

Riga

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Our Ref: 1.13p/LV-2022-221

Electronic Procurement System

***Answers to questions from an interested suppliers
in the competitive procedure with negotiation
"Rail Baltica Energy Subsystem Design and Build",
identification number RBR 2022/7***

RB Rail AS presents following answers to questions received from the interested suppliers until 13th July 2022:

No	Question	Answer
1	If a candidate is a consortium between a group of companies, do all companies need to submit a separate prequalification in the E-tender system, or can all documents be collected using only one account?	<p>The Procurement commission explains, if an interested supplier wants to participate in procurement "<i>Rail Baltica Energy Subsystem Design and Build</i>", ID No RBR 2022/7 (hereinafter – Procurement) procedure as a consortium (partnership), then all companies need to submit application using only one account at Electronic Procurement System (hereinafter – EPS).</p> <p>Additionally, the Procurement commission kindly asks the interested supplier to pay attention to the requirements of the Procurement regulations in which documents information about the partnership need to be identified (e.g., please see the Annex No 1 of the Procurement regulations).</p>
2	<p>An association of persons, one of whose members is the branch registered in Latvia of international company incorporated in the European Union (EU) (hereinafter - Latvian branch), plans to participate in the procurement.</p> <p>The members of association of persons intend to conclude a preliminary consortium agreement and together fulfil criteria of the Candidate Selection Regulations.</p> <p>It is planned that the Latvian branch would be appointed as the key member of the association of persons and the preliminary consortium agreement would include authorization for the Latvian branch to act on behalf of the other members of the association of persons. Accordingly, it is</p>	<p>The answer to the first question: The Procurement commission confirms that the Latvian branch can participate in the Procurement as a candidate or as a member of association of persons, i.e., partnership. The Procurement commission kindly asks an interested supplier to pay attention to Section 4 "<i>Candidate</i>" of the Procurement regulations.</p> <p>The answer to the second question: The Procurement commission explains if the interested supplier wants to participate in Procurement as a partnership, then all companies need to submit application using only one account at EPS (in described situation the interested supplier can use the Latvian's branch EPS profile). Also, the Latvian branch, proposed as the key member of the partnership, can sign and submit</p>

<p>planned that the application and other documentation is signed and submitted by the key member of the association of persons – the Latvian branch using its E-Tenders system profile.</p> <p>Taking into account above and according to Clause 8.1. of the Candidate Selection Regulations providing rights to request additional information and ask a question, we have the following questions:</p> <ol style="list-style-type: none"> 1. Can the Latvian branch participate in the procurement as a candidate or as a member of association of persons? 2. If the answer to question 1 is “yes”, can the Latvian branch as the key member of the association of persons sign and submit application and necessary qualification documentation on behalf of the association of persons in E-tenders system using the Latvian branch E-tenders system profile? 3. If the answer to question 1 is “yes”, does the Latvian branch need to submit all qualification documentation required by the Candidate Selection Regulations also with respect to the Latvian branch owner - international company incorporated in the European Union? 	<p>application and necessary qualification documentation on behalf of the partnership. However, the Procurement commission kindly asks the interested supplier to pay attention to all the requirements specified in the Procurement regulations, regarding the documents to be submitted, if the candidate is formed as partnership. For example, in accordance with Section 5.1.1. of Procurement regulations <i>“If the Application is submitted by a partnership, the Application shall include an agreement (or letter of intention to enter into agreement) signed by all members on the participation in the Competition, which lists responsibilities of each and every partnership member and a joint commitment to fulfil the Contract, obligation to complete the Contract in case if one or several JV members are not performing their contract obligations, and which authorises one key member to sign the Application and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made. [...]”</i>etc.</p> <p>The answer to the third question: The Procurement commission explains that the branch needs to submit all qualification documentation in accordance with Section 5 <i>“Section criteria for candidates”</i> of Procurement regulations how far is it applicable. For example, considering the legal status of the branch and the branch owner (in described situation an international company incorporated in the European Union; hereinafter – the Branch owner) and how the company's economical and financial standing is formed, it is possible that the documents that prove compliance of the requirements stipulated in the Section 5.2 <i>“Economic and financial standing”</i> of the Procurement regulations can be provided by the Branch owner only.</p> <p>Also, the Procurement commission explains that the branch needs to submit qualification documentation about branch as well as the Branch owner which are mentioned in Section 5.1. of Procurement regulations. At the same time, the Procurement commission explains that during the evaluation of exclusion grounds in accordance with Section 5.4. of Procurements regulations, it will be done for both - the branch and the Branch owner.</p> <p>Additionally, the Procurement commission wants to explain, that the requirements specified in Section 5.3. of Procurement regulations are applicable separately to the branch and the Branch owner. Namely, if the branch itself has fulfilled one of the requirements which are mentioned in Section 5.3. of the Procurement regulations, then other documents do not need to be submitted. However, if the fulfilment of the requirements is</p>
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		carried out by the Branch owner, then it is considered that it is a person on whose capacity the branch the is relying. In that case, the Procurement commission also kindly asks the interested supplier to pay attention to Section 6 " <i>Reliance on the capacities of other persons</i> " of the Procurement regulations, including the documents to be submitted.
3	<p>At this moment we are working on closing agreements with several companies to set up a JV putting together our capabilities and experience, and then we will need time to fullfil the documents, above all at this summer season with most of our employees on holidays.</p> <p>Therefore we formally request an extension of two weeks to submit the prequalification.</p>	The Procurement commission informs that the answer regarding this matter will be given no later than 22.07.2022.

Sincerely,

Procurement commission member

I. Zülke

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