Part 1

Requirements and conditions for tender preparatioN

Section 2

Contractor Guidelines

”RS 1 VRT Prosenice – Ostrava-Svinov, I. part, Prosenice – Hranice na Moravě“; Preparation of Preliminary Design Documentation

Ref. No. 56486/2020-SŽ-GŘ-PVRT

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1. OPENING PROVISIONS
   1. The procurement procedure of this public procurement and all related legal relationships are governed by the laws of the Czech Republic, in particular Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter the “**Public Procurement Act**”), and other legal regulations. By submitting its tender, the participant accepts the procurement conditions of this public procurement completely and without reservations.
   2. **The Contracting Authority is a public contracting authority, which submits this public contract in the performance of the relevant activities within the meaning of Section 153 (1) f) of the Public Procurement Act. Pursuant to Section 151 (1) of the Public Procurement Act, this contract is considered to be a sectoral public contract.**
   3. **This public contract for services is awarded in an open procedure pursuant to Section 56 et seq. of the Public Procurement Act.**
   4. Contractors are expected to carefully study and comply with all instructions, time limit limits and conditions, and to complete all forms contained in the procurement conditions of this public procurement. Deficiencies in the submission of tenders or in the provision of the required information or documentation which do not fulfil the procurement conditions contained in the procurement procedure commencement notification – public services and further specified in the tender documentation will result, depending on the circumstances, in the disqualification of the tender and exclusion of the participant from the procurement procedure of this public procurement.
   5. Article 10 of these Contractor Guidelines (hereinafter the “**Guidelines**”) sets out the language of the tenders submitted. The set of documents forming the procurement conditions is written in Czech and partially English. In the case of discrepancies between the individual language versions, the Czech version of the procurement conditions shall prevail.
   6. Contractors shall submit their tenders for the entire subject-matter of performance of this public procurement as required in the tender documentation of this public procurement. Tenders for the implementation of only a part of the subject-matter of performance of this public procurement shall not meet the procurement conditions of this public procurement. For the avoidance of doubt, the Contracting Authority states that this public procurement is not divided into parts within the meaning of Section 35 of the Public Procurement Act.
   7. Contractors shall bear all costs associated with their participation in the procurement procedure of this public procurement and the Contracting Authority shall in no case be held responsible for such costs, irrespective of the course and outcome of the procurement procedure. The Contracting Authority shall not be held liable for and shall not reimburse any expenses or losses that may be incurred by the contractor in connection with site visits and surveys or any aspects of the procurement procedure. This shall not apply in the case of the procedure pursuant to Section 40 (4) of the Public Procurement Act.
   8. The information and data specified in the tender documentation of this public procurement define the Contracting Authority’s tendering requirements for the performance of the public procurement. The participant is obliged to fully and unconditionally observe those requirements when preparing its tender. Non-acceptance of the Contracting Authority’s requirements specified in the tender documentation of this public procurement or any unauthorised modifications of the contract or its parts may be considered as non-fulfilment of the participation conditions for the procurement procedure resulting in the exclusion of the participant. The selected contractor shall be excluded in accordance with Section 48 of the Public Procurement Act due to failure to meet the conditions of participation in the procurement procedure.
   9. Unless expressly stated otherwise in these Guidelines or unless something else is implied in the nature of the matter, capitalised terms used in the Guidelines shall have the same meanings as the same terms in the documents constituting the Contract under Article 6.1 of these Guidelines.
2. IDENTIFICATION DATA OF THE CONTRACTING AUTHORITY

Správa železnic, státní organizace

Registered office: Dlážděná 1003/7, Prague 1, Nové Město,

Postcode 110 00

Registered in the Commercial Register kept by the Municipal Court in Prague, File No. A 48384

Company ID No.: 70994234

Tax ID No.: CZ70994234

Data box identifier: uccchjm

Represented by: Ing. Mojmír Nejezchleb, Deputy Director General for Infrastructure Modernisation, under Authorisation No. 2372 of 26 February 2018

1. COMMUNICATION BETWEEN THE CONTRACTING AUTHORITY AND THE CONTRACTOR
   1. In accordance with Section 211 of the Public Procurement Act, all written communication between the Contracting Authority and contractors in the procurement procedure must take place only electronically, except in the cases defined in Section 211 (3) of the Public Procurement Act. The delivery of documents and communication between the Contracting Authority and contractors in the procurement procedure will be carried out by the Contracting Authority through the E-ZAK electronic tool (at: <https://zakazky.spravazeleznic.cz/>), which is the Contracting Authority’s profile and fulfils the conditions of Decree No. 260/2016 Coll., on laying down detailed conditions relating to electronic tools, acts taken electronically in awarding public procurements and certificate of conformity. The Contracting Authority shall always respond to the communication made by the contractor electronically but not via the E-ZAK electronic tool using the electronic tool.
   2. The Contracting Authority’s contact person for the procurement procedure is: Mr. Ing. Michael Dobrý

Phone: +420 972 244 623

E-mail: Dobry@spravazeleznic.cz

Address: Správa železnic, státní organizace

Stavební správa západ

Sokolovská 278/1955, 190 00 PRAHA 9

1. PURPOSE AND SUBJECT-MATTER OF PERFORMANCE OF THE PUBLIC PROCUREMENTT
   1. **Purpose of the public procurement**

The main objective and content of this public procurement is to propose, within the concept of Fast Connections, a feasible solution to meet future transport demand between Prague and Ostrava, that is, a new HSRL in section Prosenice – Hranice na Moravě, line RS1 Praha – Brno – Přerov – Ostrava – border PL.

* 1. **(Main) Subject-matter of performance of the public procurement**

The main subject-matter of performance is:

1. the execution of a work consisting in the preparation of documentation for the construction “RS 1 VRT Prosenice – Ostrava-Svinov, I. part, Prosenice – Hranice na Moravě”, in the details of the documentation for the decision on the location of the railroad construction pursuant to Act No. 183/2006, the Building Act, as amended, and pursuant to Annex 3 to Decree No. 499/2006 Coll., on construction documentation, as amended, including the preparation of the necessary documents, surveys for the processing of pre-project documentation and elaboration of preliminary engineering geological survey according to ČSN P 73 1005 IG surveys for pre-project documentation in the degree of detail for Preliminary Design/ Documentation for Acquisition of the Zoning Decision;
2. the preparation of the Investment Project File of “Reconstruction of the Railway Station Hranice na Moravě” in the degree of detail required by Directive No. V-2/2012 “Directive on the procedures of the Ministry of Transport, Investor Organizations and the State Fund for Transportation Infrastructure, financed without the participation of the state budget”, as amended, including its annexes;
3. the preparation of EIA documentation of “RS 1 VRT Prosenice – Ostrava-Svinov, I. part, Prosenice – Hranice na Moravě” pursuant to Act No. 100/2001 Coll., on the Environmental Impact Assessment and amending some related laws as amended) and of the application for the final EIA opinion.

The main subject-matter of performance according to letter a) is the preparation of Preliminary design documentation in the details of the documentation for Acquisition of the Zoning decision on the location of the railroad construction, in the extent possible without the execution of the additional performance, this means pursuant to Annex 3 to Decree No. 499/2006 Coll., on construction documentation, as amended, except documents of sub-Sections 1, 3 and 5 of the Section on the Documents in Annex 3 and the implementation of possible objections and comments arising from such documents.

The documentation according to letter a) will be prepared in such a way that the technical solution is clear; that technical solution, in a further specification as part of the Detailed Design/ Documentation for Acquisition of the Building Permit and implementation documentation, shall not require a different layout scope for its execution compared to the planning permit documentation. At the same time, the future investment costs of the construction must be clear from the documentation and it shall contain the budget and the evaluation of economic efficiency.

Further specification of the subject-matter of performance of the public procurement is provided in other parts of the tender documentation, especially in the Contract for Work and its annexes, which constitute Part 2 of the tender documentation.

* 1. **Additional performance of the public procurement (option right/option performance)**

In accordance with Section 66 of the Public Procurement Act, the Contracting Authority reserves the option right/option performance to award new services consisting in repeating similar services as in the original public procurement and corresponding to the original public procurement. The subject-matter of the option right/option performance is specifically:

1. Ensuring the EIA process and the planning permit (Acquisition of the Zoning Decision) procedure, including:
2. the submission of (by the Contracting Authority) approved environmental impact assessment EIA documentation in accordance with Article 4.2 letter c) of the Guidelines to the relevant agency for the final EIA opinion and/or
3. services connected with such EIA procedure and or
4. obtaining a final positive EIA opinion and/or
5. the finalisation of documentation in the details of the documentation for the decision on the location of the railroad construction, pursuant to Annex 3 to Decree No. 499/2006 Coll., on construction documentation, as amended, including documents of sub-Sections 1, 3 and 5 and other possible affected sub-Sections of the Section on the Documents in Annex 3 and the implementation of possible objections and comments arising from such documents from relevant agencies or the units of the Contracting Authority and/or
6. the update of future investment costs of the construction, of the budget and of the evaluation of economic efficiency and/or
7. the preparation and submission of the application approved (by the Contracting Authority) to the relevant agency for the decision on the location of the railroad construction and/or
8. services connected with such procedure on the decision on the location of the railroad construction and/or
9. obtaining a final effective Zoning decision on the location of the railroad construction.
10. Elaboration of documentation for the construction of “Reconstruction of Railway Station Hranice na Moravě” in the required degree of detail pursuant to Act No. 183/2006, the Building Act, as amended, and pursuant to Annex 3 to Decree No. 499/2006 Coll., on construction documentation, as amended.
11. The so-called additional performance offered by the contractor within the evaluation sub-criterion “Value Add (Inventiveness of the contractor)” according to Article 16.5 of these Guidelines for the purpose of better fulfilment of the project objectives of the Contracting Authority according to Article 16.3 of these Guidelines.

The Contracting Authority primarily assumes that this option right/option performance will be exercised, but notes that it cannot fully guarantee the use of the option right/option performance. The option right/option performance may also be exercised gradually, depending on the Contracting Authority’s current operational needs or may not be exercised at all.

* 1. **Classification of the subject-matter of the public procurement** according to Common Procurement Vocabulary (CPV):

Code CPV 71322000-1 Engineering design services for the construction of civil engineering works

Code CPV 71335000-5 Engineering studies

Code CPV 71311230-2 Railway engineering services

* 1. **The period of performance of the public procurement** is detailed in the Contract for Work for the Public procurement Performance (in Annex 3 c) – Specific Terms and Conditions, Article 5.4), the tender model of which forms Part 2 of the tender documentation.
  2. The period of the performance of the additional performance according to 4.3 letter a) of the Guidelines is expected to be 20 months.
  3. **The place of performance of the public procurement** is **Správa železnic**, státní organizace, Dlážděná 1003/7, Prague 1, Nové Město, Postcode 110 00.

1. SOURCES OF FINANCING AND THE ESTIMATED VALUE OF THE PUBLIC PROCUREMENTT
   1. This contract is expected to be financed by the Czech Republic – the State Fund for Transport Infrastructure.
   2. The ultimate recipient of funds from the sources referred to in Article 5.1 of these Guidelines is Správa železnic, státní organizace, with its registered office at Prague 1, Nové Město, Dlážděná 1003/7, Postcode 110 00 (the Contracting Authority).
   3. The estimated value of the public procurement including the option right/option performance is CZK 195,000,000 exclusive of VAT, the estimated value of the option right/option performance is CZK 45,000,000 exclusive of VAT, and the estimated value of the public procurement without the option right/option performance is CZK 150,000,000 exclusive of VAT.
2. CONTENTS OF THE TENDER DOCUMENTATION
   1. The tender documentation shall consist of the following documents containing the procurement conditions, made available to participants as of the procurement procedure commencement date:

**PART 1 REQUIREMENTS AND CONDITIONS FOR TENDER PREPARATION**

Section 1 Empty.

Section 2 Contractor Guidelines incl. Annexes

**PART 2 CONTRACT FOR WORK**

Section 1 Contract for Work including Specific Terms and Conditions for Preparation and other annexes

* 1. The tender documentation is available on the Contracting Authority’s profile at <https://zakazky.spravazeleznic.cz>.
  2. The Contracting Authority allows the contractor access to all its internal regulations in the following manner: <http://www.tudc.cz/> or <https://www.spravazeleznic.cz/o-nas/vnitrni-predpisy-spravy-zeleznic/dokumenty-a-predpisy>.
  3. Contractors shall be solely responsible for studying, sufficiently carefully, the tender documentation of this public procurement, any explanations of the tender documentation or any amendments thereto issued during the tender submission period, and for obtaining reliable information in relation to any and all conditions and obligations that may affect the price and correctness of the tender in any way.
  4. The list of materials for the execution of the (Main) Subject-matter of performance can be found in Article 2 of Annex 3 c) Specific Terms and Conditions of the Contract for Work, including information on their disclosure by the Contracting Authority.

The Contracting Authority hereby draws particular attention to the “Design Manual for Planning Permit Procedure Documentation of High Speed Lines in the Czech Republic” (hereinafter the “**Manual**”) (Planning Permit Documentation stands for Preliminary Design/Documentation for Acquisition of the Zoning Decision) prepared by the Contracting Authority with the use of expertise, experience and know-how of SNCF International (legal form limited liability company) registration number 415 238 179 RCS, registered office 2 place aux Etoiles, 93 200 Saint Denis, French Republic (and other companies of the SNCF holding). This Manual will be made available in Czech language to interested participants for this public procurement for inspection on business days between 8 a.m. and 3 p.m. at the address of the Contracting Authority at: Křižíkova 552/2, 186 00 Praha 8. The participant interested in the Manual will ask for a time term to e-mail address **vrt@spravazeleznic.cz**, eventually via the electronic tool of the Contracting Authority (however, the Contracting Authority recommends sending by e-mail for the operational processing of the application). Inspection shall be possible within 3 business days of the candidate's request by 25th September 2020 (eventually in connection with the extension of the tender submission time limit not later than the 10th business day before the time limit for submission of tenders). Together with an application interested participants will submit its Annex – Declaration of confidentiality (for inspection of the Manual) (binding draft of which constitutes Annex 16 to the Guidelines) signed by a person authorized to represent the participant. Another condition for inspection is signing of Annex A of the aforementioned Annex by a natural person attending the inspection.

The Contracting Authority will accept commitment of confidentiality of the participant including the commitment to fulfil their financial obligations in a case of contractual breach. A contract is created by such reply of the Contracting Authority.

1. EXPLANATION OF AND CHANGES AND AMENDMENTS TO THE TENDER DOCUMENTATION
   1. In accordance with Section 98 of the Public Procurement Act, the contractor is entitled to submit requests for explanation of the tender documentation by means of the E-ZAK electronic tool at: https://zakazky.spravazeleznic.cz/, or in another form of written electronic communication. When communicating through a data box, the contractor shall specify in the request the Contracting Authority’s contact person for the procurement procedure. The Contracting Authority will respond to requests for explanation of the tender documentation only through the E-ZAK electronic tool at: https://zakazky.spravazeleznic.cz/. If the contractor makes a request for an explanation no later than 8 business days prior to the tender submission time limit, the Contracting Authority shall respond, including the exact wording of the request but without naming the inquirer, no later than 3 business days from the receipt of the request. The Contracting Authority may also explain the tender documentation on the basis of a request submitted later; however, in such a case the Contracting Authority shall not be bound by the time limits stipulated in Section 98 (1) of the Public Procurement Act.
   2. The Contracting Authority may also explain the tender documentation without a prior request. The explanation, including any related documents, shall be published by the Contracting Authority on its profile at least 5 business days before the expiry of the time limit for the submission of tenders.
   3. In accordance with Section 99 of the Public Procurement Act, the Contracting Authority is entitled to subsequently amend or supplement the tender documentation of this public procurement before the expiry of the time limit for the submission of tenders. Any amendment or change to the tender documentation shall be published or notified to contractors in the same way as any procurement condition that has been amended or supplemented.
   4. The Contracting Authority draws particular attention to the fact, that this public procurement is contracted with the method of Best Value Approach/Best Value Procurement („**BVA/BVP**“). This method is not limited to the evaluation of tenders and is permeated throughout the entire procurement procedure and is built on principles which direct and bind the Contracting Authority in its application.

As it is highlighted in Article 16.1 of the Guidelines, the BVA/BVP is based on emphasizing the expertise of contractors while this expertise should also pervade the process of preparation of contractors tenders.

The Contracting Authority in accordance with the BVA/BVP expects the contractors to study and carefully consider the materials of procurement procedure and submit requests for clarification only in cases of significant lack of clarity or requests for completion.

The Contracting Authority states, that it would be in conflict with the BVA/BVP (or rules of procurement procedure in general) for him to “help” contractors with search of information contained in procurement conditions and to be involved in the preparation of contractors tender through his explanations, that would lead the contractor to a solution that will be accepted. With the implementation of the BVA/BVP the Contracting Authority presupposes certain level of knowledge and expertise of the contractor and corresponding self-reliance.

With this communication the Contracting Authority doesn’t intend to limit rights of the contractor in accordance with Section 98 of the Public Procurement Act, but rather inform about possible incorrect application of the BVA/BVP with relation to the Contracting Authority and the evaluation only.

1. CONTRACTING AUTHORITY’S REQUIREMENTS FOR QUALIFICATION
   1. Contractors are required to prove the fulfilment of qualifications in accordance with Section 167 (1) and Section 73 et seq. of the Public Procurement Act, under the conditions set out in the notification of commencement of the procurement procedure – public service and these Guidelines.
   2. Demonstration of the basic qualification:

The Contracting Authority requires proof of the basic qualification pursuant to Section 74 of the Public Procurement Act, in the manner pursuant to Section 75 of the Public Procurement Act or Section 81 of the Public Procurement Act.

