

Riga

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Our Ref: 1.13p/LV-2022-242

## Electronic Procurement System

***Answers to questions from 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 21<sup>st</sup> July 2022:

No	Question	Answer
1	<p>Regarding the Sections 5.2.1 and 5.2.2, we, as a Candidate (a partnership according to a consortium agreement), understand that:</p> <ul style="list-style-type: none"> <li>- all members of our partnership together must confirm an average financial turnover jointly is not less than 300 000 000,00 EUR for the last 3 (three) financial years, and</li> <li>- if the Candidate relies on one of the Member’s capabilities of our partnership to certify it’s financial and economic performance and who will be financially and economically responsible for fulfilment of the procurement contract, then this one Member concerned must have positive equity in the last audited financial year and its liquidity ratio in the last audited financial year must be at least 1.00.</li> </ul> <p>In other words, the criterion set out in point 5.2.1 may be fulfilled by all members of the partnership, whereas at the same time the criterion set out in point 5.2.2 may be fulfilled by the one particular member of the partnership.</p> <p>Could you please confirm that our understanding is correct?</p>	<p>The Procurement commission explains that requirements stipulated in the Section 5.2.1. of the competitive procedure with negotiation “Rail Baltica Energy Subsystem Design and Build” (ID No RBR 2022/7) (hereinafter – Procurement) regulations may be fulfilled by all members of the partnership <u>together</u> (if the candidate is a partnership <u>and confirms the average financial turnover jointly</u>).</p> <p>However, requirements stipulated in the Section 5.2.2. of the Procurement regulations must be fulfilled by that member(-s) of the partnership <u>on whose capacity the candidate is relying, and who will be financially and economically responsible for fulfilment of the procurement contract.</u></p>

2	<p>A partnership (association of persons) plans to participate in the procurement as the Candidate. In case the Candidate would be awarded a procurement contract, members of the partnership would be able to issue separate invoices by each member of the partnership to the contracting authority according to the procurement agreement concluded. I.e., an invoice should not necessarily be issued by one specific member of the partnership, but could be issued by different members of the partnership. Could you please confirm this understanding?</p>	<p>The Procurement commission informs that 2<sup>nd</sup> Stage Procurement documents, particular Draft Agreement, will regulate invoicing terms in more detail.</p> <p>In accordance with aforementioned, the relevant question at this moment will be left without consideration. The Procurement commission informs that prequalified tenderer will be able to get acquainted the terms of Draft Agreement, including specific conditions, in the 2<sup>nd</sup> Stage of the Procurement, as well ask questions.</p>
3	<p>In relation to the constitution of our consortium, we are currently exploring a number of options to manage our local set up. On this matter, we would like to know if it would be possible to add, after the prequalification process, and during bid stage, an additional Member in our consortium, this Member being a branch or a local subsidiary of one or more members of our Consortium, provided our Consortium has been successful through the prequalification process?</p>	<p>The Procurement commission explains, that in accordance with Section 2.5. of Procurement regulations, Procurement is organised in accordance with the Public Procurement Law in effect on the date of publishing the contract notice. The Competition consists of two stages:</p> <ul style="list-style-type: none"> <li>– the 1<sup>st</sup> Stage of the Procurement is qualification stage - <b>selection of Candidates who will be invited to submit a Bid in the 2<sup>nd</sup> Stage of the Procurement.</b></li> <li>– The 2<sup>nd</sup> Stage of the Procurement – proposal stage - evaluation of the Bids submitted by the Tenderers and awarding the rights to conclude a Contract. [..].</li> </ul> <p>The Procurement commission also explains that candidate is a supplier which has submitted an application in the Procurement. In accordance with Section 4.1.2. of Procurement regulations, the application can be submitted by <i>“a group of suppliers (hereinafter – Candidate, partnership) that complies with the selection criteria for Candidates [..]”</i>.</p> <p>Considering mentioned above, the purpose of the 1<sup>st</sup> Stage of Procurement procedure is to evaluate the qualification of candidates (including partnership) to selection criteria for candidates and select candidates who will be invited to submit a Bid in the 2<sup>nd</sup> Stage of the Procurement. Any changes of member of partnership (in the described situation, the <u>addition of a new member of partnership during the 2<sup>nd</sup> Stage of Procurement</u></p>

		<p><u>procedure</u>) will be considered as a change of candidate which submitted the application and whose compliance with the selection requirements has been evaluated, which is not allowed.</p> <p>Additionally, the Procurement commission kindly asks the interested supplier to carefully consider the members of the potential partnership, as well as create partnership only with such members that will not withdraw from partnership afterwards. The Procurement commission also like to inform, that the partnership cannot participate even in the 2<sup>nd</sup> stage of the Procurement procedure without one of the partnership members, despite the fact that the qualification requirements are fulfilled without the partnership member who withdraws.</p>
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Sincerely,

Procurement commission chairperson

A. Benfelde

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