

*Approved by RB Rail AS  
procurement commission, decision made on  
23.11.2022 (session minutes No 1)*

## **CANDIDATE SELECTION REGULATIONS**

for Competitive Procedure with Negotiation

**Design and design supervision services for the construction of the new railway line through  
Kaunas Urban Node**

(identification No: RBR 2022/25)



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

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## REGULATION

### 1. GENERAL INFORMATION

- 1.1. **The subject-matter of the Competition – Design and design supervision services for the construction of the new railway line through Kaunas Urban Node.** General description of the subject-matter of the Competition is included in Annex No 2. “General terms and the scope” to the Regulation for the Selection of the Candidates. **During the stage of the Selection of the Candidates, General description of the subject matter is given for informative purposes only. Detailed description of the subject-matter of procurement will be issued to the Candidates, which will be selected for participation in the Second Stage of the Competition.**
- 1.2. This Competition is a competitive procedure with negotiation organised in accordance with Section 8, Paragraph 6, Clause 3 of the Public Procurement Law (“<...> the procurement contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, the complexity or the legal and financial make-up of the procurement, or because of the risks attaching to them; <...>”) of Latvia and Section 2.3. of the Republic of Latvia Cabinet Regulations No 107 “Tendering Procedures for Procurement Procedures and Design Contests”, effective on the day of publishing of the contract notice (hereinafter referred to as – **Competition or competitive procedure with negotiation** ). The Competition consists of two stages:
  - 1.2.1. **The First stage of the Competition** – qualification stage – selection of the qualified Candidates. During the selection of the Candidates the Procurement Commission shall select Candidates compliant with the requirements of the Regulations for the Selection of the Candidates for participation in Second Stage of the Competition.
  - 1.2.2. **The Second stage of the Competition** – proposal stage - submission of initial proposal(s) of the qualified Candidates and negotiations, submission of final proposal(s) and awarding of Framework agreement. The Procurement Commission shall conduct assessment of the proposal(s) submitted by the Candidates and negotiations on initial and all further proposals. After the negotiations, the Procurement Commission shall request the Tenderers to submit their final proposals. The Procurement Commission shall verify compliance of the final proposal(s) with the requirements of the Regulation and determine the Tenderer, which is awarded the Framework agreement, through establishing of the criteria set to determine the most economically advantageous proposal. The Procurement Commission shall be entitled to make a decision not to organise negotiations and award the Framework agreement on the basis of the initial proposal(s) submitted by the Tenderers. The regulations for the undertaking of possible negotiations will be provided in the Second Stage procurement documents (hereinafter – Second Stage).
- 1.3. The identification number of this competitive procedure with negotiation is No. RBR 2022/25
- 1.4. The applicable CPV code is: 71000000-8 (Architectural, construction, engineering and inspection services).
- 1.5. The subject – matter of the Competition is not divided in lots.
- 1.6. The contracting entity is RB Rail AS, legal address: Satekles 2B, Riga, LV-1050, Latvia, (hereinafter – Contracting Authority).
- 1.7. The Contracting Authority conducts this procurement and shall conclude the Framework agreement for the benefit and on behalf of the Implementing Body that is appointed by the Ministry of Transport and Communications of the Republic of Lithuania. The Implementing Body will be making payments for the Services and will be the final owner of the results of the Services.

- 1.8. The tenderers are aware and understand that Implementing Body is of importance to ensuring national security of Lithuania, and the Tender object relates to the national security interests of Lithuania. Thus, by abiding to the requirements of the Law on the Protection of Objects of Importance to Ensuring National Security of Lithuania, the Tender contract with Implementing Body may be concluded only if and when the Coordination Commission of the Protection of Objects of Importance to Ensuring National Security of Lithuania approves that the tenderer is compliant with the national security interests of Lithuania.
- 1.9. The Competition is co - financed by the Connecting Europe Facility (CEF).
- 1.10. **Candidate** – supplier, which is registered in the Electronic Procurement System [www.eis.gov.lv](http://www.eis.gov.lv) and which has submitted an Application for First Stage of the Competition in the E-Tenders System which is subsystem of the Electronic Procurement System.
- 1.11. **Tenderer** – supplier, which is registered in the Electronic Procurement System and which has submitted a proposal(s) for Second Stage of the Competition in the E-Tenders System which is the subsystem of the Electronic Procurement System.
- 1.12. **Application** – the application submitted by the Candidate in First Stage of the Competition.
- 1.13. **Procurement Commission** – the Competition is conducted by the Procurement Commission established by the Contracting Authority.
- 1.14. **Electronic Procurement System (E-Tenders System)** – the electronic system used to carry out the procurement in the electronic form. The registration and connection to the system: [www.eis.gov.lv](http://www.eis.gov.lv).
- 1.15. **Framework agreement** (hereinafter also procurement **contract or Contract** ) - an agreement between the contracting entities under Section 1.6. and 1.7. of the Regulation, including RB Rail AS as central purchasing body, and economic operator (awarded Tenderers) the purpose of which is to establish and characterise the procurement contracts to be concluded within a certain period of time and to provide for the provisions according to which such contracts will be concluded.
- 1.16. **Framework agreement duration** : 96 months (or until the full acceptance of construction works) from the commencement day. A service agreement for master design preparation of whole section will be concluded after framework agreement shall be signed. The number and timing of agreements for preparation of detailed technical design and design supervision shall be concluded based on the decision of Contracting Authority.
- 1.17. This competitive procedure with negotiation is carried out using E-Tenders system which is a subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Supplier>). Suppliers apply for the Electronic Procurement System (if the Candidate is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurement-system/>).
- 1.18. This Regulation and all its annexes are freely available in the Contracting Authority's profile in the E-Tenders system on the webpage <https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492> and the Internet site of the Contracting Authority <http://railbaltica.org/tenders/>.
- 1.19. Amendments to this Regulation and answers to Candidates' questions shall be published on the E-Tenders system webpage <https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492> and the Contracting Authority's Internet site <http://www.railbaltica.org/tenders/>. It is the Candidate's responsibility to constantly follow the information published on the webpage and to take it into consideration in its Bid.
- 1.20. Contact person of the Contracting Authority for this Competition: Procurement Specialist Renata Bajorinienė, telephone No +370 699 05831, e-mail address: [renata.bajoriniene@railbaltica.org](mailto:renata.bajoriniene@railbaltica.org). Requests for information or additional explanations must be submitted solely through the E-Tenders system. Answers to questions or explanations from the Contracting Authority are also provided through the E-Tenders system.

