

COMMON PROCUREMENT STANDARDS AND GUIDELINES FOR THE RAIL BALTICA PROJECT

RBGL-RBR-STN-Z -00001

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DOCUMENT HISTORY

This document has been issued and amended as follows:

Revision	Effective from	Author	Description of changes
1.0	2017-07-24	Kristjan Piirsalu	First issue
2.0	2018-11-27	Kristjan Piirsalu	<p><u>This document supersedes, inter alia, the following previous standalone documents:</u></p> <ol style="list-style-type: none"> Common Procurement Standards and Guidelines for Rail Baltica Project Procurement Policy for Implementation of Rail Baltic / Rail Baltica Project, approved by RB Rail AS Management Board, Decision No 4/3/2017, 13 January 2017 Contracting Authority Code of Conduct – Common Procurement Standards and Guidelines for the Rail Baltica Project, April 2017 Supplier and Sub-Contractor Code of Conduct – Common Procurement Standards and Guidelines for the Rail Baltica Project, April 2017 Minimum Set of Requirements for the Qualification of Economic Operators, in effect from 24 July 2017, approved by RB Rail AS Management Board, Decision No 17/31/2017, dated 24 July 2017 Supplier's Declaration
3.0	2021-05-01	Kristjan Piirsalu	<p>The following changes to the previous version of document made:</p> <ol style="list-style-type: none"> General provisions. Clauses changed: 1.1.; 1.3.;1.4.; 2.1.; 2.2.;2.3; 2.4. (f); 4.1. 4.3.; 4.4.;5.2.;5.3.; 5.4. 10.2 (previous 9.2.); new section Nr. 6 added, previous sections Nr. 6, 7, 8, 9 changed to Nr. 7, 8, 9, 10 accordingly. Appendix 1. Clauses changed: table line Nr. 1 Appendix 2. Clauses in textual part changed: 1.1.; 2.1.; 2.2.; 2.3; 2.4.; 2.6. <ol style="list-style-type: none"> Minimum Requirements for 40 000 – 144 000 EUR Procurement Exercises. Changed table lines Nr: 1, 2; 3; 4; 5; 6; added new table line 7. Minimum Requirements for 144 000 EUR or higher value Procurement Exercises. Changed table lines Nr: 1, 2; 3; 4; 5; 6; added new table line 7. Minimum Requirements for Procurement Exercises from 10 000 EUR to 39 999 EUR. Clause changed: Nr. 7 Appendix Nr. 3. Clauses changed: 3.2., 3.4.; Appendix Nr. 4. Clauses changed: <ol style="list-style-type: none"> (a), (b) (i)(ii)(iii)(v)(vi)(viii); (a); (a), (b), (c), (d); (a), (b), (c); (a), (b), (c), (d)' (g), (h), (i), (j), (k);

			<p>7 (a), (b).</p> <p>6. Appendix Nr. 5. Clauses changed: 1., 1. (a) (c); 3 (f); 4 (a), (b), (c), added new cause (e), 5(b).</p> <p>7. Appendix Nr. 6. Clauses changed: 15., 16., 17. To Clause 19 new sub-clause (c) added, previous (c), (d), (e) changed to (d), (e), (f) accordingly, subclause (f) (previous (e)) changed.</p> <p>8. Appendix Nr. 7. Table lines 11 and 12 deleted.</p> <p>9. Appendix Nr. 8. Changed text in the brackets.</p> <p>10. Appendix Nr. 9. Changed text in the brackets, new text added to addendix.</p>
4.0	2024-03-28	Mārtiņš Blaus	<p>1. Sections 3 and 4 are removed to avoid duplication, as this is foreseen in the Contracting Scheme.</p> <p>2. Section 5: Clauses changed: 7.3., 7.4., 7.5.</p> <p>3. Appendix No 2. Clause changed: 2.4.</p> <p>4. Appendix No 2. Table for "Minimum requirements for 40 000 – 144 000 EUR Procurement exercises" removed. Table for "Minimum requirements for procurement exercises from 10 000 – 39 999 EUR" removed.</p> <p>5. Appendix No 6. Clause 1 changed.</p> <p>6. Appendix No 7. Table changed.</p> <p>7. Change of Document number – Document number changed from RBGL-PRC-STN-Z-00001 to RBGL-RBR-STN-Z-00001.</p>

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1. BACKGROUND

- 1.1. Rail Baltica is a new fast conventional double track standard gauge (1435mm) electrified railway line on the route from Tallinn through Pärnu-Riga-Panevėžys-Kaunas to Lithuanian-Polish border, with the connection of Vilnius-Kaunas, and related railway infrastructure in accordance with the agreed route, thus, located in the territories of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania (the “**Rail Baltica**”) (the “**Global Project**”).
- 1.2. Global Project is implemented by multiple public institutions and derived private persons in the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania which poses financial, legal and practical challenges given the fact that the Rail Baltica railway infrastructure must be fully interoperable.
- 1.3. Implementation of the Global Project is financed by the European Union through the Connecting Europe Facility and the co-founding of the three Baltic states – the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania, and if necessary from other sources of financing. The Ministry of Climate of the Republic of Estonia, the Ministry of Transport of the Republic of Latvia and the Ministry of Transport and Communications of the Republic of Lithuania (the “**Beneficiaries**”) and RB Rail AS are beneficiaries of the Global Project pursuant to the Connecting Europe Facility grant agreements.
- 1.4. The Beneficiaries of the Global Project have designated the Estonian Consumer Protection and Technical Regulatory Authority, Rail Baltic Estonia OU, Rail Baltica statyba UAB, Lietuvos geležinkeliai AB (substituted by LTG Infra AB as of 8 December 2019) and Sabiedrība ar ierobežotu atbildību EIROPAS DZELZCEĻA LĪNIJAS as the national implementing bodies of the Global Project (the “**Implementing Bodies**”).
- 1.5. RB Rail AS is a joint-stock company established and operating under the laws of the Republic of Latvia. The main business of RB Rail AS is designing, construction and marketing (including branding) of the Rail Baltica railway line. Additionally, RB Rail AS is the coordinating authority of the Global Project.

