REGULATIOns

for THE Open competition

“Procurement and Commercial Services Framework for the Rail Baltica Global Project” (Identification No RBR 2022/22)



Riga, December 2022

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1. Abbreviations and terms
   1. **Common procurement vocabulary (CPV)** – a nomenclature approved by the European Union which is applied in public procurement procedures;
   2. **Framework Contract** - signed agreement between Contracting authority and a Contractors (service providers) to provide services defined in this agreement;
   3. **Contracting authority** (also the Contracting entity) - the joint stock company RB Rail AS, registration number 40103845025, legal address: Satekles iela 2B, Riga, LV-1050, Latvia;
   4. **Contractor** - service provider awarded the right to enter into the Contract in Open competition to provide services in accordance with requirements stipulated in Regulations and Contract;
   5. **Open competition** (also the Procurement) - a procurement procedure” (identification number: RBR 2022/22) in which all interested Suppliers are entitled to submit their Proposals.
   6. **Procurement commission** – commission the composition of which has been established by the joint stock company RB Rail AS, order No 1.9-2022-29dated13.09.2022, issued by the Management Board of joint stock company RB Rail AS;
   7. **Proposal** - documentation package the Tenderer submits to participate in the Open competition;
   8. **Regulations** – regulations of the Open competition “Procurement and commercial services framework for Rail Baltica Global Project” (identification number: RBR 2022/22), as well as all the enclosed annexes;
   9. **Supplier** – a natural person or a legal person, a group or association of such persons in any combination thereof which proposals to perform works, supply products or provide services accordingly.
   10. **Tenderer** – a Supplier which has submitted a Proposal.
2. general information
   1. The identification number of the Open Competition is No RBR 2022/22
   2. The Open competition is co-financed by the Contracting authority and Connecting Europe Facility (CEF).
   3. Open competition is organized in accordance with the Public Procurement Law of the Republic of Latvia (hereinafter – Public Procurement Law) in effect on the date of publishing the contract notice.
   4. Open competition is carried out using E-Tenders system (<https://www.eis.gov.lv/EKEIS/Supplier>) which is subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EIS/>).
   5. The Regulations is freely available on Contracting authority’s profile in the E-Tenders system at webpage [https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001](https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001" \t "_blank) and the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
   6. Amendments to the Regulations and answers to Suppliers’ questions shall be published on Contracting authority’s profile in the E-Tenders system at webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and the Contracting authority's webpage <http://railbaltica.org/tenders/>. It is the Supplier’s responsibility to constantly follow the information published on the webpages and to take it into consideration in preparation of its Proposal.
   7. Contact person of the Contracting authority for Open competition (only for administrative matters and in cases indicated in Clause 2.10. of the Regulation) is Procurement specialist**.** **Baiba Gulbe**, e-mail address: [**baiba.gulbe@railbaltica.org**](mailto:baiba.gulbe@railbaltica.org)**.**
   8. The exchange of information between the Procurement commission and the Supplier shall be in writing (by sending documents electronically via e-mail or using E-Tenders system) in English (if information is submitted in Latvian, it shall be accompanied by a translation into English).
   9. If the Supplier does not have access to the E-Tenders system, the Supplier shall follow the guidance for obtaining access to the system available on the Contracting authority’s website at <http://www.railbaltica.org/procurement/e-procurement-system/>.
   10. The Supplier can request additional information regarding the Regulations. Additional information can be requested in writing via the E-Tenders system or (in case the Supplier does not yet have access to the system) by sending it to the Procurement commission electronically via e-mail (see Section 2.7 of the Regulations). Any additional information must be requested in a timely fashion, so that the Procurement commission can reply on time - **no later than 6 (six) days prior to the deadline of the Proposal submission**. The Procurement commission shall provide response within 5 (five) business days from the day of receipt of the request from the Supplier.
   11. The Supplier covers all expenses which are related to the preparation of the Proposal and its submission to the Contracting authority. Under no circumstances will the Contracting authority be liable for compensation of any costs and damages related to the preparation and submission of the Proposal (including, *inter alia,* costs associated with any site visits) or the Supplier’s participation in the Procurement exercise.
3. The rights of the Procurement Commission
   1. The Procurement commission has the rights to demand at any stage of the Open competition that the Tenderer submits all or part of the documents which certify Tenderer’s compliance to the requirements for the selection of Tenderers. The Procurement commission does not demand documents or information which is already at its disposal or is available in public data bases.
   2. If the Tenderer submits document derivatives (e.g. copies), then, in case of doubt about the authenticity of the submitted document derivation, the Procurement commission can demand that the Tenderer shows the original documents.
   3. In the course of Proposal assessment, the Procurement commission has the right to demand that the included information is clarified.
   4. If the Procurement commission determines that the information about the Tenderer, its subcontractors or persons upon whose capacity the Tenderer is relying on that is included in the submitted documents is unclear or incomplete, it demands that the Tenderer or a competent institution clarifies or expands the information included in the Proposal. The deadline for submission of the necessary information is determined in proportion 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 Tenderer 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. The Procurement commission has the right to reject all Proposals which are found not to comply with the requirements of the Procurement documentation.
4. The obligations of the Procurement Commission
   1. The Procurement commission ensures the process documentation of the Open competition.
   2. The Procurement commission ensures free and direct electronic access to the Open competition documents on Contracting authority’s profile at the E-Tenders system’s webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on the webpage of the Contracting authority <http://railbaltica.org/tenders/>.
   3. If an interested Supplier has in a timely fashion in writing by post or electronically (including via E-Tenders system), or delivering in person requested additional information about the requirements included in Open competition documents regarding the preparation and submission of the Proposal or regarding the selection of Tenderers, the Procurement commission provides a response electronically within 5 (five) business days but not later than 6 (six) days before the deadline for submitting Proposals. Simultaneously with sending this information to the Supplier who had asked the question, the Contracting authority publishes this information on Contracting authority’s profile in the E-Tenders system’s webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on its webpage [http://railbaltica.org/tenders/](http://railbaltica.org/global-forum-day-1-presentations/) where Open competition documents are available, indicating the question asked.
   4. If the Contracting authority has amended the Open competition documents, it publishes this information on Contracting authority’s profile in the E-Tenders system’s webpage [https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001](https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001" \t "_blank)and the Contracting authority's webpage <http://railbaltica.org/tenders/> where Open competition documents are available, no later than 1 (one) day after the notification regarding the amendments has been submitted to Procurement Monitoring Bureau for publication. If Supplier wishes to receive relevant updates/notifications by email regarding the Procurement exercise (e.g. when amendments to the procurement package documentation are published), Supplier shall register as an interested supplier on the E-Tenders system for the particular Procurement exercise accordingly.
   5. The exchange and storage of information is carried out in such a way that all data included in the Proposals is protected and the Contracting authority can check the content of the Proposals only after the expiration of the deadline for their submission. During the time from the deadline of submission of Proposals until the opening of the Proposals the Contracting authority does not disclose any information regarding the existence of other Proposals, therefore. During the time of Proposal assessment, the Contracting authority does not disclose any information regarding the assessment process until the announcement of the results.
   6. The Procurement commission assesses the Tenderers and their Proposals based on the Open competition documents, in accordance with Public Procurement Law of the Republic of Latvia, as well as other applicable regulatory enactments.
   7. The Procurement commission prepares a report on the Open competition and publishes it on Contracting authority’s profile in the E-Tenders system’s webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on the Contracting authority's webpage [http://railbaltica.org/tenders/](http://railbaltica.org/tenders/164-2/) within 5 (five) business days from the day when the decision about the results of the Open competition is made.
5. The rights and obligations of the Tenderer
   1. The Tenderer has the rights to submit registration documents for the Electronic Procurement System (if the Tenderer is not registered in Electronic Procurement System) in State Regional Development Agency (please see information here <http://www.railbaltica.org/procurement/e-procurement-system/>).
   2. The Tenderer can request and within 3 (three) business days after submitting the request receive a copy of the Proposal opening sheet which is an annex to the Proposal opening session minutes.
   3. If the Contracting Authority gets the necessary information about the Tenderer directly from a competent institution, through data bases or other sources and the Tenderer’s submitted information differs from information obtained by the Contracting Authority, the Tenderer in question has the right to submit evidence to prove the correctness of the information the Tenderer has submitted, if the information obtained by the Contracting Authority does not conform to the factual situation.
   4. If a Tenderer believes that its rights have been violated or such violation is possible due to possible violation of the regulatory enactments of the European Union or other regulatory enactments, the Tenderer has the right to submit a complaint to the Procurement Monitoring Bureau according to the procedure stipulated in the Section 68 of Public Procurement Law regarding the Tenderer selection requirements, Technical specification or other requirements relating to Open competition, or relating to the activities by the Contracting authority or the Procurement commission during the Open competition.
   5. The Tenderer shall follow all the actual information made available in the Contracting Authority`s profile in E-Tenders system where this procurement is being published <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001>.
6. **Subject-matter of the Open Competition and tendering procedure**
   1. Through the open competition Contracting authority intends to establish a list of expert companies having required qualification expert teams and experience in a particular field of expertise (procurement lots) who could be called on-demand basis to provide independent professional expert services throughout the implementation of Rail Baltica Global project.
   2. The subject-matter is divided into following procurement lots (hereinafter - Lots).

