

Riga

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Electronic Procurement System

***Answers to the questions from interested suppliers
in the competitive procedure with negotiations
“Rail Baltica Control-Command and
Signalling Subsystem Design and Build”,
identification number RBR 2022/26***

RB Rail AS presents following answers to the questions received from interested suppliers until 30 January 2023:

Nr.	Question	Answer
1.	The Contractor belongs to a large international organisation with headquarters based in an EU country (the EU Mother/Holding Company), which organisation is using the principle of owned competences centres around the world (the Contractor’s Affiliated Competence Centers). In view of the above, please confirm that if the Contractor is the legal entity contracted by Rail Baltica and if the Contractor meets the criteria mentioned in 5.1. of Regulations, then the usage during the execution of the project (through subcontracting) of certain manufacturing or engineering resources from a Contractor’s Affiliated Competence Center which is Southern Asia located is acceptable to Rail Baltica?	The Procurement commission indicates that in general there are no restrictions for the CCS Contractor to use the resources/involve legal entities that are located in South Asia, however requirements of Section 4.2 – 4.3 of the competitive procedure with negotiations “Rail Baltica Control-Command and Signalling Subsystem Design and Build”, ID No RBR 2022/26, (hereinafter – Procurement) 1 st stage regulations (hereinafter – Regulations) applies to such companies as well. The potential supplier must be aware also of the fact that security checks regarding regulatory acts mentioned in the Section 3.3 of the Regulations will be carried out on all persons involved and CCS Contractor will be requested to store data within the European Union or European Economic Area and be fully adhere to the General Data Protection Regulation (GDPR). Additionally, the Procurement commission indicates that within the framework of public procurement, each company of the group company (holding companies) are considered as separate legal entities. Accordingly, please

		follow also the requirements of Section 6 and Section 7 of the Regulations regarding the persons on whose capacities Candidate relies and involved as a subcontractors.
2.	According to Section 3.14 in Annex 2 of the Procurement regulations, we understand that <i>“The CCS Contractor shall ensure the Integration of the CCS systems with the other subsystems part of the Rail Baltica infrastructure...”</i> listed in 3.14. Do we understand correctly that the CCS contractor will not be the Overall responsible system integrator for the integration of the subsystems listed in 3.14. Please confirm our interpretation.	The Procurement commission clarifies that the CCS Contractor shall be fully responsible of the integration of all systems that are included in CCS Contractor scope with the subsystems listed in Section 3.14 of the Annex No 2 “General description of the subject-matter” of the Regulations. The integration performed by CCS Contractor will be supervised by the CCS Engineer ¹ . It is planned that CCS Engineer will have the responsibility of the system integration supervision for entire Rail Baltica infrastructure.
3.	According to Section 3.12 Annex 2 of the Procurement regulations, <i>“The CCS Contractor shall develop the design of the CCS Subsystems in compliance with the EU standards, TSI and national regulation valid in Estonia, Latvia and Lithuania, as well as construction, testing and commissioning activities ...”</i> . We understand from the Procurement regulations that the Rail Baltica line is based on requirements identical for all three Baltic countries without further country specific requirements and the reference to national regulation valid in Estonia, Latvia and Lithuania refers to National construction laws . Please confirm our interpretation, otherwise please explain what country specific requirements will have to be implemented.	<p>The Procurement commission clarifies that in principle the requirements are kept as uniform as possible in all three Baltic states, according principle “Single railway system, Single operational rules, Single Safety Management System”. However, there will be specific country-related requirements in justified cases. This may include, but not limited to, the following items:</p> <ol style="list-style-type: none"> 1) National construction laws; 2) Specific railway line configuration (e.g., gauntleted track or gauge crossings in few stations) or interface cases; 3) Coordination and intermodality with 1520mm gauge railways, aviation, urban and suburban transport modes; 4) National security of safety regulations or technical conditions. <p>Also please see the information from the market consultations organised by the Contracting Authority: https://www.railbaltica.org/tenders/invitation-to-participate-in-market-consultation-about-the-approaching-control-command-and-signalling-ccs-subsystem-procurement-for-the-rail-baltica-global-project/, including the questions and answers provided by the Contracting Authority after the market consultations: https://www.railbaltica.org/wp-content/uploads/2022/11/Response-to-questions.pdf</p>

¹ Please see here: <https://www.railbaltica.org/tenders/engineering-services-for-preparation-procurement-and-supervision-of-rail-baltica-control-command-and-signalling-subsystem-deployment/>

<p>4.</p>	<p>Procurement regulations clause 5.2.2. sets the requirements for Candidate's economic and financial standing – "in the last audited financial year liquidity ratio shall be equal to or exceed 1 and shall have positive equity". Please confirm, that in case the Candidate is a partnership, Candidate can submit the documentation specified in the clause 5.2.2 of the Procurement regulations only for one member of the partnership, if this particular member alone meets the financial standing criteria specified in the clauses 5.2.1 and 5.2.2 of the Procurement regulations.</p>	<p>The Procurement commission explains that the Candidate can submit the documentation specified in the Section 5.2 of the Regulations only for one member of the partnership, if this particular member alone meets the requirements for the economic and financial standing specified in the Section 5.2.1 and 5.2.2 of the Regulations. In this case, <u>if only one partnership member is indicated to meet the requirements stipulated in the Section 5.2 of the Regulations, it will be economically and financially responsible for fulfilment of the Procurement contract alone.</u></p> <p>However, the Candidate needs to indicate in the Application on which member's economic and financial capacity (i.e., turnover) Candidate is relying and needs to indicate each member of the partnership which will be economically and financially <u>responsible</u> for the performance of the Procurement contract (please see the requirements stipulated in Section 5.1.1 and 5.2 of the Regulations "Documents to be submitted", i.e., the information that must be indicated in the Annex No 8 of the Regulations and in the partnership agreement or letter of intent).</p> <p>At the same time, notwithstanding the fact which partnership member will be indicated in the partnership agreement or letter of intent as the member which will be economically and financially <u>responsible</u> for the performance of the Procurement contract, all members of the partnership will be jointly and severally <u>liable</u> for the fulfilment of the Procurement contract.</p>
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Sincerely,

Procurement commission chairperson

A. Benfelde

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