2. SCOPE OF APPLICATION

- 2.1 This document outlines the standards and guidelines which are applicable to procurement exercises undertaken by RB Rail AS, the Beneficiaries and the Implementing Bodies within the Global Project (each the “**Contracting Authority**” or together “**Contracting Authorities**”), including procurement exercises that fall outside the relevant applicable national procurement law. This document shall be published and freely available to economic operators in order to inform them about these standards and guidelines.
- 2.2 These standards and guidelines apply to all procurement exercises undertaken by the Contracting Authorities within the Global Project irrespective of the estimated contract value or its subject matter. Exceptions are allowed only in genuinely justifiable cases such as limitations/requirements of the national governments’ e-procurement systems which the Contracting Authorities are obliged to use or approved dynamic purchasing systems or in other cases stipulated in this document. This document by itself does not create rights to claim its observance to third parties, e.g. economic operators. The actual requirements for a particular procurement exercise are laid down in the particular respective procurement documents.
- 2.3 In case of any discrepancies between the mandatory provisions of national legislation and this document the mandatory provisions of national legislation, which apply to the particular procurement exercise, shall prevail. Such discrepancies shall be notified to the Procurement Policy and Process Manager of RB Rail AS and recorded on file for audit purposes.

- 2.4 The objective of the parties to whom the requirements in this document apply, is the timely acquisition of the right, to the extent possible and feasible: eco-designed¹, environmentally friendly, socially responsible and complying with labour law provisions, goods, works and services, while addressing:
- 2.4.1. The primary goal to construct the Rail Baltica railway;
 - 2.4.2. The ensuring of principles of fairness, transparency, equal treatment, non-discrimination, mutual recognition and proportionality through competition, and auditability;
 - 2.4.3. Best value for money;
 - 2.4.4. Efficient use of resources and minimisation of risks by using common procurement standards and guidelines, procurement document templates and a common minimum set of requirements for the qualification of suppliers and economic operators;
 - 2.4.5. Promoting socially and environmentally sustainable procurement;
 - 2.4.6. Providing appropriate management of corruption, mitigating the risk of conflict of interest and other related risks.

3. CONTRACTING AUTHORITY CODE OF CONDUCT

- 3.1. A procurement procedure and the resulting contract shall not only comply with the statutory procurement regulations, but also with the applicable requirements in such areas as employment, health and safety, environmental protection, taxation, and anticorruption regulations etc. Therefore, it is important to ensure that each and every potential supplier and tenderer taking part in implementation of the Global Project shall conduct their business activities in a legal and compliant manner.
- 3.2. The Contracting Authorities must within the limits that the statutory laws allow, use a mix of compulsory and discretionary exclusion grounds, selection criteria, tender suitability criteria, contract award criteria and contract performance conditions, and follow the Appendix 4 – Contracting Authority Code of Conduct, to award procurement contracts to suppliers which honour requirements of applicable statutory laws and best market practice which is summarised below. Compulsory exclusion grounds derive from the applicable national legislation and shall be included in every procurement document. Discretionary exclusion grounds and selection criteria shall be set in the relevant procurement documents in line with the applicable national legislation. A Suppliers' Declaration which shall be a part of a procurement contract is appended to this document (Appendix 6).
- 3.3. Through a mix of compulsory and discretionary exclusion grounds, contract award criteria and contract performance conditions Contracting Authorities must ensure that procurement contracts are executed in compliance with the best market practice described in Appendix 5 – Supplier and Sub-Contractor Code of Conduct.
- 3.4. The Contracting Authority shall apply the same conditions and equal treatment to the candidates coming from the country where the Contracting Authority is located, also from another Member State of the European Union or another contracting state of the European Economic Area or from a country that has

¹ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products, recast of Directive 2005/32/EC amending Council Directive 92/42/EEC and Directives 96/57/EC and 2000/55/EC of the European Parliament and of the Council.

joined the Government Procurement Agreement of the World Trade Organization or has signed any other international agreement that is binding to the EU member states.

- 3.5. The Contracting Authority shall apply necessary restrictions according to legal requirements of the Contracting Authority country not to acquire any Goods, Services, and Works from entities of hostile countries as set by authorities of the respective country.

4. AVOIDANCE, MITIGATION AND COMBATING THE CONFLICT OF INTEREST

- 4.1. Contracting Authorities shall endeavour to take the necessary steps to avoid, mitigate, combat and efficiently resolve situations of conflict of interest.
- 4.2. In the practice of avoidance, mitigation, combating and efficiently resolving situations of conflict of interest Contracting Authorities shall fully take into account the applicable legislation as well as other governance in place for the implementation of the Global Project.
- 4.3. If suspicious and/or potentially illegal activity (e.g. bribery or other attempts at corruption, bid-rigging, cartels, abnormally low tender prices or other illegal anticompetitive practices) by contractors or tenderers will be noticed, the relevant Contracting Authority must without hesitation notify the necessary authorities and fully co-operate with them to resolve the situation and protect any possible Global Project investments.
- 4.4. 'Whistle-blowers' must be supported and protected who act in good faith, even if their suspicions should subsequently prove to be unfounded. Any person that wishes to notify the Contracting Authorities of illegal activities or of suspicions of such activities that is in his/her knowledge should immediately contact representatives of the relevant Contracting Authority. The Contracting Authorities must preserve anonymity of such persons within the framework of applicable laws. Where any of the Contracting Authorities has implemented an internal Whistle-blower procedure, the particularities of such procedure shall be followed by all staff members, internal and external experts of the Contracting Authority.

5. COOPERATION IN IMPLEMENTATION

- 5.1. In order to coherently implement these Guidelines, Beneficiaries and Implementing Bodies must cooperate among themselves, as well as seek coordination and guidance from RB Rail AS as the Global Project coordinator. RB Rail AS welcomes questions and proposals.
- 5.2. RB Rail AS will apply these procurement standards and guidelines itself as well as through its nominated members in the procurement committees of Beneficiaries and Implementing Bodies procuring under the supervision of RB Rail AS, Contracting Authorities of Supervised National Procurements will facilitate coherent implementation of these Guidelines by other Beneficiaries and Implementing Bodies. Additionally, RB Rail AS may conduct legal checks and audits as it sees fit.
- 5.3. Nominating a procurement commission member as per 5.2.2 of the Contracting Scheme Agreement is a prerogative of RB Rail AS and shall be done when procurements are deemed to have a meaningful impact on implementation of the Global Project i.e. in cases when the below criteria are met (exceptions can be made if so requested by Implementing Body):

5.3.1. Estimated value is over international threshold and:

- 5.3.2. Activity is either RB design or construction or;
 - 5.3.3. Activity is RB study or any other service that is planned to have a direct and significant impact on subsequent design or construction activities or;
 - 5.3.4. Activity is purchasing significant amounts of materials for RB construction activities of the RB project.
- 5.4. IB may indicate expertise field of requested procurement commission member and expert. Member or expert shall be selected on the basis of the request by IB. The aim is to ensure that the procurement commission is composed of persons with the necessary competences. The RB Rail AS nominated procurement commission member or expert shall focus on their respective field while conducting commission work. The field of procurement commission member or expert, if nominated from procurement department, is application of the CPSG.