|  |  |  |
| --- | --- | --- |
| **Lot No** | **Name of the Procurement Lot** | **CPV code** |
| **1.** | **INTERNATIONAL PROCUREMENT SUPPORT SERVICES** | **Main code: 79418000-7 Procurement consultation services; 79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security)** |
| **2.** | **PROCUREMENT SUPPORT SERVICES IN ESTONIA** | **Main code: 79418000-7 (Procurement consultancy services).**  **Additional codes: 79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security);** |
| **3.** | **PROCUREMENT SUPPORT SERVICES IN LATVIA** | **Main code: 79418000-7 (Procurement consultancy services).**  **Additional codes: 79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security);** |
| **4.** | **PROCUREMENT SUPPORT SERVICES IN LITHUANIA** | **Main code: 79418000-7 (Procurement consultancy services).**  **Additional codes: 79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security);** |
| **5.** | **CONTRACT IMPLEMENTATION SUPPORT SERVICES** | **Main code: 79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security**  **Additional code:).** [**79100000-5**](https://info.iub.gov.lv/cpv/parent/8717/clasif/main/) **(legal services).** |
| **6.** | **SUPPLY CHAIN MANAGEMENT & CONSULTANCY SERVICES** | **79000000-4 (Business services: law, marketing, consulting, recruitment, printing and security)** |

* 1. The Tenderer is entitled to submit Proposal for 1 (one) or several Lots. All requirements established within this Regulation are applicable for all procurement Lots, unless specified otherwise in the respective clause of Regulation. If the Tenderer submit Proposal for more than one Lot or all Lots, the Tenderer must ensure that it complies with all requirements established for each respective Lot, as well as ensure enough resources needed for implementation of the assignments within the Framework agreement, in case awarded with the contract signing rights, considering there might be case when several assignments need to be issued at the same time for several Lots.
  2. The delivery of the Services will take place in:
     1. For Lot No 1: Latvia, Lithuania, Estonia;
     2. For Lot No 2: Estonia;
     3. For Lot No 3: Latvia
     4. For Lot No 4: Lithuania
     5. For Lot No 5: **Latvia, Lithuania, Estonia;**
     6. For Lot No 6: **Latvia, Lithuania, Estonia;**
  3. Time for provision of the Services is 24 (twenty-four) months starting from the signing date. Duration of the Framework agreement is 24 (twenty-four) months or until the Total Contract value is reached, whichever comes first. In case the Total Contract value has not been reached, yet the initial 24 (twenty-four) month term has passed, then the Contract can be further prolonged and valid for an additional 12 (twelve) months, or until the Total Contract value has been reached, whichever comes first.
  4. Total Framework agreement value (for all lots) is:

1,698,720.00 EUR without VAT.

The Contracting Authority is not obliged to spend all budget available and will order services per each procurement Lot based on its actual need.

* 1. The Tenderer is not allowed to submit variants of the Proposal for the same Lot. If variants of the Proposal are submitted, then the Proposal will not be reviewed.
  2. Procurement commission according to Regulation requirements selects the Tenderers for each Lot who meet the minimal qualification requirements dedicated for the corresponding Lot.
     1. Procurement commission provides evaluation of the Proposals and scoring of selected Tenderers according to contract award criteria established in Section 18.1. of the Regulations, making the list of successful Tenderers for each Lot:
        1. For Lot No 1: Maximum Number of Suppliers to be Selected is 2 (two). (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
        2. For Lot No 2: Maximum Number of Suppliers to be Selected is 2 (two). (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
        3. For Lot No 3: Maximum Number of Suppliers to be Selected is 2 (two). (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
        4. For Lot No 4: Maximum Number of Suppliers to be Selected is 2 (two). (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
        5. For Lot No 5: Maximum Number of Suppliers to be Selected is 3 (three) (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
        6. For Lot No 6: Maximum Number of Suppliers to be Selected is 3 (three) (if enough qualified Tenderers are selected) (Framework agreement can be signed also with a smaller number of suppliers, including one));
  3. After evaluation and scoring of Tenderers submitted proposals, selected Tenderers shall be awarded with the rights to conclude a Framework Contract for a corresponding Lot;
  4. Conclusion of the Framework Contract with the Tenderers to whom the rights to enter into Framework agreement is awarded (when the standstill period set in the Public Procurement Law of the Republic of Latvia is over and no appeals received);
  5. For the provision of Services Contracting Authority shall appoint the Expert service providers with the assignments through the Direct Award or by conducting a Mini-Competitionprocedure, as stated in Framework agreement Section IV Appointment of an Assignment.

1. TENDERER
   1. The Proposal can be submitted by:
      1. A Supplier who is a legal or natural person (hereinafter – the Tenderer) which proposals on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers.
      2. A group of Suppliers (hereinafter also – the Tenderer, partnership) which proposal on the market to perform works, supply products or provide services accordingly and who complies with the selection criteria for Tenderers:
         1. A group of Suppliers who have formed a partnership for Open competition. In this case all the members of the partnership shall be listed in Annex No 2 “Application for participating in the Open competition”. 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 the Civil Law of the Republic of Latvia, Sections 2241-2280) and shall submit one copy of this agreement to the Contracting authority or establish a general or limited partnership (within the meaning of the Commercial Law of the Republic of Latvia (hereinafter – the Commercial Law), Division IX and X) and notify the Contracting authority in writing;
         2. An established and registered partnership (a general partnership or a limited partnership within the meaning of the Commercial Law, Division IX and X) which complies with the selection criteria for Tenderers.
   2. 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 it is prohibited to participate in the Procurement:
      1. a Russian national, or a natural or legal person, entity or body established in Russia.
      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 7.2.1. of this paragraph.
         1. or
      3. a natural or legal person, entity or body acting on behalf or at the direction of an entity referred to in point 7.2.1. or 7.2.2. 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.
   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 of the Public Procurement Law of Latvia, participation of any entities from the Russian Federation and/or the Republic of Belarus is prohibited.