## 2. INFORMATION ABOUT THE SECOND STAGE OF THE COMPETITION AND THE CONTRACT

- 2.1. During the Second Stage of the Competition the Procurement Commission will choose the most economically advantageous proposal according to criteria covering technical, financial etc. aspects which comply with the requirements set in the documentation of the Second Stage of the Competition. Detailed criteria and methodology for the award of the most economically advantageous proposal will be specified in the documentation of the Second Stage of the Competition.
- 2.2. During the Second Stage of the Competition Candidates will be required to provide information about their subcontractors in their tenders. The Contracting Authority shall evaluate, inter alia, subcontractors, whose share of the Contract is equal to or exceeds 10% of the Contract price, of the Tenderer to whom the rights to conclude the Contract should be assigned. In case such subcontractors will comply with any of the exclusion grounds which are mentioned in Sections 4.9.2. to 4.9.8. and 4.9.12. – 4.9.13., the Contracting Authority shall request the Tenderer to change such subcontractor. If the Tenderer will not submit documents about another subcontractor which complies with the selection criteria within 10 (ten) business 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 Competition.
- 2.3. Conditions of the bid security will be provided in the Second Stage of the Competition.
- 2.4. The Tenderer will be obliged to submit the securities provided for in the Framework agreement according to the provisions laid down in the Framework agreement and the security forms included in annexes thereto, if any, which will be included in the documentation of the Second Stage of the Competition. All costs for the securities to be submitted and insurance shall be covered by the Tenderer at its own expense.
- 2.5. Payments to the contractor will be made in accordance with the payment conditions specified in the draft Framework agreement, which will be included in the documentation of the Second Stage of the Competition.
- 2.6. The successful Tenderer shall be obliged to ensure that its participation in the implementation of the Contract would not create any conflicts of interests.
- 2.7. Intellectual property rights related requirements shall be stipulated in more detail in the Second Stage documentation.
- 2.8. The liability of the parties shall be determined pursuant to the applicable laws of the respective country and the Contract. The parties shall properly fulfil their obligations undertaken under the Contract and shall refrain from any actions that may lead to damage to each other or that could impede the other party's fulfilment of the obligations undertaken.
- 2.9. The Contracting Authority shall be entitled to unilaterally withdraw from the Contract should international or national sanctions or sanctions significantly affecting the interests of the financial and capital markets of the European Union or a Member State of the North Atlantic Treaty Organisation, should enter into force and would hinder execution of the Contract.
- 2.10. According to Article 5k of Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and Contracting Authority's discretion according to Section 15 of the Public Procurement Law of Latvia it is prohibited to participate in the Competition:
  - 2.10.1. a Russian national, or a natural or legal person, entity or body established in Russia or in country which is not member to the Agreement on Government Procurement of the World Trade Organisation;
  - 2.10.2. a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by an entity referred to in point 2.10.1. of this paragraph;or

2.10.3. a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in point 2.10.1. or 2.10.2. of this paragraph, including, where they account for more than 10 % of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the Public Procurement Law of Latvia.

2.11. The proposal shall be rejected if:

(i) the Candidate, its subcontractor, the legal or natural person whose capacity is relied upon, the manufacturer of the goods offered by the supplier (including their components) is registered or the natural persons, controlling them, permanently reside in or have the citizenship of the states or territories, approved by the Decision Nr. 280, dated 30-03-2022 of the Government of the Republic of Lithuania as the territories to whom this ground for rejection is applied;

(ii) the Tenderer is found to be incompliant with the national security interests of Lithuania by respective institutions of Lithuania as provided by law;

(iii) respective institutions of Lithuania require the Tenderer to implement additional measures, but the Tenderer refuses to do so, does so breaching the deadline set by the respective institutions of Lithuania, or the respective institutions of Lithuania render the implemented measures as insufficient/inadequate.

**The check of compliance with the national security interests foreseen in clauses (ii) and (iii) will be implemented at the Second Stage of the Competition, before the signature of the Contract with the winning Candidate.**

### 3. CANDIDATE

3.1. The application can be submitted by:

3.1.1. A supplier, who is a legal or natural person and who complies with the selection criteria for the Candidates;

3.1.2. A group of suppliers that complies with the selection criteria for the Candidates:

3.1.2.1. A group of suppliers who have formed a partnership for this particular Competition. In this case all the members of the partnership shall be listed in Annex 1. "Application form". 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 Civil Law of the Republic of Latvia, Sections 2241 till 2280) and shall submit one copy of this agreement to the Contracting Authority or establish a general or limited partnership (within the meaning of Commercial Law of the Republic of Latvia, Chapter IX and X) and notify the Contracting Authority in writing.

3.1.2.2. An established and registered partnership (a general partnership or a limited partnership, within the meaning of Commercial Law of the Republic of Latvia, Chapter IX and X) which complies with the selection criteria for Candidates.

3.1.2.3. With reference to Section 15 of the Public Procurement Law of Latvia and the Contracting Authority's discretion in the application of Section 15, participation of any entities from the Russian Federation and/or the Republic of Belarus is prohibited.

### 4. SELECTION CRITERIA FOR CANDIDATES

4.1. Technical and professional ability<sup>1</sup>

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<sup>1</sup> If a Candidate is a partnership, members of the partnership together shall comply with the above requirements.