6. STATUS

- 6.1. This is a living document and may be updated by RB Rail AS as necessary. The latest version will be available on the web-page of RB Rail AS. RB Rail AS will notify the involved Beneficiaries and Implementing Bodies of the publication of an updated version.

7. PROCUREMENT POLICY DOCUMENTS AND THEIR APPLICATION

- 7.1. The parties to whom this document applies shall control, manage and apply their procurement documentation and the requirements stated within their procurement documentation, as a minimum, in line with the Guidelines and the principles stated in Appendices.

8. MONITORING AND ENFORCEMENT

- 8.1. Suppliers have the right to appeal decisions and actions of Contracting Authorities and their procurement commissions to the national institutions and courts in accordance with the applicable laws.
- 8.1.1. Contracting Authorities shall have the right to perform checks and audits and on-the-spot visits as follows, provided that there are no legal limitations in the supplier's country of residence to do so.
 - 8.1.2. By giving a written notice 5 (five) business days in advance, but in case of an unannounced check or audit or on-the-spot-visit without an advance notice, the relevant Contracting Authority is expected to be able to carry out technical, legal and financial checks and audits of the relevant supplier and the sub-contractors of the supplier, and on-the-spot visits to the sites and premises where the activities related to the implementation of the relevant contract are or were carried out. Checks and audits and on-the-spot visits may be carried out either directly by the authorised staff of the relevant Contracting Authority or by any other outside body authorised to do so on its behalf.
 - 8.1.3. The relevant supplier is expected to provide access to all the information and documents, including information in electronic format, which is requested, and which relates to the

execution of the relevant contract, as well as is expected to allow copying of the information and documents with due respect to the confidentiality obligation.

8.1.4. The relevant supplier is expected to agree in the contracts with its own suppliers on the right of the relevant Contracting Authority to access and to copy their information and documents which relate to the execution of the relevant contract.

8.2. The Contracting Authorities shall adhere to all applicable laws and regulations, internal policies and procedures, and international agreements.

8.3. In order to enforce the principles outlined in the Guidelines, Contracting Authorities:

8.3.1. Shall determine in the procurement documents and draft contracts requirements which are necessary in order to enforce the principles outlined in this document.

8.3.2. Reserve the right to request their suppliers at any time to confirm in writing the compliance with the principles set forth in this document.

8.4. If any illegal activity will be noticed (e.g. bribery, corruption, cartels), RB Rail AS and/or the Beneficiaries and/or Implementing Bodies will notify the authorities without hesitation, and cooperate with them to resolve the situation and protect the Global Project investment.

9. APPENDICES

9.1. The following appendices form part of the Guidelines:

9.1.1. Appendix 1: Procurement policy document list.

9.1.2. Appendix 2: Minimum Qualification Requirements.

9.1.3. Appendix 3: Principles of Compiling Procurement Documents.

9.1.4. Appendix 4: Contracting Authority Code of Conduct. See Document No. RBGL-RBR-STN-Z-00002.

9.1.5. Appendix 5: Supplier and Sub-Contractor Code of Conduct. See Document No. RBGL-RBR-STN-Z-00003.

9.1.6. Appendix 6: Supplier's Declaration. See Document No. RBGL-RBR-TPL-Z-00005.

9.1.7. Appendix 7: Procurement Commission Membership.

9.1.8. Appendix 8: Regulations Templates. The templates are managed separately by RB Rail AS and RB Rail AS shall make these available to the Implementing Bodies and Beneficiaries separately from this document where the particular templates for use are available.

9.1.9. Appendix 9: Contract Templates.

APPENDIX 1: PROCUREMENT POLICY DOCUMENTS LIST

Procurement in the name and for the purpose of the Global Project by the Contracting Authorities involves, as a minimum, the following documentation, which the Contracting Authorities shall align to the Guidelines:

Document	Description	Application
Common Procurement Standards and Guidelines for Rail Baltica Project	The Guidelines together with all its Appendices, which sets the common procurement standards and guidelines to be followed by RB Rail AS, the Beneficiaries and Implementing Bodies in the course of procuring and implementing the Global Project. The appendices include the minimum set of requirements for the qualifications of economic operators for the procurement exercises within the Global Project. Common templates for procurement documents shall be developed and provided by RB Rail AS.	Beneficiaries, RB Rail AS and Implementing Bodies
Contracting Authority's Procurement Policy	RB Rail AS and each Beneficiary and Implementing Body shall produce, govern and version control its own Procurement Policy document(s) and shall be responsible for ensuring the alignment of such Procurement Policy document(s) with the Guidelines.	Company specific
Codes of Conduct	RB Rail AS and each Beneficiary and Implementing Body shall produce, govern and version control its own Code of Conduct, if such a code(s) is required in addition to the documents provided in Appendix 4 and Appendix 5 of the Guidelines. In such case RB Rail AS and each Beneficiary and Implementing Body shall ensure that their respective code(s) is in alignment with and does not conflict this document and its Appendices.	Company specific
Appendices to the Guidelines	All Appendices to the Guidelines.	Beneficiaries, RB Rail AS and Implementing Bodies

APPENDIX 2: MINIMUM QUALIFICATION REQUIREMENTS

1. Background

- 1.1. On 30 September 2016 RB Rail AS, Ministry of Climate of the Republic of Estonia, Ministry of Transport of the Republic of Latvia, Ministry of Transport and Communications of the Republic of Lithuania, Estonian Consumer Protection and Technical Regulatory Authority, Rail Baltic Estonia OU, Sabiedrība ar ierobežotu atbildību EIROPAS DZELZCEĻA LĪNIJAS, Lietuvos geležinkeliai AB (substituted by LTG Infra AB as of 8 December 2019) and Rail Baltica Statyba UAB concluded an Agreement on the Contracting Scheme for the Rail Baltic/Rail Baltica project (**Agreement on Contracting Scheme**).
- 1.2. According to the Agreement on Contracting Scheme, the Ministries and their designated implementing bodies are authorised to conduct procurement of certain supplies, works and services under the supervision of RB Rail AS (**Supervised National Procurement**).
- 1.3. Section 5.2.3 of the Agreement on Contracting Scheme obliges Beneficiaries and their designated Implementing Bodies to draft procurement documents for the Supervised National Procurement among other things on the basis of minimum set of requirements for the qualifications of economic operators, developed by RB Rail AS.