8. Selection criteria for the Tenderers (qualification requirements)

8.1. Exclusion grounds

Before making the decision to award the contract signing rights, Contracting Authority shall verify whether the Tenderer (-s), to whom the Contract signing rights should be awarded (according to the contract award criteria established in Section 18.1. of the Regulation) in each Procurement Lot, is not a subject for exclusion grounds set in the Article 42 of Public Procurement Law of the Republic of Latvia. The Contracting Authority shall exclude the Tenderer from further participation in the open competition in any of the following circumstances:

| No | Requirement /exclusion ground | Documents to be submitted after Procurement commission`s request[[1]](#footnote-2) |
| --- | --- | --- |
|  | Within previous 3 (three) years before submission of the Proposal the Tenderer or a person who is Tenderer’s management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, has been found guilty of or has 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:  a) establishment, management of, involvement in a criminal organization or in an organized group included in the criminal organization or other criminal formation, or participation in criminal offences committed by such an organization,  b) bribe-taking, bribery, bribe misappropriation, intermediation in bribery, unauthorized participation in property transactions, taking of prohibited benefit, commercial bribing, unlawful claiming of benefits, accepting or providing of benefits, trading influences,  c) fraud, misappropriation or money-laundering,  d) terrorism, terrorism funding, creation or organization of a terrorist group, traveling for terrorist purposes, justification of terrorism, calling to terrorism, terrorism threats or recruiting or training a person in performance of acts of terrorism,  e) human trafficking,  f) evasion from payment of taxes or similar payments. | * For a Tenderer and a person who is Tenderer’s management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, who is registered or residing in Latvia, the Contracting authority shall verify the information itself in publicly available databases. * For a Tenderer and a person who is Tenderer’s management board or supervisory board member, person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, who is registered or residing outside of Latvia the Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence. |
|  | It has been detected that on the last day of Proposal submission term or on the day when a decision has been made on possible granting of rights to conclude the procurement contract, the Tenderer 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. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence. |
|  | Tenderer’s insolvency proceedings have been announced, the Tenderer’s business activities have been suspended, the Tenderer is under liquidation. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence. |
|  | A person who drafted the procurement procedure documents (Contracting authority’s official or employee), Procurement commission member or expert is related to the Tenderer or is interested in selection of some Tenderer and the Contracting authority cannot prevent this situation by measures that cause less restrictions on Tenderer. 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 Tenderer in any of the following cases:  a) If he or she is a current and/or an ex-employee, official, shareholder, procura holder or member of a Tenderer or a subcontractor which is legal person and if such relationship with the legal person was terminated within the last 24 (twenty-four) months;  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 Tenderer’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;  c) If he or she is a relative of a Tenderer or a subcontractor which is a natural person.  If the Tenderer is a partnership, consisting of natural or legal persons, a relation to the Tenderer 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. | * No obligation to submit documents, unless specifically requested by the Procurement commission. |
|  | The Tenderer 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 Open competition, and the advantage cannot be prevented by less restrictive measures, and the Tenderer cannot prove that its or its related legal person’s participation in preparing the procurement procedure documents does not restrict competition. | * No obligation to submit documents, unless specifically requested by the Procurement commission. |
|  | Within the previous 12 (twelve) months before submission of the Proposals by such a decision of a competent authority or a court judgment which has entered into force and may not be challenged and appealed Tenderer 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 Tenderer from a fine or has decreased the fine for cooperation within a leniency program. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence or other objective proof of good standing. For example, a link to the database of the competent authority’s public database (website) listing all its decisions and validity thereof (provided that access to any such database/website is free of charge to the Contracting authority). |
|  | Within the previous 3 (three) years before submission of the Proposals by such a decision of a competent authority, a court judgment or a public prosecutor’s order which has entered into force and may not be challenged and appealed Tenderer has been found guilty and is punished for 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. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself in publicly available databases. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence. |
|  | Within the previous 12 (twelve) months before submission of the Proposals by such a decision of a competent authority, a court judgment or a public prosecutor’s order which has entered into force and may not be challenged and appealed Tenderer has been found guilty and is punished for 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. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself from publicly available databases. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence. |
|  | The Tenderer has provided false information to prove its compliance with provisions of this Section 8. of the Regulations or qualification criteria, or has not provided the required information at all. | * No obligation to submit documents, unless specifically requested by the Procurement commission. |
|  | The Tenderer is a registered offshore[[2]](#footnote-3) company (legal person) or offshore association of persons. | * For a Tenderer which is registered in Latvia Contracting authority shall verify the information itself in publicly available databases. * For the Tenderer and each member of the partnership (if Tenderer is an unregistered partnership) which is a legal person registered 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 wherefrom at least the fact of registration. |
|  | The owner or shareholder (with more than 25% of share capital) of the Tenderer who is registered in Republic of Latvia, is a registered offshore company (legal person) or offshore association of persons. | * For a Tenderer which is registered in Latvia: * Contracting authority shall verify the information itself in publicly available databases; * if such information by publicly available data bases is not provided, Tenderer shall submit self – declaration which approves fact that there are no registered owners or shareholders of the Tenderer (with more than 25% of share capital) who are registered offshore. |
|  | The subcontractors indicated by the Tenderer whose share of services is equal to or exceeds 10% of the Contract price or person on whose capacities Tenderer is relying, is a registered offshore company (legal person) or offshore association of persons. | * For a subcontractor whose share of services is equal to or exceeds 10% of the Contract price or person on whose capacities Tenderer is relying which is registered in Latvia Contracting authority shall verify the information itself in publicly available databases; * For a subcontractor or person on whose capacities Tenderer 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 wherefrom at least the fact of registration. |
|  | 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:   * Tenderer or a person who is the Tenderer’s management board or supervisory board member, beneficial owner[[3]](#footnote-4), person with representation rights or a procura holder, or a person who is authorised to represent the Tenderer in operations in relation to a branch, * member of the partnership or a person who is the partnership’s management board or supervisory board member, beneficial owner[[4]](#footnote-5), person with representation rights or a procura holder (if the Tenderer is a partnership),   and such sanctions can affect the execution of the Procurement contract. | * For a Tenderer registered or residing in Latvia Contracting authority shall verify the information itself from the Register of Enterprises of the Republic of Latvia. * For a Tenderer registered or residing outside of Latvia Tenderer shall submit an appropriate statement from the competent authority of the country of registration or residence with all the information necessary for the examination regarding the Tenderer or a member of the partnership if the Tenderer is a partnership), including but not limited, information about beneficial owner or the fact that there is no possibility to find out the beneficial owner. |

8.2. Legal standing and suitability to pursue the professional activity (for all Lots)

| No | Requirement | Documents to be submitted together with Proposal |
| --- | --- | --- |
|  | The Tenderer or all members of the partnership (if the Tenderer is a partnership), a person on whose abilities a Tenderer relies to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value must be registered in the Registry of Enterprises or Registry of Inhabitants, or other register in a country where the Tenderer is registered or residing (only if the legislation of the respective country requires registration of natural or legal persons). | * For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies on to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value) registered in Latvia the Contracting Authority shall verify the information itself in publicly available databases. * For a Tenderer which is a natural person (or a member of a partnership, a person on whose abilities a Tenderer relies on to certify its compliance, a subcontractor whose share of work is equal to or exceeds 10% of the contract value): * a copy of an identification card or passport and certificate or similar document. * For a Tenderer (or each member of a partnership) 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 and wherefrom at least the fact of registration and information about shareholders, board or supervisory board members, beneficial owners, officials and procura holders, persons who are authorized to represent the Tenderer in operations in relation to a branch (if any) can be determined. * For each person on whose abilities a Tenderer relies to certify its compliance: * a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration, licensing or certification of legal persons in the country of their residence and wherefrom at least the fact of registration, information about shareholders, board or supervisory board members, officials and procura holders, persons who are authorized to represent the Tenderer in operations in relation to a branch (if any) can be determined. * For each subcontractor whose share of work is equal to or exceeds 10% of the contract value: * a copy of a valid registration certificate or a similar document issued by a foreign authority in charge of the registration, licensing or certification of legal persons in the country of their residence and wherefrom at least the fact of registration can be determined.      * If proposal is submitted by a partnership: * the Proposal shall include document (e.g. statement, confirmation or agreement or letter of intention to enter in such agreement, or any other similar document) signed by all members on the participation in the procurement, which lists responsibilities of each and every partnership member and a commitment to fulfil the procurement contract in the respective area, and which authorizes one key member to sign the proposal and other documents, to receive and issue orders on behalf of the partnership members, and with whom all payments will be made. * If the Tenderer relies on the abilities of other persons to comply with the qualification requirements or involves sub-contractors, whose share of work is equal to or exceeds 10% of the contract value: * document (e.g., statement, confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer, or letter of intention to enter in such agreement, or any other similar document), signed between such persons and the Tenderer (indicating the capabilities and responsibilities for such person and/or sub-contractor). * In addition, the Tenderer must fill in Annex No 1 and indicate information about persons on whose capacities the Tenderer relies on and sub-contractors (for each Procurement Lot separately). * If the Tenderer applies for more than one procurement Lot, all the documents listed here shall be submitted for each Procurement Lot separately. |
|  | The representative of the Tenderer, or a member of a partnership, or a person on whose capacity Tenderer relies on, or a subcontractor and who has signed documents contained in the Proposal has the right of representation and signature, i.e., it is an official having the rights of representation and signature or it is a person authorized by the Tenderer. | * Proof of Tenderers` representation or authorization (e.g., power of attorney or registration certificate) and stating the authorizations to sign, submit and otherwise manage the proposal. * A document confirming the right of signature (representation) of the representative of the Tenderer, or a member of a partnership, or a person on whose abilities a Tenderer relies, or subcontractor. * For a Tenderer which is a legal person (or a member of a partnership, a person on whose abilities a Tenderer relies, or subcontractor, registered in Latvia, the Contracting Authority shall verify the information itself in publicly available databases. * If the Tenderer, or a member of a partnership, or a person on whose abilities a Tenderer relies, or subcontractor submits a power of attorney there shall be additionally submitted documents confirming that the issuer of the power of attorney has the right of signature (representation). * If the Tenderer applies for more than one procurement Lot, all the documents listed here shall be submitted for each Procurement Lot separately. |

