

Rīga

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Our Ref: 1.13p/LV-2021-291

Electronic Procurement System

***Answers to questions from the interested supplier
in the open competition "Requirements Management Tool
supply, implementation and maintenance",
identification number RBR 2021/19***

RB Rail AS presents following answers to questions received from the interested supplier until 1 September 2021:

Nr.	Question	Answer
1.	<p>Sections 8.1, 8.2, 8.3, 8.4 of the Regulations</p> <p>Please confirm that we can submit an ESPD at this stage and that the documents listed in this section would only be applicable to the winning bidder.</p>	<p>The Procurement commission indicates that in the Section 13 of the open competition "Requirements Management Tool supply, implementation and maintenance", ID No RBR 2021/19, (hereinafter – Procurement) regulations (hereinafter – Regulations) there are indicated documents that can be replaced by the European Single Procurement Document (hereinafter – ESPD). The interested supplier is allowed to submit ESPD as initial proof for compliance with requirements stipulated in the Section 8 of the Regulations.</p> <p>However, if the interested supplier is planning to submit the ESPD as initial proof, it is still mandatory to submit following documents:</p> <ul style="list-style-type: none"> - Partnership agreement mentioned in the Section 8.2 of the Regulations (if applicable); - Filled in and signed Annex No 2 "Application" of the Regulations; - Confirmation or agreement on cooperation and passing resources mentioned in the Section 9.1.1 of the Regulations (if applicable); - Documents for evaluation of the proposals, i.e., Technical proposal in accordance with

		<p>the Section 11 of the Regulations and Financial proposal in accordance with the Section 12 of the Regulations.</p> <p>Additionally, the Procurement commission indicates, that, if the interested supplier has chosen to submit the ESPD to prove that it meets the requirements for the selection of tenderers set out in Regulations, it shall also submit this document for each person on whose capacity the tenderer relies and for the subcontractor whose value of the services to be provided is at least 10% of the proposed contract price. If interested supplier plans to participate in the Procurement as partnership, it shall submit separate ESPD for each member of the partnership.</p>
2.	<p>Section 8.3 of the Regulations</p> <p>Requirement 2 stipulates that we need to have a liquidity ratio >1 in the last audited financial year.</p> <p>[..] prepare local audited annual financial statements in compliance with requirements in the Republic of Ireland. While for local compliance "Deferred Revenue" is considered a liability on the balance sheet, on a commercial and practical basis "Deferred Revenue" arises due to the timing of revenue recognition from user invoices, and is not considered a liability. Therefore, the [...] liquidity ratio for 2020 should be considered excluding deferred revenue, and is 1.2.</p> <p>We trust that this explanation will be taken into account by RB at evaluation, and we would be seen to satisfy the requirement on liquidity ratio. Please confirm.</p>	<p>At this stage the Procurement commission is not entitled to confirm whether your explanation of liquidity ratio meets the requirements stipulated in Regulations, as the Procurement commission does not provide evaluation of proposals before their submission. The Procurement commission kindly indicates that in the Annex No "Confirmation of Tenderer's financial standing" of the Regulations there is indicated formula for calculation of the liquidity ratio. The liquidity ratio should be calculated by dividing current assets with short-term liabilities only.</p>
3.	<p>Section 8.9 of the Regulations</p> <p>RFP says: <i>To fill in the ESPD the Tenderer shall use the "ESPD.xml" file on the Internet webpage http://espd.eis.gov.lv/.</i></p> <p>No .XML could be found on this page. Please provide the ESPD file to be completed.</p>	<p>The Procurement commission indicates that it has not prepared specific ESPD form for the Procurement. If the interested supplier has chosen to submit the ESPD as initial proof, it should create the ESPD on the indicated website itself, fill it in, download and then upload filled and signed file on the Electronic Procurement System together with the other documents for the Procurement (proposal).</p>
4.	<p>Annex 2 – Application</p> <p>We would like to note that we already have a contractual relationship with Rail Baltica and would like to leverage that. We would therefore like amend the text</p>	<p>The Procurement commission indicates that draft contract is part of the procurement documentation. In accordance with the Public Procurement Law of the Republic of Latvia after the deadline for submission of proposals,</p>