2. Minimum set of requirements

- 2.1. This document sets out the minimum set of requirements for the qualifications of economic operators which shall be taken into account by the Contracting Authorities when drafting procurement documents for the procurement exercises within the Global Project.
- 2.2. The minimum set of requirements for the qualifications of economic operators is outlined in the Appendix 2, in line with the estimated value (in EUR) of the procurement exercise. Notwithstanding these minimum requirements, the Contracting Authorities in charge of the particular procurement exercises shall apply the mandatory requirements set in the respective applicable national procurement law that are applicable to a particular procurement exercise.
- 2.3. Contracting Authorities may set in relevant procurement documents additional requirements for the qualification of economic operators insofar as such are objectively justified and do not unnecessarily and inappropriately limit the competition between economic operators.
- 2.4. As an exception, in order to enhance the competition between the economic operators in a particular procurement and if setting of lesser requirements does not have a negative impact on the quality of the to-be-procured works, services or goods, the Contracting Authorities may set in relevant procurement documents lesser requirements for the qualification of economic operators by motivating the need to enhance the competition. This could be done, if setting of lesser requirements will not have a negative impact on the quality of the to-be-procured works, services or goods and this will be based on set objective facts which shall be recorded in a written and reproducible form for audit purposes (as part of the minutes of the meeting of the procurement commission or as a separate decision). The Contracting Authorities shall draft their reasons to deviate from any minimum qualification requirements stipulated in this document, providing details of such deviation together with justification, the market research report/data, justifying the deviation and store them with respective procurement documentation. Deviations shall have to be signed by the Chairperson of the Procurement Commission. Contracting Authorities shall keep records of all of the deviations for every procurement where applied for the auditing purposes.

- 2.5. Regarding any national legislation based recurring deviation requirements or based on the market condition the Chief Procurement Officer of RB Rail AS has the right to issue to Contracting Authorities a blanket deviation covering all upcoming procurement procedures until further notice, a set deadline or a change of legislation.
- 2.6. If any of minimum set of requirements cannot be requested as qualification criteria, in accordance with the relevant applicable national procurement law, shall be requested as tender suitability or evaluation criteria instead.

3. Status

- 3.1. In case of discrepancies between the mandatory provisions of national legislation and the requirements for the qualifications of economic operators which are set in this document the mandatory provisions of national legislation which apply to the particular procurement exercise shall prevail.
- 3.2. This is a living document and RB Rail AS may update it as necessary. RB Rail AS will involve the Procurement Reference Group in discussions pertaining to updates to the document. The newest version will be available on the web-page of RB Rail AS. RB Rail AS will notify the involved Contracting Authorities when publishing an updated version of this document.

Minimum Requirements for Procurement Exercises over international procurement thresholds

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
1. Legal standing (this requirement is applicable only in cases national law foresees such requirement)	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in the state of its establishment if regulatory enactments of the respective state envisage such a requirement. - The requirements to consortium shall be established in accordance to national law. 	<p>The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in the state if its establishment if regulatory enactments of the respective state envisage such a requirement.</p> <ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Commercial Register or an equivalent register of commercial activities in the state of its establishment if regulatory enactments of the respective state envisage such a requirement. - The requirements to consortium shall be established in accordance to national law.
2. Suitability to pursue the professional activity (this requirement is applicable only in cases national law foresees such requirement)	<ul style="list-style-type: none"> - The Tenderer shall be registered in the Register of Construction Merchants or respective Professional Register or an appropriate register of the state of its establishment if regulatory enactments of the respective state envisage such a requirement. 	<ul style="list-style-type: none"> - The Tenderer shall be registered in the respective Professional Register or an appropriate register of the state of its establishment if regulatory enactments of the respective state envisage such a requirement. 	<ul style="list-style-type: none"> - The Tenderer shall ensure that the goods/supplies are in conformity with the CE (Conformité Européenne) marking² requirements for their supplied goods if such goods are identified under the applicable product

² Refer also to https://ec.europa.eu/growth/single-market/ce-marking/manufacturers_en

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law. 	<p>groups listed by the European Commission.³</p>
<p>3. Economic and financial standing</p>	<ul style="list-style-type: none"> - The Tenderer's average yearly turnover within the last three financial years from the date of publication of procurement shall be at least [50-100%]⁴ of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the requirement shall apply to Tenderer's actual operation period.⁵ 	<ul style="list-style-type: none"> - The Tenderer's average yearly turnover the last three financial years from the date of publication of procurement shall be at least [50-100%]⁶ of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the requirement shall apply to Tenderer's actual operation period.⁷ 	<p>The Tenderer's average turnover within the last three financial years from the date of publication of procurement shall be at least [50-100%]⁸ of the contract price estimated by the contracting authority (contracting entity). In the event the Tenderer has operated in the market for less than three years, the</p>

³ Shall be requested as tender suitability or evaluation criteria, as foreseen by Clause 2.6. of Appendix 2 of these Guidelines

⁴ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements

⁵ In a case where the contract scope is highly specialised as to result in a serious likelihood of the overall turnover of suppliers being shaped to a large extent by other activities of little to minimum relevance to the scope of the contract, then the requested turnover may be that of the direct linkage to the subject-matter of the contract.

⁶ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements

⁷ In a case where the contract scope is highly specialised as to result in a serious likelihood of the overall turnover of suppliers being shaped to a large extent by other activities of little to minimum relevance to the scope of the contract, then the requested turnover may be that of the direct linkage to the subject-matter of the contract.