8.3. Economic and financial standing (for all Lots)

| No | Requirement | Documents to be submitted together with Proposal |
| --- | --- | --- |
|  | Tenderer’s or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly) average financial turnover within the last 3 (three) financial years (2020, 2021, 2022) is not less **than 100 000 EUR (one hundred thousand euros)**.  In the event the average annual financial turnover of a limited partner of the limited partnership (within the meaning of The Commercial Law, Division X) exceeds its investment in the limited partnership, the average financial turnover shall be recognized in the amount of the investment in the limited partnership.  In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) financial years, the requirement shall be met during the Tenderer’s actual operation period.  In the case the previous three financial years of particular Tenderer or member of the partnership differs from financial years stated in Regulations (2019, 2020, 2021), financial turnover shall be calculated and indicated for previous three financial years which are last financial years according to the country where the Tenderer is providing the services (the Tenderer`s actual last three financial years). | * Filled in and signed Annex No 3 (by the Tenderer or each member of the partnership (if the Tenderer is a partnership) on whose capabilities the Tenderer is relying to certify it`s financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract). * Procurement commission has right to ask conformation of the financial data with audited balance sheets or operational balance sheets, for last financial year. * For a limited partnership (within the meaning of the Commercial Law, Division X) - an additional document evidencing the amount of the investment by the limited partner (the partnership agreement or a document with a similarly binding legal effect). * If the Proposal is submitted by a partnership, Tenderer shall indicate the member of the partnership on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract including this information in the agreement of cooperation (or letter of intent to enter into agreement or similar document signed by all involved parties) stipulated in Section 8.2. No 1 of the Regulations. * If the Tenderer is relying on any other entity’s capacity to certify its financial and economic performance and this entity will be financially and economically responsible for the fulfilment of the Contract, the Tenderer along with the Proposal must submit confirmation or agreement on cooperation and/or passing of resources to the Tenderer or similar document, signed between such entity and the Tenderer (please see the Section 9 of the Regulations for detailed information). * If the Tenderer applies for more than one Procurement Lot, all the documents listed here shall be submitted for each Procurement Lot separately. |
|  | The Tenderer and each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract, and other entity on whose capacity Tenderer is relying on to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract (if any), shall have:   1. stable financial and economic performance, namely, in the last financial year (2021) liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 (one) and 2. positive equity.   If the Tenderer`s last financial year in respective country differs from the year indicated in this clause (i.e., year 2021), the Tenderer shall indicate and calculate requested figures for the year which is last financial year according to the country where the Tenderer is providing the services (the Tenderer`s last financial year).  In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) financial years, the requirement for liquidity ratio and equity shall be met during the last year of Tenderer’s working period. |

8.4. Technical and professional abilities

Tenderers (in case of a joint tender the combined capacity of all members of the group and identified subcontractors) must comply with the criteria for **each lot they applied** listed below.

The project/contract references indicated by the Tenderer should consist of a list of relevant services provided (i.e., not ongoing but fully completed) dates and clients, public or private, accompanied by statements issued by the clients and in some cases official documents issued by the relevant authorities within the country of client.

| No | Requirement | Documents to be submitted |
| --- | --- | --- |
|  | The Tenderer for Lot (or Lots) applied has meet the minimum qualification requirements as stated in the Annex No 4 | Filled in relevant information in Tenderer’s qualification form (Annex No 4) and **signed by the legal representative of the company.**  Clients reference letters/official documents issued by authorities (if applicable to particular Lot) |
|  | The Tenderer shall provide 2 (two) specialists who has meet the minimum qualification requirements as stated in Annex No 4.  **Junior Expert.**  **Senior Expert**  The Tenderer is not entitled to propose the same experts for all Procurement Lots or the same expert for each level expert within one Lot. | Filled in and signed Annex No 4 and signed conformation about English language knowledge.  Expert’s experience will be evaluated and award with points in accordance with evaluation criteria set in Section 18 and Annex No 5 |

* 1. If the Tenderer applies for more than one Procurement Lot, separate Annexes of Regulations for each Lot shall be filled and submitted.
  2. Information provided in the Proposal to prove the compliance with above-mentioned requirements for Legal standing, Economic and financial standing (Section 8.2. and Section 8.3. of the Regulations), Technical and professional ability (Section 8.4 of the Regulations) shall be clear and understandable without any additional analysis or external proof of the submitted information. The Contracting authority shall not be obliged to use additional sources of information to decide regarding Tenderer’s compliance with the qualification requirements. The Tenderer shall remain fully responsible for the provision of sufficiently detailed information in the Proposal required to confirm clearly the compliance with qualification requirements set in the Regulations. In accordance with Article 41 of the Public Procurement Law of the Republic of Latvia, the Contracting authority has the rights to request the Tenderer to clarify the documents enclosed in its Proposal.
  3. Notices and other documents mentioned in the Section 8.1 of the Regulations which are issued by Latvian competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 1 (one) month prior to the date of submission of particular notices and documents. Notices and other documents mentioned in the Section 8.1 of the Regulations which are issued by foreign competent institutions are accepted and recognized by the Procurement commission, if they are issued no earlier than 6 (six) month prior to the date of submission of notices and documents, if the issuer of the notice or document has not set shorter period of validity.
  4. If the documents with which a Tenderer registered or permanently residing abroad can certify its compliance with the requirements of Section 8.1 of the Regulations 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 Tenderer or by another person mentioned in Section 8.1 of the Regulations before a competent executive governmental or judicial institution, a sworn notary or a competent organization of a corresponding industry in their country of registration (permanent residence). Regarding all documents submitted based on an oath given under law (e.g. sworn-statements, declarations on oath etc.), the Tenderer must provide (indicate) legal grounds to law or enactment in accordance with such statements or declarations on oath have been given.
  5. If the Tenderer complies with any of the exclusion grounds mentioned in Section 8.1 of the Regulations (except Section 8.1.(No. 2), 8.1. (No. 9) – 8.1. (No 13) of the Regulations), the Tenderer indicates this fact in Annex No 2 “Application form – Financial proposal”.
  6. The Tenderer to certify that it complies with the selection criteria for Tenderers may submit also the European single procurement document (hereinafter - ESPD) as initial proof. To fill in the ESPD the Tenderer uses the "ESPD.xml" file at the Internet webpage <http://espd.eis.gov.lv/>.
  7. ESPD shall contain information evidencing compliance with qualification requirements. ESPD must be submitted electronically and for:
     1. each person upon whose capacity Tenderer relies on to certify its compliance with the qualification requirements stipulated in the Regulations, and
     2. each of their indicated subcontractors the share of whose work is equal to or exceeds 10 % (ten percent) of the value of the Contract but if the Tenderer is a partnership – for each member thereof.