* A contractor is not qualified if the contractor
  1. has, during the last 5 years prior to the beginning of the procurement procedure, been convicted by a final judgment, in the country of the contractor’s registered office, of any crime listed in Annex 3 to the Public Procurement Act or of a similar crime under the laws of the contractor’s country of registered office; erased convictions are disregarded. If the contractor is a legal entity, the condition must be met by that legal entity and, at the same time, by each member of its governing body. If a member of the contractor’s governing body is a legal entity, this condition must be fulfilled by that legal entity, each member of the governing body of the legal entity and the person representing that legal entity in the contractor’s governing body. If a branch of a foreign legal entity is participating in the procurement procedure, the legal entity and the head of the branch must comply with this condition; in the case of a branch of a Czech legal entity, the condition must be met by that legal entity, each member of the governing body of the legal entity, the person representing the legal entity in the contractor’s governing body and the head of the branch;
  2. has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office;
  3. has outstanding arrears in the respect of payments and penalties of public health insurance in the Czech Republic or the country of its registered office;
  4. has outstanding arrears in respect of payments and penalties of social security contributions and contributions to the national employment policy in the Czech Republic or the country of its registered office;
  5. is in liquidation, has been insolvent, in respect of which receivership has been imposed on it under other legal regulation or similar situation has occurred under the legal regulations of the country of the contractor’s registered office.
* Method of demonstration of the basic qualification:

The contractor shall prove that it has met the prerequisites for the basic qualification in relation to the Czech Republic by submitting:

* + An extract from the Criminal Records with respect to Section 74 (1) a) of the Public Procurement Act;
  + A confirmation issued by the competent tax authority with respect to Section 74 (1) b) of the Public Procurement Act;
  + A written affidavit concerning excise tax with respect to Section 74 (1) b) of the Public Procurement Act;
  + A written affidavit with respect to Section 74 (1) c) of the Public Procurement Act;
  + A confirmation issued by the competent district office of the social security administration with respect to Section 74 (1) d) of the Public Procurement Act;
  + A copy of registration in the Commercial Register or, if the contractor is not registered in the Commercial Register, a written affidavit with respect to Section 74 (1) e) of the Public Procurement Act.

The model of the affidavit on the fulfilment of the basic (and professional) qualifications is attached as Annex 7 to these Guidelines.

Foreign contractors shall prove the basic qualification by documents issued in the country of their registered office in cases where there is an obligation to prove one of the prerequisites for the basic qualification in relation to the country of the registered office. In other cases where contractors domiciled abroad are required to prove one of the basic qualification prerequisites in relation to the Czech Republic, they shall submit the documents referred to in the previous clause (of this paragraph 8.2 entitled “Method of demonstration of the basic qualification”).

* 1. Demonstration of the professional **qualification**:
* The Contracting Authority requires to demonstrate the contractor’s professional qualification in relation to the Czech Republic, by the submission of a **copy of the contractor’s incorporation in the Commercial Register or a similar register** if another legal regulation requires such registration.
* The Contracting Authority requires the submission of a **trade licence** pursuant to other legal regulations to the extent corresponding to the subject-matter of the public procurement.

The contractor shall demonstrate that it has a trade licence for the following activities:

* + *Structures design activities*
  + *Geological surveys activities*
  + *Surveying activities*
  + *Advisory and consulting activities, processing of expert studies and opinions*

In accordance with Act No. 455/1991 Coll., on Trade Licensing, as amended (hereinafter the “**Trade Licensing Act**”), the contractor shall prove its trade licence by an extract from the Trade Register or until the extract is issued with a proven submission to the Trade Licensing Office (in the case of notifiable trades). Pursuant to the transitional provisions to Act No. 130/2008 Coll., amending Act No. 455/1991 Coll., on Trade Licensing (the Trade Licensing Act), as amended, and other related acts, the trade licence can also be proven by a corresponding trade licence record until the first extract from the Trade Register is issued to the contractor.

* **Professional qualification:**
  + The Contracting Authority requires the submission of proof of **authorisation (registration)** in the scope according to Section 5 (3) a), b), d), e), f), i) and j) of Act No. 360/1992 Coll., on practice of profession of authorised architects and authorised engineers and technicians working in the field of building constructions, as amended (hereinafter the “**Authorisation Act**”), i.e. in the fields of **building structures, transport structures, bridges and engineering structures, technological equipment of buildings, building environment technology, geotechnics** and **fire safety of buildings and Authorisation to prepare documentation and assessment according to Act No. 100/2001 Coll., on Environmental Impact Assessment, as amended.**

If the contractor is an individual, the contractor must fulfil the professional qualification either itself or through another individual (employee or other person cooperating with the contractor). If the contractor is a legal entity, the contractor must fulfil the professional qualification through another individual (governing body, employee or other person cooperating with the contractor). Documents certifying the professional qualification may also be submitted through the individual persons of the contractor’s professional personnel (List of technicians) pursuant to Article 8.5 of these Guidelines, by means of whom the contractor ensures professional qualification.

Documents to prove the professional qualification do not have to be submitted by the contractor in the tender unless the legislation in the country of its registered office requires a similar professional qualification.

The professional qualification according to Section 77 (2) c) of the Public Procurement Act for the execution of the services of Occupational safety and health shall be proved by the document of Occupational safety and health Personnel for work at construction site according to Act No. 309/2006 Coll., on the securing of other condition of occupational health and safety, as amended.

* 1. Technical qualification – list of significant services:

The Contracting Authority requests the submission of a list of significant services provided by the contractor in the last 10 years (in order to increase competition) before commencing the procurement procedure. The contractor must demonstrate by the information contained in the list of significant services that:

1. in the last 10 years, it has executed at least 1 major service consisting in preparing documentation at least in the details of the Preliminary Design/ Documentation for Acquisition of the Zoning Decision (or documentation in a corresponding degree of detail) for one section of a new high-speed railway line with the designed speed of at least 250 km/h, in accordance with the requirements of the Technical Specifications for Interoperability (hereinafter “**HSRL1**”);
2. in the last 10 years, it has elaborated at least 2 EIA documentation and assessment for railway or road constructions each in the length of at least 5 km or 1 EIA documentation for railway or road constructions in the length of at least 10 km.

The list of significant services submitted by the contractor must include all required data, in particular the name of the service, description of the subject-matter of performance, price, time of the service provision (month and year) and client identification. A recommended model of the list of significant services is included in Annex 4 to these Guidelines. The Contracting Authority reserves the right to verify correctness of the information on the execution of the services listed in the list of significant services. For this reason, the Contracting Authority requires that the contact details of the final client including phone number and e-mail be indicated in the list of significant services. The list of significant services must be submitted even if the client was Správa železnic, státní organizace.

A significant service is one completed business case (i.e. services provided within one contractual relationship with one client).

Preliminary Design/ Documentation for Acquisition of the Zoning Decision for the assessment of the fulfilment of the conditions of technical qualification means any documentation that proposes a technical solution in detail showing the location of the structure on specific land lots and determines the cost of the construction.

The period of execution of significant services in the last 10 years is considered to be fulfilled if the activities fulfilling the definition of significant services according to clause a) were completed during that period. If the significant services or activity was part of a more extensive performance for the client, it is sufficient if at least the service fulfilling the definition of a significant service was completed even if the contract as a whole has not been completed. At the same time, however, it is not enough if a large contract as a whole has been completed in the last 10 years but the performance fulfilling the definition of a significant service was completed earlier than 10 years ago.

The Contracting Authority points out that, for the purposes of assessing qualifications, the submitted list of significant services must specifically indicate what the price of that part of the supply which corresponds in substance to the definition of a significant services specified by the Contracting Authority was. Thus, if the activities fulfilling the definition of a significant services were carried out within the framework of a larger project, only the price of the performance meeting the definition of a significant service, not the total price of the project, will be relevant for assessing the fulfilment of the qualification.

For the purposes of demonstrating qualification, the Contracting Authority shall recognise foreign references of similar characteristics which will be comparable in terms of their material scope and time of implementation to the Contracting Authority’s requirements for significant services.

The contractor may also use, to demonstrate compliance with the qualification criterion relating to the requirement to submit a list of significant services, the services the contractor has provided

1. together with other contractors, to the extent as the contractor has participated in the performance of the service itself; or
2. as a subcontractor, to the extent that the contractor has participated in the performance of the service.
   1. Technical qualification – list of technicians:

The Contracting Authority requires the submission of a **list of the contractor’s technicians.** The Contracting Authority stipulates that members of the technicians may be employees of the contractor or persons in a different relationship to the contractor, i.e. e.g. employees of its subcontractors or its subcontractors themselves.

The contractor shall submit in its tender the **professional CVs** of each technician, **documents on the required education of the members of the List of technicians** and **documents to prove professional qualification**. For the performance of this public procurement, the contractor must have at its disposal technicians who satisfy the following requirements (which must be clear from the documents submitted by the contractor).

|  |  |  |
| --- | --- | --- |
| **Number of job position** | **Name of job position in the List of technicians** | **Requirements for the job position** |
| **1)** | **Project Manager** | * At least 3 experience with the management of a transport construction project at least in the stage of preparation of Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail), of which at least in one case the total investment cost was at least CZK 1 billion without VAT. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **2)** | **Building structures designer specialist** | * Authorisation (registration) in the scope according to Section 5 (3) a) of the Authorisation Act, i.e. in the field of building structures. |
| * At least 5 years of practical experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) of land transport structures. |
| **3)\*** | **Transport structures designer specialist** | * Authorisation (registration) in the scope according to Section 5 (3) b) of the Authorisation Act, i.e. in the field of transport construction. |
| * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) of a railway line in the extent of the railway superstructure and substructure of a railway line of nation-wide significance (or corresponding). * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) of a railway line in the extent of the railway superstructure and substructure of HSRL1. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **4)\*** | **Bridge and engineering structures designer specialist (bridges)** | * Authorisation (registration) in the scope according to Section 5 (3) d) of the Authorisation Act, i.e. in the field of bridges and engineering structures. |
| * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) for a railway bridge structure of a railway line of nation-wide significance (or corresponding) whose investment costs amount to at least CZK 30 million without VAT. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) for a railway bridge structure on HSRL1 whose investment costs amounted to at least CZK 30 million without VAT. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **5)\*** | **Technological equipment of buildings designer specialist (railway safety and signalling plant)** | * Authorisation (registration) in the scope according to Section 5 (3) e) of the Authorisation Act, i.e. in the field of technological equipment of buildings. |
| * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of railway safety and signalling plant of a railway line of nation-wide significance (or corresponding). * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of railway safety and signalling plant compatible with ETCS on HSRL1 or with exclusive operation of ETCS Level 2. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **6)\*** | **Technological equipment of buildings designer specialist (power supply)** | * Authorisation (registration) in the scope according to Section 5 (3) e) of the Authorisation Act, i.e. in the field of technological equipment of buildings. |
| * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing energy solutions and power supply of a railway line of nation-wide significance (or corresponding). * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing energy solutions and power supply of HSRL1. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **7)** | **Specialist for reliability and safety** | * At least 1 experience with developing a RAMS assessment or setting the overall HSRL1 concept in terms of reliability, maintainability and safety. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **8)\*\*** | **Geotechnics specialist** | * Authorisation (registration) in the scope according to Section 5 (3) i) of the Authorisation Act, i.e. in the field of geotechnics. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the railway substructure. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the founding of the railway substructure engineering structures. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the railway substructure of HSRL1. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the designing the founding of the railway substructure of HSRL1. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **9)** | **Fire safety of buildings specialist** | * Authorisation (registration) in the scope according to Section 5 (3) j) of the Authorisation Act, i.e. in the field of fire safety of buildings. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the fire safety solution of transport structures. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **10)** | **Environmental impacts specialist** | * Authorisation to prepare documentation and assessment according to Section 19 of Act No. 100/2001 Coll., on Environmental Impact Assessment, as amended. * At least 5 years of experience in the field of the environmental impact assessment. |
| **11)** | **Permitting activities specialist** | * At least secondary education * At least 5 years of experience with delivering services including among others also permitting activities for obtaining planning permit (Zoning decision), planning consent (Zoning consent) or joint permit (planning and building), including the property settlement proceedings. |
| **12)** | **Telecommunication technology specialist** | * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the GSM standard telecommunication network. * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |
| **13)** | **Electrical engineering specialist** | * Authorisation (registration) in the scope according to Section 5 (3) f) of the Authorisation Act, i.e. in the field of the building environment technology. |
| **14)** | **Catenary and traction specialist** | * Authorisation (registration) in the scope according to Section 5 (3) e) of the Authorisation Act, i.e. in the field of technological equipment of buildings. * At least 1 experience with the preparation of at least Preliminary Design/ Documentation for Acquisition of the Zoning Decision or documentation in the corresponding level of detail) in the field of designing the catenary and traction of a railway line of nation-wide significance (or corresponding). * The Contracting Authority requires this experience for a maximum period of the last 10 years prior to the commencement of the procurement procedure. |

Regarding the requirement to prove experience as a **project manager**, the Contracting Authority means a person who in particular manages and coordinates the work, is responsible for the completeness, soundness and technical correctness of the documentation, and performs a coordinating function towards teams of potential subcontractors.

Where more than one experience is required from a single member of the List of technicians, each individual experience may correspond to a separate project / contract, but a single project / contract may in the same way include more than one of individually the required experience.

The contractor is entitled to nominate 1 individual to more than one of the positions listed below, provided that the individual meets all the qualification criteria required for those positions. However, 1 individual may simultaneously hold a maximum of 2 positions, except for the project manager, who cannot hold any other position.

**The position of a specialist for the given area [marked with \*] may be demonstrated by one person who fulfils all the qualification requirements set by the Contracting Authority on its own or by two persons who must prove these qualification requirements together (jointly). Thus, in the second variant, one person must have the required experience in designing HSRL1, while the other person must meet the authorisation/registration pursuant to Section 5 (3) of Act No. 360/1992 Coll. and experience with conventional PPPD of a railway line of nation-wide significance (or corresponding) (not linked to HSRL1).**

**The position of the geotechnics specialist [marked with \*\*] may be demonstrated by one person who fulfils all the qualification requirements set by the Contracting Authority on its own or by two or more persons who must prove these qualification requirements together (jointly). Thus, in the second variant, one person must have the required experience in designing HSRL1, while the second and every other person must meet i) the authorisation/registration pursuant to Section 5 (3) of Act No. 360/1992 Coll. and ii) experience with conventional PPPD of a railway line of nation-wide significance (or corresponding) (not linked to HSRL1).**

The Contracting Authority recommends submitting the list of the contractor’s technicians in the form according to the model form contained in Annex 5 to these Guidelines and the professional CV of each member of the contractor’s technicians in the form according to the model form contained in Annex 6 to these Guidelines. The contractor shall indicate the experience in the required field and the experience of the members of the list of technicians in order to prove their qualification in the relevant column in Annex 5 to these Guidelines and also in the CV. The documents submitted by the contractor to prove the technical qualification pursuant to Article 8.5 of these Guidelines shall contain all information necessary for the assessment of the fulfilment of the qualification within the scope of the data specified in Annexes 5 and 6 to these Guidelines.

The Contracting Authority reserves the right to verify the truthfulness of the data on the experience of the technicians, in particular whether they actually participated in the execution of specific contracts. For this purpose, the Contracting Authority requires the professional CV of these members of technicians to provide information and contact details of the contact person of the client for whom the contract was executed.

With regard to the prevention of conflicts of interest in the performance of the public procurement, the Contracting Authority stipulates that the contractor is not entitled to prove the fulfilment of qualifications through an employee or a person in another relation to the contractor who is also an employee of the Contracting Authority. Information about this fact will be given in the CV in the form contained in Annex 6 under clause l). Failure to comply with this condition may justify the exclusion of the contractor from the procurement procedure.

Where qualifications of the members of the technicians have been obtained abroad, respective proof is to be supplied through documents issued under the law of the country in which the qualifications have been obtained, and to the extent required.

The period of execution of major experience in the last 10 years is considered to be fulfilled if the activities fulfilling the definition above were completed during that period.

The Contracting Authority requires that the performance of the public procurement in the respective positions of individual members of the list of technicians be provided by persons specified by the contractor to prove the technical qualification. If, following the submission of the tender or during the performance of the public procurement, any person of the list of technicians through whom the technical qualification is to be proven changes, he/she must be replaced under the conditions laid down by the Public Procurement Act or the contract with a person who also meets the requirements of the Contracting Authority for the qualification criteria, i.e., in particular, the minimum required education, experience, professional qualification and requirements for the prevention of conflicts of interest.

* 1. Requirement to prove the qualification of a subcontractor

The Contracting Authority requires the contractor, for those subcontractors who are known to the contractor when submitting the tender and for which the contractor also assumes (by filling in the relevant data in Annex 2 to these Guidelines) that they will perform at least 10 % of the financial scope of performance of the public procurement (in Annex 2 to these Guidelines expressed as at least 10 % of the value of the subcontract from the tender price), to submit documents proving:

* the basic qualification pursuant to Section 74 of the Public Procurement Act as set out in Section 75 of the Public Procurement Act or Section 81 of the Public Procurement Act; and
* the professional qualification pursuant to Section 77 (1) of the Public Procurement Act as set out in Section 77 (1) of the Public Procurement Act or Section 77 (3) of the Public Procurement Act or Section 81 of the Public Procurement Act.

The Contracting Authority may require replacement of a subcontractor who fails to prove qualifications with the qualification criteria required by the Contracting Authority pursuant to the requirements of this Article above or for which the Contracting Authority proves the reasons for its ineligibility pursuant to Section 48 (5) of the Public Procurement Act.

The Contracting Authority expressly notes that in the case of Section 48 (5) d) of the Public Procurement Act, the reason for the ineligibility will be that the subcontractor has committed serious or long-term misconduct in the past contractual relationship with the Contracting Authority or with another (and not only a public) contracting authority that caused damage, early termination of the contractual relationship or other comparable sanctions in the last 3 years from the commencement of the procurement procedure.

In such a case as provided above, the contractor shall replace the subcontractor within a reasonable period provided by the Contracting Authority. The Contracting Authority may extend or waive such a period. If the subcontractor is not replaced and the procurement procedure has not been completed by that time, the Contracting Authority may exclude the participant.

* 1. General provisions on proving the fulfilment of qualification – evidence of qualification

The contractor is obliged to submit documents to prove the qualification in the tender. If the contractor is unable to produce the requested document for reasons not attributable to it, it shall be entitled to produce another equivalent document. Missing documents can be supplemented only at the request of the Contracting Authority by the procedure according to Section 46 of the Public Procurement Act. Such supplementation shall not be deemed to be a change of the tender.

**The contractor may submit qualification documents in the tender in plain copies or replace the submission of such documents with an affidavit (Annexes 4, 5, 6 and 7 to the Guidelines) or a common European certification (this also applies to the qualifications of other persons).** The common European certification for public procurements means a written affidavit from the participant proving its qualification, including through another person, replacing documents issued by public authorities or third parties on a form made available in the e-Certis information system.

Prior to signing the contract, the Contracting Authority invites the chosen contractor to submit original or certified copies of qualification documents, as far as these have not been already submitted in the procurement procedure. The contractor is not obliged to submit to the Contracting Authority the documents attesting to the facts contained in the common European certification for public procurement, provided that the contractor notifies the Contracting Authority that it already submitted the certification in a prior procurement procedure. In such a case, the contractor shall at the same time inform the Contracting Authority of the name or other identification of that previous procurement procedure.