⁸ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
			requirement shall apply to Tenderer's actual operation period. ⁹
	<ul style="list-style-type: none"> - The Tenderer shall have stable financial and economic performance, namely, in the previous audited year (if auditing the financial report is required by the law applicable to the Tenderer) Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1. 	<ul style="list-style-type: none"> - The Tenderer shall have stable financial and economic performance, namely, in the previous audited year (if auditing the financial report is required by the law applicable to the Tenderer) Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1. 	<ul style="list-style-type: none"> - The Tenderer shall have stable financial and economic performance, namely, in the previous audited year (if auditing the financial report is required by the law applicable to the Tenderer) Tenderer's liquidity ratio (current assets divided by short-term liabilities) shall be equal to or exceed 1.
	<ul style="list-style-type: none"> - The Tenderer shall have positive equity (this requirement can be used if in line with national legal system). The exact and detailed description of the method of calculation of such requirement 	<ul style="list-style-type: none"> - The Tenderer shall have positive equity (this requirement can be used if in line with national legal system). The exact and detailed description of the method of calculation of such requirement 	<ul style="list-style-type: none"> - The Tenderer shall have positive equity. (This requirement can be used if in line with national legal system). The exact and detailed description of the

⁹ In a case where the contract scope is highly specialised as to result in a serious likelihood of the overall turnover of suppliers being shaped to a large extent by other activities of little to minimum relevance to the scope of the contract, then the requested turnover may be that of the direct linkage to the subject-matter of the contract.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	shall be stipulated in the procurement documents.	shall be stipulated in the procurement documents.	method of calculation of such requirement shall be stipulated in the procurement documents.
	<ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - The requirements to consortium shall be established in accordance to national law.
4. Technical and professional ability ¹⁰	<ul style="list-style-type: none"> - Within the last [3-10] (three to ten¹¹) years before the date of submission of the tender the Tenderer has gained experience as the main contractor in the execution of at least [_ ()]¹² [railway/ tunnel/ bridge/ station/ depot] 	<ul style="list-style-type: none"> - Within the last [3-10] (three to ten¹⁶) years until the date of submission of the tender the Tenderer has gained experience as the main contractor in the execution of at least [_ ()]¹⁷ contracts with the same subject- 	<ul style="list-style-type: none"> - Within the last [3-5] (three to five²¹) years until the date of submission of the tender the Tenderer has performed at least [1 (one)]²² supplies of goods of a similar kind [meeting the standard(s) of [

¹⁰The requirements for stated experts shall apply in case such experts are required.

¹¹The Experience in the range of 3 to 10 years shall be applied according to market research results made by the Contracting Authority and according to the applicable legislation requirements. Choosing the acceptable period sufficient competition shall be ensured by the Contracting Authority.

¹² Shall be indicated number of projects. Projects shall be no less than 1.

¹⁶The Experience in the range of 3 to 10 years shall be applied according to market research results made by the Contracting Authority and according to the legislation requirements. Choosing the acceptable period sufficient competition shall be ensured by the Contracting Authority.

¹⁷ Shall be indicated number of projects. Projects shall be no less than 1.

²¹The Experience in the range of 3 to 5 years shall be applied according to market research results made by the Contracting Authority and according to the applicable legislation requirements. Choosing the acceptable period sufficient competition shall be ensured by the Contracting Authority.

²² Shall be indicated number of contracts, which shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>construction works contracts [meeting the standard(s) of [_ ()]¹³, each with the value of not less than [50-70%]¹⁴ of the anticipated contract value [or alternatively indicate the requirement representative to the scope of works / final result of the works similar to the object of the procurement to be achieved, without the monetary value - the requirement needs to be comparative to [50-70%]¹⁵ of the scope] of the ongoing tender. The contracts have to be completed and accepted or if ongoing, then the value [or scope] of the <u>completed and accepted</u> works must be not</p>	<p>matter [meeting the standard(s) of [()]¹⁸, each with the value of not less than [50-70%]¹⁹ of the anticipated contract value [or alternatively indicate the requirement representative to the scope of services /final result of the services similar to the object of the procurement to be achieved, without the monetary value- the requirement needs to be comparative to [50-70%]²⁰ of the scope] of the ongoing tender. The contracts have to be completed and accepted or if ongoing, then the value [or scope] of <u>completed and accepted</u> services must be not less than the value indicated above.</p>	<p>_ ()]²³ with proven reference of quality delivery in the amount of [50-70%] each of the anticipated supply amount of the ongoing tender (<i>For long term and/or framework contracts the planned contract term should be taken into consideration in ascertaining the reference amount percentage, and previous experience in supplying similar goods similar to the anticipated annual scope of supply could be considered as sufficient proof</i>).</p>

¹³ If the application of an EU standard is of significance, consider adding the requirement.

¹⁴ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements.

¹⁵ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements

¹⁸ If the application of an EU standard is of significance, consider adding the requirement.

¹⁹ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements.

²⁰ Shall be established in the foreseen range according to market research results made by the Contracting Authority and according to the applicable legislation requirements

²³ If the application of an EU standard is of significance, consider adding the requirement.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>less than the value [or scope] indicated above.</p>		
	<ul style="list-style-type: none"> - For the purposes of railway track construction the Tenderer shall have the following key experts available throughout the term of the contract: • Responsible construction works manager who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate for railway track construction work managing or equivalent; 2. Within the last [3-10] (three to ten years) has gained experience in a role of a responsible construction works 	<ul style="list-style-type: none"> - For the purposes of railway [design supervision / construction supervision / design – <i>choose the correct one(s)</i>] the Tenderer shall have available throughout the term of the contract a railway road [design supervisor / construction supervisor / designer– <i>choose the correct one(s)</i>] who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate or equivalent for [supervision / design– <i>choose the correct one(s)</i>] of railway road construction works; 2. Within the last 7 (seven) years until the date of submission of the tender has gained 	<ul style="list-style-type: none"> -

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>manager in at least [_ ()]²⁴ construction works projects that have been completed and accepted in the agreed term and quality, from which:</p> <ul style="list-style-type: none"> • At least 1 (one) is a railway track construction project with the length of railway not less than 50% of the anticipated km of the ongoing tender and a further 30% of the anticipated km of the ongoing tender shall consist of other completed and accepted projects (if the one project does not cover 80% of the length), providing a total of 80% of the length, whereas no reference project can have less than 10% of the anticipated km of the length of railway of the ongoing tender; • Within at least 1 (one) railway catenary external electricity 	<p>experience in a role as a railway track construction [supervisor / designer– <i>choose the correct one(s)</i>] in at least [_ ()]²⁶ railway track construction projects that have been completed and accepted in the agreed term and quality, where he has supervised/designed at least the following activities:</p> <ul style="list-style-type: none"> ○ Within at least 1 (one) project: construction of railway track with length of not less than 50% of the anticipated km of the ongoing tender and a further 30% of the anticipated km of the ongoing tender shall consist of other completed and accepted projects (if the one project does not 	

²⁴ Shall be indicated number of projects. Projects shall be no less than 1.