1. RELIANCE ON THE CAPACITY OF OTHER PERSONS
   1. For the fulfilment of the specific contract, to comply with the selection requirements for the Tenderers relating to the economic and financial standing and technical and professional capacity, Tenderer may rely on the capacity of other persons regardless of the legal nature of their mutual relationship. In this case: 
      1. The Tenderer indicates in the Proposal all persons on whose capacity it relies by filling in the table which is attached as Annex No 2 “Application form – Financial proposal” and proves to the Contracting authority that the Tenderer shall have available all the necessary resources for the fulfilment of the Contract by submitting a signed confirmation or agreement on cooperation and/or passing of resources to the Tenderer between such persons and the Tenderer. The confirmations and agreements on cooperation and passing of resources can be replaced by the Tenderer with any other type of documents with which the Tenderer is able to prove that the necessary resources will be available to the Tenderer and will be used during the term of fulfilment of the Contract.
   2. Documents on cooperation and passing of resources must be sufficient to prove to the Contracting authority that the Tenderer will have the ability to fulfil the Contract, as well as that during the validity of the Contract Tenderer will in fact use the resources of such person upon whose capacity it relies.
   3. The Contracting authority shall require joint and several liability for the execution of the Contract between the:
      1. Tenderer and a person on whose capacity Tenderer is relying on to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract.
      2. Each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying on and who will be financially and economically responsible for fulfilment of the Contract.
   4. The Contracting authority shall evaluate the person on whose capacity Tenderer to whom the rights to conclude the Contract should be assigned is relying according to Section 8.1. (No.1) - 8.1. (No. 8) and Section 8.1. No.12 - 8.1. No 13 of the Regulations. In case such person will comply with any of the exclusion grounds which are mentioned in Section 8.1. No 1- 8.1. No 8, 8.1. No 12 and 8.1. No 13 of the Regulations the Contracting authority shall request Tenderer to change such person. If the Tenderer shall not submit documents about another person 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 Open competition.
2. Subcontracting
   1. The Tenderer shall indicate in the Proposal all subcontractors of the Tenderer by filling in the table which is attached in Annex No 2 “Application form – Financial proposal”.
   2. The Contracting authority shall evaluate the subcontractor of the Tenderer to whom the rights to conclude the Contract should be assigned according to Sections 8.1. (No 2) – 8.1. (No 8) and 8.1. (No 12), of the Regulations. In case such subcontractor whose share of services is equal to or exceeds 10% of the Contract price, will comply with any of the exclusion grounds which are mentioned the Contracting authority shall request Tenderer to change such subcontractor. If the Tenderer shall 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 Open competition.
3. financial proposal
   1. The Financial proposal shall be submitted together with Annex No 2 “Application form – Financial proposal” for each respective Procurement Lot separately.
   2. the Tenderer shall specify the maximum threshold for hourly[[5]](#footnote-6) rate for each level expert (Senior level and Junior level expert) as remuneration for expert services. The number of experts involved in the provision of expert services doesn’t affect the amount of remuneration – hourly rate for each level expert for the provision of expert services is a constant value. After contract award and during direct award or mini-competition procedures for the fulfilment of the specific tasks maximum hourly rate for each level expert may only be decreased (rates cannot be higher than proposed rates within Proposal).
   3. The proposed hourly rate for each expert level (junior and senior) shall be determined in Euro without value added tax (hereinafter – VAT).
   4. The proposed hourly rate for each level expert shall include all taxes, fees and payments, and all costs related to the fulfilment of expert services, except VAT for each respective Lot. Hourly rates for each level expert are fixed for all the term of the fulfilment of the Framework Contract and are not recalculated, except in cases stipulated in the clause 11.2. of Regulations and Framework agreement (if any).
   5. The costs must be calculated and indicated with an accuracy of 2 (two) decimal places after comma. If more than 2 (two) decimal places after comma will be indicated, then only the first two decimal places will be considered.
4. Contents and form of the Proposal
   1. Proposal must be submitted electronically in E-Tenders subsystem of the Electronic Procurement System (<https://www.eis.gov.lv/EKEIS/Procurement/Edit/58178>), within the set deadline and for each Procurement Lot separately, in accordance with the following options for the Tenderer:
      1. by using the available tools of E-Tender subsystem, filling the attached forms of the E-Tender subsystem for this procurement procedure;
      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 Tenderer takes responsibility for the correctness and compliance of the forms to requirements of documentation and form samples);
      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 Tenderer 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).
   2. During preparation of the Proposal, the Tenderer shall comply with the following:
      1. Proposal form must be filled in a separate electronic document, in line with the forms attached to the procurement documentation of the E-Tenders subsystem in a Microsoft Office 2010 (or later) format and attached to the designated part of the procurement procedure;
      2. Upon submission, the Tenderer signs the Proposal with a secure electronic signature and time-seal or with an electronic signature provided by the Electronic Procurement System. The Tenderer can use a secure electronic signature and time-seal and sign their Proposal form separately.
   3. The Proposal (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 Proposal.
   4. Documents to be included in the Proposal:
      1. Application for participating in the Open competition in accordance with Annex No 2 “Application form – Financial proposal” for each Procurement Lot separately.
      2. Information and documents confirming compliance of the Tenderer with the selection criteria (qualification requirements) for the Tenderers (set in Section 8 of the Regulations), or the corresponding ESPD, for each Procurement Lot separately.
      3. Information and documents relating to other entities on whose capacity Tenderer is relying (in accordance with Section No 9), or the corresponding ESPD, for each Procurement Lot separately.
      4. Information and documents relating to sub-contractors (in accordance with Section 10) and/or the corresponding ESPD, for each Procurement Lot separately.
   5. The Proposal may contain original documents or their derivatives (e.g. copies). In the Proposal or in reply to a request of the Procurement commission Tenderer shall submit only such original documents which have legal force. For the document to gain legal force it must be issued and formatted in accordance with the Law on Legal Force of Documents of the Republic of Latvia (<https://likumi.lv/ta/en/id/210205-law-on-legal-force-of-documents>) but public documents issued abroad shall be formatted and legalized in accordance with the requirements of the Document Legalization Law of the Republic of Latvia (<https://likumi.lv/ta/en/en/id/155411-document-legalisation-law>). Public documents issued abroad can be self-approved by the Tenderer, if it is applicable by the legislation of the respective country. When submitting the Proposal, the Tenderer has the right to certify the correctness of all submitted documents’ derivatives and translations with one certification.
   6. The Tenderer shall prepare Proposal in electronic form using the E-Tenders system available at <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001>.
   7. The Proposal must be submitted in a written form in English or Latvian (if submitted in Latvian, translation in English of the Proposal must be provided together with the Proposal).
5. Encryption of the proposal information
   1. E-Tenders system which is a subsystem of the Electronic Procurement System ensures first level encryption of the information provided in the Proposal documents.
   2. If the Tenderer applied additional encryption to the information in the Proposal (according to Section 12.1.3. of the Regulations), Tenderer must provide the Procurement commission with the electronic key with the password to unlock the information not later than in 15 (fifteen) minutes after the deadline of the Proposal submission.
6. Submission of a Proposal
   1. The Proposal (documents referred to in the Section 12.4 of the Regulations) shall be submitted electronically using the E-Tenders system available at [https://www.eis.gov.lv/EKEIS/Procurement/88462](https://www.eis.gov.lv/EKEIS/Procurement/884620) by:

**26 January 2023 till 11:00 o'clock (Riga time)**.

* 1. The Tenderer may recall or amend its submitted Proposal before the expiry of the deadline for the submission of Proposals by using the E-Tenders system.
  2. Only Proposals submitted via E-Tenders system will be accepted and evaluated for participation in the Open competition. Any Proposal submitted outside the E-Tenders system will be declared as submitted in a non-compliant manner and will not participate in the Open competition.

