

Rīga

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## Electronic Procurement System

***Answers to questions from the interested supplier  
in the competitive procedure with negotiations  
“Consolidated supply of rails for Rail Baltica railway construction”,  
identification number RBR 2021/15***

RB Rail AS presents following answers to the questions received from the interested supplier until 3 September 2021:

Nr.	Questions	Answers
1.	Is it permissible for a candidate to refer to the financial performance of a subcontractor if his own resources are insufficient? Or can the qualifications of a subcontractor be relied on only to provide professional skills and experience?	<p>Procurement Commission kindly explains, that in accordance with Section 4, Article 46 of Public Procurement Law of the Republic of Latvia, a subcontractor may be involved in the supply contract or the Candidate may rely on the technical or professional capacity of other person only if such person will perform the construction work or provide the services in the procurement contract. In accordance with Section 8, Article 45 of Public Procurement Law of the Republic of Latvia, the Candidate may rely on the economic and financial capacities of other persons if it is necessary for the performance of the relevant contract, regardless of the legal nature of mutual relations thereof.</p> <p>In accordance with Clause 4.6. of the Regulations, for the fulfilment of the specific Contract, in order to comply with the selection requirements for the Candidates relating to the economic and financial standing and technical and professional ability, the Candidate may rely upon the capabilities of other persons.</p> <p>In such case, all the requirements established in Clauses 4.6.1. – 4.7. of the Regulations shall be followed and relevant documents evidencing reliance submitted, to ensure that the resources</p>

		<p>on which the Candidate has relied on, will be available for the Candidate during the fulfilment of the contract.</p> <p>Please note, that only formal reliance will not be accepted and the Candidate must prove that all resources used to meet the qualification requirements will be available during the contract fulfilment and that the entity on whose capabilities the Candidate has relied on, will be the one providing the same services during the contract.</p> <p>Please be advised, that one of the possible forms for reliance is establishment of partnership, clearly stating the responsibilities during the contract fulfilment in the cooperation agreement or similar document, however, it is up to the Candidate to decide on the most appropriate form.</p> <p>Nevertheless, the transfer of the resources shall be proved by the Candidate itself. Contracting Authority will assess each case and proofs of reliance during the evaluation of proposals.</p>
2.	<p>Can an association of persons (tenderer) use another producer for up to 10% of the total supply quantity and do not indicate this producer in qualification tender?</p>	<p>Procurement Commission kindly explains that during the Stage One of the Competition it is not requested to reveal the information regarding the sub-contractors / sub-suppliers involved. However, during the Stage Two of the Competition the Tenderer will be requested to indicate sub-contractors, whose share of works is equal to or exceeds 10% of the Contract price. Please note that manufacturers of the rails are considered as subcontractors and entities on whose capabilities Candidate is relying and such manufactures should be indicated in the Candidates Application.</p>
3.	<p>Whether the qualification of the tenderer is admissible as an association of persons, which unites 3 members, of which:</p> <p>participant A has sufficient financial qualifications,</p> <p>participant B has sufficient technical and experience qualifications,</p> <p>participant C is insufficiently qualified.</p>	<p>Procurement Commission kindly explains that each Candidate's qualification will be assessed individually, Procurement Commission is not assessing examples provided by the interested suppliers, nor is in the position to suggest forms of partnership on top of what is stipulated in the Regulations.</p> <p>Please note that in accordance with Clause 6.4.3. if an Application is submitted by a partnership, the Application shall include an agreement (or letter of intent to enter into agreement or any similar document) signed by all members of the partnership on the participation in the Competition, <u>which lists responsibilities of each and every partnership member and a joint commitment to fulfil the Procurement Contract.</u></p>

		<p>Please note, that in case of each such reliance the Candidate shall submit all evidencing documents listed in the Regulations, depending on the qualification requirement which the Candidate is envisaged to cover with capabilities of other persons. Only formal reliance will not be accepted and the Candidate must prove that all resources used to meet the qualification requirements will be available during the contract fulfilment and that the entity on whose capabilities the Candidate has relied on, will be the one providing the same services during the contract (e.g. if the Candidate has relied on the capabilities of other person to meet experience in the turnout design, such person shall provide the turnout design services during the contract fulfilment).</p> <p>In accordance with Section 4, Article 46 of Public Procurement Law of the Republic of Latvia, a subcontractor may be involved in the supply contract or the Candidate may rely on the technical or professional capacity of other person only if such person will perform the works or provide the services in the procurement contract.</p>
4.	Do translations of application documents need to be certified by a certified translator?	Procurement Commission kindly explains that according to Clause 6.7. of the Regulations, when submitting the Application, the legal representative of the Candidate has the right to certify the correctness (self-certify) of all submitted documents' derivatives and translations itself. In such case no certified translation is required.
5.	<p>We have a question regarding Clause 4.4 of the Regulations. If a candidate applies for all three lots (Latvia, Lithuania, Estonia), then in accordance with p.4.4.2 (and also 4.4.3, 4.4.4) he must have delivery experience of rail 60E1 R350HT 60 000 tons for each lot (ie a set of 3 x 60000 = 180000 tons for any continuous period of 12 months) is there enough delivery experience of 60000 tons for any continuous period of 12 months in total?</p> <p>Mums ir jautājums sakarā ar Nolikuma p.4.4- Tehniskās spējas. Ja kandidāts pretendē uz visām trim lotēm (Latvija, Lietuva, Igaunija), tad saskaņā ar p.4.4.2 (un arī 4.4.3, 4.4.4) viņam jābūt piegādes pieredze slīdes 60E1 R350HT 60 000 tonnas katrām lotēm (t.i. kopā 3 x 60 000 = 180 000 tonnas jebkurā nepartrauktā periodā 12</p>	Procurement Commission notes that the Candidate is requested to have experience to fulfil the requirements set out in Clauses 4.4.2.-4.4.4. of the Regulations. The amount of the supply must meet the requirement stipulated in the relevant lot to which Candidate applies. If the Candidate applies to all three lots, experience for one or several clients for the total amount of the supply must be not less than 180 000 tons of the rails in any continuous period of 12 months.

	menešos) vai pietiek piegādes pieredze 60 000 tonnas jebkurā nepartrauktā period 12 mēnešos?	
6.	Can the tenderer qualify if he has sufficient experience for not heat treated steel grade for requested rail profiles. All other criteria has fulfilled.	Procurement Commission kindly explains that all of the criteria set out in Clauses 4.4.2. – 4.4.4. of the Regulations, including heat treatment parameter R350HT, must be met.

Procurement Commission Chairman

M.Blaus

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