**The Contracting Authority points out that it is bound by Section 211 (3) of the Act stipulating the obligation of written electronic communication between the Contracting Authority and the contractor, which applies to all submitted documents, including documents submitted by the selected contractor on request pursuant to Section 122 (3) and (5) of the Act. If the original documents exist only in paper form, their conversion into electronic form will be necessary in accordance with Section 22 of Act No. 300/2008 Coll., on Electronic Transactions and Authorised Conversion of Documents, as amended.**

Documents proving the basic qualification and professional qualification pursuant to Section 77 (1) of the Public Procurement Act must demonstrate compliance with the required eligibility criterion no later than 3 months before the date of commencement of the procurement procedure.

Documents to prove the professional qualification do not have to be submitted by the contractor in the tender unless the legislation in the country of its registered office requires a similar professional qualification.

The contractor may also prove the fulfilment of the qualification by submitting an extract from the list of qualified contractors in accordance with the conditions set out in Section 226 et seq. of the Public Procurement Act or by submitting a valid certificate issued within the system of certified contractors in accordance with and under the conditions laid down in Section 233 et seq. of the Public Procurement Act. The extract from the list of qualified contractors must not be, as of the last day as of which a proof of the basic or professional qualification is to be submitted, older than three months. Along with an extract from the list of qualified contractors or a certificate, the contractor may prove qualification by a certificate which originates from another Member State of the European Union, the European Economic Area or the Swiss Confederation, where the registered office of the contractor is located, and which is similar to the extract from the list of qualified contractors or to the certificate issued within the system of certified contractors. The Contracting Authority expressly states that if the contractor submits to the Contracting Authority an extract from the list of qualified contractors or a certificate issued within the system of certified contractors, the contractor is not obliged to submit in its tender any documents proving meeting the qualification to the extent that the extract or certificate covers the Contracting Authority’s requirements to prove the qualification prerequisites.

Where qualifications have been obtained abroad, respective proof is to be supplied through documents issued under the law of the country in which the qualifications have been obtained, and to the extent required.

The certificate for the tax arrears of foreign contractors in the Czech Republic is issued by the Tax Office for Prague 1 and the certificate for the arrears of foreign contractors in the Czech Republic in insurance premiums and penalties for social security and state employment policy contributions is issued by the Prague Social Security Administration.

**Demonstration of professional qualification by foreign persons according to special legal regulations:**

Foreign persons will be required to provide evidence of professional qualification in the relevant discipline issued in the country where they exercise their professional qualification. If no evidence of professional qualification is issued in that country, foreign persons shall issue an affidavit, which shall also include a statement that they are authorised to carry out the professional qualification required in the tender documentation under the law of that country. For all these persons, the selected contractor shall be obliged to submit proof of their professional qualification to perform the regulated activities in question in the Czech Republic as a precondition for concluding a contract for performance of the subject-matter of the public procurement.

* Information on documenting the authorisation (Czech Republic) / registration (abroad) to the extent pursuant to Section 5 (3) of Act No. 360/1992 Coll., on practice of profession of authorised architects and authorised engineers and technicians working in the field of building constructions, as amended, by foreign persons (Sections 30a to 30r of Act No. 360/1992 Coll.): selected construction activities may be carried out in the Czech Republic by foreign persons who have acquired the necessary qualifications for the selected activities in another Member State of the European Union, another contracted state of the Agreement on the European Economic Area or the Swiss Confederation (hereinafter referred to as a Member State) as a person established or visiting there. An established person means a person who performs a continuous selected activity in the Czech Republic or has an enterprise or an organisational unit in the Czech Republic. A visiting person means a person who is established in the territory of another Member State and performs the selected activity temporarily or occasionally in the territory of the Czech Republic. In order to allow access to the selected activity, diplomas, certificates and other evidence of formal qualifications as well as professional practice are recognised in the Czech Republic in accordance with European Community law (Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications). The recognition body is the Czech Chamber of Authorised Engineers and Technicians Active in Construction, which assesses the fulfilment of qualification prerequisites and performs other tasks associated with this activity. The visiting person is required to submit a full notification to the recognition body under the Professional Qualification Recognition Act. The recognition body may require verification of professional qualifications under the Professional Qualification Recognition Act. In the case of recognition of professional qualification and other competence of the person established or in the case of fulfilment of requirements under the Professional Qualification Recognition Act by the visiting person, the recognition authority shall immediately enter the person in the list of registered persons. The recognition body shall lay down in its internal regulations the form of the application and the particulars of the documentation submitted. The valid registration certificate of the person visiting or established shall be documented by the selected contractor as a precondition for the conclusion of the contract.
* Information for justifying authorization to prepare documentation and report pursuant to § 19 of the Act. No. 100/2001 Coll., on the Environmental Impact Assessment, as amended, this activity is a regulated activity in the Czech Republic and the recognition of professional qualifications of foreign persons is carried out according to Act No. 100/2001 Coll., as amended. 18/2004 Coll., on the recognition of professional qualifications, as amended. The recognition body is the Ministry of the Environment. Evidence of compliance with the above obligations shall be provided by the selected contractor as a condition for the conclusion of the contract.
  1. Demonstration of qualification in the case of joint participation and through other persons

In the case of joint participation of contractors, each of the partners shall fully prove the basic qualification and professional qualification separately according to Section 77 (1) of the Public Procurement Act. Demonstration of the fulfilment of the other qualifications must be demonstrated by all the partners together.

If the contractor is not able to prove a certain part of the technical qualification or professional qualification with the exception of the criterion pursuant to Section 77 (1) of the Public Procurement Act required by the Contracting Authority in full, it is entitled to prove it through other persons.

In that event, the contractor is obliged to provide the Contracting Authority with:

* Evidence of compliance with the basic qualification in accordance with Section 74 of the Public Procurement Act by such other person,
* Evidence of compliance with the professional qualification in accordance with Section 77 (1) of the Public Procurement Act by such other person,
* Documents in proof of fulfilment of the missing part of qualifications through such other person, and
* A written obligation on the part of that other person to provide performance intended for the performance of the public procurement or to provide things or rights that the contractor will be entitled to dispose of as part of the performance of the public procurement, at least to the extent that the other person has demonstrated qualification instead of the contractor.
  + The written obligation shall contain a specification of the performance that the other person provides to the contractor for performance of the public procurement, or a specification of the things or rights that the contractor will be entitled to dispose of in the performance of the public procurement. The obligation must be usable and enforceable in the actual execution of the public procurement, to the extent that the missing part of the contractor’s qualification has been supplemented by another person.
  + The requirement regarding the written obligation of another person is fulfilled, i.e. the performance of the public procurement or the provision of things or rights by another person shall be deemed to be equivalent to the extent to which that person has proven the qualifications instead of the contractor if the other person’s written obligation includes joint and several liability of that person for performance of the public procurement together with the contractor. However, if the contractor demonstrates qualifications through another person and submits a list of significant services or evidence of education and professional qualifications of members of the contractor’s technicians relating to that other person, the written commitment of the other person demonstrating part of the qualification shall bind that person to actually perform the services to which the proven qualification criterion relates.

Such other person demonstrates the basic qualification pursuant to Section 74 of the Public Procurement Act and professional qualification pursuant to Section 77 (1) by means of similar documents to be submitted by the contractor.

The contractor is not entitled to prove the fulfilment of the basic qualification through another person with an extract from the Commercial Register or other similar register.

1. ADDITIONAL INFORMATION/DOCUMENTS SUBMITTED BY THE CONTRACTOR IN THE TENDER
   1. In order to meet the Contracting Authority’s other requirements for the preparation and submission of tenders, all contractors must submit the following information and documents in their tenders:

* **A document containing information about the contractor**, including a declaration of acceptance of the model Contract for Work and its annexes. This document shall be submitted in the form contained in Annex 1 to these Guidelines.
* A list of subcontractors, if known to the contractor, indicating which parts of the public procurement each subcontractor will perform. This information shall be submitted in the form contained in Annex 2 to these Guidelines. The list of subcontractors shall include subcontractors through which the participant has demonstrated compliance with part of the qualifications in accordance with Section 83 of the Public Procurement Act and all other subcontractors who will participate in the performance of the public procurement. If the subcontractors are changed by the time the public procurement is awarded, the list of subcontractors will be modified accordingly. The list will also include subcontractors – individuals who are members of the contractor’s professional staff. The Contracting Authority does not consider persons forming a group (holding) with the contractor to be subcontractors mandatorily included in the list of subcontractors.
* A list of other persons to prove the fulfilment of qualification according to Annex 8 to these Guidelines, i.e. other persons who are not necessarily in the position of subcontractors within the meaning of Annex 2 to these Guidelines (persons forming a group/holding with the contractor).
* The participant is obliged to indicate in the tender data or communication that it considers to be confidential or a trade secret and which are exempt from the publication obligation. The Contracting Authority shall maintain confidentiality about such data unless otherwise required in these Guidelines or other parts of the tender documentation or effective legislation. **The Contracting Authority recommends that the participant identify as confidential and a trade secret all documents relating to the evaluation sub-criteria “Expert Level”, “Risk Identification and Management” and “Value Add (Inventiveness of the Contractor)”.**
  1. Submission of the tender jointly by several contractors:
* If a tender is submitted by several persons jointly, in particular as a company within the meaning of Section 2716 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended, or as another association or group of contractors (hereinafter referred to in the text of these Contractor Guidelines as a “**company**” of contractors and a member of that group as a “**member**”), they must submit information about such a company. This shall be submitted in the form contained in Annex 3 to these Guidelines. The Contracting Authority requires the contractor company to determine the extent of participation of individual members in terms of the expected percentage in the subject-matter of performance of the public procurement. The Contracting Authority recommends to include the information in the tender in Annex 3 to these Guidelines.
* If more than one person submits a tender jointly, they must prove in the tender that all these contractors (members) will be liable to the Contracting Authority and to any third parties under any obligations arising out of the public procurement, performance of the subject-matter of the public procurement or delays or other violation of contractual or other obligations in connection with performance of the subject-matter of the public procurement jointly and severally. The participant shall substantiate this requirement by a copy of the contract or other document from which the fact arises, which shall be attached to Annex 3 to these Guidelines.
* One of the members will be listed in the above contract or other document as the lead member (the Lead Contractor within the meaning of the Contract for Work). The lead member shall be entitled to represent each of the members as well as all the members together in matters of the Contract and shall also be entitled to receive instructions and payments from the Contracting Authority (the Client within the meaning of the Contract for Work) on their behalf. Only the lead member is obliged to issue tax documents - invoices. The tax document shall identify the lead member as a person performing economic activity as a service provider in accordance with Act No. 235/2004 Coll., on Value Added Tax, as amended. The authorisation of the lead member must be included in the contract or other document. The lead member must be appointed for the entire duration of the participation of the contractor company in the procurement procedure, i.e. performance of the Contract for Work. Any change of the lead member must be notified to the Contracting Authority together with the consent of the other members. The change of the lead member shall take effect with respect to the Contracting Authority upon the lapse of the third business day following the delivery of the notice of such change.
* **The Contracting Authority recommends that the lead member be the contractor under whose registration the tender will be submitted in the E-ZAK electronic tool. Nevertheless, the Contracting Authority reserves the right to communicate during the tendering procedure only with the contractor under whose registration the tender was submitted.** Communication between the Contracting Authority and the members submitting the joint tender will then take place via that member. All legal actions will be deemed delivered or sent at the moment of delivery or sending to that member.
  1. Subcontracting restrictions

The Contracting Authority has not established subcontracting restriction.

* 1. Draft contract for the performance of this public procurement:
* The contractor is obliged to submit only one draft contract for the performance of this public procurement. The Contracting Authority’s binding requirements for the content of the contract are contained in the binding model contract, which is contained in Part 2 of the tender documentation entitled Contract for Work. The contractor shall not be entitled to make any changes or additions to these binding requirements of the Contracting Authority, except for data which imply an obligation to make such additions (the data to be completed by the contractor are marked in yellow) or unless these Guidelines provide otherwise. The draft contract need not be signed by the contractor in the tender. The contractor shall add to the binding model of the contract, inter alia, the following facts (subject to the following instructions):
  + Into the body of the binding contract model, Article 1:
  + Into Annex 4 to the binding model contract entitled Breakdown of the Price of the Work:
* In the case of a tender submitted by an individual and not by a legal entity as the contractor, the contractor is entitled to modify the draft contract only in light of this fact.

1. LANGUAGE OF TENDERS
   1. The tender and documents submitted in or relating to the tender, all correspondence and communication with the Contracting Authority, including requests from contractors for an explanation of the tender documentation, must be submitted and will be executed **in Czech or Slovak. An exception is Annexes 9, 10 and 11 to this tender documentation, which must always be submitted exclusively in Czech language.**
   2. Interview with the project manager pursuant to evaluation sub-criterion incorporated to Art. No 16.6 of these Guidelines will be processed in Czech or Slovak. In case the contractor’s project manager use some other language, the contractor shall provide interpretation to Czech language.
   3. If a document is required in the procurement conditions under the laws of the Czech Republic, the contractor may submit a similar document under the laws of the country in which the document is issued; **this document shall be presented with a translation into Czech or English**, except for a document in the Slovak language and a document of education in the Latin language, which shall be presented without translation. Where the Contracting Authority has doubts about the accuracy of the translation, it may request submission of an officially certified translation of the document into the Czech language by an interpreter registered in the register of experts and interpreters. If the required document is not issued under the relevant legal rules, it may be replaced by an affidavit.
2. CONTENT AND SUBMISSION OF TENDERS
   1. The contractor may submit only one tender covering the whole subject-matter of the public procurement. The contractor that submitted a tender in the procurement procedure must not serve as a person through which another contractor proves qualification in the same tender. The Contracting Authority shall exclude any participant that has submitted more tenders independently or together with other contractors, or has submitted a tender and concurrently is the person through whom another participant proves its qualification in the same public procurement.
   2. The tender must be submitted electronically by means of the E-ZAK electronic tool, which is the profile of the Contracting Authority, in Czech or English, with the exceptions set out in Article 10 of these Guidelines, or in accordance with Section 45 (3) of the Public Procurement Act. The Contracting Authority does not allow submission of tenders in paper form or in any other electronic form outside the E-ZAK electronic tool. **The contractor shall deliver the tender by the end of the time limit for the submission of tenders stipulated in the notice of commencement of the procurement procedure – public service, by means of the E-ZAK electronic tool to the below mentioned electronic address** <https://zakazky.spravazeleznic.cz/>. The Contracting Authority points out that the tender is considered delivered when the data transmission to the E-ZAK electronic tool is completed. Let contractors start the process of tender submission with a sufficient time reserve for any system fluctuations for which the Contracting Authority is not responsible.
   3. The contractor shall submit a complete electronic version of the tender using the E-ZAK electronic tool. The method of correct submission of the tender in electronic form for the public procurement is specified in the user manual of the E-ZAK electronic tool for contractors, which is available at <https://zakazky.spravazeleznic.cz/manual.html>. The tender does not need to be electronically signed by a person authorised to act on behalf of the contractor. The electronic signature is required only when registering the contractor in the electronic tool. By submitting a tender, the contractor agrees to the determined form of communication and undertakes to provide all necessary cooperation, in particular to register in the E-ZAK electronic tool and regularly check the delivered messages. Documents must be inserted into the E-ZAK system as a single file or multiple zip, rar or 7z files without a password. The compressed files must not contain any other compressed files. The Contracting Authority notes that the E-ZAK electronic public procurement system allows you to work with files of up to 38 MB per file or compressed files. Larger files must be appropriately split before they are sent via E-ZAK. There is no limit to the size of the tender itself.
   4. **The tender shall be submitted in the following structure:**

The requirements for the breakdown of the tender set out in this Article 11.4 of the Guidelines are of a recommending nature. Any failure to comply with the formal requirements for the division of the tender below will not be considered by the Contracting Authority as a failure to meet the conditions of participation in the procurement procedure. **Exceptions are the bold parts of the requirements below, the non-compliance with which will be penalised by exclusion from further participation in the procurement procedure.**