No	Requirement	Documents to be submitted
4.1.1.	<p>Within the previous 7 years (year 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022 till the date of the submission of the application), the Candidate has gained the following experience:</p> <ol style="list-style-type: none"> <li>1) as a main contractor of at least 2 (two) completed and accepted in the agreed term and quality design contracts (or fully completed design stages for a part of the contract, if the full contract is not yet completed*). The designs completed must meet these technical requirements: <ul style="list-style-type: none"> <li>• Design shall be for 1435 mm gauge;</li> <li>• It shall be TSI compliant railway track design;</li> <li>• Design shall foresee the design speed <math>\geq 201</math> km/h;</li> <li>• The scope of completed design or completed design stage must cover at least 50 km of main track design. The compliance to the scope (50 km) can be proved with 1 (one) or several design contracts or fully completed design stages for a part of the contract*.</li> </ul> </li> <li>2) as a main contractor of at least 1 (one) completed and accepted in the agreed term and quality design contract of 1520 mm gauge railway track design (or fully completed design stage (s) for a part of the contract, if the full contract is not yet completed*)</li> <li>3) as a main contractor of at least 1 (one) completed and accepted in the agreed term and quality design contract (or fully completed design stage (s) for a part of the contract) for railway station (passengers or freight, or combined).</li> <li>4) as a main contractor of at least 1 (one) completed and accepted in the agreed term and quality contract for design of railway bridge or railway viaduct, with the design speed <math>\geq 201</math> km/h, where: <ol style="list-style-type: none"> <li>a) the total length of the designed bridge or viaduct must be at least 300 m,</li> </ol> </li> </ol> <p>and</p>	<p>Filled in and signed Annex No 3 containing general description of projects (main activities and level of detail of design) with attached written and signed references from the clients or other objective evidence which approve the fact of performance of agreement/ services (for example, copy of agreement, service provision – acceptance deed, etc.) based on a requirement.</p> <p>If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements. The member of the consortium upon whose qualification the consortium relied in order to qualify must provide the respective services for which the respective qualification was required.</p> <p>Compliance to the requirements of points 2) 3), 4) and 5) could be fulfilled in the same contracts, provided as reference projects in point 1) or different (additional) railway design contracts, which include required structures (railway bridges/railway viaducts, 1520 mm gauge track design, railway station design, designing in BIM environment, etc) .</p>

No	Requirement	Documents to be submitted
	<p>b) at least one span length of a designed bridge or viaduct must be not less than 60 m.</p> <p>5) developing design documentation and results in a BIM environment for 1 (one) railway design project, with the railway track length not less than 20 km, where the management of information must have been carried out in accordance with Building Information Modelling development Level 2 (at least, can be higher), as defined in the PAS 1192 or ISO 19650 series of standards; i.e. the management of project information (including BIM models) must have been digital, centralized, using a common data environment.</p> <p><i>* fully completed design stages for a part of the contract, if the full contract is not yet completed means that the design technical documentation is completed in full extent, approved by client and local authorities, permitting the construction/reconstruction to commence, based on design solutions provided in technical documentation.</i></p>	

#### 4.2. Team of Key experts

No.	Requirement	Documents to be submitted
4.2.1.	<p>The Candidate shall ensure sufficient human resources capacity (detailed minimum requirements to be included in the Second stage of the Competition) covering the expertise areas dedicated for the key experts listed in Annex No 2. The Candidate shall ensure the experience (qualification) of every key expert, covering at least the following:</p> <p>1) experience in completion of at least 1 (one) design project in a field of his/her particular expertise;</p> <p>2) proficiency of English language at least at B2 level<sup>2</sup>.</p>	Filled in and signed Annex No 1 (no other evidence regarding experience of the key expert is required at this stage)
4.2.2.	<p>The Candidate shall ensure that:</p> <p><i>a) Design manager, 1435 mm gauge railway track designer, Structural/bridge designer,</i></p>	

<sup>2</sup> According to the Common European Framework.



No.	Requirement	Documents to be submitted
	<p>listed as key experts in Annex No 2 each have experience as lead designer<sup>3</sup> in a completed railway design project, covering 1435 mm gauge and TSI compliant railway with the speed <math>\geq 201</math>.</p> <p>b) <i>1520 mm gauge railway track design expert/engineer</i>, indicated as a key expert in Annex No 2, has experience as a lead designer in a completed railway design project of 1520 mm gauge railway track.</p>	

- 4.3. The experience of key experts (in the field of subject-matter) will be evaluated during the Second Stage of the Competition as one among several criteria which will be evaluated in order to select the winning bid. Key experts should be certified or to be able to present evidence that they applied for certification according to Lithuanian legalisation within a month after signing of agreement.
- 4.4. Please note, that due to limited term of design preparation the Supplier must ensure 100% active participation of the key experts in the project preparation at the local office in Lithuania. The regulations of this conditions will be provided in the Second Stage procurement documents and Contract conditions.
- 4.5. The ability to perform tasks assigned to the Team of Key experts proposed by the Tenderer in accordance with Technical Specification shall be assessed in the Second Stage of the Competition by requesting additional information about their involvement in other contracts (as well as contracts already signed for implementation of Rail Baltica project) in case of any doubts of availability or in case of any possible risks related to conflict of interests. In case of negative outcome of the assessment of any of the Tenderer's proposed Key experts' ability to perform to the requirements of the established scope and time or without risks of conflict of interest the Tenderer can become a ground for rejection of the Proposal. For example, *inter alia*, a reason for such request can be involvement in such parallel contract(s) where the Tenderer has been requested to provide certain availability and/or a 100% dedication of the expert or subject of such contract represents conflict of interest in such meaning where any duties of supervision are cross breached. Please note that it is highly anticipated from the Tenderer's side to choose a Team of Key experts that are not in conflict in relation to their availability or interests.
- 4.6. Legal standing and suitability to pursue the professional activity

No	Requirement	Documents to be submitted
4.6.1.	<p>The Candidate or all members of the partnership (if the Candidate is a partnership) or persons on whose capabilities the Candidate is relying must be registered in the Commercial Register or an equivalent register of commercial activities in the state if its establishment if regulatory enactments of the respective state envisage such a requirement.</p>	<ul style="list-style-type: none"> <li>- For a Candidate, each member of the partnership (if the Candidate is a partnership), a person on whose capabilities the Candidate is relying, which is a legal person registered in Latvia, the Contracting Authority shall verify the information itself in publicly available databases.</li> <li>- For a Candidate, each member of the partnership (if the Candidate is a partnership), a person on whose capabilities the Candidate is</li> </ul>

<sup>3</sup> The experience under definition "lead designer" covers full responsibility in accordance to a national legislation in a specific design field. If there are no express provisions in the legislation of the delivery of the design, then the contracting authority shall deem sufficient (i) an explanation of the supplier regarding the applicable laws in the place of the delivery of the qualifying design and (ii) informing the Contracting Authority of the relevance of the lead designer's experience.