	<p>in Annex 2 – Application point 4 to the following. We are also happy to provide you with an initial deviation table that gives an overview of the most important issues we have identified: “Confirms that Regulations is clear and understandable, that it does not have any initial objections and complaints and that in the case of granting the right to enter into a Contract it shall fulfil all conditions of the Regulations as well as enter into a Contract fundamentally in accordance with the Draft contract enclosed with the Regulations as an Annex No 10 “Draft contract”, provided the parties enter into contract negotiations so that the contract is aligned with the existing contractual relationship between Rail Baltica and [..]. We also reserve the right to voice our objections (if any) to the non-mandatory Regulations in the further steps.</p>
<p>5. Section 13.2 and 13.3 of the Regulations The RFP states: <i>Upon submission, the Tenderer signs the Proposal with secure electronic signature and time-stamp or with electronic signature provided by Electronic Procurement System. The Tenderer can use secure electronic signature and time-stamp and sign Application form, Technical proposal, Financial proposal and other documents separately.</i> Can you please confirm if Adobe Sign would be an acceptable manner to sign the documents as it also provides a time-stamp? Example of a signed document is attached.</p>	<p>amendments to the procurement documentation, including the draft contract, are not allowed, except, minor and clarifying amendments or amendments resulting from changes in regulatory enactments etc. Considering the mentioned above, proposed amendments cannot be included in the Annex No 2 “Application” of the Regulations.</p> <p>In accordance with the Electronic Documents Law of the Republic of Latvia and the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 of electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (hereinafter - Regulation (EU) No 910/2014) the Procurement commission has an obligation to recognize secure electronic signatures of Latvia and other European Union Member States as equivalent to a handwritten signature. The secure electronic signature in the Regulations means the same as a qualified electronic signature specified in an Article 3 of the Regulation (EU) No 910/2014.</p> <p>At this stage the Procurement commission is not entitled to confirm whether your proposed solution for signing the documents meets the requirements stipulated in Regulations, as the Procurement commission does not provide evaluation of proposals before their submission. However, from the information on “Adobe” official webpage (https://www.adobe.com/sign/compliance/eidas.html), <i>prima facie</i>, “Adobe Sign” can be recognized as a secure electronic signature. Additionally, the Procurement commission kindly indicates that Electronic Procurement System itself provides possibility to easily sign the proposal with integrated electronic signature.</p>

		Regarding the example of signed document, the Procurement commission indicates, that there were no files attached to the interested supplier's email.
6.	<p>Annex 8 – Technical Proposal – Section 2.1 System Functional Requirements</p> <p>We raised a suggestion that the Traceability Analysis. Question in Annex 8 – Technical Proposal be split. We were under the impression that this would be taken into consideration for the reissued RFP but we do not see any change to it. Can you please confirm if the question would be restructured per our suggestion and the Annex 8 reissued? Alternatively, please confirm it would be ok if we split our responses accordingly.</p> <p>Our original request raised with RB on 29 April 2021</p> <p><i>In the Technical Proposal, the requirements set out below appear to be a mix of Application and System requirements for traceability and auditability etc. , and as such we cannot provide a single, broad compliance statement against them. Can we suggest, as outlined below, that the requirements are split into Application based data and Hosted Environment (Systems) based data to enable us to give accurate answers to each requirement?</i></p> <p><i>Please advise whether this is acceptable.</i></p>	<p>The Procurement commission in the Regulations includes such requirements as it deems reasonable and applicable. Not all interested suppliers' suggestions identified in the market research are included in the Procurement documentation. However, the Procurement commission indicates that the tasks or requirements can be grouped or split, but in such case the interested supplier must be sure that its Technical proposal:</p> <ul style="list-style-type: none"> • complies with all the requirements contained in the Regulations (<u>fully covers</u> all the requirements included in the Regulations (including the Technical specification)); • does not change them; and • contains all the information necessary for the evaluation of the Technical proposal. <p>NB! The Procurement commission's note: The split of Technical proposal proposed by the interested supplier is set out in the Annex of this letter.</p>

Sincerely,

Procurement commission chairperson / secretary

V. Ezergaile

*THIS DOCUMENT IS SIGNED ELECTRONICALLY WITH A QUALIFIED ELECTRONIC SIGNATURE
AND CONTAINS A TIME STAMP*

Requirement	Compliance with requirement Y/N	Short description how proposed Requirements Management Tool provides the functionality mentioned and/or how service will be provided
Application Based Data Audit		
Traceability Analysis. The system provides ability to see the life cycle of any requirements, links to where they come from (source), where they go (design, test), and why they apply (rationale, justification).		
The creation and storage of audit trail data is ensured for at least 18 (eighteen) months after the entry is made. Audit trails containing data of natural persons is kept for at least one year.		
input, modification, deletion, output, transfer, transmission, copying, printing of information resources (data);		
Hosted Environment Data Audit		
Audit trails include information on (both service and operating systems, etc.):		
authentication records;		
connection or disconnection, incl. unsuccessful;		
operations with system user data;		
creating, modifying or deleting an account;		
the time of the event, which coincides with the coordinated world time of the actual event (UTC);		
data selection;		
a description of the Internet Protocol (IP) address from which the activity was performed, as well as information regarding the initiator of the activity - identifier, connection metadata;		
software parameter change;		
password change;		
network traffic audit data;		
Domain Name System (DNS) server records;		
other software user, incl. actions performed by system administrators.		