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# COMMON PROCUREMENT STANDARDS AND GUIDELINES FOR THE RAIL BALTICA PROJECT



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

**Policy Holder:** Chief Procurement Officer  
**Responsible department:** Procurement Department

## APPENDIX 5: SUPPLIER AND SUB-CONTRACTOR CODE OF CONDUCT

1. Suppliers and sub-contractors are evaluated beyond the basis of economic criteria and basic procurement regulations alone. The Contracting Authorities also look closely at labour practices, health and safety, environmental protection, taxation and full compliance with human rights as well as ethical conduct, anti-discrimination and anti-corruption policies. This Supplier and Sub-Contractor Code of Conduct captures the principles that every potential supplier is expected to uphold. All suppliers and sub-contractors of the Rail Baltica project are subject to this Code of Conduct, and shall be expected to comply with these best market practices.
2. Suppliers who wish to do business within Rail Baltica project, are required to comply with this Supplier Code of Conduct and are required not to commit any crime, offence or misconduct due to which they could be excluded from participation in the procurement procedures in accordance with the relevant applicable national legislation which transposes the Directives 2014/24/EU and 2014/25/EU.
3. Moreover, suppliers who wish to do business within Rail Baltica project, are required to accept and comply with the following principles:

*NOTE: Contracting Authorities in the meaning of this Appendix 5 are the respective Beneficiaries and/or Implementing Bodies and/or RB Rail AS in charge of the particular procurement exercises and/or management of the subsequent contracts.*

1. Labour:
  - (a) **Freedom of Association and Collective Bargaining:** Contracting Authorities expect their suppliers to respect the freely-exercised right of workers, without distinction, to organise, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organise, to carry out trade union activities and to bargain collectively.<sup>2</sup>
  - (b) **Forced or Compulsory Labour:** Contracting Authorities expect their suppliers not to use and to prohibit forced or compulsory labour in all its forms<sup>3</sup>, including but not limited to not employ people against their own free will, nor to require people to lodge 'deposits' or identity papers upon commencing employment.
  - (c) **Child Labour:** Contracting Authorities expect their suppliers not to employ: (a) children below 15 years of age or full-time in compulsory education or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons.<sup>4</sup> Contracting Authorities expect their suppliers also to extend the same further down their supply chain.
  - (d) **Discrimination:** Contracting Authorities expect their suppliers to ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin

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<sup>2</sup> These principles are set out in the ILO fundamental Conventions, No. 87, Freedom of Association and Protection of the Right to Organise, 1948 and No. 98, Right to Organise and Collective Bargaining, 1949.

<sup>3</sup> This principle is set out in the ILO fundamental conventions, No. 29, Forced Labour, 1930 and No. 105, Abolition of Forced Labour, 1957.

<sup>4</sup> These principles are set out in the ILO fundamental Conventions, No. 138, Minimum Age, 1973 and No. 182, Worst Forms of Child Labour, 1999 and in the UN Convention on the Rights of the Child.

and such other ground as may be recognised under the national law of the country or countries where the performance, in whole or in part, of a contract takes place.<sup>5</sup>

- (e) **Wages, Working Hours and Other Conditions of Work:** Contracting Authorities expect their suppliers to ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned. Suppliers should keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and suppliers should inform the workers concerned of such deductions at the time of each payment. The wages, hours of work and other conditions of work provided by suppliers should be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out.<sup>6</sup>
- (f) **Health and Safety:** Contracting Authorities expect their suppliers to ensure that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent risk of accidents or of adverse effects to health.<sup>7</sup>
- (g) **Traffic Management:** Contracting Authorities expect their suppliers to respect the needs of affected communities and when delivering works/services/supplies to manage their access to physical locations in the least disruptive and in a controlled manner so as to not cause excessive inconvenience/disruption to local inhabitants.