No	Requirement	Documents to be submitted
		<p>relying, which is a natural person – a copy of an identification card or passport.</p> <ul style="list-style-type: none"> <li>- For a Candidate, each member of a partnership (if the Candidate is a partnership), a person on whose capabilities the Candidate 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 <b>wherefrom at least the fact of registration, beneficial owners, legal representatives (officials) and procura holders (if any) can be determined</b> . Any other official document (s), containing the information about beneficial owners, legal representatives and procura holders (if there are any), which is (are) certified by the authorized representative of the legal person or the relevant foreign authority will be also accepted.</li> </ul>

#### 4.7. Economic and financial standing

No	Requirement	Documents to be submitted
4.7.1.	<p>The Candidate's average financial turnover within the last 3 (three) financial years is not less than 18 million EUR.</p> <p>If the Candidate is a partnership (consortium), the turnover of all members of a partnership together shall comply with the above requirement.</p> <p>In the case the average financial turnover of a limited liability member of a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) exceeds its investment in the limited partnership, the average financial turnover shall be recognised in the amount of the investment in the limited partnership.</p> <p>In the case the Candidate or a member of a partnership (if the Candidate is a partnership) has operated in the market for less than 3 (three) years, the requirement shall be met during the Candidate's actual operation period.</p> <p>In the case the previous 3 (three) financial years of particular Candidate differs from financial years stated in Regulations, financial turnover shall be indicated for previous 3 (three) financial years where financial report is available.</p>	<ul style="list-style-type: none"> <li>- Filled in and signed Annex No 4 (by the Candidate).</li> <li>- Audited or self-approved by the Candidate (only in case if audited yearly financial report is not required by the law of the country of residence of the supplier) yearly reports (including balance sheet, profit – loss statement) for last 3 (three) financial years showing the turnover of the Candidate and each member of the partnership on whose abilities the Candidate is relying to certify it's financial and economic performance and who will be financially responsible for the execution of the Contract (if the Candidate is a partnership).</li> <li>- For a limited partnership (within the meaning of Latvian Commercial Law, Chapter X) an additional document evidencing the amount of the investment by the limited liability partner (the partnership agreement or a document with a similarly binding legal effect).</li> <li>- If an Application is submitted by a partnership, the Candidate <b>shall indicate the member of the partnership on whose capabilities the Candidate is relying to certify it's financial and economic performance and who will be</b></li> </ul>

No	Requirement	Documents to be submitted
		financially and economically responsible for fulfilment of the Contract including this information in the agreement of cooperation (or letter of intention to enter into agreement) stipulated in Clause 6.4.3.
4.7.2.	<p>The Candidate shall have stable financial and economic performance, namely, in the previous audited year (if auditing the financial report is required by the law applicable to the Tenderer) the Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 and the Tenderer shall have positive equity.</p> <p>If the Candidate is a consortium, the Tenderer shall indicate all members of the consortium on which turnover, as combined, it relies upon for the above requirement and the liquidity ratio of each of the consortium members, on which financial capabilities the Tenderer relies upon, shall comply with the above requirement.</p>	

#### 4.8. Quality Management standards

No	Requirement	Documents to be submitted
4.8.1.	<p>The Candidate shall have valid quality management system that complies with ISO 9001:2015 standard or equivalent and which is audited by an independent auditor.</p> <p>If the Candidate is a partnership, each member of the partnership shall comply with the above requirements.</p>	A copy of valid audited by an independent auditor certificate of ISO 9001:2015 or equivalent quality management system conforming to the European certification standards, or a copy of certificate issued by other authority accredited in accordance with the procedures laid down in the regulatory enactments of other Member State of the European Union.

#### 4.9. Exclusion grounds

The Contracting Authority shall exclude the Candidate from further participation in the Competition in any of the following circumstances according to Article 42, Paragraph 1 of the Public Procurement Law:

No	Requirement	Documents to be submitted <sup>4</sup>
4.9.1.	Within previous 3 (three) years before submission of the Application the Candidate or a person who is the Candidate's management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Candidate in operations in relation to a branch, has been found guilty of or has	No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.

<sup>4</sup> If the Candidate submits the European Single Procurement Document as the initial proof, there is no obligation to submit other documents, unless specifically requested by the procurement commission.

No	Requirement	Documents to be submitted <sup>4</sup>
	<p>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 organisation or in an organised group included in the criminal organisation or other criminal formation, or participation in criminal offences committed by such an organisation,</p> <p>b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorised participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting and providing of benefits, trading influences,</p> <p>c) fraud, misappropriation or money-laundering,</p> <p>d) terrorism, terrorism funding, formation or organization of terrorist group, travelling for terrorism purposes, justification of terrorism, calling to terrorism, terrorism threats or recruiting and training a person in performance of acts of terrorism,</p> <p>e) human trafficking,</p> <p>f) evasion of taxes and similar payments.</p>	
4.9.2.	<p>It has been detected that <u>on the last day of the term for submitting Applications</u> (Stage One) or <u>on the day when a decision has been made</u> on possible granting of rights to conclude the procurement contract (Second Stage), the Candidate has tax debts in Latvia or a country where it has been incorporated or is permanently residing, including debts of mandatory state social insurance contributions exceeding 150 euro in total in any of the countries.</p>	<p>No obligation to submit documents unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.</p>
4.9.3.	<p>Candidate's insolvency proceedings have been announced, the Candidate's business activities have been suspended, the Candidate is under liquidation.</p>	<p>No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.</p>
4.9.4.	<p>A person who drafted the procurement procedure documents (Contracting Authority's official or employee), Procurement Commission member or expert is related to the Candidate, or is</p>	<p>No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.</p>

No	Requirement	Documents to be submitted <sup>4</sup>
	<p>interested in selection of some Candidate, and the Contracting Authority cannot prevent this situation by measures that cause less restrictions on Candidates. 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 Candidate 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 Candidate or a subcontractor which are legal persons 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 Candidate'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 Candidate or a subcontractor which is a natural person.</p> <p>If the Candidate is a partnership, consisting of natural or legal persons, a relation to the Candidate is presumed also if a person who drafted the procurement procedure documents (Contracting Authority's official or employee), Procurement Commission member or expert is related to a member of a partnership in any of the above-mentioned ways.</p>	
4.9.5.	<p>The Candidate 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 Competition, and the advantage cannot be prevented by less restrictive measures, and the Candidate cannot prove that its or its related legal person's participation in preparing the procurement procedure documents does not restrict competition.</p>	<p>No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.</p>
4.9.6.	<p>Within the previous 12 (twelve) months before last day of the term for submitting Applications (Stage One) by such a decision of a competent authority or a court</p>	<p>No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the</p>

