

Riga

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Our Ref: 1.13p/LV-2023-120

## Electronic Procurement System

***Answers to the questions from the 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 the interested suppliers until 17 March 2023:

Nr.	Question	Answer
1.	<p>According to Section 5.2. of the Regulations we understand that the financial documentation can be submitted with respect to the one member who alone fulfills both economic and financial standing criteria (Sections 5.2.1. and 5.2.2. of the Regulations). Accordingly, financial documentation should not be submitted with respect to other members of the partnership, as the candidate can fully prove its economic and financial standing by providing financial documentation with respect to that one member of the partnership.</p> <p>At the same time, according to the consortium agreement all members of the partnership (Candidate) will be “jointly and severally” liable (also, economically and financially) for the fulfillment of the contract, thus additionally increasing certainty for the contracting authority of the contract fulfillment. I.e., all members of the</p>	<p>The Procurement commission confirms that documents mentioned in the Section 5.2 of the competitive procedure with negotiations “Rail Baltica Control-Command and Signalling Subsystem Design and Build”, id Nr. RBR 2022/26, (hereinafter – Procurement) 1<sup>st</sup> stage regulation (hereinafter – Regulation) can be submitted only regarding one member of the partnership, if this member alone meets the requirements stipulated in the Section 5.2 of the Regulations.</p>

	<p>partnership, including those on whose economic and financial capacity the partnership is not relying to fulfil the economic and financial standing criteria (according to Sections 5.2.1 and 5.2.2 of the Regulations) and about which financial documentation according to Section 5.2. of the Regulations will not be submitted, will be jointly and severally liable for execution (fulfillment) of the contract according to the consortium agreement.</p> <p>Please confirm our understanding: if all members of the partnership are jointly and severally liable for performance of the contract – then only with respect to the one member of the partnership that alone meets financial standing criteria (Sections 5.2.1. and 5.2.2. of the Regulations) financial documentation (Section 5.2. of the Regulations) must be submitted.</p>	
<p>2.</p>	<p>According to Clause 5.1(2) of the Candidate Selection Regulation the beneficial owners of the candidate must be citizens of the NATO, EU or EEA or non-citizen of the Republic of Latvia. Under the domestic law of the Candidate's country in case of listed companies having a large shareholder base it is considered that beneficial owners of the company are members of the Board of Director (in our case all are citizens of the EU).</p> <p>Under the domestic law of the Candidate's country, the competent authorities are not issuing statements regarding beneficial owners and there is no register of beneficial owners.</p> <p>Please confirm that in such case the Candidate fulfils the requirements of Clause 5.1(2) of the Candidate Selection Regulation and will be invited to the Second Stage of the Competition, if the Contracting Authority has received a statement of the Latvian State Security Service allowing to conclude the Contract will be received in respect of the Candidate.</p>	<p>The Procurement commission indicates that it will follow the definition of the Beneficial owner mentioned in the Section 1 of the Regulation to determine who is Beneficial owner of the Candidate.</p> <p>However, although there is no obligation to submit documents that proves Candidate's compliance with requirements stipulated in the Section 5.1.2 of the Regulation at the moment of Application submission, the Candidate, whose Application will comply with all other requirements in the Regulation, will be requested to submit information about its Beneficial owners to prove its compliance with the requirements in the Section 5.1.2 and in the Section 5.4.13 of the Regulation as well. Accordingly, if the competent authorities are not issuing statements regarding Beneficial owners and there is no register of Beneficial owners, the Candidate, when it will be requested, shall follow the procedures described in the Section 5.8 of the Regulation.</p> <p>The Procurement commission indicates that, if the Candidate will comply with all requirements in the Regulation, including requirements mentioned in the Section 5.4 of the Regulation, and the Procurement commission will receive statement from the Latvian State Security Service that it will be allowed to conclude the Contract with specific</p>

		Candidate, the Candidate will be invited to the 2 <sup>nd</sup> stage of the Procurement.
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Sincerely,

Procurement commission member / secretary

V. Ezergaile

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AND CONTAINS A TIME STAMP*