## 2. Human Rights:

- (a) **Human Rights:** Contracting Authorities expect their suppliers to support and respect the protection of internationally proclaimed human rights and to ensure that they are not complicit in human rights abuses.<sup>8</sup>
- (b) **Harassment, Harsh or Inhumane Treatment:** Contracting Authorities expect their suppliers to create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment.

## 3. Environment:

- (a) **Environmental:** Contracting Authorities expect their suppliers to have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment. Suppliers should wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices.

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<sup>5</sup> These principles are set out in the ILO fundamental Conventions, No. 100, Equal Remuneration, 1951 and No. 111, Discrimination (Employment and Occupation), 1958.

<sup>6</sup> These principles are set out in ILO Conventions No. 95, Protection of Wages, 1949 and No. 94, Labour Clauses (Public Contracts), 1949 and in a number of Conventions addressing working time (see: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang--en/index.htm>).

<sup>7</sup> These principles are set out in the ILO Conventions, Recommendations and Codes of Practice identified at: <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-andhealth/lang--en/index.htm>]

<sup>8</sup> These principles are derived from Universal Declaration of Human Rights (UDHR) and are set out in the United Nations Global Compact (see [http://www.unglobalcompact.org/Issues/human\\_rights/index.html](http://www.unglobalcompact.org/Issues/human_rights/index.html))

- (b) **Chemical and Hazardous Materials:** Chemical and other materials posing a hazard if released to the environment are to be identified and managed to ensure their safe handling, movement, storage, recycling or reuse and disposal.
- (c) **Wastewater and Solid Waste:** Wastewater and solid waste generated from operations, industrial processes and sanitation facilities are to be monitored, controlled and treated as required prior to discharge or disposal.
- (d) **Air Emissions:** Air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations are to be characterised, monitored, controlled and treated as required prior to discharge or disposal.
- (e) **Minimize Waste, Maximize Recycling:** Waste of all types, including water and energy, are to be reduced or eliminated at the source or by practices such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials.
- (f) **Noise and Dust:** Contracting Authorities expect their suppliers to respect local communities and refrain from producing excessive noise and dust whenever possible and to provide advance notification to local communities' members in cases where it is unavoidable to produce excessive noise or dust for a temporary period of time, provided that this does not violate the applicable law, regulations or agreements in force.

4. Ethical conduct:

- (a) **Corruption:** Contracting Authorities have a "zero tolerance" policy towards bribery and corruption in any form, including fraud, bribery and extortion in the conduct of business, including the collusion between suppliers or other instances creating unfair advantage or misuse of trust, project funds and/or jeopardising fair and transparent procurement practices. Contracting Authorities expect their suppliers to adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery.
- (b) **Conflict of Interest:** Suppliers are expected to disclose to Contracting Authorities (a) any situation that may appear as a conflict of interest, such as but not limited to: where a supplier or an undertaking related to the supplier has advised a Contracting Authority, where they have agreements or have identified links with other suppliers which could jeopardise free competition, or has otherwise been involved in the preparation of the procurement procedure; and (b) if any Contracting Authorities' official, professional under contract with Contracting Authorities or sub-contractor may have a direct or indirect interest of any kind in the supplier's business or any kind of economic ties with the supplier.
- (c) **Gifts and Hospitality:** Contracting Authorities have a "zero tolerance" policy and do not accept any type of gift or any offer of hospitality. Contracting Authorities will not accept any invitations to sporting or cultural events, offers of holidays or other recreational trips, transportation, or invitations to lunches or dinners at the cost of suppliers. Contracting Authorities expect their suppliers not to offer any benefit such as free or discounted goods or services, employment or sales opportunity to a Contracting Authorities' staff member in order to facilitate the suppliers' business with Contracting Authorities.
- (d) **Post-employment restrictions:** National legislation may set post-employment restrictions to the Contracting Authorities' staff in service and former Contracting Authorities' staff members who participated in the procurement process, if such persons had prior professional dealings with suppliers. Contracting Authorities' suppliers are expected to refrain from offering employment to any such person for a period of 2 (two) years following separation from service.