No	Requirement	Documents to be submitted <sup>4</sup>
	judgment which has entered into force and may not be challenged and appealed, the Candidate 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 Candidate from a fine or has decreased the fine for cooperation within a leniency program.	Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.7.	Within the previous 3 (three) years before last day of the term for submitting Applications (Stage One) by such a decision of a competent authority or a court judgment, or a public prosecutor's order regarding punishment, which has entered into force and may not be challenged and appealed, the Candidate has been found guilty of 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.	No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.8.	Within the previous 12 (twelve) months before last day of the term for submitting Applications (Stage One) by such a decision of a competent authority or a court judgment or a public prosecutor's order regarding punishment which has entered into force and may not be challenged and appealed, the Candidate has been found guilty of 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.	No obligation to submit documents (except cases stipulated in Section 10.3. of Regulation), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.9.	The Candidate has provided false information to prove its compliance with provisions of this Section or has not provided the required information at all.	No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.10.	The Candidate is a registered offshore <sup>5</sup> company (legal person) or offshore association of persons (consortium).	No obligation to submit documents, unless specifically requested by the Procurement

<sup>5</sup> **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 <sup>4</sup>
		Commission according to Article 42 of the Public Procurement Law.
4.9.11.	The owner or shareholder (with more than 25% of share capital) of the Candidate, which is registered in Republic of Latvia, is a registered offshore company (legal person) or offshore association of persons.	No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.12.	Person on whose capabilities Candidate is relying, is a registered offshore company (legal person) or offshore association of persons.	No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.
4.9.13.	The subcontractors indicated by the Candidate whose share of contract is equal to or exceeds 10% of the Contract price, is a registered offshore company (legal person) or offshore association of persons.	No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law in Second Stage of this Competition.
4.9.14.	<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) Candidate or a person who is the Candidate's management board or supervisory board member, beneficial owner, person with representation rights or a procura holder, or a person who is authorised to represent the Candidate 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 owner, person with representation rights or a procura holder (if the Candidate is a partnership), and such sanctions can affect the execution of the Procurement contract.</p>	No obligation to submit documents, unless specifically requested by the Procurement Commission according to the Article 11 <sup>1</sup> . of the Law on International Sanctions and National Sanctions of the Republic of Latvia in Second Stage of this Competition.
4.9.15.	According to Article 5k of Council Regulation (EU) 2022/576 of 8 April 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine and Contracting Authority's	No obligation to submit documents, unless specifically requested by the Procurement Commission according to the Article 11 <sup>1</sup> . of the Law on International Sanctions and National

<sup>[1]</sup> **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.



No	Requirement	Documents to be submitted <sup>4</sup>
	<p>discretion according to Section 15 of the Public Procurement Law of Latvia it is prohibited to participate in the Competition:</p> <p>a) a Russian national, or a natural or legal person, entity or body established in Russia or in country which is not member to the Agreement on Government Procurement of the World Trade Organisation;</p> <p>b) a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by an entity referred to in point a) of this paragraph;</p> <p>or</p> <p>c) a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in point a) or b) of this paragraph, including, where they account for more than 10 % of the contract value, subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the Public Procurement Law of Latvia.</p>	<p>Sanctions of the Republic of Latvia in Second Stage of this Competition.</p>
4.9.16.	<p>The Candidate, its subcontractor, the legal or natural person whose capacity is relied upon, the manufacturer of the goods offered by the Candidate (including their components) is registered or the natural persons, controlling them, permanently reside in or have the citizenship of the states or territories, approved by the Decision Nr. 280, dated 30-03-2022 of the Government of the Republic of Lithuania as the territories to whom this ground for rejection is applied;</p>	<p>No obligation to submit documents, unless specifically requested by the Procurement Commission according to the Article 11<sup>1</sup>. of the Law on International Sanctions and National Sanctions of the Republic of Latvia in Second Stage of this Competition.</p>
4.9.17.	<p>Exclusion grounds described in Section 4.9.1. to 4.9.8. and 4.9.16 shall be applied also to each member of the partnership if the Candidate is a partnership, to each person on whose capabilities the Candidate is relying on to meet qualification requirements.</p> <p>Exclusion grounds described in Section 4.9.2. to 4.9.8. and 4.9.16 shall be applied also to each subcontractor indicated by the Tenderer in Second Stage of this competition whose share of work is equal to or exceeds 10% of the total Contract price.</p>	<p>No obligation to submit documents (except cases stipulated in Section 10.3. of Regulations), unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law.</p> <p>No obligation to submit documents, unless specifically requested by the Procurement Commission according to Article 42 of the Public Procurement Law in Second Stage of this Competition.</p>
4.10.	<p>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</p>	



professional ability, the Candidate may rely upon the capabilities of other persons, regardless of the legal nature of their mutual relationship. In this case the Candidate indicates:

- 4.10.1. in the Application all persons upon whose capabilities it relies by filling in the table, which is attached as Annex No 1, fills necessary information in E-Tenders system, and;
- 4.10.2. proves to the Contracting Authority that the Candidate will have available all the necessary resources for the fulfilment of the Contract, by submitting a signed agreement on cooperation and/or passing of resources to the Candidate between such persons and the Candidate. The agreements on cooperation and passing of resources can be replaced by the Candidate with any other type of documents with which the Candidate is able to prove sufficiently that the necessary resources will be available to the Candidate and will be used during the term of fulfilment of the Contract. Note, that the single declaration form without documentary proof is not acceptable).
- 4.11. Documents on cooperation and passing of resources have to be sufficient to prove to the Contracting Authority that the Candidate will have the ability to fulfil the Contract, as well as that during the validity of the Contract the Candidate will in fact use the resources of such person upon whose capabilities the Candidate relies.
- 4.12. The Contracting Authority shall require establishing joint and several liability for the execution of the Contract between the members of a partnership (if the Candidate is a partnership) on whose financial and economic capabilities the partnership is relying and who will be financially and economically responsible for the fulfilment of the Contract or between the Candidate and any other person on whose financial and economic capabilities the Candidate is relying to meet requirements regarding financial and economic standing defined in Regulations and who will be financially and economically responsible for the fulfilment of the Contract.
- 4.13. The Candidate, in order to certify that it complies with the selection criteria for Candidates, may submit the European Single Procurement Document (hereinafter - **ESPD**) as initial proof. If the Candidate has chosen to submit ESPD, it has to submit this document for the Candidate and for each person upon whose capabilities the Candidate relies, but if the Candidate is a partnership – for each member thereof. The form of ESPD is given in Annex No 5 to the Regulations. The ESPD must be completed by importing the provided form (XML file) to the website <http://espd.eis.gov.lv>, or by filling in PDF file and signing the printed document with physical signature.