1. Opening of Proposals
   1. The Proposals will be opened on the E-Tenders system on 26 January 2023 starting at 15:00 Riga timeduring the opening session. On the E-Tenders system it is possible to follow the opening of submitted Proposals online.
   2. The Proposals are opened by using the tools proposed by E-Tenders system. The proposed price and other information that characterizes the Proposal (excluding confidential information) shall be published in the E-Tenders system.
   3. The information regarding the Tenderer, the time of Proposal submission, the proposed price and other information that characterizes the Proposal is generated at the opening of the Proposals by E-Tenders system and written down in the Proposal opening sheet which shall be published on E-Tenders system and Contracting authority’s webpage.
2. Verification of Proposals for compliance
   1. Following of the opening of Proposals Procurement commission shall proceed with the verification of compliance of Proposals received and opened in accordance with the opening procedure.
   2. The Procurement commission verifies whether the submitted Proposals comply with the requirements stipulated in Section 12 of the Regulations and whether all required information and documents are submitted and selects for further evaluation the compliant Proposals.
   3. Procurement commission verifies whether the Tenderers comply with the selection requirements specified in Section 8.2. – 8.4. of the Regulation.
   4. In accordance with Paragraph 16 of the Cabinet regulations No 107 of 28 February 2017 “Procedure of Procurement Procedures and Design Contests” Procurement Commission is entitled to carry out the eligibility check only to the Tenderers to whom the contract should be awarded.
3. Verification of financial Proposals
   1. The Procurement commission verifies whether Tenderers have completed Annex No 2 “Application form – Financial proposal” in accordance with the requirements stated in Section 11 of Regulations.
   2. The Procurement commission verifies whether there are any arithmetical errors, whether an abnormally low Proposal has been received, as well as assesses and compares the hourly rate prices proposed.
   3. The Procurement commission has the right to demand that the Tenderer explains the calculation upon which the Financial proposal is based and other related aspects to ascertain the objectivity of the Financial proposal and whether an abnormally low Proposal has been submitted.
   4. The Procurement commission further evaluates the compliant Proposals which have not been declared as abnormally low Proposals.
4. Contract award criteria

18.1. The Proposal selection criterion for Procurement Lots-

Lot 1 INTERNATIONAL PROCUREMENT SUPPORT SERVICES,

Lot 2 PROCUREMENT SUPPORT SERVICES IN ESTONIA,

Lot 3 PROCUREMENT SUPPORT SERVICES IN LATVIA,

Lot 4 PROCUREMENT SUPPORT SERVICES IN LITHUANIA

is the most economically advantageous proposal (-s) according to the evaluation methodology described in this Section below and Evaluation criteria for experts described in Annex No 5 ( for each Lot separately)

| Criteria | Evaluation criteria | Maximum score (P) |
| --- | --- | --- |
| A | **Professional experience** **of the Key experts**, this criterion is further divided, as follows: | **60** |
|  | **Sub-criterion (A.1) Professional experience of Senior level expert** | 60 |
|  | | |
| B | **Total for Experts hourly rate,** this criterion is further divided, as follows: | **40** |
|  | **Sub-criterion (B.1) Hourly rate sum for Senior level expert services together, in euros, VAT excluded,** | 30 |
|  | **Sub-criterion (B.2)** **Hourly rate for one Junior level expert, in euros, VAT excluded** | 10 |
| Maximum number of points possible (A+B): | | **100** |

18.1.1. The Procurement Commission shall sum up the points for each Tenderer in Criteria A and B and based on the number of points assigned according to the order established in Section 18.1 of the Regulations and rank the Tenderers in descending order and according to Section 18.4 of the Regulations. The number of points to be awarded to the Proposal submitted by the Tenderer shall be calculated in accordance with the following formula:

**P = A + B**, where:

**P** - Number of points to be awarded to the Tenderer’s Proposal.

**A** - Number of points awarded to the Tenderer’s Proposal in criterion A "Professional experience of Key experts" (A.1).

**B** - Number of points awarded to the Tenderer’s Proposal in criterion B "Hourly rate sum for Senior level and Junior level expert services together, in euros, VAT excluded" (B.1+B.2).

18.1.2. The Procurement commission shall assign the points in each sub-criterion (B.1 and B.2) in accordance with the following formula:

*(B.1) S*

*(B.2) S*

* 1. The Proposal selection criterion for Lots-

Lot 5 CONTRACT IMPLEMENTATION SUPPORT SERVICES

Lot 6 SUPPLY CHAIN MANAGEMENT & CONSULTANCY SERVICES

is the most economically advantageous proposal (-s) according to the evaluation methodology described in this Section below and Evaluation criteria for experts described in Annex No 5 (for each lot separately):

| Criteria | Evaluation criteria | Maximum score ( P) |
| --- | --- | --- |
| A | **Professional experience** **of the Key experts**,  This criterion is further divided, as follows: | **60** |
|  | **Sub-criterion (A.1) Professional experience of Senior level expert**  This sub-criterion shall be evaluated in accordance with requirements set in Section 18.1.9 of the Regulations. | 45 |
|  | **Sub-criterion (A.2) Professional experience of Junior level expert** | 15 |
|  | | |
| B | **Total for Experts hourly rate** | **40** |
|  | **Sub-criterion** (**B.1) Hourly rate sum for Senior level expert services together, in euros, VAT excluded,** | **30** |
|  | **Sub-criterion (**B.2) **Hourly rate for one Junior level expert, in euros, VAT excluded** | **10** |
|  | | |
| Maximum number of points possible (A+B): | | **100** |

* + 1. The Procurement Commission shall sum up the points for each Tenderer in Criteria A and B and based on the number of points assigned according to the order established in Section 18.6 and 18.7 of the Regulations and rank the Tenderers in descending order and according to Section 18.4 of the Regulations. The number of points to be awarded to the Proposal submitted by the Tenderer shall be calculated in accordance with the following formula:

**P = A + B**, where:

**P** - Number of points to be awarded to the Tenderer’s Proposal;

**A** - Number of points awarded to the Tenderer’s Proposal in criterion A "Professional experience of Key experts" (A.1+A.2);

**B** - Number of points awarded to the Tenderer’s Proposal in criterion B "Hourly rate sum for Senior level and Junior level expert services together, in euros, VAT excluded" (B.1+B.2).

18.2.2. The Procurement commission shall assign the points in each sub-criterion (B.1 and B.2) in accordance with the following formula:

*(B.1) S*

*(B.2) S*

The Procurement commission shall sum up the points obtained in sub-criterion B.1. and B.2

* 1. Each member of the Procurement Commission shall evaluate the submitted Proposals individually. The Procurement Commission shall compile all evaluations and obtain the final number of points awarded to each Proposal in respective Procurement Lot.
  2. The economically most advantageous proposal (-s) in respective Procurement Lot shall be Proposal (-s), receiving the highest scores in total (criteria A+B) according to the contract award criteria established in Section 18.1. and 18.2. of the Regulation and in accordance with requirements set in Clause 18.4.1. of the Regulations. The Procurement commission determines and selects Tenderers in accordance with order established in Section 18.1.1. and 18.1.2. of the Regulations. Rights to enter the Framework agreement shall be awarded to the following number of Tenderers ranked from the highest to lowest scores received:
     1. For Lot No 1, 2, 3, and 4: Maximum Number of Suppliers to be Selected is 2 (two) with the highest scores (if enough qualified Tenderers are selected, if not - Framework agreement can be signed also with a smaller number of suppliers, including one supplier with compliant proposal).
     2. For Lot No 5 and 6: Maximum Number of Suppliers to be Selected is 3 (three) with the highest scores (if enough qualified Tenderers are selected, if not - Framework agreement can be signed also with a smaller number of suppliers, including one supplier with compliant proposal).
  3. If after ranking there is more than one Tenderer in the same position according to scores in respective Procurement Lot, the Procurement commission will select proposal with the lowest proposed hourly rate sum for Senior and Junior level expert together (criteria B). If also this score will be equal, the Procurement commission will select proposal with the lowest proposed hourly rate for Senior level expert (criteria B1). If also this score will be equal, the Procurement commission will invite representatives of those particular Tenderers and organize a draw for each Procurement Lot separately. In situation, when representatives of Tenderers choose to not be present at the draw, Procurement commission will carry out the draw without representatives of Tenderers present.