²⁶ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>networks have been installed with the length of not less than 50% of the anticipated km of the ongoing tender and a further 30% of the anticipated km of the ongoing tender shall consist of other completed and accepted projects (if the one project does not cover 80% of the length), providing a total of 80% of the length, whereas no reference project can have less than 10% of the anticipated km of the length of railway of the ongoing tender; Within at least (1) one control, command and signalling system has been installed with the length of not less than 50% of the anticipated km of the ongoing tender and a further 30% of the anticipated km of the ongoing tender shall consist of other completed and accepted projects (if the one project does not cover 80% of the length), providing a total of 80% of the length, whereas no reference project can have less than</p>	<p>cover at least 80% of the length), providing a total of 80% of the length, whereas no reference project can have less than 10% of the anticipated km of the length of railway of the ongoing tender;</p> <ul style="list-style-type: none"> ○ Within at least 1 (one) project: installation of railway shunts. 	

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>10% of the anticipated km of the length of railway of the ongoing tender. Railway track construction works manager who has the following qualifications:</p> <ol style="list-style-type: none"> 1. Valid certificate for railway construction works managing or equivalent; 2. Within the [3-10] (three to ten years has gained experience in a role of a railway construction works manager in at least [_ ()²⁵] railway construction works project with the length of railway not less than 50% of the anticipated km of the ongoing tender that has been completed and accepted in the agreed term and quality and a further 30% of the anticipated km of the ongoing tender shall consist of other completed and accepted projects (if the 		

²⁵ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>previous project(s) does not cover 80% of the length), providing a total of 80% of the length, whereas no reference project can have less than 10% of the anticipated km of the length of railway of the ongoing tender.</p>		
	<p>- In addition, for the purposes of constructing [bridges / viaducts / ecoducts (or similar) – <i>choose the correct one(s)</i>] the Tenderer shall have available throughout the term of the contract a [bridge / viaduct / ecoduct (or similar) – <i>choose the correct one(s)</i>] construction works manager who has the following qualifications:</p> <ol style="list-style-type: none"> Valid certificate respectively for [bridge / viaduct / ecoduct (or similar) – <i>choose the correct one(s)</i>] construction works managing or equivalent; 	<p>- In addition, for the purposes of [bridges / viaducts / ecoducts (or similar) – <i>choose the correct one(s)</i>] [construction supervision / design / design supervision– <i>choose the correct one(s)</i>] the Tenderer shall have available throughout the term of the contract a construction supervisor who has the following qualifications:</p> <ol style="list-style-type: none"> Valid certificate or equivalent for [supervision / design / design supervision– <i>choose the correct one(s)</i>] of [bridges / viaducts / ecoducts (or similar) – <i>choose the correct one(s)</i>] 	<p>-</p>

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p>Within the last [3-10] (three to ten years) has gained experience in a role of a bridge construction works manager with regard to construction of at least [_ ()]²⁷ railway bridges with the length of at least 100% of the anticipated length of a [bridge / viaduct / ecoduct (or similar) – <i>choose the correct one(s)</i>] of the ongoing tender that have been completed and accepted in the agreed term and quality.</p>	<p>construction works respectively;</p> <p>Within the last 7 (seven) years until the date of submission of the tender has gained experience in [supervising/designing– <i>choose the correct one(s)</i>] construction of at least [_ ()]²⁸ railway bridges with the length of at least 100% of the anticipated length of a bridge of the ongoing tender that have been completed and accepted in the agreed term and quality.</p>	

²⁷ Shall be indicated number of projects. Projects shall be no less than 1.

²⁸ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<ul style="list-style-type: none"> - In addition, for the purposes of constructing tunnels the Tenderer shall have available throughout the term of the contract a tunnel construction works manager who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate for tunnel construction works managing or equivalent; 2. Within the last [3-10] (three to ten years) has gained experience in a role of a tunnel construction works manager with regard to construction of at least [_ (_)²⁹] railway tunnels with the length of at least 100% of the anticipated length of a tunnel of the ongoing tender that have been completed and accepted in the agreed term and quality. 	<ul style="list-style-type: none"> - In addition, for the purposes of tunnel [construction supervision / design / design supervision– <i>choose the correct one(s)</i>] the Tenderer shall have available throughout the term of the contract a tunnel [construction supervisor / designer / design supervisor– <i>choose the correct one(s)</i>] who has the following qualifications: <ol style="list-style-type: none"> 1. Valid certificate or equivalent for [supervision/design– <i>choose the correct one(s)</i>] of tunnel construction works respectively; 2. Within the last 7 (seven) years until the date of submission of the tender has gained experience in [supervising/designer] 	<ul style="list-style-type: none"> -

²⁹ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
		<p>construction of at least [<u> </u> (<u> </u>)³⁰] railway tunnels with the length of at least 100% of the anticipated length of a tunnel of the ongoing tender that have been completed and accepted in the agreed term and quality.</p>	
	<p>- In addition, for the purposes of constructing [stations, depots, maintenance facilities or similar – <i>choose the correct one(s)</i>], the Tenderer shall have available throughout the term of the contract an electric installations', electronic communications systems' and grid, heating systems', ventilation systems', recuperation and cooling systems', water and sewage systems' construction works manager (a manager for each system [<i>state here if the same person can cover more than one</i></p>	<p>- In addition, for the purposes of station and depot [construction supervision / design / design supervision– <i>choose the correct one(s)</i>] the Tenderer shall have available throughout the term of the contract an electric installations', electronic communications systems' and grid, heating systems', ventilation systems', recuperation and cooling systems', water and sewage systems' construction works [supervisor / designer– <i>choose the correct one(s)</i>] (a [supervisor /</p>	<p>-</p>