## 5. THE RIGHTS OF THE CANDIDATE

- 5.1. The Candidate can request additional information regarding the Regulations. Additional information can be requested in writing, by sending it to the Procurement commission electronically, using the E-Tenders system. Additional information must be requested in a timely manner, so that the Procurement commission can provide a response no later than 6 (six) days prior to the deadline for submitting applications. The Procurement commission shall provide a response within 5 (five) business days from the day of receipt of the request.
- 5.2. If the Contracting Authority receives the necessary information about the Candidate directly from a competent institution through data bases or other sources and the Candidate's submitted information differs from the information obtained by the Contracting Authority, the Candidate in question has the right to submit evidence to prove the correctness of the information the Candidate has submitted, if the information obtained by the Contracting Authority does not conform to the factual situation.
- 5.3. If a Candidate believes that its rights have been violated or such violation is possible due to possible violation of the laws of the European Union or other laws, the Candidate has the right to submit a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Public Procurement Law of Latvia regarding the Candidate selection requirements, technical specifications or other requirements relating to this Competition, or relating to the activities of the Contracting Authority or the procurement commission during the Competition.

- 5.4. The Candidate covers all expenses, which are related to the preparation of an Application and its submission to the Contracting Authority. The submitted applications are not returned to the Candidate, unless specifically envisaged in the Regulation.

## 6. CONTENTS AND FORM OF THE APPLICATION

- 6.1. Application must be submitted electronically in E-Tenders subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492>) in accordance with the following options for the Candidate:
- 6.1.1. by using the available tools of E-Tender subsystem, filling the attached forms of the E-Tender subsystem for this procurement procedure;
  - 6.1.2. by preparing and filling the necessary electronic documents outside the E-Tenders subsystem and attaching them to the relevant requirements (in this situation, the Candidate takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
  - 6.1.3. by encrypting electronically prepared Application outside subsystem of E-Tenders with data protection tools, provided by third parties, and protection with electronic key and password (in this situation, the Candidate takes responsibility for the correctness and compliance of the forms to the requirements of such documentation and form samples as well as ensuring the capability for the Contracting Authority to open and read the document).
- 6.2. During preparation of the Application, the Candidate respects the following:
- 6.2.1. Application form must be filled in a separate electronic document, in line with the forms attached to the procurement process of the E-Tenders subsystem in a Microsoft Office 2010 (or later) format and attached to the designated part of the procurement procedure;
  - 6.2.2. Upon submission, the Candidate signs the Application with a secure electronic signature and time-stamp or with an electronic signature provided by the Electronic Procurement System. The Candidate can use a secure electronic signature and time-stamp and sign its Application form separately.
- 6.3. The Application (its parts, if signed separately) are signed by an authorised person, including their authorisation document (e.g. power of attorney) *expressis verbis* stating the authorisations to sign, submit and otherwise manage the Application.
- 6.4. The following documents shall be included in the Application:

No	Document	Corresponding section in E-Tenders system ( <a href="https://www.eis.gov.lv/EKEIS/Supplier/">https://www.eis.gov.lv/EKEIS/Supplier/</a> ) where document shall be uploaded
6.4.1.	Filled Application form in accordance with Annex No 1.	Selection requirements
6.4.2.	<b>Documents confirming the right of signature (representation):</b> A document confirming the right of signature (representation) of the representative of the Candidate or each member of a partnership (if Candidate is a partnership) who has signed	Other requirements

	<p>Application for this Competition and any other document (e.g. partnership agreement, agreement on cooperation, letter of intent etc.) included in the Application.</p> <p>A document confirming the right of signature (representation) of the representative of the person on whose capabilities the Candidate is relying to meet qualification criteria stipulated in Regulation and who has signed any documents (agreement on corporation, letter of intent etc.) included in Application.</p>	
6.4.3.	<p><b>Documents confirming establishment of partnership (consortium)</b></p> <p>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, which:</p> <ol style="list-style-type: none"> <li>1) lists responsibilities of each and every partnership member;</li> <li>2) establishes joint commitment to fulfil the Framework Agreement;</li> <li>3) specifies the member (s) of the partnership on whose capabilities the Candidate is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract;</li> <li>4) authorises one key member to sign the Application and other documents;</li> <li>5) authorises one key member to receive and issue orders on behalf of the partnership members;</li> <li>6) indicates with whom all payments under the Contract will be made.</li> </ol>	Other requirements
6.4.4.	Information and documents (including documents, but not limited to, according to Section 4.1. – 4.2., 4.6. – 4.8.), confirming compliance of the Candidate with the selection criteria for the candidates, or the corresponding ESPD;	Selection requirements/ Other requirements
6.4.5.	Information and documents relating to the entities on whose capabilities the Candidate is relying (according to Section 4.10), or the corresponding ESPD (If applicable)	Other requirements
6.4.6.	Information and documents according to Section 10.3. (if applicable)	Other requirements

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- 6.5. The Application must be submitted in a written form, in accordance with this Regulation, in English or Latvian language. If the application is submitted in Latvian language, then upon a request by the Procurement commission the Candidate shall provide a translation in English language within the deadline requested by the Contracting Authority's procurement commission. If the application is submitted in English language, upon a request by the procurement commission the Candidate shall provide a translation in Latvian language within the deadline requested by the Contracting Authority's Procurement commission.
- 6.6. The Application may contain original documents or their derivatives (e.g. copies). In the Application or in the reply to a request of the Procurement commission the Candidate shall submit only such original documents which have legal force. For the document to gain legal force it has to be issued and formatted in accordance with the Law on Legal Force of Documents and Law on Electronic Documents of the Republic of Latvia, but public documents issued abroad shall be formatted and legalised in accordance with the requirements of the Document Legalization Law. When submitting the Application, the Candidate has the right to certify the correctness of all submitted documents' derivatives and translations with one certification.
- 6.7. The Application must be signed using an electronic signature according to regulatory acts on the status of electronic documents and electronic signature or tools provided by the E-Tender system or using a signature tool which provides confirmation of the identity of the document's signer by a person who is legally representing the Candidate or is authorised to represent the Candidate in this Competition procedure.
- 6.8. Applications submitted after the expiry of the deadline for the submission of Applications shall not be reviewed.