1. The contents of the tender, including the page numbers of the tender, including the list of annexes.
2. The draft Contract for Work, prepared according to the instructions contained in these Guidelines, **unless otherwise stated below**, the annexes need not be part of the draft Contract, they will be attached before the Contract is signed.
3. General information on the contractor in the form contained in Annex 1 to these Guidelines.
4. Power of attorney, agreement on a power of attorney or authorisation if such a document is necessary.
5. Information on the company of contractors in the form contained in Annex 3 to these Guidelines, including a contract or any other document pursuant to Article 9.2 of these Guidelines (if several contractors submit a tender jointly).
6. Documents proving the basic qualification; the affidavit may be provided in the form of Annex 7 to these Guidelines.
7. Documents proving the professional qualification; the affidavit may be provided in the form of Annex 7 to these Guidelines.
8. Documents proving the fulfilment of technical qualifications, i.e. the list of significant services of a similar nature in the form included in Annex 4 to these Guidelines, the list of the contractor’s technicians in the form included in Annex 5 to these Guidelines and the CVs of individual members of the contractor’s list of technicians in the form contained in Annex 6 to these Guidelines (including annexes – documents on education and professional qualification),
9. Information on subcontractors in the form contained in Annex 2 to these Guidelines and documents relating to such persons,
10. A list of other persons to prove the fulfilment of qualification according to Annex 8 to these Guidelines, i.e. other persons who are not necessarily in the position of subcontractors within the meaning of Annex 2 to these Guidelines (persons forming a group/holding with the contractor and subcontractors), and documents relating to such persons,
11. Annex 4 to the binding model contract entitled Breakdown of the Price for the Work,
12. Quality assessment document under the “Expert Level” criterion - completed Annex 9 to these Guidelines – **this document in editable form MS WORD is submitted separately from sections under clauses 1 through 11 and 15 in the marked section of the E-ZAK electronic tool in an anonymised form (violation is penalised by exclusion, the Contracting Authority will not perform manual anonymization),**
13. Quality assessment document under the “Risk Identification and Management” criterion - completed Annex 10 to these Guidelines – **this document in editable form MS WORD is submitted separately from sections under clauses 1 through 11 and 15 in the marked section of the E-ZAK electronic tool in an anonymised form (violation is penalised by exclusion, the Contracting Authority will not perform manual anonymization),**
14. Quality assessment document under the “Value Add (Inventiveness of the Contractor)” criterion - completed Annex 11 to these Guidelines – **this document in editable form MS WORD is submitted separately from sections under clauses 1 through 11 and 15 in the marked section of the E-ZAK electronic tool in an anonymised form (violation is penalised by exclusion, the Contracting Authority will not perform manual anonymization),**
15. Other documents, at the discretion of the contractor, for which there was no room in the preceding parts of the tender (e.g. indication of information or communication which the contractor considers to be confidential or a trade secret).
    1. Tenders submitted after the expiry of the time limit for the submission of tenders or submitted in a manner other than that specified above shall not be opened; such tenders shall not be deemed to have been submitted and shall be disregarded during the procurement procedure.
    2. The tenders must contain all the documents referred to in Article 11 of these Guidelines as well as all other documents required by the Contracting Authority and specified in the procurement conditions of this public procurement. The requirements for the tender structure set out in Article 11.4 of the Guidelines are, **with the exception of the parts highlighted**, of a recommending nature. Any failure to comply with the formal requirements for the division of the tender below will not be considered by the Contracting Authority as a failure to meet the conditions of participation in the procurement procedure. Unless stated otherwise in these Guidelines, the documents proving the fulfilment of the procurement conditions shall be submitted by the participants in a copy. The obligation to produce the document may be fulfilled by the contractor by reference to the relevant information kept in the public administration information system or a similar system maintained in another Member State of the European Union, the European Economic Area or the Swiss Confederation which allows unrestricted remote access. Such a reference must contain, if needed, the Internet address and data for login and searching the required information.
    3. **As regards all tender documents required by the Contracting Authority to be submitted in a copy and for which these Guidelines require a signature, the Contracting Authority recommends to sign them on the relevant pages of these documents by a person authorised to act on behalf of the contractor and to submit such documents as a scan with visible identification of the contractor (e.g. stamp), signature and date of execution, or affixed with a valid, recognised electronic signature. However, in accordance with the general regulation in Section 562 (1) of the Civil Code, the written form shall be preserved even in the case of legal acts made by electronic means enabling the capture of the content and identification of the acting person. If several contractors submit a tender jointly (especially as a contractor company), the Contracting Authority recommends signing the documents by governing bodies or persons demonstrably authorised to act on behalf of all contractors who form the company or by the governing body or person authorised to act on behalf of the contractor, expressly authorised to do so by the other members of that company. If the signatory is authorised to act on behalf of the contractor on the basis of a written power of attorney, a power of attorney agreement or an authorisation, such power of attorney, power of attorney agreement and authorisation must meet all the requirements of the legislation of the Czech Republic. The power of attorney, the power of attorney agreement or authorisation shall be attached to the tender**.
16. REQUIREMENTS FOR DETERMINING THE tender PRICE
    1. The tender price is set by the contractor to the extent and according to the data of this tender documentation (including all its annexes). The tender price will be set in **Czech crowns (CZK) without VAT and with VAT** according to the relevant legal regulations of the Czech Republic valid as of the date of submission of the tender. The contractor is responsible for correctness of the VAT rate and VAT calculation.
    2. The tender price shall include all costs associated with the performance of the subject-matter of the public procurement and shall cover the execution of all works and activities necessary for the proper performance of the subject-matter of this public procurement in accordance with these Guidelines and the procurement conditions of this public procurement as a whole of which the participant should have known that they were necessary for the proper and quality execution and completion of the subject-matter of the public procurement.
    3. The Contracting Authority requires that the total tender price be stated in the tender in Annex 4 to the binding contract model entitled Breakdown of the Price for the Work.

The subject of evaluation will be the total tender price for the (Main) Subject-matter of performance of the public procurement, excluding the price of additional performance according to the option right/option performance. The Breakdown of the Price for Performance of the Work will serve for informing the Contracting Authority about the composition of the tender price when assessing its amount from the perspective of (non-)existence of an exceptionally low tender price and for the purposes of the Contract for Work, i.e. for the purposes of calculating the price for additional services. A detailed Breakdown of the Price for Performance of the Work shall have no effect or influence on the interpretation of other provisions of the Contract for Work.

* 1. The total tender price shall be determined by the contractor as the maximum allowable price, including all supplies, works, activities, other costs, risks, profits, financial effects (e.g. inflation) for the entire period of performance of the subject-matter of performance of the public procurement in accordance with the terms of the tender documentation and the binding draft Contract for Work. The tender price may be changed in connection with a change in tax regulations.
  2. The tender price requirements are set so that participants can submit mutually comparable tenders.
  3. **The tender price may be stated only in the tender part related to the tender price of the contractor, which part shall be opened within the electronic tool of the Contracting Authority separately after the evaluation according to other evaluation sub-criteria (Articles 16.3 to 16.6 of the Guidelines). It’s an application of so called “double envelope” method in order to ensure neutrality of assessment in the scope of other partial assessing criteria.**

1. TENDER VARIANTS
   1. Tenders with variants are not permitted by the Contracting Authority.
2. TENDER OPENING
   1. Opening of tenders in electronic form shall be carried out in accordance with the Public Procurement Act without public or contractor participation.
3. ASSESSMENT OF COMPLIANCE WITH THE CONDITIONS OF PARTICIPATION
   1. The assessment of the fulfilment of the conditions for participation in the procurement procedure can only be carried out after the evaluation of the tenders.
   2. The Contracting Authority is entitled to verify the credibility of the data and documents provided in the tender and also to obtain them itself. In order to ensure the proper conduct of the procurement procedure, the Contracting Authority shall be entitled to require the participant to clarify the submitted data and documents or to add further or missing data within a reasonable time limit. Following the submission of tenders, the tender may be supplemented, at the Contracting Authority’s request, only with data or documents which will not be the subject of tender evaluation. Events relevant to the purposes of demonstrating the fulfilment of the conditions of participation may still occur after the time limit for the submission of tenders has expired.
   3. The Contracting Authority draws attention to the fact that tender price of the contractor with whom Contract for work shall be concluded pursuant to Article 16.1, shall be subject to assessment in accordance with Section 113 of the Public Procurement Act.

The Contracting Authority in accordance with Section 113 par. 2 also establishes the following mechanism to determine an exceptionally low tender price:

1. in case that the Contracting Authority obtains the maximum of 2 tenders, 70 % of the anticipated tender price (without the inclusion of optional right/optional performance) will be considered exceptionally low tender price
2. in case that the Contracting Authority obtains 3 or more tenders, 70 % of the anticipated tender price (without the inclusion of optional right/optional performance) and/or tender price that will differ from the average of all other tender prices (without the inclusion of optional right/optional performance) by more than 30% will be considered exceptionally low tender price.

The Contracting Authority can determine an exceptionally low tender price with disregard to aforementioned conditions if particular circumstances of a tender raise reasonable doubts about the feasibility of demanded performance for the offered tender price.

If necessary in view of the amount of the tender prices, the Contracting Authority shall, within the meaning of Section 113 of the Public Procurement Act, prepare a detailed breakdown of the tender prices of all participants and address each relevant tender price item in order to identify whether any part of the tender price does not contain an exceptionally low tender price in relation to the subject-matter of the public procurement being awarded. If the tender contains an exceptionally low tender price in relation to the subject-matter of the public procurement (either for reasons stated in letter a) or letter b) or according to the professional assessment of the Contracting Authority), the Contracting Authority shall ask the participant for a written justification for the method of setting the extremely low tender price.

* 1. The Contracting Authority notes that in accordance with Section 48 (5) d) in conjunction with Section 167 (1) of the Public Procurement Act, the Contracting Authority reserves the right to exclude any participant due to ineligibility if that participant has committed serious or long-term misconduct in the past contractual relationship with the Contracting Authority or with another (and not only a public) contracting authority that caused damage, early termination of the contractual relationship or other comparable sanctions in the last 3 years from the commencement of the procurement procedure.

1. EVALUATION OF TENDERS
   1. Tenders shall be evaluated on the basis of their economic advantageousness on the basis of the **most favourable tender price-quality ratio**, based on the following criteria and weights, representing the proportion of the individual evaluation criteria in the overall evaluation:

|  |  |
| --- | --- |
| **Evaluation sub-criterion** | **Weight of the criterion in overall evaluation** |
| Tender price | *30 %* |
| Expert level | *20 %* |
| Risk identification and management | *15 %* |
| Value Add (Inventiveness of the contractor) | *10 %[[1]](#footnote-1)* |
| The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives | *25 %* |

In defining the evaluation criteria of this public procurement, the Contracting Authority carefully considered its experience with the award and implementation of public procurements for project and similar works, especially the negative impact of the evaluation of tenders in these public procurements based solely on the lowest tender price, i.e. other quantifiable evaluation criteria for the quality of performance, persisting strong competition of contractors influencing tender prices at the border of objective feasibility, or the fact that the current Czech procurement practice is not capable of effectively addressing this issue.

Therefore, the Contracting Authority, in the definition of the concept of the tender and the evaluation criteria for this public procurement, was inspired by the approach of other EU Member States applying the same procurement directives, which have already overcome the application problems of Czech contracting authorities given the long-term and systematic development of their public procurement practice.

The Contracting Authority was specifically inspired by the BVA/BVP method developed at the Arizona State University by Professor Dean Kashiwagi, Ph.D., which is currently being successfully applied on extensive infrastructure projects mainly in the Netherlands, and also in Scandinavia.

The BVA/BVP method is based on the recognition that the contractor understands the subject-matter of performance of the public procurement better than the Contracting Authority, and it is therefore preferable that the Contracting Authority does not prescribe a specific method of performance (as opposed to the purpose of the public procurement).

The main principles of the BVA/BVP method are in affect through the entirety of procurement period and the execution of the subject-matter of the public contract. The Contracting Authority presupposes a certain level of knowledge and expertise and corresponding self-reliance.

The concept of this method is to ensure the widest possible application of creative inventiveness of contractors in the framework of “quality offering” and to provide contracting authorities with the possibility to distinguish experienced and quality contractors from those of lower quality. Based on experience in its application in the Netherlands, the BVA/BVP method has led to the entry of new, formerly (only on the basis of the tender price) uncompetitive contractors into Dutch public procurements, to speeding up administrative projects, to a significant reduction of deficiencies in the service and outcome quality due to the selection of quality contractors and, ultimately, also to a reduction in the volume of extra work.

In view of this positive experience and the fact that the unambiguous compatibility of the BVA/BVP method with European public procurement law has been proven by its long-term application in the Netherlands and other European countries, the Contracting Authority has decided to define the Guidelines and the evaluation criteria for this public procurement according to BVA/BVP in cooperation with foreign experts.

The Contracting Authority believes that this method will allow contractors to present the expertise and quality of performance already in the tenders and to relieve long-term pressure to reduce the tender prices as much as possible, that is viewed as a problem both by contractors and contracting authorities.

The Contracting Authority points out that the BVA/BVP method can’t only be related to the process of tender assessment. Such a view would be simplified and incorrect. The BVA/BVP method represents a concept of public procurement and requires a different (rather than mechanically applied, formal) approach not only from the Contracting Authority, but also from the contractors who should proceed in an innovative, self-reliant and responsible manner through the entire process of public procurement execution.

* 1. **Tender price**

**The evaluation sub-criterion of the tender price will be evaluated only after the evaluation of other non-price evaluation criteria so as to ensure maximum impartiality of the members of the evaluation committee.**

The **total tender price in CZK without VAT** stated by the participant will be evaluated within the meaning of these Guidelines as the total price for work without VAT for the (Main) Subject-matter of performance excl. additional performance – in document Annex 4 to the binding contract model entitled Breakdown of the Price for the Work.

The tender with the lowest tender price of all evaluated tenders will be awarded 100 points.

Other tenders will be awarded a point value determined by a multiple of 100 and the ratio of the value of the most advantageous tender (i.e. the tender with the lowest tender price) to the tender under evaluation. The calculation corresponds to the following formula:

Amount of the lowest tender price without VAT

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ × 100

Amount of the evaluated tender price without VAT

The number of points thus obtained will be multiplied by a coefficient of 0.30 (i.e. the weight of the evaluation sub-criterion Tender Price) and then mathematically rounded to two decimal places.

* 1. **Expert level**

*Purpose of the evaluation criterion*

The purpose of the evaluation sub-criterion “Expert level” is to find the most suitable proposals and measures to address the Contracting Authority’s project objectives.

The solutions offered by the contractors will be evaluated from the perspective of the project objectives set out by the Contracting Authority.

The Contracting Authority expects contractors to describe briefly, non-technically and unambiguously the measures they propose to contribute to achieving these project objectives. At the same time, contractors shall justify these measures in terms of their feasibility with measurable information (see below).

*Description of the evaluation criterion*

**Within this evaluation sub-criterion, the Contracting Authority will evaluate the contractor’s contribution to the fulfilment of the Contracting Authority’s project objectives according to the contractor’s tender - completed Annex 9 to these Guidelines. It is clear that the fulfilment of the project objectives will not be exclusively up to the contractor and the contractor cannot be fully responsible for them; nevertheless, the contractor is obliged to perform the public procurement in line with its tender so as to contribute to the fulfilment of the project objectives to the greatest extent possible.**

**In other words, the BVA/BVP method does not establish contractors unlimited liability for the fulfilment of all the Contracting Authority’s project objectives. The BVA/BVP method establishes contractors liability for the execution of offered performance which should be sufficient to fulfil said project objectives. The BVA/BVP method recognizes and accepts the existence and influence of a variety of other factors on the fulfilment of the Contracting Authority’s project objectives.**

The Contracting Authority defines the following project objectives:

* a) *–* **positive result in interrelated decision-making processes in the shortest time possible**

The Contracting Authority specifies that this project objective is aimed at obtaining high-quality documentation, which should contribute to ensuring the fastest and smoothest possible follow-up procedures to this public procurement:

1. planning permit (Zoning permit) procedure including obtaining the effective planning permit (Zoning Decision) for the construction of the Prosenice – Ostrava-Svinov, I. part, Prosenice – Hranice na Moravě,
2. environmental impact assessment as soon as possible (positive EIA) and later incorporation of requirements from the EIA into the project documentation for the planning permit (Zoning Decision).

**The Contracting Authority is interested in such a solution that can have the highest possible effect in the sense of the above.**

**The contractor guarantees the quality and scope of the documents, but does not guarantee the course and outcome of the above-mentioned subsequent decision-making processes that will not be exclusively up to the contractor. The contractor’s tender and the fulfilment of the public procurement should contribute as much as possible to this project objective in accordance with the above-mentioned BVA/BVP method explanation.**

b) – **maximum certainty that contract performance progresses by the time schedules milestones**

The Contracting Authority intends to start construction in the shortest possible time. Therefore, the Contracting Authority places a strong emphasis on compliance with the time limits of the basic work time schedule. The contractor shall propose a work time schedule that allows the fulfilment of terms set in Article 5.4 of Annex 3 c) of the Contract for Work called Specific Terms and Conditions forming Part 2 of the tender documentation.

**The fulfilment of the time limits will be a contractual obligation of the contractor. The Contracting Authority will better evaluate such proposals and measures that will help to minimise the probability of late delivery of the documents prepared by the contractor (taking into account possible external influences) and thus contribute to a timely start of the subsequent decision-making processes.**

**The fact that the BVA/BVP method accepts possible external influences on contractor’s performance, the relevance and assessibility of tenders and measures of the contractor doesn’t in any way decrease or negate anything. The fact that external influences are not to the detriment of the contractor is valid in procurement procedure with or without the use of the BTA/BTP method.**

* c) – **securing support of the HSRL from the general public**

The Contracting Authority is aware of the scope of the planned project, and therefore considers it necessary to provide public support for the project of HSRL construction. The public means both the general public from among the inhabitants of the area concerned and its representatives in the form of local government and state administration. The subject-matter of the public procurement will be a proposal of measures that will increase the probability of positive acceptance of the project by the public and their incorporation into the documentation.

However, the Contracting Authority does not view the project of HSRL in isolation but rather in the context of efforts to meet the investment costs identified in the feasibility study.

The contractor does not guarantee the achievement of public support, as this shall not be exclusively up to the contractor; however, the contractor’s tender and performance of the subject-matter of the public procurement by the contractor should contribute to it to the maximum extent possible, as explained in connection with the BVA/BVP above.

* d) – **minimising administrative burden and maximising the accuracy of the data for processing**

The Contracting Authority is aware of the complexity of the technical solution of the large transport construction. Therefore, the aim of the Contracting Authority is to prepare documentation using such technologies and procedures that

1. are to minimise the administrative burden on the Contracting Authority in connection with the processing of the subject-matter of the public procurement,
2. are to facilitate the control of the proposed solution by the Contracting Authority,
3. should minimise the risk of possible gaps and inaccurate data,
4. shall lead to outputs facilitating the negotiation of the project with the parties concerned,
5. shall also be suitable for communication with the non-professional public.

The performance of the public procurement using the procedures or technologies offered will be a contractual obligation of the contractor. The Contracting Authority will better evaluate such proposals and measures or technologies that will help to maximise the likelihood of achieving the above mentioned partial objectives, as explained in connection with the BVA/BVP above.

Annex 9 to these Guidelines contains binding forms in relation to all the above-mentioned project objectives. The participants shall describe in these forms

1. *their proposals and measures to achieve the given project objective.* The description of the proposal and the measure should be clear, i.e. non-technical and as understandable as possible, even from the point of view of persons who are not experts in the field of the tender. In this context, the Contracting Authority states that the contractor’s ability to express factually and professionally complex questions in a concise and simple manner is an important indicator of its expertise,
2. *dominant information – proposal and measure feasibility rationale.* This information is intended to demonstrate the sophistication and feasibility of the proposal and measure and their impact on the fulfilment of the project objectives in a verifiable manner. The dominant information must be unambiguous, for example by referring to an already completed project, referring to a different project being implemented describing the adaptation of procedures to the specificities of this public procurement, similar references to the team member’s experience, or other credible and verifiable claims. **In this context, the Contracting Authority will better evaluate the use of as many specific, measurable pieces of information as possible (e.g. quantification of the impact of the proposed measure in terms of economy, time etc.).** The dominant information should be formulated so that the contractor is not directly identifiable on the basis of it.