³⁰ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<p><i>area and which areas – relevant experience must be evidenced for each respective system])</i> with the following qualifications:</p> <ol style="list-style-type: none"> Valid certificate or equivalent for managing of the respective construction works; Within the [3-10](three to ten years has gained experience in a role of the respective construction works manager with regard to construction of at least [_ ()³¹] respective systems in [public or industrial buildings / facilities - <i>choose the correct one(s)</i>] of a comparable size to the size of the [buildings / facilities - <i>choose the correct one(s)</i>]of the ongoing tender that have been completed 	<p>designer– <i>choose the correct one(s)</i>] for each system [<i>state here if the same person can cover more than one area and which areas – relevant experience must be evidenced for each respective system])</i> with the following qualifications:</p> <ol style="list-style-type: none"> Valid certificate or equivalent for the respective construction works [supervision/design– <i>choose the correct one(s)</i>]; <p>Within the last 7 (seven) years has gained experience in [supervising / designing– <i>choose the correct one(s)</i>] the respective construction works with regard to construction of at least [_ ()³²] respective systems in public or industrial buildings of a comparable size to the size of buildings in the</p>	

³¹ Shall be indicated number of projects. Projects shall be no less than 1.

³² Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	and accepted in the agreed term and quality.	ongoing tender that have been completed and accepted in the agreed term and quality.	

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	-	<p>- [For the purposes of other services not stated above] the Tenderer shall have a Project Manager available throughout the term of the contract, who has the following qualifications:</p> <ol style="list-style-type: none"> 1. If required, a valid certificate or equivalent for the services described in procurement notice; 2. Within the last 7 (seven) years until the date of submission of the tender has gained experience as a project manager at least in [_ ()]³³ service provision contract(s) of at least 100% of the anticipated contract value of the ongoing tender that have been completed and accepted in the agreed term and quality. 	-

³³ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<ul style="list-style-type: none"> - If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements. The member of the consortium upon whose qualification the consortium relied in order to qualify must fulfil the respective works for which the respective qualification was required. 	<ul style="list-style-type: none"> - If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements. The member of the consortium upon whose qualification the consortium relied in order to qualify must provide the respective services for which the respective qualification was required. 	<ul style="list-style-type: none"> - If the Tenderer is a consortium, members of the consortium together shall comply with the above requirements.
5. Quality assurance standards ³⁴	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent <i>[audited by an independent auditor³⁵]</i> 	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent <i>[audited by an independent auditor³⁶]</i> 	<ul style="list-style-type: none"> - The Tenderer shall have quality management system that complies with ISO 9001:2015 standard or equivalent <i>[audited by an independent auditor³⁷]</i>

³⁴ Shall be indicated number of projects. Projects shall be no less than 1.

³⁴ Shall be indicated number of projects. Projects shall be no less than 1.

³⁵ Shall be indicated number of projects. Projects shall be no less than 1.

³⁶ Shall be indicated number of projects. Projects shall be no less than 1.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
	<ul style="list-style-type: none"> - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements. 	<ul style="list-style-type: none"> - If the Tenderer is a consortium, each member of the consortium shall comply with the above requirements.
6. Environmental management standards ³⁸	<ul style="list-style-type: none"> - The Tenderer shall have an environmental management system that complies with ISO 14001:2015 standard or equivalent <i>[audited by an independent auditor³⁹]</i>. - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - If the subject matter of the procurement exercise requires the addressing of environmental issues, the Tenderer shall be required to submit evidences of experience of addressing similar issues in previous contracts.⁴⁰ - The requirements to consortium shall be established in accordance to national law. 	<ul style="list-style-type: none"> - The Tenderer shall have environmental management system that complies with ISO 14001:2015 standard or equivalent <i>[audited by an independent auditor⁴¹]</i>. - The requirements to consortium shall be established in accordance to national law.
7. Data protection standards where software / information systems		<ul style="list-style-type: none"> - Requirement to issue proof that the server where data of the Rail Baltica Global Project is located, is within 	<ul style="list-style-type: none"> - Requirement of experience: at least 2 previous contracts with a scope of processing

³⁸ Environmental management standard requirements can also be a part of tender suitability or evaluation criteria, not a qualification requirement, as foreseen by Clause 2.6. of Appendix 2 of these Guidelines.

³⁹ Unless other means of proof is allowed by legal acts of Contracting Authority country.

⁴⁰ The Procurement commission to ascertain what experience and what kind of proofs is required (shall be established considering specifics of the services).

⁴¹ Unless other means of proof is allowed by legal acts of Contracting Authority country.

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
development or implementation is the object of procurement		<p>EU/EEA territory (either by means of copy of rental contract and photo of the server or any other feasible means of proof where no such proof is possible, the description of where the server is located – address, and how the supplier controls that data is not transferred outside EU/EEA).⁴²</p> <ul style="list-style-type: none"> - Requirement to prove (show) that they have a position responsible for personal data management (either the designated Data Protection Officer if required by law or another internal staff member of the candidate, or assigned as such).⁴³ - Requirement of experience: at least 2 previous contracts with a scope of processing personal data and critical business data in a server located within EU/EEA, also listing the names and contact data of the 	personal data and critical business data in a server located within EU/EEA, also listing the names and contact data of the previous Contracting Authorities or Contractee.

⁴² Shall be requested as tender suitability or evaluation criteria, as foreseen by Clause 2.6. of Appendix 2 of these Guidelines.

⁴³ Shall be requested as tender suitability or evaluation criteria, as foreseen by Clause 2.6. of Appendix 2 of these Guidelines

Requirement	Procurement of WORKS e.g. railway, tunnels, bridges, stations, depots	Procurement of SERVICES e.g. design, design supervision, construction supervision, engineering consultancy services	Procurement of GOODS e.g. sand, gravel, cement, rails, sleepers
		previous Contracting Authorities or Contractee.	