## 7. ENCRYPTION OF THE APPLICATION INFORMATION

- 7.1. The E-Tender [system](#) which is a subsystem of the Electronic Procurement System, ensures the first level encryption of the information provided in the Application documents.
- 7.2. If the Candidate applied additional encryption to the information in the Application (according to Section 7.1.), the Candidate has to provide the Contracting Authority's Procurement commission representative listed in Section 1.19. with electronic key with the password to unlock the information not later than the deadline of the Application submission.

## 8. SUBMISSION OF THE APPLICATION

- 8.1. Application (documents referred to in the Section 6) shall be submitted electronically using the tools offered by the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492> by 16.01.2023. before 14:00 o'clock (Time Zone EEST (Eastern European Winter Time), Riga (Latvia)) .
- 8.2. The Candidate may recall or amend its submitted Application before the expiry of the deadline for the submission of Applications by using the tools provided in the E-Tenders system.
- 8.3. Only Applications submitted to the E-Tenders system will be accepted and evaluated for participation in the procurement procedure. Any Application submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the procurement procedure.

## **9. OPENING OF APPLICATIONS**

- 9.1. The opening of Applications will be held in the E-Tenders system on 16.01.2023. at 14:00 o'clock (Time Zone EEST (Eastern European Winter Time), Riga (Latvia)). during the open meeting. It is possible to follow the opening of submitted Applications online in the E-Tenders system.
- 9.2. The Applications are opened by using the tools offered by the E-Tenders system, the public information of the Applications shall be published in the E-Tenders system.
- 9.3. The information regarding the Candidate, the time of Application submission and other information that characterises the Application is generated at the opening of the Applications by the E-Tenders system and written down in the Application opening sheet, which shall be published in the E-Tenders system and the Contracting Authority's webpage.

## **10. VERIFICATION OF APPLICATIONS**

- 10.1. The Contracting Authority's Procurement commission verifies whether the submitted Applications comply with the requirements of this Regulation. If the Application does not comply with some of the requirements of this Regulation, the Procurement commission decides on the possibility of further evaluation of the Application.
- 10.2. The Contracting Authority's Procurement commission:
  - 10.2.1. Verifies whether all documents according to Section 6.4. are included in Application.
  - 10.2.2. Verifies whether the Candidate complies with the Candidate selection requirements specified in Section 4 of the Regulation.
  - 10.2.3. According to Article 42 of the Public Procurement Law verifies whether the exclusion grounds mentioned in Section 4.9.1 – 4.9.12 (Article 42, Paragraph 1 of the Public Procurement Law) are applicable to the qualified Candidates (including persons on whose capabilities the Candidate is relying on to meet qualification requirements) and which may be invited to submit proposal in Second Stage of this Competition.
- 10.3. If the Candidate is subject to any of the exclusion grounds under Section 4.9.1 and 4.9.3. – 4.9.8., the Candidate shall indicate this fact in Application (Annex No 1) and provide explanations and evidence regarding the reimbursement of the damage caused or an agreement on the reimbursement of the damage caused, cooperation with the investigating authorities and the technical, organisational or personal management measures taken to demonstrate their reliability and prevent recurrence of the same and similar cases in the future.
- 10.4. If the Candidate doesn't submit explanations and evidence, Contracting Authority shall exclude the Candidate from participating in the procurement procedure as compliant to the exclusion grounds stipulated in Sections 4.9.1. and 4.9.3. – 4.9.8.
- 10.5. Contracting authority shall evaluate the measures taken by the Candidate, member of the partnership (if the Candidate is a partnership) and evidence thereof, taking into account the severity of the criminal offence or infringement and the specific circumstances. The Contracting authority may request from the competent authorities in the relevant field of criminal offence or infringement concerned opinions whether the measures taken by the Candidate are sufficient to restore reliability and to prevent the same or similar cases in the future. The opinion shall not be requested if it is already available for the Contracting authority or the Candidate has submitted an opinion of the relevant authority in the field of criminal offence or infringement regarding the sufficiency of the measures taken by the relevant Candidate for the restoration or reliability and for the prevention of the same and similar cases in the future.
- 10.6. If the Contracting authority considers the measures taken to be sufficient to restore reliability and prevent similar cases in the future, Contracting authority shall take a decision not to exclude the relevant Candidate from participating in the procurement procedure. If the

measures taken are insufficient, the Contracting authority shall take a decision to exclude the Candidate from further participating in the procurement procedure.

- 10.7. The Contracting Authority shall request the Candidate to change person on whose capabilities the Candidate is relying to meet qualification requirements for the Candidates stipulated in Regulation if such person is subject to any of exclusion grounds referred in Section 4.9.1. – 4.9.8. and 4.9.11. If the Candidate will not submit documents about another person on whose capabilities the Candidate is relying to meet qualification requirements which complies with the selection criteria within 10 (ten) business days from the date when the request was issued or sent to the Candidate, the Contracting authority shall exclude such Candidate from further participation in the Competition.
- 10.8. If the Candidate has failed to submit some of the documents which shall be submitted according to the Regulation (including evidence required by the Contracting authority in order to verify non-existence of exclusion grounds) or the contents of the submitted documents do not comply with the Regulation, the Procurement Commission decides to exclude the Candidate from further participation in the Competition.
- 10.9. Notices and other documents which are issued by Latvian competent institutions in cases referred to check of non-existence of exclusion grounds, are accepted and recognised by the Procurement Commission, if they are issued no earlier than 1 (one) month prior to submission thereof or if the notice contains a shorter validity term. Notices and other documents, which are issued by foreign competent institutions in cases referred to check of non-existence of exclusion grounds, are accepted and recognized by the Procurement Commission, if they are issued no earlier than 6 (six) months prior to submission thereof or if the notice contains a shorter validity term. The Candidate must verify the latter. This rule does not apply to fact of registration supporting documents, copies of ID cards, passports, marriage certificates or documents certifying economic standing of the Candidate.
- 10.10. If the documents, with which a Candidate registered or permanently residing abroad (outside Latvia) can certify its compliance with the requirements of Section 4.9. (Exclusion grounds), 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 Candidate or by another person mentioned in Section 4.9.1. before a competent executive governmental or judicial institution, a sworn notary or a competent organisation of a corresponding industry in their country of registration (permanent residence).
- 10.11. Only those Candidates who have been qualified, will be invited to submit the proposal in the Second Stage of the Competition.