1. Tenderer check prior to making the decision regarding the conclusion of the FRAMEWORK Contract
   1. Prior to making the decision about assigning rights to conclude the Framework Contract, the Procurement commission performs a check regarding the existence of grounds for exclusion of tenderers for Tenderers (to whom the possible rights to conclude the Framework Contract shall be awarded), members of a partnership (if the Tenderer is a partnership), persons on whose capabilities the Tenderer is relying and subcontractors whose share of work is equal to or exceeds 10% of the Contract price (according to Section 8.1).
   2. If, in accordance with the information published on the day of the last data update in a public database, on the last day of Proposal submission or on the day when the decision regarding the possible assignment of rights to conclude a Framework Contracts made, the Tenderer, member of a partnership (if the Tenderer is a partnership), a subcontractor whose share of work is equal to or exceeds 10% of the Contract price or a person on whose capabilities the Tenderer is relying have tax debts, including state mandatory insurance contributions debts, the total sum of which exceeds 150 euro, the Procurement commission informs the Tenderer and sets a deadline – 10 days from the day of issuing or receiving information – for the submission of a certificate evidencing absence of tax debt or decision to prolong the deadline or postpone payment of the tax or other objective evidence proving absence of a tax debt.
   3. If the Tenderer fails to submit required evidence about itself before the deadline, the Procurement commission excludes the Tenderer from participation in the Open competition.
   4. Change of persons upon whose capabilities the Tenderer is relying on or subcontractors whose share of work is equal to or exceeds 10% of the Contract price is performed in accordance with Sections 9.4 and 10.2 respectively.
   5. In the event the Tenderer or partnership member (if the Tenderer is a partnership) fails to comply with requirements stipulated in Section 8.1(1) and 8.1(3) – 8.1 (8) and has indicated this in the Proposal, upon request by the Procurement commission it submits an explanation about the implemented measures in order to restore reliability and prevent occurrences of the same or similar violations in future, as well as attaches evidence which proves the implemented measures, such as but not limited to evidence about compensating damages, on cooperation with investigating authorities, implemented technical, organizational or personnel measures, an assessment of a competent authority regarding the sufficiency of the implemented measures etc.
   6. The Procurement commission assesses such information. If the Procurement commission deems the measures taken to be sufficient for the restoration of reliability and the prevention of similar cases in the future, it makes the decision not to exclude the Tenderer from participation in the open competition. If the measures taken are insufficient, the Procurement commission makes the decision to exclude the Tenderer from further participation in the open competition procedure.
   7. If the Tenderer, within the indicated time, does not submit the requested information, the Procurement commission excludes the Tenderer from participation in the Open competition.
2. Decision making, Announcement of results and entering into a Framework Contract
   1. The Procurement commission selects Tenderers in accordance with the set selection criteria for Tenderers, verifies the compliance of the Proposals with the requirements stipulated in the Regulations and chooses the Proposal in accordance with the contract award criteria as described in Section 18 of the Regulations.
   2. Within 3 (three) business days from the date of decision about the Open competition results Procurement commission informs all Tenderers about the decision made by sending the information by post or electronically (including via the E-Tenders system) and keeping the evidence of the date and means of sending the information. The Procurement commission announces the name of the successful Tenderer, indicating:
      1. to the refused Tenderer - the reasons for refusing its Proposal;
      2. to the Tenderer who has submitted an eligible Proposal - the characterization of the successful Proposal and the relative advantages;
      3. the deadline by which the Tenderer may submit a complaint to the Procurement Monitoring Bureau regarding violations of the public procurement procedure.
   3. If only 1 (one) Tenderer complies with all Tenderer selection requirements, Procurement commission prepares and includes in the Open competition report a justification of the fact that the set requirements for Tenderer selection are objective and commensurate. If the Procurement commission cannot justify that the set requirements for Tenderer selection are objective and commensurate, Procurement commission makes the decision to terminate the Procurement.
   4. If the Procurement is terminated, Procurement commission within 3 (three) business days simultaneously informs all Tenderers about all the reasons because of which the Open competition is terminated and informs about the deadline within which a Tenderer may apply regarding the violations of the public procurement procedure to the Procurement Monitoring Bureau.
   5. The Procurement commission when informing about the results has the right not to disclose specific/confidential information, if it may infringe upon public interests or if the Tenderer’s legal commercial interests or the conditions of competition would be violated.
   6. As soon as possible but not later than within 5 (five) working days from day when the decision about the results of the Open competition is taken, Procurement commission prepares a report on the Open competition and publishes it on the Contracting authority’s profile in E-Tenders system’s webpage <https://www.eis.gov.lv/EKEIS/Supplier/Organizer/3001> and on Contracting authority’s webpage <http://railbaltica.org/en/procurements>.
   7. The selected Tenderer upon receiving the notification from Contracting authority must:
      1. Within 5 (five) business days (unless different timeframe is given by the Contracting authority in the invitation) submit to the Contracting authority a copy of partnership agreement or notification regarding the establishment of the partnership, if required pursuant to requirements under Section 7.1.2. a) of the Regulations;
      2. within 10 (ten) days (unless different timeframe is given by the Contracting authority in the invitation) upon receiving the invitation - to sign the Framework agreement.
   8. The Framework Contract is concluded based on the selected Tenderer's Proposal and in accordance with Annex No 5 “Draft Framework Contract”.
   9. The Procurement commission has the right to choose and rank the next most economically advantageous proposal, if the Tenderer in the time stipulated by the Regulations:
      1. refuses to conclude a partnership contract or to establish the partnership in the cases and deadlines defined by the Regulations or in the cases and deadlines defined by the Regulations does not submit a copy of the partnership contract, or does not inform of the founding of a partnership company;
      2. refuses to conclude the Framework Contract or does not submit a signed Framework agreement within the deadlines defined in the Regulations.
   10. In any of such a case mentioned in Section 20.9 of the Regulations Procurement commission is entitled to terminate this Open competition without selecting any Proposal or to select the next most economically advantageous proposal. For either of these decisions a written decision must be made.

Annexes:

1. Technical specification on 19 (nineteen) pages;
2. Application form – Financial proposal on 3 (three) pages;
3. Confirmation of the Tenderer’s Financial standing on 2 (two) page;
4. Tenderer’s Experience on 26 (twenty-six) pages;
5. Evaluation criteria for Experts, on 6 (six) pages
6. Draft Framework Contract on 38 (thirty -eight) pages.