APPENDIX 3: PRINCIPLES OF COMPILING PROCUREMENT DOCUMENTS

When compiling procurement documents, the parties subject to this document shall do so in line with the following principles:

1. The documents shall be structured and formatted in a clear, concise and understandable manner to avoid any confusion, misunderstanding and conflicting statements. The documentation shall also be consistent throughout in terms of the application of language and terminology.
2. Wherever possible, any duplication of information and statements shall be avoided, adopting a principle – state one requirement and/or clause only once.
3. Where such procurement documents are produced, the overall structure of the procurement documentation package shall be as follows:
 - 3.1. **Regulations** – including, without limitation, instructions to tenderers with main parameters and key data on the procurement exercise, submission dates, minimum qualification requirements and similar kind of information. This is the overarching document of a procurement exercise to which other procurement package documents are enclosed to.
 - 3.2. **Tender Submission Forms / Application Submission Forms** – the forms that are required to be submitted by applicants/tenderers, providing the requested data for the purposes of reviewing and evaluating the qualification of the applicants/tenderers, the suitability of the applications/tenders and evaluation of the applications/tenders.
 - 3.3. **Technical Specification** - the Technical Specification determines the requirements for the works, services or supplies. The Technical Specifications guarantee equal possibilities for all Tenderers and do not create any unwarranted restrictions of competition in the procurement exercise. The Technical Specification shall become part of the Contract as an appendix, without changes following the date of tender submission. A clear reference shall be added that effect.
 - 3.4. **Draft Contract** – the main body of the contract, including the agreement (requirements to the Contract are included in Appendix 9 to these Guidelines and shall be followed in compiling Draft Contracts).
4. Where separate procurement documentation is not produced because of the use of an electronic procurement system in which the structure is already pre-defined, then the structure of information shall follow the pre-defined structure of such an electronic system.
5. Applicant's / Tenderer's submitted assumptions shall not form part of the Contract. Any assumptions that are not contradictory to the requirements of the procurement package documentation and/or procurement law, shall be clarified during the procurement process.

APPENDIX 7: PROCUREMENT COMMISSION MEMBERSHIP

For any procurement exercises undertaken in relation with and for the purpose of the Global Project by RB Rail AS or the Beneficiaries, or Implementing Bodies, that require a Procurement Commission, RB Rail AS or the respective Beneficiary, or Implementing Body shall form a Procurement Commission based on the following minimum membership allocation, in accordance with the relevant applicable national procurement law, and the Agreement on the Contracting Scheme for the Rail Baltic / Rail Baltica (dated 30 September 2016) and Inter-Beneficiary Agreement (dated 16 June 2016):

*	PROCUREMENT COMMISSION MEMBERSHIP						Comments
	RB Rail AS organised procurement exercises		Consolidated Procurement Exercises		Beneficiary / Implementing Body organised Procurement Exercises		
	RB Rail AS	Beneficiary	RB Rail AS	Beneficiary	RB Rail AS	Beneficiary	
Minimum membership percentage	100%	0%	Over 50%	Below 50%			
Estimated Value of the Procurement Exercise							
143 000 – 999 999,99 EUR	4	0	4	1 ⁴⁴	1	3	Procurement Commission mandatory
1 000 000 EUR or more	5	0	5	1-3	1	4	Procurement Commission mandatory (1 to 3 BENs)

* For the purposes of interpreting the above table, the term Beneficiary shall not include RB Rail AS

⁴⁴ In case where more than one Beneficiary is involved in procurement exercise, representation shall form at least one representative from each respective Beneficiary with condition that in total Beneficiary representation shall be below 50% of composition of the Procurement Commission.

APPENDIX 9: CONTRACT TEMPLATES

[Contract templates are managed separately by RB Rail AS and RB Rail AS shall make these available to the Implementing Bodies and Beneficiaries separately from this document where the particular templates for use are available]Contract draft shall include the main clauses and the following listed items (as an example, except where it has been stated that the requirements are as a minimum to be included):

1. Contract conditions. They can consist of:
 - a) Particular Conditions (if any);
 - b) Special Conditions (if any).
- 1.1 Contract conditions shall include the following as a *minimum*:
 - a) The rights and obligations of the Contract parties;
 - b) Scope of goods/services/works and their quantities (Technical Specification (if necessary));
 - c) Contract term
 - d) Deliverables;
 - e) Pricing rules;
 - f) Key personnel;
 - g) Representatives;
 - h) Contract variation conditions or options, if provided;
 - i) Dispute resolution procedure;
 - j) Cases and the procedure of termination of the contract.
- 1.2 Appendices, including the following (*not listed in the order of priority*)⁴⁵:
 - I. Time Schedule & Deliverables;
 - II. Fee and Payment Schedule;
 - III. Tender/Proposal;
 - IV. Supplier's Declaration;
 - V. List of Approved Sub-Contractors;
 - VI. Delivery-Acceptance Note Templates;
 - VII. Insurance;
 - VIII. Guarantees and Securities;
 - IX. Data Protection Rules.

Contracting Authorities shall apply also the following specific requirements to their contracts (conditions shall be established considering the legal requirements in the country of the Contracting Authority):

1. Contract Conditions
 - 1.1. Foreseen margins for fluctuation and/or conditions for review of contract end price (if relevant, noting the contract duration) and cases for variations, amendments of the terms of the contracts, especially list of cases for prolonging of delivery term/end term of the contract or changing the particularities of the technical description that was included in the procurement documents;
 - 1.2. Sanctions/Penalty deduction mechanism: allowed to deduct sanctions from already due payments for services/works accepted by the Contracting Authority after the fact of the breach is discovered and communicated to the supplier without the need to provide extra time for possible redoing;

⁴⁵ If the information as foreseen to be provided in Appendices is covered by the Contract Conditions (e.g. time schedule, fee, payment schedule, data protection rules, etc.), separate Appendices are not required.

2. Insurance
 - 2.1. The tenderer shall have a valid professional indemnity insurance, a certificate of which shall be submitted before entering into contract.
3. Data protection standards where information systems / software / software development is the object of procurement
 - 3.1. The Contracting Authority shall conclude a data protection agreement annex or include the requirements on data protection in the contract.
 - 3.2. Requirement to provide to the Contracting Authority all potential sub-contractors that the candidate contemplates to use for the fulfilment of the procurement agreement also presenting to the Contracting Authority the preliminary sub-contractor data protection agreements.
 - 3.3. Requirement for sub-contractor data protection agreements to be identical in terms of content to the data protection agreement annex in the contract or the requirements on data protection included in the contract.
 - 3.4. Requirement that the server where the Rail Baltica Global Project data is located, shall remain within EU/EEA.
 - 3.5. Requirement to include in the contract the Data Protection Officer (DPO) of the supplier or the person assigned responsible for data protection related matters by the supplier (in case the requirement to have DPO is not applied).
 - 3.6. Requirement to comply with GDPR requirements and that no data shall be transferred outside EU/EEA.
 - 3.7. Requirement not to transfer data to any sub-contractor without prior written consent from the Contracting Authority.