## **11.DECISION MAKING, ANNOUNCEMENT OF RESULTS**

- 11.1. The Contracting Authority's Procurement commission selects the Candidates in accordance with the set selection criteria for Candidates, verifies the compliance of the Applications with the requirements stipulated in the Regulation.
- 11.2. Within 3 (three) business days from the date of the decision about the selection of the Candidates, the Procurement Commission informs all Candidates (to the refused Candidate the reasons for refusing its Application as well) about the decision made by sending the information electronically and keeping the evidence of the date and mode of sending the information, as well as about the deadline by which the Candidate may submit a complaint as foreseen in the Section 5.
- 11.3. If only 1 (one) Candidate complies with all the Candidate selection requirements, the Procurement commission makes the decision to terminate the public procurement procedure.
- 11.4. If the public procurement procedure is terminated, then within 3 (three) business days of the termination, the Procurement Commission simultaneously informs all the Candidates of all the reasons why the Competition procedure was terminated and informs about the deadline

within which a Candidate may submit a complaint to the Institutions referred to in the Section 5.

- 11.5. When informing of the results, the Procurement commission has the right not to disclose specific information if it may infringe upon public interests or if the Candidate's legal commercial interests or the conditions of competition would be violated.

## **12.THE RIGHTS OF THE PROCUREMENT COMMISSION**

- 12.1. For the purpose of undertaking the procurement exercise, the Contracting Authority establishes a Procurement commission, in accordance with its applicable procurement policy and the applicable Latvian Public Procurement Law. The Procurement commission and the Candidate exchange information in writing in English or Latvian language (accompanied by a translation in English), using E-Tenders system. For the avoidance of doubt, unless specifically stated otherwise, all laws, acts and regulations under which this procurement exercise is undertaken, belong to the jurisdiction of the Republic of Latvia.
- 12.2. The Procurement commission has the right to demand at any stage of the Competition that the Candidate submits all or part of the documents which certify the Candidate's compliance to the requirements for the selection of Candidates. The Procurement commission does not demand such documents or information which are already at its disposal or is publicly available free of charge. At the request of the Procurement commission, the Candidate must specify the address and method of access to the public database.
- 12.3. If the Candidate submits document derivatives (e.g. copies) and the authenticity of the submitted document derivation is in doubt, the Procurement commission can demand that the Candidate shows the original documents.
- 12.4. During the qualitative selection of Candidates, the Procurement commission has the right to demand that information included in the Application to participate in Competition is clarified.

## **13.THE OBLIGATIONS OF THE PROCUREMENT COMMISSION**

- 13.1. The Procurement commission ensures that the process of the Competition procedure is appropriately documented.
- 13.2. The Procurement commission ensures free and direct electronic access to the Competition procedure documents in the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492> and at the Internet webpage of the Joint-Stock Company RB Rail AS <http://railbaltica.org/tenders/>.
- 13.3. If an interested supplier has requested additional information via the E-Tender system, the Procurement commission provides a response via the E-Tender system within 5 (five) business days, but not later than 6 (six) days before the deadline for submitting Applications. The Contracting Authority publishes this information on the E-Tenders system's webpage and on the Contracting Authority's Internet webpage <http://railbaltica.org/tenders/>, under the section of the respective Competition procedure, indicating the question asked.
- 13.4. If the Contracting Authority has amended the Competition procedure documents, it publishes this information on the E-Tenders system's webpage <https://www.eis.gov.lv/EKEIS/Procurement/Edit/90492> and on the Contracting Authority's Internet webpage <http://railbaltica.org/tenders/>, where Competition procedure documents are available, no later than 1 (one) day after the notification regarding the amendments have been submitted to the Procurement Monitoring Bureau for publication.
- 13.5. The exchange and storage of information in the E-Tenders system is carried out in such a way that all data included in the Applications is protected and the Contracting Authority can check the content of the Applications only after the expiration of the deadline for their submission. During the time period between the day of the submission of Applications until the moment of opening thereof the Contracting Authority does not disclose any information regarding the existence of other applications. During the period of Candidate assessment

until the moment of the announcement of the results of the Candidate selection the Contracting Authority does not disclose information regarding the assessment process.

- 13.6. The Procurement commission assesses the Candidates and their submitted Applications based on the Latvian Public Procurement Law, this Regulation on competitive procedure with negotiations, as well as any other applicable regulatory enactments.
- 13.7. If the Procurement commission determines that the information included in the submitted documents about the Candidate, its subcontractors and persons upon whose capabilities the Candidate is relying is unclear or incomplete, the Procurement commission demands that the Candidate or a competent institution clarifies or expands the information included in the Application. The deadline for the submission of the necessary information is determined proportionally 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 Candidate 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 and the Contracting Authority's Procurement commission evaluates Applications based on the information available in the such Applications.
- 13.8. The Procurement commission prepares the invitation to the Second stage of the Competition consisting of the Regulations of the Second Stage of the competitive procedure with negotiations, the Technical Specification and the draft Contract and sends it to the selected Candidates that have been qualified for the Second Stage of the competitive procedure with negotiations.

#### **14.ANNEXES:**

1. Application Form on 2 (two) pages.
2. General terms and the scope of building design in Lithuania "Design and design supervision services for the construction of the new line through Kaunas Urban Node" on 4 (four) pages.
3. Table "Experience of the Candidate" on 2 (two) pages.
4. Confirmation of Candidates Financial and Economic standing on 1 (one) page.
5. Form of European Single Procurement Document (ESPD) on 22 (twenty two) pages.