: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ.L:2003:124:TOC

ANNEX NO 8

FINANCIAL PROPOSAL FOR THE OPEN COMPETITION “ASSESSMENT BODY (ASBO) SERVICES FOR RAIL BALTICA GLOBAL PROJECT” (ID NO RBR 2021/3)

The Tenderer [*name of the Tenderer*] offers to deliver services in accordance with the Annex No 1 “Technical specification” for the following costs³⁶:

No.	Service	Price (EUR without VAT)
1.	Total contract price	
2.	Advanced services for Infrastructure Work Packages ³⁷	

Annex of the Financial proposal:

Detailed Financial proposal according to Annex No 1 of “Work packages & pricing requirements, which is Annex No 4 of the Technical specification.

[date of signing]

[name and position of the representative of the Tenderer]

³⁶ When preparing the Financial proposal, the rules of Section 17 of the Regulations shall be considered.

³⁷ Please sum all hourly rates indicated in the table “Advanced services for Infrastructure Work Packages listed in EE Design Sections pricelist, LV Design Sections pricelist, LT Design Sections pricelist and Local Facilities pricelist Section “ (Section “Inception report, Energy Subsystem Generic Design Assessment Report Price and Advanced Services” of the Detailed Financial proposal). This amount will be used for evaluation purposes according to the award criteria in Clause 19.3. of the Regulations.

ANNEX NO 9**DRAFT CONTRACT**

(please refer to a separate document)

ANNEX NO 10**MUTUAL NON-DISCLOSURE AGREEMENT (INTERNAL DOCUMENT OF CONTRACTING
AUTHORITY)**

(please refer to a separate document)