- (e) **Business Ethics:** Suppliers shall act responsibly, applying their professional due diligence, expressing the moral and ethical behaviours that are expected from the 'best-in-class' professional organisations when participating in the Rail Baltica Global Project procurement procedures, implementing contracts and/or interfacing with the Contracting Authorities. Contracting Authorities will not tolerate
- (i) any immoral behaviour and/or attempts to skew competition or decisions in favour of any supplier or group of suppliers whether directed towards the Contracting Authority and/or any other institution(s);
  - (ii) any misuse of established procurement procedures and/or the processes put in place by appeal institutions or the judicial establishment with the purpose of gaining advantage, unduly disrupting the progress of the Rail Baltica Global Project, hindering competition, achieving personal gain and/or attempting to establish supplier market protectionism;

Any such instances shall be reported to relevant authorities.

5. Selection of business partners and own suppliers

- (a) **Adoption and compliance with the principles:** Contracting Authorities expect that their suppliers will promote the adoption of the principles set forth in this document by their potential business partners and promote the implementation of the principles set forth in this document towards own suppliers.
- (b) **Eligibility of own suppliers:** Contracting Authorities expect that their suppliers shall not procure goods, works and services from other suppliers who are non-compliant with this Supplier and Sub-Contractor Code of Conduct. All suppliers shall be free from violations of insolvency, bribery, or any infringement of competition rights, a horizontal cartel agreement or tax debts, also not originate from the countries which fall under the restrictive measures, imposed by the EU.

6. In addition, suppliers who wish to do business within the Rail Baltica project, are expected to comply with the minimum qualification requirements set in Appendix 2 above.

## APPENDIX 6: SUPPLIER' S DECLARATION

I, the undersigned duly authorised representative, on behalf of [*name of the supplier*] undertake:

1. To respect the freely-exercised right of workers, without distinction, to organise, further and defend their interests and to bargain collectively, as well as to protect those workers from any action or other form of discrimination related to the exercise of their right to organise, to carry out trade union activities and to bargain collectively;
2. Not to use forced or compulsory labour in all its forms, including but not limited to not employ people against their own free will, nor to require people to lodge 'deposits' or identity papers upon commencing employment;
3. Not to employ: (a) children below 15 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
4. To ensure equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognised under the national law of the country or countries where the performance, in whole or in part, of a contract takes place;
5. To ensure the payment of wages in legal fashion, at regular intervals no longer than one month, in full and directly to the workers concerned; to keep an appropriate record of such payments. Deductions from wages will be conducted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned shall be informed of such deductions at the time of each payment. The wages, hours of work and other conditions of work shall be not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or (iii) applicable laws or regulations), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
6. To ensure that: (a) the workplaces, machinery, equipment and processes under their control are safe and without risk to health; (b) the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and (c) where necessary, adequate protective clothing and protective equipment are provided to prevent risk of accidents or of adverse effects to health;
7. To support and respect the protection of internationally proclaimed human rights and not to become complicit in human rights abuses;
8. To create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment;
9. To have an effective environmental policy and to comply with existing legislation and regulations regarding the protection of the environment; wherever possible support a precautionary approach to environmental matters, undertake initiatives to promote greater environmental responsibility and encourage the diffusion of environmentally friendly technologies implementing sound life-cycle practices;
10. To identify and manage chemical and other materials posing a hazard if released to the environment to ensure their safe handling, movement, storage, recycling or reuse and disposal;
11. To monitor, control and treat as required prior to discharge or disposal wastewater and solid waste generated from operations, industrial processes and sanitation facilities;
12. To characterise, monitor, control and treat as required prior to discharge or disposal air emissions of volatile organic chemicals, aerosols, corrosives, particulates, ozone depleting chemicals and combustion by-products generated from operations;
13. To reduce or eliminate at the source or by practices, such as modifying production, maintenance and facility processes, materials substitution, conservation, recycling and re-using materials, waste of all types, including water and energy;
14. To adhere to the highest standards of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including but not limited to extortion, fraud, or bribery;
15. To disclose (a) any situation that may appear as a conflict of interest, such as but not limited to: where a supplier or an undertaking related to the supplier has advised a Contracting Authority or has otherwise been involved in the preparation of the procurement procedure; and (b) if Contracting Authority official, professional under contract with Contracting Authority or sub-contractor may have a direct or indirect interest of any kind in the supplier's business or any kind of economic ties with the supplier;