**According to the principles of the BVA/BVP method, the scope of descriptions, in aggregate in relation to all project objectives, must not exceed 2 standard pages (3600 characters including spaces), tender above this range will not be evaluated. Only text can be included, without images, graphs etc. which will not be evaluated.**

The fulfilment of the project objectives will be assessed in aggregate in relation to all project objectives as follows:

1. High degree of effect of the participant’s proposals and measures on the fulfilment of the Contracting Authority’s project objectives (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement): 20 points
2. The degree of effect of the participant’s proposals and measures on the fulfilment of the project objectives of the Contracting Authority is higher than average, but does not reach the level that can be described as high (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement): 15 points
3. The degree of effect of the participant’s proposals and measures on the fulfilment of the project objectives of the Contracting Authority is average (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement): 10 points
4. Low to insufficient degree of effect of the participant’s proposals and measures on the fulfilment of the Contracting Authority’s project objectives (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent): 5 points.

This evaluation will take into account not only the participant’s proposals and measures but also the dominant information related to them. This means that the proposals and measures need to be supported by credible dominant information in order to be evaluated better. **The evaluation will be anonymous, which should maximise the objectivity of the conclusions of the evaluation committee.**

The score obtained will not be recalculated, since the maximum number of possible points (20) corresponds to the weight of this evaluation sub-criterion (20 %).

* 1. **Risk identification and management**

*Purpose of the evaluation criterion*

The purpose of the evaluation sub-criterion “Risk Identification and Management” is identifying and managing the risks to which the contractor believes the Contracting Authority is exposed as a result of implementing the public procurement or using the public procurement’s outputs for the follow-up building permit procedure, in the light of the project objectives pursuant to Article 16.3 above.

The Contracting Authority proceeds on the assumption that, with regard to their expertise and experience, contractors are able to anticipate the risks of execution of the subject-matter of the public procurements or the use of its outputs for the subsequent building permit procedure, and propose their solution at a qualitatively higher level than the Contracting Authority itself. Contractors may also identify risks that the Contracting Authority is not able to anticipate in relation to the project objectives.

The Contracting Authority expects contractors to describe in a concise, non-technical and unambiguous manner the risks that in their opinion threaten the Contracting Authority, propose a way of their solution and justify the proposed solutions in terms of their feasibility (by measurable information, see below).

*Description of the evaluation criterion*

The object of evaluation under this evaluation sub-criterion will be identifying and managing the risks to which the Contracting Authority is exposed as a result of implementing the public procurements or using the public procurement’s outputs for the follow-up building permit procedure, in the light of the project objectives pursuant to Article 16.3 above. The evaluation shall be carried out on the basis of the contractor’s tender - completed Annex 10 to these Guidelines. The implementation of proposals and risk management measures according to the contractor’s tender must, of course, be included in the tender price.

**Following the previous paragraph, the Contracting Authority specifies that it is clear that the elimination and successful management of identified risks will not be exclusively up to the contractor and the contractor cannot be fully responsible for them. However, the contractor’s tender and performance of the public procurements should contribute to the risk elimination and management as much as possible.**

**In other words, the BVA/BVP method does not establish contractors unlimited liability for successful elimination or mitigation of the impact of all risks. The BVA/BVP method establishes contractors liability only for the execution of offered performance which should be sufficient to eliminate or mitigate the impact of said risks. The BVA/BVP method recognises and accepts the existence and influence of a variety of other factors that could play a role in elimination or mitigation of the impact of risks outside of the sphere of influence of both the contractor and the Contracting Authority.**

The participants will, in the forms in Annex 10 to the Guidelines,

1. *Identify the risks* they see on the part of the Contracting Authority within the performance of the subject-matter of the public procurements or the use of its outputs for the subsequent building permit procedure. These risks cannot be caused by poor or late performance of the public procurement by the contractor; it is a matter of course that the contractor, in the context of quality performance, adequately treats its risks,
2. *Identify the project objective(s)* to which the identified risks relate,
3. *Justify* why they perceive the identified facts as a risk and describe the circumstances and nature of the risks,
4. *Describe their proposals and measures by which the contractor is to contribute to preventive reduction or elimination* of identified risks or reduction or elimination of their subsequent negative impact. The Contracting Authority states that the description of the proposal and the measure should be clear and simple, i.e. non-technical and as understandable as possible, even from the point of view of persons who are not experts in the field of the tender. As the Contracting Authority has stated, the contractor’s ability to express factually and professionally complex questions in a concise and simple manner is an important indicator of its expertise.
5. Describe *the dominant information – proposal and measure feasibility rationale*. This information is intended to demonstrate the sophistication and feasibility of the proposal and measure to prevent or eliminate identified risks or to reduce or eliminate their subsequent negative impacts in a verifiable manner. The dominant information must be unambiguous, for example by referring to an already completed project, referring to a different project being implemented describing the adaptation of procedures to the specificities of this public procurement, similar references to the team member’s experience, or other credible and verifiable claims. **In this context, the Contracting Authority will better evaluate the use of as many specific, measurable pieces of information as possible (e.g. quantification of the impact of the proposed measure in terms of economy, time etc.).** The dominant information should be formulated so that the contractor is not directly identifiable on the basis of it.

**According to the principles of the BVA/BVP method, the scope of descriptions, in aggregate in relation to all risks, must not exceed 2 standard pages (3600 characters including spaces), tender above this range will not be evaluated. Only text can be included, without images, graphs etc. which will not be evaluated.**

Risk identification and risk management shall be assessed cumulatively in relation to all risks identified as follows:

1. High degree of effect of the participant’s proposals and measures on minimising the occurrence or negative impact of risks (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement): 15 points
2. The degree of effect of the participant’s proposals and measures on minimising the occurrence or negative impact of risks is higher than average, but does not reach the level that can be described as high (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement): 11 points
3. The degree of effect of the participant’s proposals and measures on minimising the occurrence or negative impact of risks is average (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement): 7 points
4. Low to insufficient degree of effect of the participant’s proposals and measures on minimising the occurrence or negative impact of risks (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent): 3 points.

This evaluation will take into account not only the identified risks or proposals for their management, but also the dominant information related to them. This means that the proposals and measures need to be supported by credible dominant information in order to be evaluated better.

**The evaluation will be anonymous, which should maximise the objectivity of the conclusions of the evaluation committee**.

The score obtained will not be recalculated, since the maximum number of possible points (15) corresponds to the weight of this evaluation sub-criterion (15 %).

* 1. **Value Add (Inventiveness of the contractor)**

*Purpose of the evaluation criterion*

The purpose of the evaluation sub-criterion “Value Add (Inventiveness of the contractor)” is to evaluate the inventiveness of the contractor through the contractor’s identified additional performance proposal. These additional performances are intended to contribute to better fulfilment of the project objectives according to Article 16.3 above, in addition to the contractor’s tender price, within the option right/option performance of the Contracting Authority.

The Contracting Authority expects contractors to describe in their tenders briefly, non-technically and unambiguously the proposals for additional performance, which they offer to the Contracting Authority to better achieve the project objectives, and to explain in what way these performances will contribute to better achieve the project objectives. In this context, the Contracting Authority notes that this does not necessarily have to be an additional performance at high cost to the contractor.

*Description of the evaluation criterion*

The subject-matter of the evaluation under this evaluation sub-criterion will be the inventiveness of contractors through additional performances (which are subject to the option right/option performance of the Contracting Authority) and their impact on the achievement of the project objectives according to Article 16.3 above. The evaluation shall be carried out on the basis of the contractor’s tender - completed Annex 11 to these Guidelines.

**Following the previous paragraph, the Contracting Authority specifies that it is clear that the achievement of the desired effect on fulfiling the project objective will not be exclusively up to the contractor and the contractor cannot be fully responsible for it. However, the contractor’s tender and the fulfilment of the public procurement by the contractor (in the case of the use of the option right(option performance by the Contracting Authority, which is expected) should contribute to better fulfilment of the project objectives as much as possible.**

**The Contracting Authority emphasizes that the BVA/BVP method is founded on the assessment of inventiveness of the contractors and the additional performances (within the meaning of Article 4.3 letter b) of the Guidelines) offered are means of discovering this inventiveness. In other words, the Contracting authority will assess the inventiveness of the contractors based on the additional performances (within the meaning of Article 4.3 letter b) of the Guidelines) they offer in relation to their contribution to better the fulfilment of the project objectives.**

At this point, the Contracting Authority recapitulates the project objectives according to Article 16.3 above:

1. ad a) *–* positive result in interrelated decision-making processes in the shortest time possible;
2. ad b) – maximum certainty that contract performance progresses by the time schedules milestones;
3. ad c) – securing support of the HSRL from the general public;
4. ad d) – minimising administrative burden and maximising the accuracy of the data for processing.

Annex 11 to these Guidelines contains binding forms for specification of additional performance and indication of their added value. The participants shall, in these forms,

1. describe *their additional performance*, which should contribute to better fulfilment of the project objectives defined by the Contracting Authority.The description of the additional performance offered should be clear and simple, i.e. non-technical and as understandable as possible, even from the point of view of persons who are not experts in the field of the tender,
2. *identify the project objective(s)* to which the additional performance relates and describe the *impact of the additional performance on the achievement of the project objectives* according to the principles mentioned in the previous paragraph,
3. describe *the dominant information – justification of feasibility and relevance*. This information is intended to demonstrate the sophistication and feasibility of the proposal and measure in a verifiable manner. The dominant information must be unambiguous, for example by referring to an already completed project, referring to a different project being implemented describing the adaptation of procedures to the specificities of this public procurement, similar references to the team member’s experience, or other credible and verifiable claims. **In this context, the Contracting Authority recommends to use as many specific, measurable pieces of information as possible (e.g. quantification of the impact of the proposed measure in terms of economy, time etc.).** The dominant information should be formulated so that the contractor is not directly identifiable on the basis of it.

**The additional performance cannot result in a material change in the performance of the subject-matter of the public procurement as defined by the Contracting Authority. It must be a performance beyond its scope but in direct connection with the subject-matter of the public procurement. The additional performance is subject to the Contracting Authority’s option right/option performance under Section 66 of the Public Procurement Act.**

Pursuant to Section 66 of the Public Procurement Act, in the case of a public procurement for services, the Contracting Authority may use a negotiated procedure without publication in respect of new services consisting in the repetition of services similar to the original public procurement and corresponding to the original public procurement, provided that

* the new services are awarded to the same contractor,
* in the tender documents of the original procurement procedure, the commencement of which was published in accordance with Section 212 or Section 53 (1), the possibility of awarding the public procurement for new services in a negotiated procedure without publication was provided in Section 100 (3) and the scope of the new services was provided,
* the estimated value of the public procurement for services was included under Section 16 (3) in the estimated value of the original public procurement,
* the negotiated procedure without publication will be initiated within 3 years from the date of conclusion of the contract for the original public procurement,
* the actual price, excluding value added tax, of the public procurement for new services shall not exceed by more than 30 % their estimated value nor shall it exceed 30 % of the price of the original public procurement (note that options other than Added value options according to Article 4.3 of the Guidelines are included in this limit).

**According to the principles of the BVA/BVP method, the scope of descriptions, in aggregate in relation to all additional performances, must not exceed 2 standard pages (3600 characters including spaces), tender above this range will not be evaluated. Only text can be included, without images, graphs etc. which will not be evaluated.**

The added value will be assessed cumulatively as follows:

1. Value Add - the contractor’s inventiveness is high - the participant’s additional performance has a high effect on the fulfilment of the Contracting Authority’s project objectives (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement): 10 points
2. Value Add - the contractor’s inventiveness is above average - the participant’s additional performance has a higher than average (but not high) effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement): 7 points
3. Value Add - the contractor’s inventiveness is average - the participant’s additional performance has an average effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement): 5 points
4. Value Add - the contractor’s inventiveness is low to insufficient - the participant’s additional performance has low to insufficient effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent) and/or the aggregate price for the execution of all additional performances offered exceeds 5 % of the estimated value of the main subject-matter of the public procurement (without additional performance of the option right/option performance) or 5 % of the contractor’s tender price of the main subject-matter of the public procurement (without additional performance of the option right/option performance): 2 points

This evaluation will take into account not only the descriptions of the additional performance, but also the dominant information related to it. This means that the added value needs to be supported by credible dominant information in order to be evaluated better. **The evaluation will be anonymous, which should maximise the objectivity of the conclusions of the evaluation committee**.

The score obtained will not be recalculated, since the maximum number of possible points (10) corresponds to the weight of this evaluation sub-criterion (10 %).

* 1. **The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives**

*Purpose of the evaluation criterion*

The purpose of the evaluation sub-criterion “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives” is to identify the technician who can best contribute to the fulfilment of the project objectives according to Article 16.3 above.

The Contracting Authority intentionally does not assess the historical experience of a member of the technicians as it is not in itself an essential quality indicator like the ability of the project manager to apply the gained experience to this particular public procurement.

In this context, the Contracting Authority expects that a member of the technicians shall be directly involved in the preparation of the contractors’ tenders, which will thus not be dominantly processed by the tender department but by the member of the technicians.

*Description of the evaluation criterion*

The subject-matter of evaluation under this evaluation sub-criterion will be the ability of the “project manager” to contribute to the achievement of the project objectives according to Article 16.3 above. This ability will be evaluated by interviewing the project manager, with emphasis on dominant information (for the term “dominant information” see Articles 16.3 to 16.5 above).

**The evaluation under this evaluation sub-criterion through an interview shall be carried out after an anonymous evaluation of tenders under the criteria “Expert Level”, “Risk Identification and Management” and “Value Add (Inventiveness of the Contractor)” within a time limit as specified by the Contracting Authority. Interviews can not lead to a change of the tender and do not represent any form of negotiation between the Contracting Authority and the participant.**

Interviews will be conducted[[2]](#footnote-2) by the evaluation committee or any other person designated by the Contracting Authority in the presence of other Contracting Authority’s representatives and consultants, on the basis of a pre-approved, but unpublished (to avoid distortion of interviews) list of questions.

Questions will be asked from the following topics:

* basic description of the procedure of performance of the public procurement,
* basic description of the involvement of the technician in the performance of the public procurement (also taking into account other parallel projects) and the motivation of the technician in relation to the public procurement,
* quality and timeliness of the public procurement performance,
* definition of liability in the relation of the contractor – Contracting Authority or within the contractor’s technicians,
* proposals and measures to fulfil the Contracting Authority’s project objectives,
* risks identified by the contractor,
* additional performance offered by the contractor,
* contractor chain that can be assumed in the performance of the public procurement.

The interview will be held separately with all participants. Audio or audio-visual recordings shall be made of the interviews and a written record of the questions and answers of the technicians shall be made in full.

The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives will be evaluated as follows:

1. High degree of the ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives (statements are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement): 25 points
2. The degree of the project manager’s ability to contribute to the fulfilment of the Contracting Authority’s project objectives is higher than average but it does not reach a level that can be described as high (statements are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement): 18 points
3. The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives is average (statements are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement): 12 points
4. The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives is low to insufficient (statements are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent): 6 points

The score obtained will not be recalculated, since the maximum number of possible points (25) corresponds to the weight of this evaluation sub-criterion (25 %).

* 1. **Overall evaluation**

The total number of points obtained is the sum of the number of points (rounded to two decimal places) obtained within the evaluation sub-criteria. The highest scoring tender will be evaluated as the most economically advantageous tender. The other tenders will be ranked according to the number of points earned in descending order after the most advantageous tender and their order will be numbered.

If the total score is equal, the tender with the lowest tender price will be selected. In the event two or more tenders receive the same number of points in the first places of the overall ranking, the tender with the lowest total tender price excluding VAT will be selected as the most appropriate. The other of these tenders will be ranked according to the total tender price without VAT from the lowest to the highest. Should two or more tenders be considered the best even when applying this rule, the best tender will be selected by lot in the presence of the representatives of the participants concerned.

* 1. **Procedural course of evaluation, additional explanation of evaluation results**

**With regard to the BVA/BVP concept, which has rarely been used in the Czech Republic so far, the Contracting Authority is interested in ensuring the highest possible degree of transparency of the procurement procedure so that contractors and the general professional public gain sufficient confidence in this evaluation method.**

In the interest of this transparency, the Contracting Authority summarises the basic procedural course of the evaluation as follows:

1. electronic tenders (except the tender price section) will be opened in the absence of the evaluation committee members. The following parts of the tender: i) quality assessment document - completed Annex 9 to these Guidelines for the “Expert Level” criterion, ii) quality assessment document - completed Annex 10 to these Guidelines for the “Risk Identification and Management” criterion and iii) quality assessment document - completed Annex 11 to these Guidelines for the “Value Add (Inventiveness of the contractor)” criterion will be printed, placed in separate envelopes (in relation to each document and each contractor separately) and subsequently sealed,
2. the envelopes within the meaning of the previous clause will only be identified by a serial number, not by the contractor identification data,
3. the sealed envelopes with i) quality assessment document - completed Annex 9 to these Guidelines for the “Expert Level” criterion, ii) quality assessment document - completed Annex 10 to these Guidelines for the “Risk Identification and Management” criterion and iii) quality assessment document - completed Annex 11 to these Guidelines for the “Value Add (Inventiveness of the contractor)” criterion shall be handed over to the members of the evaluation committee who have not participated in the opening of the electronic tenders and previous acts described above,
4. before assessing the formalities of the tenders submitted, the evaluation committee will make an anonymous evaluation of the tenders under the sub-criteria “Expert level”, “Risk identification and management” and “Value Add (Inventiveness of the contractor)”; the significant aspects for evaluation are given in these Guidelines above and in the evaluation checklists that form Annexes 12 to 14 to these Guidelines,
5. the evaluation is carried out first by each member of the evaluation committee separately, then the evaluation committee meets together and agrees on a common consensual evaluation,
6. after the above described evaluation, the evaluation committee shall carry out the evaluation within the criterion “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives” at the place and time specified by the Contracting Authority; the checklist is appended as Annex 15 to these Guidelines,
7. a consultant to the evaluation committee will be, inter alia, a foreign expert on the BVA/BVP method,
8. upon completion of the evaluation of non-price evaluation criteria, the opening of the tender price shall take place at the time and place specified by the Contracting Authority,
9. after the opening of the tenders, the evaluation committee shall complete the overall evaluation of the tenders pursuant to Article 16.7 above and submit the evaluation report to the Contracting Authority,
10. the Contracting Authority shall invite the contractor whose tender was evaluated as the most suitable to provide cooperation according to Articles 18.1 to 18.8 of the tender documentation,
11. the Contracting Authority shall announce the selection of the most suitable tender to the participants, as well as the date and place of possible personal discussion of the evaluation results with the Contracting Authority (including the reasons for allocating a specific number of points in the individual evaluation sub-criteria according to the evaluation report; during the oral discussion, information beyond the framework of the evaluation report will not be disclosed). **The Contracting Authority will allow a personal discussion of the evaluation results; as already stated, it is of great interest to the Contracting Authority that the BVA/BVP concept does not give rise to any suspicion of unjustified advantage for certain contractors and that the concept is perceived by the contractors and the general public as a possible means to improve the quality of public procurements.**
12. CANCELLATION OF THE PROCUREMENT PROCEDURE
    1. The reasons for cancelling the procurement procedure of this public procurement are governed by Section 127 of the Public Procurement Act.
    2. In accordance with Section 170 of the Public Procurement Act, the Contracting Authority reserves the right to cancel the procurement procedure of this public procurement even without fulfilling the reasons pursuant to § 127 of the Public Procurement Act at any time prior to the conclusion of the contract for performance of this public procurement.
13. CONCLUSION OF CONTRACT
    1. The conclusion of the contract with the selected contractor is regulated by Section 124 of the Public Procurement Act. The contract will be concluded in writing in paper form in accordance with the tender of the selected contractor and in the form specified in Part 2 of this tender documentation entitled Contract for Work. Before signing the contract, both parties shall express their consent and willingness to sign the contract in writing. The expression of will to the selected contractor will be sent prior to the signature of the contract, in the form of a message sent through the E-ZAK electronic tool, in which the Contracting Authority informs the selected contractor of the fact that the contract will be signed in written form, and the selected contractor will express consent to this. The consent must be sent in the form of a message through the E-ZAK electronic tool. Alternatively, the contract may be concluded electronically.
    2. The selected contractor is obliged to provide the Contracting Authority with the necessary cooperation before concluding the contract, in particular, before the execution of the contract by the client, submit through the E-ZAK electronic tool at: <https://zakazky.spravazeleznic.cz/>, or by another form of written electronic communication (the Contracting Authority prefers communication via the E-ZAK electronic tool), the documents referred to in Article 18 if they impact the selected contractor. The Contracting Authority shall invite the selected contractor to cooperate prior to the conclusion of the contract before the announcement of the selection decision (the Contracting Authority considers the selected contractor to be the contractor with the most appropriate tender, regardless of whether the selection was formally announced or not). After providing the above mentioned cooperation, the Contracting Authority shall announce the selection of the most suitable tender. In the absence of such proper cooperation (failure to submit any of the required documents at all or in an appropriate form), the Contracting Authority shall exclude the selected contractor from participation in the procurement procedure and the Contracting Authority may conclude the contract with the next participant in order pursuant to Section 125(1) of the Public Procurement Act. **The Contracting Authority points out that it is bound by Section 211 (3) of the Act stipulating the obligation of written electronic communication between the Contracting Authority and the contractor, which applies to all submitted documents, including documents submitted by the selected contractor on request pursuant to Section 122 (3) and (5) of the Act. The original or an officially certified copy of the document must therefore be submitted electronically with an electronic signature or converted from paper to electronic form. If the original documents exist only in paper form, their conversion into electronic form will be necessary in accordance with Section 22 of Act No. 300/2008 Coll., on Electronic Transactions and Authorised Conversion of Documents, as amended.**
    3. On the basis of a written request, the selected contractor shall, as a precondition for the conclusion of the contract, provide the Contracting Authority with due cooperation, in particular by submitting the following documents:

* originals or certified copies of qualification documents within the meaning of Article 8 of these Guidelines, unless they have been submitted by the selected contractor or are otherwise available to the Contracting Authority;
* the original of the non-disclosure declaration signed by the selected contractor regarding the so called Manual which will in regard to the contained know-how of SNCF International (legal form limited liability company) registration number 415 238 179 RCS, registered office 2 place aux Etoiles, 93 200 Saint Denis, French Republic (and other companies of the SNCF holding) be contracted between the Constructing Authority and the selected contractor. See Annex 16 of the Contract for Work.
* **the original bank guarantee for performance of the work meeting the requirements set out in Article 11 of the Contract for Work; the selected contractor shall submit the bank guarantee only after the expiry of the period pursuant to Section 246 of the Public Procurement Act, in which the Contracting Authority may not conclude the contract – this is the only exception to the rule that cooperation is provided before the announcement of the selection decision**;

|  |  |
| --- | --- |
| **Value of the Bank Guarantee** | **10 % of the tender price for the (Main) Subject-matter of the performance (excl. the price for the option right/option performance)** |

* the original or a certified copy of the contract (or other document) if the tender was submitted by several persons together, which implies that all the partners are bound jointly and severally and one of the partners will be designated as the lead member (Lead Contractor within the meaning of the Contract for Work). The lead member shall be entitled to represent each of the members as well as all the members together in matters of the Contract for Work and shall also be entitled to receive instructions and payments from the Contracting Authority (the Client within the meaning of the Contract for Work) on their behalf. Only the lead member is obliged to issue tax documents - invoices. The tax document shall identify the lead member as a person performing economic activity as a service provider in accordance with Act No. 235/2004 Coll., on Value Added Tax, as amended. The authorisation of the lead member must be included in the contract or other document;
* the originals or certified copies of the written obligations of subcontractors listed in Annex 2 to these Guidelines, i.e. even those subcontractors through which the selected contractor does not prove that part of the qualification has been met. It must be clear from the submitted documents that the subcontractors listed in Annex 2 to these Guidelines for the work agree to their future involvement in the performance of the subject-matter of the public procurement and are ready to provide their specifically specified performance.

The Contracting Authority specifies that if the original or an officially authenticated copy of certain documents is already submitted in the tender or during the procurement procedure, the Contracting Authority shall not invite the selected contractor to submit it.

* 1. The Contracting Authority shall obtain from the selected contractor, who is a legal entity, information, on its beneficial owner pursuant to the Act on Selected Measures Against Legitimisation of Proceeds of Crime and Financing of Terrorism from the register of beneficial owners pursuant to the Act regulating public registers of legal entities and individuals. If it is not possible to establish the beneficial owner by this procedure, the selected contractor, which is a legal entity, shall, on the basis of a written request, submit to the Contracting Authority as a precondition for the conclusion of the contract:

1. an extract from a register similar to the register of data on beneficial owners pursuant to the Act on Selected Measures Against Legitimisation of Proceeds of Crime and Financing of Terrorism, or
2. identification data of all persons who are its beneficial owners under the Act on Selected Measures Against Legitimisation of Proceeds of Crime and Financing of Terrorism, and
3. documents which show the relationships of all persons referred to in clause b) to the contractor; these documents particularly include:
   * extract from the Commercial Register or another similar register,
   * list of shareholders,
   * decisions of the governing body on the payment of a profit share,
   * memorandum of association, foundation deed or articles of association.

The Contracting Authority shall exclude the selected contractor if it finds out on the basis of the above mentioned documents that it was in a conflict of interest pursuant to Section 44 (2) and (3) of the Public Procurement Act.

* 1. The selected contractor, who has submitted a foreign document issued under the laws of the country in which the qualification was acquired abroad to prove the required professional qualification, which is a regulated activity in the Czech Republic, or failed to submit a document to prove its professional qualification to the Contracting Authority because the laws of the country of the contractor’s registered office do not require a similar professional qualification, or the document has been replaced in this case by an affidavit, shall be obliged to submit a document authorising the relevant individual, i.e. the selected contractor or a person through whom the contractor ensures professional qualification to exercise professional qualification in the Czech Republic, as a precondition for the conclusion of the contract.
  2. The Contracting Authority shall verify with the selected contractor the fulfilment of the grounds for exclusion pursuant to Section 48 (7) of the Public Procurement Act. On the basis of a written request, the selected contractor with its registered office abroad, which is a joint-stock company or has a legal form similar to a joint-stock company, is obliged, based on a written request, to submit a written affidavit stating which persons are shareholders of shares whose aggregate nominal value exceeds 10 % of the registered capital of the participant, indicating the source on which the shareholder share size information is based.
  3. The selected contractor shall also submit an original or an officially authenticated copy of:

**documents demonstrating the correctness, truthfulness and plausibility of the dominant information under the criteria of “Expert Level”, “Risk Identification and Management” and “Value Add (Inventiveness of the contractor)”.**

For example, if the contractor justified the proposed measure by its use in another project, it shall substantiate the project client’s confirmation or contact details; if the contractor justified the proposed measure by the certificate obtained by the proposed procedure, it shall submit that certificate; if the contractor justified the proposed measure by the economic or time impact, it shall submit the economic calculation or time schedule in the details necessary for an objective assessment of the feasibility by the Contracting Authority. The Contracting Authority confirms that other types of documents may also be considered, depending on the material content of the tender of the selected contractor, which the Contracting Authority cannot anticipate.

If the selected contractor fails to submit any of the documents listed or anticipated above, or the submitted document does not imply the correctness and/or truthfulness and/or credibility of all dominant information provided by the selected contractor under the criteria “Expert Level”, “Risk Identification and Management” and “Value Add (Inventiveness of the contractor)”, the Contracting Authority shall decide to exclude the selected contractor and reserves the right to enter into the contract with the contractor who ranked next in the order.

* 1. The selected contractor will also be required to submit:
* **technical specification of proposals and measures to meet project objectives under the “Expert Level” criterion, in details objectively necessary for the assessment of the specified factual and technical feasibility by the Contracting Authority or an independent third party (will become part of the Contract for Work),**
* **technical specification of proposals and measures to manage risks under the “Risk Identification and Management” criterion, in details objectively necessary for the assessment of the specified factual and technical feasibility by the Contracting Authority or an independent third party (will become part of the Contract for Work),**
* **technical specification of additional performance under the “Value Add (Inventiveness of the contractor)” criterion, in details objectively necessary for the assessment of the specified factual and technical feasibility by the Contracting Authority or an independent third party (will become part of the Contract for Work as a binding definition of the object of the option),**
* **a summary containing a detailed description of the activities which are not the subject-matter of performance of the selected contractor,**
* **time schedule of performance of the public procurement.**

The above documents will be subject to at least one round of comments by the Contracting Authority or a third party designated by it. This does not represent any form of negotiation on the tender or the contract, only the execution of rights and concurrently the duty of the Contracting Authority to ensure the conformity of the contract with the chosen tender. If the documents are not complete, i.e.

* the selected contractor fails to submit any of the documents listed or presumed above,
* the submitted document does not imply an objective temporal feasibility of all proposals and measures stated by the selected contractor within the criteria “Expert level”, “Risk identification and management” and “Value Add (Inventiveness of the contractor)” and specified according to this Article 18.8 of the Guidelines,
* the submitted document does not imply an objective financial feasibility of all proposals and measures stated by the selected contractor within the criteria “Expert level”, “Risk identification and management” and “Value Add (Inventiveness of the contractor)” and specified according to this Article 18.8 of the Guidelines,
* the submitted document does not imply an objective material and technical feasibility of all proposals and measures stated by the selected contractor within the criteria “Expert level”, “Risk identification and management” and “Value Add (Inventiveness of the contractor)” and specified according to this Article 18.8 of the Guidelines,
* it is clear from the submitted document that the subject-matter of performance of the selected contractor does not include the activities required by the Contracting Authority according to this tender documentation,

The Contracting Authority shall decide to exclude the selected contractor and reserves the right to conclude the contract with the contractor ranked next in the order.

1. INFORMATION PROTECTION
   1. The participant is obliged to indicate in the tender data or communication that it considers to be confidential or proprietary under special legal regulations (a trade secret) and which are exempt from the publication obligation. The Contracting Authority shall maintain the confidentiality of all data, communications and documents identified by the participant as confidential or as a trade secret unless otherwise specified in these Guidelines or unless otherwise required by effective legal regulations. The obligation of the Contracting Authority to maintain confidentiality pursuant to this Article does not apply to such information the disclosure of which is or will be in the future required of the Contracting Authority by valid and effective legal regulations by which the Contracting Authority is or will be bound.
   2. The participant is not entitled to invoke subsequently the protection of information which it has not classified as confidential or as a trade secret in its tender.
   3. The processing of personal data, including their special categories, possibly provided during the procurement procedure, is carried out by the Contracting Authority only for the purpose of awarding the public procurement in question, and the Contracting Authority shall proceed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, generally binding legal regulations and internal regulations of the Contracting Authority regulating the personal data protection agenda.
   4. **The Contracting Authority recommends that the contractor identify as confidential information and a trade secret all documents relating to the evaluation sub-criteria “Expert Level”, “Risk Identification and Management” and “Value Add (Inventiveness of the contractor)”.**
2. ANNEXES TO THESE GUIDELINES

Annex 1 General information on the contractor

Annex 2 List of subcontractors

Annex 3 Company details of contractors submitting a joint tender

Annex 4 List of significant services

Annex 5 List of the contractor’s technicians

Annex 6 Model professional CV

Annex 7 Model affidavit proving the fulfilment of the basic qualifications and professional qualification

Annex 8 List of other persons to prove qualifications

Annex 9 Forms regarding the “Expert level” criterion

Annex 10 Forms regarding the “Risk identification and management” criterion

Annex 11 Forms regarding the “Value Add (Inventiveness of the contractor)” criterion

Annex 12 Checklist of the “Expert level”

Annex 13 Checklist of the “Risk identification and management”

Annex 14 Checklist of the “Value Add (Inventiveness of the contractor)”

Annex 15 Checklist of the “The ability of the team leader to contribute to the fulfilment of the Contracting Authority’s project objectives”

Annex 16 Declaration of Confidentiality (regarding the so called Manual)

In Prague, on ……………………

…………………………………………….

Ing. Mojmír Nejezchleb

Deputy Director General for Infrastructure Modernisation

Správa železnic,

státní organizace

Annex 1

**General information on the contractor**

Business name [**TO BE COMPLETED BY THE CONTRACTOR**]

Registered office [TO BE COMPLETED BY THE CONTRACTOR]

Company ID No.: [TO BE COMPLETED BY THE CONTRACTOR] Tax ID No.: [TO BE COMPLETED BY THE CONTRACTOR]

Legal form [TO BE COMPLETED BY THE CONTRACTOR]

Nationality (country of registration) of the contractor [TO BE COMPLETED BY THE CONTRACTOR]

Registration details [TO BE COMPLETED BY THE CONTRACTOR]

Active years as a contractor:

* In its own country [TO BE COMPLETED BY THE CONTRACTOR]
* Abroad [TO BE COMPLETED BY THE CONTRACTOR]

The contractor shall indicate below whether it is a small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003. A small enterprise is an enterprise that employs fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed (the CZK equivalent of) EUR 10 million. A medium-sized enterprise is an enterprise that employs fewer than 250 employees and whose annual turnover does not exceed (the CZK equivalent of) EUR 50 million or, where applicable, the annual balance sheet total does not exceed (the CZK equivalent of) EUR 43 million.

The contractor is a small / medium-sized / other enterprise [TO BE CHOSEN BY THE CONTRACTOR]

We duly became acquainted with the procurement conditions of the public procurement entitled “RS 1 VRT Prosenice – Ostrava-Svinov, I. Part – Prosenice – Hranice na Moravě”; Preparation of the Preliminary Design/ Documentation for Acquisition of the Zoning Decision, by submitting this tender we accept the model Contract for Work and all commercial, technical and other contractual conditions stated in the tender documentation of this public procurement, and we offer the execution and completion of the subject-matter of performance of the public procurement in accordance with the tender documentation, the contractor guidelines and this tender.

In [TO BE COMPLETED BY THE CONTRACTOR] on [TO BE COMPLETED BY THE CONTRACTOR]

Signature of the person authorised to act on behalf of the contractor:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Annex 2

**List of subcontractors**

If the contractor intends to subcontract part of the public procurement to a subcontractor, it shall provide the following information:

|  |  |  |
| --- | --- | --- |
| **Business name/name/ first name and surname, registered office of the subcontractor, Company ID No.** | **Substantive description of part of the performance to be subcontracted to a subcontractor** | **Value of the total tender price** |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| Total % |  | [TO BE COMPLETED BY THE CONTRACTOR] |

Annex 3

Company details of contractors submitting a joint tender

Name of company/association/grouping: [**TO BE COMPLETED BY THE CONTRACTOR**]

Identification information of the lead member:

Business name [**TO BE COMPLETED BY THE CONTRACTOR**]

Registered office [TO BE COMPLETED BY THE CONTRACTOR]

Legal form [TO BE COMPLETED BY THE CONTRACTOR]

Company ID No. [TO BE COMPLETED BY THE CONTRACTOR]

Identification data (business name, registered office, legal form, Company ID No.) of other members (members of the company/association/grouping):

* 1. [TO BE COMPLETED BY THE CONTRACTOR]
  2. [TO BE COMPLETED BY THE CONTRACTOR]
  3. [TO BE COMPLETED BY THE CONTRACTOR]
  4. etc.

Share of individual members in the contract:

|  |  |
| --- | --- |
| **Company name/name of the member** | **Expected share in the contract in % of the total volume (total tender price) of the public procurement** |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |

Information on allocation of responsibility for performance of the public procurement: [TO BE COMPLETED BY THE CONTRACTOR]

**Note by the Contracting Authority:** the Contracting Authority requires that all contractors submitting a joint tender be jointly and severally liable.

Annex: Agreement on the formation of the company/association/grouping or another document

Annex 4

List of significant services

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Name of significant services** | **Client of the significant services (business name/name and registered office) and contact person of the client (name, phone, e-mail)** | **Subject-matter of performance of the significant services (description of material scope - in details necessary to verify fulfilment of requirements) and place of the future construction** | **Time period of performance according to the contract / time of completion of the significant services**  **(month/year)** | **Contractor\*** | **Price of the significant services provided by the contractor\*\* in the last 10 years in CZK\*\*\* without VAT** |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |

\* In the relevant column, the contractor shall add to the individual contracts:

**C -** If the subject-matter of the contract was implemented by the contractor independently, or

**M -** If the subject-matter of the contract was carried out by the contractor as a member in a company or as a participant in an association or grouping of several contractors, or

**S -** If the contractor was a subcontractor of another contractor.

**\*\*** The contractor may also use, to demonstrate compliance with the qualification criterion relating to the requirement to submit a list of **significant services**, the **significant services** the contractor has provided:

1. together with other contractors, to the extent the contractor has participated in the performance of the contract, or
2. as a subcontractor, to the extent that the contractor has participated in the performance of the contract.

\*\*\* In the case of contracts executed abroad or in a foreign currency, the contractor shall state the price equivalent in CZK. For the conversion from a foreign currency to CZK, the last quarterly average exchange rate of the relevant currency to CZK as determined and published by the CNB at the date of commencement of the procurement procedure shall be used.