Annex No 1: Technical specification

Annex No 2: Application form – financial proposal

***NB! The Tenderer is required to complete only the Lot (-s) of Procurement in which the Tenderer is taking participation.***

APPLICATION – FINANCIAL PROPOSAL

FOR PARTICIPATION IN THE OPEN COMPETITION

ID. NO RBR 2022/22

“Procurement and Commercial Services Framework for the Rail Baltica Global Project”

**PROCUREMENT LOT \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(insert Lot no and title)**

The Tenderer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

[Please indicate the name of the Tenderer or each member of the Partnership]

[Please indicate the registration number of the Tenderer or each member of the Partnership]

[Please indicate the legal address / Actual address, if differs]

represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

[Please indicate the name, surname and position of the legal representative of the Tenderer or Partnership]

[Please indicate the telephone and e-mail of the legal representative]

[Please indicate the name, surname, telephone and e-mail of the contact person, in case it differs from the legal representative]

by submitting this Application:

1. confirms its participation in Procurement Lot\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(please insert Procurement Lot title and No) of the open competition “……………………”;
2. confirms the expert’s team will be available to deliver expert services in accordance with the conditions specified in Technical Specification and Framework agreement for the following Procurement Lot (as indicated in Regulations) at the following **maximum hourly rate for each level expert:**

|  |  |  |
| --- | --- | --- |
| **1.** | **Maximum Senior level expert\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name, surname of the expert)****hourly rate EUR, excl. VAT** | **\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_) EUR, excl.VAT** |
| **2.** | **Maximum Junior level expert \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name, surname of the expert)****hourly rate EUR, excl. VAT** | **\_\_\_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_) EUR, excl.VAT** |

1. conforms, that the above-mentioned hourly rates for Senior level and Junior level experts are calculated in accordance with all requirements established in Section 11 of Regulations and Technical specifications (Annex No 1).
2. declares that for the purposes of qualifying (to comply with requirements set in Section 8 of Regulations) for the open competition the Tenderer will rely on the capabilities of the following entities (if any):

|  |  |  |
| --- | --- | --- |
| No | Name, registration number and registered address of the entity | Description of capabilities on which the Tenderer relies on, to comply with qualification requirements of Section 8 of Regulations |
| 1. |  |  |
| 2. |  |  |
| 3. |  |  |
| … |  |  |

1. declares that for the purposes to provide the services for the open competition the Tenderer will sub-contract the following entities (if any):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No | Name, registration number and registered address of the entity (sub-contractor) | Description of services assigned to sub-contractor | Percentage (%) of services assigned to sub-contractor | Size of entity  sized enterprise as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of:  - small;  -medium-sized enterprise. |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| … |  |  |  |  |

1. (Only if applicable) Informs, that the following persons comply with any of the exclusion grounds stipulated in Section 8.1. of the Regulations:

|  |  |  |
| --- | --- | --- |
| No | Name of the entity (and natural person) | Exclusion ground and brief description of the violation |
| 1. |  |  |
| 2. |  |  |
| 3. |  |  |
| … |  |  |

1. confirms that the Regulations, including Technical specification for respective Procurement Lot and draft Framework agreement, are clear and understandable, that it does not have any objections and, in case of granting the rights to enter into the Framework agreement for respective Procurement Lot, the Tenderer will undertake to fulfil all conditions of the Regulations, as well as will enter into the Framework agreement in accordance with the Technical specifications for the respective Lot the Tenderer is applying and draft Framework agreement enclosed;
2. confirms that in the preparation and submission of its Proposal, the Tenderer has fully considered all the clarifications issued by the Contracting authority (if any);
3. understands that the Contracting authority reserves the rights to reject any or all Proposals and cancel the procurement process before entering into Framework agreement based on the objective grounds specified in the Regulations or deriving from Public Procurement Law of the Republic of Latvia (including any new sanctions came in force);
4. guarantees that all information and documents provided is true;
5. confirms**[[6]](#footnote-7)** that meets the criteria of (please indicate by ticking relevant box):

o a small o medium o other

sized enterprise[[7]](#footnote-8) as defined in the Article 2 of the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprise.[[8]](#footnote-9)

Enclosed: document of representations rights: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [please indicate the document]

Signature *[signature of the representative of the Tenderer]*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Date: *[date of signing]*  
Name: *[name of the representative of the Tenderer]]*  
Position: *[position of the representative of the Tenderer]*

Annex No 3: Confirmation of financial standing

**CONFIRMATION OF TENDERER’S FINANCIAL STANDING FOR THE OPEN COMPETITION for procurement lot no** **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_”**

[*please* *insert Lot number and title[[9]](#footnote-10)*]

**Section 8.3.1 of the Regulations (refers to all Procurement Lots)**

Tenderer or all members of the partnership together (if the Tenderer is a partnership and confirms the average financial turnover jointly) average financial turnover\* within the last 3 (three) financial years (2020, 2021, 2022) is not less than **100 000 EUR (one hundred thousand euros)**.

In the event the average financial turnover of a limited partner of the limited partnership (within the meaning of the Commercial Law, Division X) exceeds its investment in the limited partnership, the average financial turnover shall be recognized in the amount of the investment in the limited partnership.

In the event the Tenderer or a member of a partnership (if the Tenderer is a partnership) has operated in the market for less than 3 (three) financial years, the requirement shall be met during the Tenderer’s actual operation period.

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Year** | **Total Turnover in EUR** | **Notes (e.g., please indicate and explaine if the last three financial years differs)** |
| The Tenderer or member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance (Section 8.3.1 of the Regulations) and who will be financially and economically responsible for fulfilment of the Contract or other entity on whose financial capacities the Tenderer is relying (if the Tenderer is relying on other entity’s capacity) to certify its financial and economic performance and who will be financially and economically responsible for fulfilment of the Contract:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *[Please indicate the name of the Tenderer / each member of a partnership / other entity on whose financial capacities the Tenderer relies on]* | | | |
| 1. | 2020 |  |  |
| 2. | 2021 |  |  |
| 3. | 2022 |  |  |
| **Average turnover** within the last 3 (three) financial years | |  |  |

*\* If the financial turnover is in another currency than euro, for the purposes of this Application it should be recalculated in euro in accordance with the currency exchange rate published by the European Central Bank on the date of signing of this document.*

**Section 8.3.2 of the Regulations**

The Tenderer and each member of the partnership (if the Tenderer is a partnership) on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract and other entity on whose capacity Tenderer is relying to certify its financial and economic performance and who will be financially and economically responsible for the fulfilment of the Contract (if any), shall have stable financial and economic performance, namely, in the last financial year (2021) liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1 (one) and shall have positive equity.

Signature *[signature of the representative of the Tenderer]*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Date: *[date of signing]*  
Name: *[name of the representative of the Tenderer]]*  
Position: *[position of the representative of the Tenderer]*

Annex no 4: Tenderer`S EXPERIENCE

Seperate file

***NB! The Tenderer is required to complete only the Lot (-s) of Procurement in which the Tenderer is taking participation.***

ANNEX NO 5: EVALUATION CRITERIA FOR EXPERTS

***NB! The Tenderer is required to complete only the Lot (-s) of Procurement in which the Tenderer is taking participation.***

Annex No 6: Draft framework agreement

1. 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. Other documents evidencing non-existence of the exclusion grounds listed in Section 8.1. shall be submitted only after Procurement commission`s separate request (not necessary to include already in Proposal). [↑](#footnote-ref-2)
2. **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. [↑](#footnote-ref-3)
3. **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 interest’s 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. [↑](#footnote-ref-4)
4. Ibd. [↑](#footnote-ref-5)
5. Hourly rate - remuneration for expert services ensured by the Tenderer in each Procurement Lot, concerning only working hours during official business day. [↑](#footnote-ref-6)
6. *Tenderer must indicate size of enterprise for each member of the partnership, if the Tenderer is a partnership.* [↑](#footnote-ref-7)
7. *The information on the size of the Tenderer is used solely for statistical purposes and is not in any way whatsoever used in the evaluation of the Tenderer or the Proposal.* [↑](#footnote-ref-8)
8. *Available here -* [*http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC*](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2003.124.01.0036.01.ENG&toc=OJ:L:2003:124:TOC) [↑](#footnote-ref-9)
9. *If the Tenderer applies for several Procurement Lots, this Application form - Financial proposal (Annex No 2) shall be filled in for each Procurement Lot separately.* [↑](#footnote-ref-10)