16. Not to offer any benefit such as free goods or services, discounts, employment or sales opportunity to a Contracting Authority staff member in order to facilitate the suppliers' business with Contracting Authority;
17. Within a period set in the applicable national legislation following separation from service or award of a contract, as the case may be, to refrain from offering employment to Contracting Authority staff in service and former Contracting Authority staff members who participated in the procurement process and to whom a legal restriction to receive material benefits from or be employed by a supplier which participated in a procurement procedure or restrictions with similar effect applies;
18. To promote the adoption of the principles set forth in this Supplier's Declaration by my potential business partners and promote the implementation of the principles set forth in this document towards own suppliers;
19. Not procure goods, works and services from other suppliers:
  - a) who, or its member of the Management Board or the Supervisory Board or procurator of such supplier, or a person having the right to represent such supplier in activities related to a subsidiary, has been found guilty in any of the following criminal offences by a such punishment prescription of prosecutor or a judgement of a court that has entered into effect and is non-disputable and not subject to appeal:
    - i. bribetaking, bribery, bribe misappropriation, intermediation in bribery, taking of prohibited benefit or commercial bribing, management of criminal organisation;
    - ii. fraud, misappropriation or laundering, human trafficking;
    - iii. evading payment of taxes and payments equivalent thereto,
    - iv. terrorism, financing of terrorism, invitation to terrorism, terrorism threats or recruiting and training of a person for performance of terror acts;
  - b) who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of an infringement of employment rights which means:
    - i. employment of such one or more citizens or nationals of countries, which are not citizens or nationals of the European Union Member States, if they reside in the territory of the European Union Member States illegally;
    - ii. employment of one person without entering into a written employment contract, not submitting an informative declaration regarding employees in respect of such person within a time period laid down in the laws and regulations, which is to be submitted regarding persons who commence work;
  - c) who fall under the restrictive measures, imposed by EU and are included in the lists of sanctioned suppliers and/or sanctioned persons, originated from sanctioned countries (including transportation of goods via the ports of sanctioned countries);
  - d) who, by such a decision of a competent authority or a judgment of a court which has entered into effect and has become non-disputable and not subject to appeal, has been found guilty of infringement of competition rights manifested as a vertical agreement aimed at restricting the opportunity of a purchaser to determine the resale price, or horizontal cartel agreement, except for the case when the relevant authority, upon determining infringement of competition rights, has released the candidate or tenderer from a fine or reduced fine within the framework of the co-operation leniency programme;
  - e) whose insolvency proceedings have been announced (except the case where a bailout or similar set of measures is applied within insolvency proceedings oriented towards prevention of possible bankruptcy and restoration of solvency of the debtor, in which case I shall evaluate the possibility of such supplier to participate in the tender), economic activity of such supplier has been suspended or discontinued, proceedings regarding bankruptcy of such supplier have been initiated or such supplier will be liquidated;
  - f) who has tax debts according to the applicable procurement law (subject to the allowability to remedy the situation according to the applicable law) in the country where the procurement is organised or a country where such supplier is registered or permanently residing, including debts of State social insurance contributions, in total exceeding an amount which is common threshold in public procurements in the respective country.

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[signature]  
[name, last name]  
[position]  
[date]