Annex 5

List of the contractor’s technicians

In this list, the contractor shall list the persons in order to prove the qualification, not to carry out an assessment. The contractor shall also attach their professional CVs (the following Annex 6).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Office/name** | **Education** | **Years of experience**  **in the field required for**  **fulfilment of qualifications** | **Experience with contract fulfilment\***  **(only the name of the contract, give further details in the CV)** | **Indicate the relation of the person to the contractor** |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |

\* In the relevant column, the contractor shall only fill in the experience data for those persons for whom experience is required pursuant to Article 8.5 of these Guidelines for the purpose of demonstrating qualification. For other persons, this column shall be crossed out, not filled in or otherwise indicated as irrelevant.

Annex 6

Model professional CV

Expected **position** from the contractor’s technicians list: [**TO BE COMPLETED BY THE CONTRACTOR**]

**Note by the Contracting Authority:** If the contractor designates one individual for multiple offices of a member of the technicians, the Contracting Authority recommends that the contractor completes and submits a separate CV for each of these offices in the tender for the sake of clarity.

1. Surname: [**TO BE COMPLETED BY THE CONTRACTOR**]
2. First name: [**TO BE COMPLETED BY THE CONTRACTOR**]
3. Date of birth: [TO BE COMPLETED BY THE CONTRACTOR]
4. Contact work address (including work phone/e-mail): [TO BE COMPLETED BY THE CONTRACTOR]
5. Highest **educational attainment\***, i.e. it is sufficient to indicate the education required to prove the qualifications:

|  |  |
| --- | --- |
| Institution: | [TO BE COMPLETED BY THE CONTRACTOR] |
| Length:  From (month/year) - to (month/year) | [TO BE COMPLETED BY THE CONTRACTOR] |
| Degree: | [TO BE COMPLETED BY THE CONTRACTOR] |

1. Membership in professional organisations: [TO BE COMPLETED BY THE CONTRACTOR]
2. Other knowledge (e.g. working on PC etc.): [TO BE COMPLETED BY THE CONTRACTOR]
3. Current office/job position including the employer and relationship with the employer, or state self-employed person or otherwise according to the actual situation: [TO BE COMPLETED BY THE CONTRACTOR]

**Note by the Contracting Authority:** The contractor shall specify one of the following alternatives: full-time employment, part-time employment, agreement on work activities, agreement on performance of work, member of the governing body, self-employed person or another possibility. For the avoidance of doubt, the Contracting Authority states that if the documented person is a self-employed person and at the same time is not a contractor or is not in an employment or similar relationship with the contractor, that person shall be considered another person within the meaning of Section 83 of Act No. 134/2016 Coll., on Public Procurement, as amended, with all the consequences resulting therefrom, not an employee or a person in a similar position.

1. Main qualifications: [TO BE COMPLETED BY THE CONTRACTOR]
2. **Experience** for the **demonstration of qualification**[[3]](#footnote-3):

|  |  |
| --- | --- |
| Total years of professional experience | [TO BE COMPLETED BY THE CONTRACTOR] |
| Length from (month/year) - to (month/year) inclusive | [TO BE COMPLETED BY THE CONTRACTOR] |
| Place of the experience | [TO BE COMPLETED BY THE CONTRACTOR] |
| Employer (business name/name and registered office) / self-employed | [TO BE COMPLETED BY THE CONTRACTOR] |
| Office/job position | [TO BE COMPLETED BY THE CONTRACTOR] |
| Job descriptions/content of the experience | [TO BE COMPLETED BY THE CONTRACTOR] |

1. Language skills (including the level): [TO BE COMPLETED BY THE CONTRACTOR]
2. The person is / is not [TO BE COMPLETED BY THE CONTRACTOR] at the same time an employee of the Contracting Authority.
3. Publications and training: [TO BE COMPLETED BY THE CONTRACTOR]
4. **Experience** in contract performance in the office of [TO BE COMPLETED BY THE CONTRACTOR] **in order to demonstrate qualification**[[4]](#footnote-4):

|  |  |
| --- | --- |
| Contract name | [TO BE COMPLETED BY THE CONTRACTOR] |
| Description of the subject-matter of performance of the order - in detail needed to verify the fulfilment of requirements | [TO BE COMPLETED BY THE CONTRACTOR] |
| Client of the contract (business name/name and registered office and contact person of the client - name, phone, e-mail) | [TO BE COMPLETED BY THE CONTRACTOR] |
| Date of completion of the contract, i.e. the part of the performance of the contract that corresponds to the minimum level of qualification required by the Contracting Authority in the case of a multi-activity contract | [TO BE COMPLETED BY THE CONTRACTOR] |
| Description of work activities performed by the technician - in detail necessary to verify the fulfilment of qualification | [TO BE COMPLETED BY THE CONTRACTOR] |

1. **Professional qualifications** according to special legal regulations: authorisation to perform selected activities in construction or other professional qualifications: [information TO BE COMPLETED BY THE CONTRACTOR for persons for whom the professional qualifications are required]

**Note by the Contracting Authority:** Information on professional qualification is completed by everyone, including persons to be assessed only.

1. Other information (at the contractor’s discretion): [TO BE COMPLETED BY THE CONTRACTOR]

**Annexes:**

* + **Evidence of the required education of each member of the contractor’s technicians**
  + **Evidence of professional qualification of the members of the technicians for which they are required**

**Note by the Contracting Authority:** It is sufficient to attach the annexes before signing the Contract.

**ANNEX 7**

Model affidavit proving the fulfilment of the basic qualification and professional qualification

Affidavit

Business name / first name and surname[[5]](#footnote-5) [**TO BE COMPLETED BY THE CONTRACTOR**]

Registered office: [TO BE COMPLETED BY THE CONTRACTOR]

Company ID No.: [TO BE COMPLETED BY THE CONTRACTOR]

Company incorporated in the Commercial Register kept by [TO BE COMPLETED BY THE CONTRACTOR],

file number [TO BE COMPLETED BY THE CONTRACTOR]

represented by [TO BE COMPLETED BY THE CONTRACTOR]

**hereby declares** that:

* It fulfils the basic qualification pursuant to Section 74 (1) to (3) of Act No. 134/2016 Coll., on Public Procurement, as amended (the “Act”), i.e.:

1. It has not, during the last 5 years prior to the beginning of the procurement procedure, been convicted by a final judgment, in the country of its registered office (or any member of the contractor’s governing body), of any crime listed in Annex 3 to the Act or of a similar crime under the laws of the contractor’s country of registered office,
2. It has no outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office,
3. It has no outstanding arrears in the respect of payments and penalties of public health insurance in the Czech Republic or the country of its registered office,
4. It has no outstanding arrears in respect of payments and penalties of social security contributions and contributions to the national employment policy in the Czech Republic or the country of its registered office,
5. It is not in liquidation and has not been insolvent, in respect of which receivership has not been imposed on it under other legal regulation and no similar situation has occurred under the legal regulations of the country of the contractor’s registered office.

* It meets the professional qualification according to Section 77 (1) and (2) a) and c) of the Act, i.e.:

1. It is registered in the Commercial Register or any other similar register, if another legal regulation requires any such registration/is not registered in the Commercial Register,
2. It is authorised to conduct business within the scope of a trade licence entitled *“Construction design activities”*, *“Geological work”, “Surveying activities”, “Advisory and consulting activities, processing of expert studies and opinions”,*

* It has proof or person[[6]](#footnote-6) who has proof of authorisation pursuant to Section 5 (3) a), b), d), e), f), i) and j) of Act No. 360/1992 Coll., on practice of profession of authorised architects and authorised engineers and technicians working in the field of building constructions, as amended (hereinafter the “**Authorisation Act**”), i.e. in the fields of **building structures, transport structures, bridges and engineering structures, technological equipment of buildings, building environment technology, geotechnics, fire safety of buildings** and **Authorisation to prepare documentation and assessment according to Act No. 100/2001 Coll., on Environmental Impact Assessment, as amended,**

1. It is authorised for the execution of the services of Occupational safety and health for work at construction site according to Act No. 309/2006 Coll., on the securing of other condition of occupational health and safety, as amended.

**Note by the Contracting Authority:** a foreign supplier established outside the Czech Republic shall complete this affidavit in relation to the country of its registered office, unless the relevant fact is proven in the country of its registered office by a document issued under the law of the country of its registered office (qualification obtained abroad is proven by documents issued under the law of the country in which was obtained; however, if the required document is not issued according to the relevant legal order, it may be replaced by an affidavit).

In [TO BE COMPLETED BY THE CONTRACTOR] on [TO BE COMPLETED BY THE CONTRACTOR]

Signature of the person authorised to act on behalf of the contractor:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Annex 8

List of other persons to prove qualifications

In accordance with the requirements of Section 83 (1) of Act No. 134/2016 Coll., on Public Procurement, as amended, the contractor shall list other persons through which it proves part of the qualification and for which it proves a written obligation of another person to provide performance intended to perform a public procurement or to provide things or rights that the contractor shall be entitled to dispose of as part of the performance of the public procurement, at least to the extent that another person has demonstrated qualification instead of the contractor. These are persons who do not necessarily have the position of a subcontractor according to Annex 2 to the Guidelines (e.g. a member of a group/holding, but also a subcontractor within the meaning of the Public Procurement Act).

|  |  |
| --- | --- |
| **Business name/name/first name and surname, registered office, Company ID No.** | **Proven part of the qualification** |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |
| [TO BE COMPLETED BY THE CONTRACTOR] | [TO BE COMPLETED BY THE CONTRACTOR] |

Annex 9

Forms regarding the “Expert level” criterion

Identification of the Contracting Authority:

|  |  |
| --- | --- |
| Name: | Správa železnic, státní organizace |
| Company ID No.: | 709 94 234 |
| Registered office: | Prague 1 – Nové Město, Dlážděná 1003/7, Postcode 110 00 |

**Project objective a) *–*****Positive result in interrelated decision-making processes in the shortest time possible**

|  |  |
| --- | --- |
| Proposal or measure to attain the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

**Project objective b) – Maximum certainty that contract performance progresses by the time schedules milestones**

|  |  |
| --- | --- |
| Proposal or measure to attain the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

**Project objective c) –** **Securing support of the HSRL from the general public**

|  |  |
| --- | --- |
| Proposal or measure to attain the project objective | [TO BE COMPLETED BY THE CONTRACTOR, INCLUDING THE IDENTIFICATION OF DOCUMENTS THAT THE CONTRACTOR SERVICES] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

**Project objective d) – Minimising administrative burden and maximising the accuracy of the data for processing**

|  |  |
| --- | --- |
| Proposal or measure to attain the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

*Remarks (can be removed): see Article 16.3 of the Guidelines. The scope of descriptions, in aggregate in relation to all project objectives, must not exceed 2 standard pages (3600 characters including spaces).* *Only text can be included, without images, graphs etc. which will not be evaluated.*

Annex 10

Forms regarding the “Risk identification and management” criterion

Identification of the Contracting Authority:

|  |  |
| --- | --- |
| Name: | Správa železnic, státní organizace |
| Company ID No.: | 709 94 234 |
| Registered office: | Prague 1 – Nové Město, Dlážděná 1003/7, Postcode 110 00 |

Risk 1

|  |  |
| --- | --- |
| Risk identification | [TO BE COMPLETED BY THE CONTRACTOR] |
| Project objective(s) relevant to the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Reasons for the fact being considered as a risk by the contractor; explain the circumstances and nature of the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Risk mitigation or elimination proposal or measures | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

Risk 2

|  |  |
| --- | --- |
| Risk identification | [TO BE COMPLETED BY THE CONTRACTOR] |
| Project objective(s) relevant to the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Reasons for the fact being considered as a risk by the contractor; explain the circumstances and nature of the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Risk mitigation or elimination proposal or measures | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

Risk 3

|  |  |
| --- | --- |
| Risk identification | [TO BE COMPLETED BY THE CONTRACTOR] |
| Project objective(s) relevant to the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Reasons for the fact being considered as a risk by the contractor; explain the circumstances and nature of the risk | [TO BE COMPLETED BY THE CONTRACTOR] |
| Risk mitigation or elimination proposal or measures | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

*Remarks (can be removed):*

*See Article 16.4 of the Guidelines. The scope of descriptions, in aggregate in relation to all risks, must not exceed 2 standard pages (3600 characters including spaces).* *Only text can be included, without images, graphs etc. which will not be evaluated.*

Annex 11

Forms regarding the “Value Add (Inventiveness of the contractor)” criterion

Identification of the Contracting Authority:

|  |  |
| --- | --- |
| Name: | Správa železnic, státní organizace |
| Company ID No.: | 709 94 234 |
| Registered office: | Prague 1 – Nové Město, Dlážděná 1003/7, Postcode 110 00 |

Additional performance 1

|  |  |
| --- | --- |
| Identification of additional performance | [TO BE COMPLETED BY THE CONTRACTOR] |
| Identification of the project objective relevant to the additional performance | TO BE CHOSEN BY THE CONTRACTOR:  Ad a) – Positive result in interrelated decision-making processes in the shortest time possible/ ad b) – Maximum assurance of fulfilment of the contract within the time limits of the basic work time schedule / ad c) - Securing the support of the project of HSRL construction from the public / ad d) – Minimising the administrative burden and maximising the accuracy of the data for processing |
| Description of the impact of additional performance on the fulfilment of the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

Additional performance 2

|  |  |
| --- | --- |
| Identification of additional performance | [TO BE COMPLETED BY THE CONTRACTOR] |
| Identification of the project objective relevant to the additional performance | TO BE CHOSEN BY THE CONTRACTOR:  Ad a) – Positive result in interrelated decision-making processes in the shortest time possible/ ad b) – Maximum assurance of fulfilment of the contract within the time limits of the basic work time schedule / ad c) - Securing the support of the project of HSRL construction from the public / ad d) – Minimising the administrative burden and maximising the accuracy of the data for processing |
| Description of the impact of additional performance on the fulfilment of the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

Additional performance 3

|  |  |
| --- | --- |
| Identification of additional performance | [TO BE COMPLETED BY THE CONTRACTOR] |
| Identification of the project objective relevant to the additional performance | TO BE CHOSEN BY THE CONTRACTOR:  Ad a) – Positive result in interrelated decision-making processes in the shortest time possible/ ad b) – Maximum assurance of fulfilment of the contract within the time limits of the basic work time schedule / ad c) - Securing the support of the project of HSRL construction from the public / ad d) – Minimising the administrative burden and maximising the accuracy of the data for processing |
| Description of the impact of additional performance on the fulfilment of the project objective | [TO BE COMPLETED BY THE CONTRACTOR] |
| Dominant information – feasibility rationale | [TO BE COMPLETED BY THE CONTRACTOR] |

*Remarks (can be removed):*

*See Article 16.5 of the Guidelines. The scope of descriptions, in aggregate in relation to all added values, must not exceed 2 standard pages (3600 characters including spaces). Only text can be included, without images, graphs etc. which will not be evaluated.*

Annex 12

Checklist of the “Expert level”

*it is informative for contractors*

Participant No. \_\_\_\_\_

|  |  |
| --- | --- |
| **Review of information** | **Result (TO BE TICKED)** |
| Are the proposals and measures stated by the participant clear (i.e. is it clear what the participant offers to the Contracting Authority)? | YES/NO/IS NOT CLEAR |
| Do the proposals and measures have a clear impact on the fulfilment of the project objectives of the Contracting Authority? | YES/NO/IS NOT CLEAR |
| Are the proposals and measures mentioned by the participant supported by verifiable dominant information (i.e. unambiguous information indicating feasibility)? | YES/NO/IS NOT CLEAR |
| Did the participant fill in the document “Expert levels” mostly (including the Dominant Information) specifically and measurably? | YES/NO/IS NOT CLEAR |

*Note: The above questions are for better understanding of the tenders. The number of responses YES etc. does not anticipate the number of points allocated.*

|  |  |
| --- | --- |
| **Notes on the evaluation of the document “Participant’s expert level”** |  |
| **Questions for the evaluation criterion “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives”** |  |

**AGGREGATE NUMBER OF POINTS**

|  |  |
| --- | --- |
| **Number of points** | **Rationale** |
|  |  |

|  |  |
| --- | --- |
| **SUMMARY EVALUATION KEY** | |
| **Number of points** | **Rationale for allocation** |
| **20** | **High degree of effect of the participant’s proposals and measures contributing to the fulfilment of the Contracting Authority’s project objectives** (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement). |
| **15** | **The degree of effect of the participant’s proposals and measures contributing to the fulfilment of the project objectives of the Contracting Authority is higher than average, but does not reach the level that can be described as high** (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement) |
| **10** | **The degree of effect of the participant’s proposals and measures contributing to the fulfilment of the project objectives of the Contracting Authority is average** (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement) |
| **5** | **Low to insufficient degree of effect of the participant’s proposals and measures contributing to the fulfilment of the Contracting Authority’s project objectives** (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent) |

Annex 13

Checklist of the “Risk identification and management”

*it is informative for contractors*

Participant No. \_\_\_\_\_

|  |  |
| --- | --- |
| **Review of information** | **Result (TO BE TICKED)** |
| Does the participant describe the Contracting Authority’s risks (not the risks on its own part)? | YES/NO/IS NOT CLEAR |
| Does the participant describe the relationship of risks to project objectives? | YES/NO/IS NOT CLEAR |
| Does the participant sufficiently explain why it considers these risks significant (and does the participant justify this)? | YES/NO/IS NOT CLEAR |
| Does the participant clearly and comprehensively describe its proposals and measures to prevent the occurrence of / reduce the impact of risk? | YES/NO/IS NOT CLEAR |
| Are the proposals and measures mentioned by the participant supported by verifiable dominant information (i.e. unambiguous information indicating feasibility)? | YES/NO/IS NOT CLEAR |
| Did the participant fill in the document “Risk identification and management” mostly (including the Dominant Information) specifically and measurably? | YES/NO/IS NOT CLEAR |

*Note: The above questions are for better understanding of the tenders. The number of responses YES etc. does not anticipate the number of points allocated.*

|  |  |
| --- | --- |
| **Comments on the evaluation of the document “Risk identification and management” of the participant** |  |
| **Questions for the evaluation criterion “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives”** |  |

**AGGREGATE NUMBER OF POINTS**

|  |  |
| --- | --- |
| **Number of points** | **Rationale** |
|  |  |

|  |  |
| --- | --- |
| **SUMMARY EVALUATION KEY** | |
| **Number of points** | **Rationale for allocation** |
| **15** | **High degree of effect of the participant’s proposals and measures contributing to minimising the occurrence or negative impact of risks** (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement) |
| **11** | **The degree of effect of the participant’s proposals and measures contributing to minimising the occurrence or negative impact of risks is higher than average, but does not reach the level that can be described as high** (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement) |
| **7** | **The degree of effect of the participant’s proposals and measures contributing to minimising the occurrence or negative impact of risks is average** (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement) |
| **3** | **Low to insufficient degree of effect of the participant’s proposals and measures contributing to minimising the occurrence or negative impact of risks** (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent) |

Annex 14

Checklist of the “Value Add (Inventiveness of the contractor)”

*it is informative for contractors*

Participant No. \_\_\_\_\_

|  |  |
| --- | --- |
| **Review of information** | **Result (TO BE TICKED)** |
| Do the additional performances offered by the participant go beyond the minimum requirements of the Contracting Authority (i.e. are they indeed “extra” performances)? | YES/NO/IS NOT CLEAR |
| Do the additional performances offered by the participant have an effect on the better fulfilment of the project objectives of the Contracting Authority? | YES/NO/IS NOT CLEAR |
| Is the aggregate price for the execution of all additional performances offered up to 5 % of the estimated value of the main subject of the public procurement (without additional performance under the option right/option performance) and 5 % of the contractor’s tender price of the main subject of the public procurement (without additional performance under the option right/option performance) (incl.)? | YES/NO/IS NOT CLEAR  (This question will be answered only after the evaluation of non-price evaluation criteria, i.e. after the opening of the price part of the tender according to Article 12.6 of the Guidelines) |
| Are the additional performances offered by the participant understandable and measurable? | YES/NO/IS NOT CLEAR |
| Are the additional performances offered by the participant and their impact on the project objectives supported by verifiable dominant information (i.e. unambiguous information showing their positive impact)? | YES/NO/IS NOT CLEAR |
| Are the additional performances offered by the participant specific and measurable? | YES/NO/IS NOT CLEAR |

*Note: The above questions are for better understanding of the tenders. The number of responses YES etc. does not anticipate the number of points allocated.*

|  |  |
| --- | --- |
| **Notes on the evaluation of the document “Value Add” of the participant** |  |
| **Questions for the evaluation criterion “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives”** |  |

**AGGREGATE NUMBER OF POINTS**

|  |  |
| --- | --- |
| **Number of points** | **Rationale** |
|  |  |

|  |  |
| --- | --- |
| **SUMMARY EVALUATION KEY** | |
| **Number of points** | **Rationale for allocation** |
| **10** | **Value add - the contractor’s inventiveness is high** - the participant’s additional performance has a high effect on the fulfilment of the Contracting Authority’s project objectives (the proposals and measures are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement) |
| **7** | **Value add - the contractor’s inventiveness is above average** - the participant’s additional performance has a higher than average (but not high) effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement) |
| **5** | **Value Add - the contractor’s inventiveness is average** - the participant’s additional performance has an average effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement) |
| **2** | **Value add - the contractor’s inventiveness is low to insufficient** - the participant’s additional performance has low to insufficient effect on the fulfilment of the project objectives of the Contracting Authority (the proposals and measures are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent) and/or the aggregate price for the execution of all additional performances offered exceeds 5 % of the estimated value of the main subject-matter of the public procurement (without additional performance of the option right/option performance) or 5 % of the contractor’s tender price of the main subject-matter of the public procurement (without additional performance of the option right/option performance) |

Annex 15

Checklist of The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives

*it is informative for contractors*

Participant No. \_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| **PROJECT MANAGER – TECHNICIAN** | | |
| **Question** | **Interim evaluation (TO BE TICKED)\*** | **Notes** |
| No. 1 | **1 / 2 / 3 / 4** |  |
| No. 2 | **1 / 2 / 3 / 4** |  |
| No. 3 | **1 / 2 / 3 / 4** |  |
| No. 4 | **1 / 2 / 3 / 4** |  |
| No. 5 | **1 / 2 / 3 / 4** |  |
| No. 6 | **1 / 2 / 3 / 4** |  |
| No. 7 | **1 / 2 / 3 / 4** |  |
| No. 8 | **1 / 2 / 3 / 4** |  |
| No. 9 | **1 / 2 / 3 / 4** |  |
| No. 10 | **1 / 2 / 3 / 4** |  |
| No. 11 | **1 / 2 / 3 / 4** |  |
| No. 12 | **1 / 2 / 3 / 4** |  |
| No. 13 | **1 / 2 / 3 / 4** |  |
| No. 14 | **1 / 2 / 3 / 4** |  |
| No. 15 | **1 / 2 / 3 / 4** |  |

*\*1 (best) – 4 (insufficient), according to the summary evaluation key (25, 18, 12, 6) below. The above evaluation does not anticipate the number of points awarded.*

|  |  |
| --- | --- |
| General remarks on the evaluation “The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives” |  |

**AGGREGATE NUMBER OF POINTS**

|  |  |
| --- | --- |
| **Number of points** | **Rationale** |
|  |  |

|  |  |
| --- | --- |
| **SUMMARY EVALUATION KEY** | |
| **Number of points** | **Rationale for allocation** |
| **25** | **High degree of the ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives** (statements are supported by data from which it can be inferred that this high degree of effect will be achieved within the performance of the public procurement) |
| **18** | **The degree of the project manager’s ability to contribute to the fulfilment of the Contracting Authority’s project objectives is higher than average but it does not reach a level that can be described as high** (statements are supported by data from which it can be inferred that this degree of effect will be achieved within the performance of the public procurement) |
| **12** | **The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives is average** (statements are supported by data from which it can be inferred that the average degree of effect will be achieved within the performance of the public procurement) |
| **6** | **The ability of the project manager to contribute to the fulfilment of the Contracting Authority’s project objectives is low to insufficient** (statements are supported by data from which a low to insufficient degree of effect within the performance of the public procurement can be inferred and/or such data are dominantly absent) |

Annex 16

**Declaration of Confidentiality (regarding the so called Manual)**

This declaration is made the [ ] day of [ ]

[Company name]

Registered office [ ]

Identification number: [ ]

(hereinafter referred to as “***Receiving Party***”);

**WHEREAS:**

1. Správa železnic, státní organizace, having its registered office at Prague 1, Nové Město, Dlážděná 1003/7, Postcode 110 00, ID No.: 70994234, VAT NO.: CZ70994234, registered in the Commercial Register kept by the Municipal Court in Prague (hereinafter referred to as “**SZCZ**”), File No. Section A 48384, pursuant to Act No. 266/1994 Coll., on Rail Systems, as amended, and Act No. 77/2002 Coll., on the Czech Railways and Správa železnic, as amended, provides the operation of the nationwide and regional railways owned by the Czech Republic, their operability, modernization and development to the extent necessary to ensure the transport needs of the Czech Republic, its regions and transport services, thus meeting needs in the general interest, not having an industrial or commercial character.
2. SZCZ intends to develop High speed lines in Czech Republic (hereinafter referred to as the “***Project***”) and is launching a public procurement process in order to obtain bids and award a public contract for the preparation of Preliminary Design/ Documentation for Acquisition of the Zoning Decision of the High-speed Railway Line “RS 1 VRT Prosenice – Ostrava-Svinov, I. part, Prosenice – Hranice na Moravě (hereinafter referred to as the “**Tender Process**”);
3. During the course of the Tender Process, SZCZ may disclose information of a confidential and proprietary nature to the Receiving Party for the purpose of the Project and to allow the the Receiving Party to prepare and submit a bid pursuant to the Tender Process (hereinafter referred to as the “***Bid*** “);
4. The disclosure of such information to the Receiving Party shall be subject to the terms set out in this Declaration.

**NOW, THEREFORE**, in consideration of the disclosure of confidential information but also the undertakings contained herein, it is hereby declared as follows:

1. **PURPOSE OF DECLARATION**

The Receiving Party acknowledges that for the purpose of the Tender Process, the Receiving Party will have access to certain Confidential Information (as defined hereinafter) and then agrees that any disclosure or use of Confidential Information hereunder shall be subject to the terms and conditions of this Declaration.

The signature of this Declaration by the Receiving Party shall imply full acceptance of the Process commitment as described in this Declaration and its Annex.

1. **DEFINITIONS**
   1. In this Declaration "***Confidential Information***" means information in any form (whether oral, documentary, magnetic, electronic, graphic or digitized) containing or consisting of information or material of a technical, financial, operational, commercial, administrative or planning nature or in the nature of intellectual property of any kind and relating (wholly or in part) to the Design Manual for Planning Permit Procedure Documentation (Planning Permit Documentation stands for Preliminary Design/Documentation for Acquisition of the Zoning Decision) of High Speed Lines in the Czech Republic in the Tender Process, designated or not as “confidential”, “proprietary” or the like, in whatever language.
   2. “***Affiliate***” means any legal entity owned directly or indirectly at more than 50% by the Receiving Party, and also any subcontractor, financer or legal entity or person having access to the Confidential Information through the Receiving Party for the purpose of the Tender Process.
2. **OWNERSHIP**
   1. Any Confidential Information communicated hereunder shall be disclosed only to the Receiving Party or its designated Affiliates in accordance with this Declaration and the Tender Process documentation. Such disclosure shall be solely for the purpose of the Tender Process unless otherwise stated in this Declaration.
   2. Any Confidential Information disclosed to the Receiving Party hereunder remains the property of SCZC (or partially SNCF International, a limited liability company, registration number 415 238 179 RCS, with its registered office at 2 place aux Etolies, 93 200 Saint Denis, France and affiliates from SNCF holding). Nothing in this Declaration and in any disclosure made hereunder shall be construed as granting to the Receiving Party or its designated Affiliates any patent, trademark, copyright, design license, or rights of use other than for the purpose of tendering in this Tender Process.
3. **RIGHTS OF USE AND NON-DISCLOSURE**
   1. The Receiving Party undertakes and agrees that the Confidential Information disclosed to it hereunder will be held in strict confidence and will only be used for the Tender Process and the subsequent Bid to be submitted by the Receiving Party.
   2. In particular, the Receiving Party shall only use any Confidential Information disclosed to it for any other purpose than stated in Art. 4.1 subject to prior written approval of SZCZ. The Receiving Party shall ensure that any third party to whom it may disclose any of such Confidential Information for the purpose of the Project or the Tender Process is bound by a similar confidentiality undertaking.
   3. The Receiving Party undertakes and agrees not to make copies of and not to disclose to any third party any part of the Confidential Information communicated to it hereunder, except as follows:

(a) the Receiving Party shall not be prevented from disclosing any or all of the Confidential Information to such of its officers and employees as are required by their duties to have knowledge thereof for the Bid or carry out its negotiations or participation with the other Party in respect of the Bid, provided that such officers and employees shall be similarly bound by undertakings of confidence, restricted use and non-disclosure and non-compete (towards SZCZ and SNCF).

(b) the Receiving Party may disclose for the setup of bids such Confidential Information as provided to any of its professional advisers, consultants, insurers and subcontractors who shall be similarly bound by undertakings of confidentiality (and of non-competition towards SZCZ and SNCF), restricted use and non-disclosure in respect of such Confidential Information.

* 1. The Receiving Party shall use all reasonable endeavors, at a same degree of care when used to protect its own Confidential Information, to ensure the due observance of the undertakings of confidentially, restricted use and non-disclosure by all persons (including its consultants, subcontractors or financers) to whom it discloses extracts of the Confidential Information.
  2. The Receiving Party shall not extract any part of the Confidential Information for reverse engineering or for any activity leading to compete the SZCZ activities.

1. **RETURN OF INFORMATION**

At SZCZ request, the Receiving Party shall promptly return any Confidential Information communicated to it in physical form by SZCZ or it designees, with all illegal copies, extract and derivatives made thereof, to SZCZ and hereafter shall declare the destruction of any and all Confidential Information in writing to SZCZ.

1. **SCOPE AND APPLICATION**

6.1 This Declaration shall apply to Confidential Information which may also have been communicated by SZCZ to the Receiving Party prior to the date of this Declaration provided that it was communicated for the Bid(s) and have been designated as confidential.

6.2 This Declaration shall not apply in respect of any part of the Confidential Information communicated which:

(a) was in the lawful possession of the Receiving Party prior to its first receipt thereof (before, on or after the date of this Declaration) from SZCZ; or

(b) is after its receipt from SZCZ independently received by the Receiving Party in good faith from a third party having the right to disclose the same who did not receive it directly or indirectly from SZCZ with restriction on its use; or

(c) is or becomes (through no act or default of the receiving party) public knowledge as evidenced by printed publication or otherwise; or

(d) is required or requested by order of any Government or governmental agency, or by any regulatory body, or by any court, judicial or administrative body, or by law, provided that it will prior to such disclosure (where permitted by applicable law) promptly notify SZCZ so that an appropriate protective order can be sought and, in relation to any Confidential Information disclosed, shall use reasonable endeavors to obtain assurances that confidential treatment will be afforded to the same. The disclosure shall be limited to only that portion of the Confidential Information which is legally required to be disclosed.

6.3 SZCZ declares that the Receiving Party is obliged to duly examine the Confidential Information and to notice SZCZ on any of its part, which may cause any delay, additional costs or damage to the Project.

6.4 This Declaration shall not be construed as a partnership, joint venture or other such arrangement. This Declaration is only for the purpose of protecting the disclosure of any Confidential Information.

1. **DURATION**

This Declaration shall remain in force for three (3) years from its date of signature by the Receiving Party. The obligations of the Receiving Party under Clause 4 above shall continue thereafter for a period of five (5) years from its termination date.

1. **REMEDY**
   1. The Receiving Party accepts and agrees that the Confidential Information disclosed or to be disclosed to it under the Tender Process or pursuant to this Declaration is valuable proprietary information, any unauthorized disclosure of which is likely to cause SZCZ considerable damage for which monetary compensation is likely to be inadequate and accordingly that, without prejudice to other rights and remedies, SZCZ is entitled to relief by way of injunction including interim injunction and specific performance.

8.2 The Receiving Party shall notify SZCZ immediately upon discovery of any unauthorized use or disclosure of Confidential Information by any means. The Receiving Party will cooperate to help SZCZ to cure any misuse and to prevent any further unauthorized use.

8.3 The Receiving Party will be obliged to pay SZCZ, in case of any breach of its obligations on confidentiality under this Declaration, a contractual penalty of 11.914.999 CZK, as SZCZ is obliged to pay the same contractual penalty towards SNCF International, a limited liability company, registration number 415 238 179 RCS, with its registered office at 2 place aux Etolies, 93 200 Saint Denis, France. Paying the contractual penalty shall not affect the right for remedy for SZCZ or SNCF in full extent under Art. 8.1.

1. **MISCELLANEOUS** 
   1. **NO LICENCE**

Neither this Declaration nor disclosure of Confidential Information under this Declaration shall be construed as granting nor conferring to the Receiving Party any right or license including, but without limitation, licenses to trademarks, inventions, copyrights or patents.

* 1. **NO WAIVER**

Failure or delay of SZCZ to exercise any right or remedy under this Declaration or to require strict performance by the other party of any provision of this Declaration shall not be construed to be a waiver of any such right or remedy or any other right or remedy hereunder. All of the rights of either party under this Declaration shall be cumulative and may be exercised separately or concurrently.

* 1. **AMENDMENTS**

This Declaration can only be modified by a written amendment signed by both the Receiving Party and SZCZ. The approval of SZCZ to disclose Confidential Information to the Receiving Party creates a contractual relation between the Parties, but not any amendment to this Declaration.

* 1. **APPLICABLE LAW AND JURISDICTION**

This Declaration shall be governed by and construed in accordance with the laws of the Czech Republic.

Any dispute not settled amicably in a period of thirty (30) days from the date of the notice of the dispute, shall be finally submitted to relevant courts according to the registered seat of SZCZ in the Czech Republic.

|  |  |
| --- | --- |
| Signed for and on behalf of the Receiving Party (the date of signature is the Effective Date) |  |
| Signature: …………………………………  Name: ………………………………………  Position: …………………………………… |  |

**ANNEX A**

**TENDER PROCESS COMMITMENT**

I undersigned, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I acknowledge that the defined terms under this commitment are the defined terms described in the non-disclosure Declaration of confidentiality (for inspection of the Manual) of the receiving party from \_\_\_\_\_\_\_\_\_\_\_\_\_,

I agree that the access to the Confidential Information (Design Manual for Planning Permit Procedure Documentation of High Speed Lines in the Czech Republic) (Planning Permit Documentation stands for Preliminary Design/Documentation for Acquisition of the Zoning Decision) made available for the Tender Process is governed by the following rules and circumstances

1. The Non-disclosure Declaration of Receiving Party is signed and is effective;
2. Any representative of the Receiving Party (or its subcontractors, financers or designees) shall not copy, even partially, the Confidential Information available, nor use in any manner such Confidential Information in a view to adapt such know how and processes out of the Tender Process either for its activities or for any reverse engineering;
3. The Receiving Party and its representatives shall comply with all applicable laws and regulations in accessing the Confidential Information as defined in the Declaration of Confidentiality. If the access to the Confidential Information is organized in dedicated premises, no user of the Confidential Information shall copy or introduce any scanning or copying device in such premises.

Thus I undertake to personally comply with the obligations mentioned above.

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Hereby agreed

|  |  |
| --- | --- |
| Name of the Receiving Party  (Name of the company) | : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title/Position of Receiving‘s Party representative | : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Signature of Receiving ‘s Party representative | : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date and time of access to Confidential Information: | : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Address, where access was granted | : Křižíkova 552/2, 186 00, Praha 8 |
| Name of the representatives of SZCZ | : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

1. The Contracting Authority draws attention to the fact that the weight of this sub-criterion is 10 %, although the overall sum for the additional performance of the contractor may not exceed 5 % of the tender price excl. the option right/option performance. [↑](#footnote-ref-1)
2. Either in person distantly. [↑](#footnote-ref-2)
3. In the case of further experience, the contractor shall add additional lines. [↑](#footnote-ref-3)
4. In the case of further experience, the contractor shall add additional lines. [↑](#footnote-ref-4)
5. The identification data shall be completed by the contractor according to the fact whether it is an individual or legal entity. [↑](#footnote-ref-5)
6. If the contractor is an individual, the contractor must fulfil the professional qualifications either itself or through another individual (employee or other person cooperating with the contractor). If the contractor is a legal entity, the contractor must fulfil the professional qualifications through another individual (governing body, employee or other person cooperating with the contractor). Documents certifying the professional qualifications may also be submitted through the individual persons of the contractor’s technicians pursuant to Article 8.5 of these Guidelines, by means of whom the contractor ensures professional qualifications. [↑](#footnote-ref-6)