**REPORT OF PRELIMINARY MARKET CONSULTATIONS**

1. Information on the preliminary market consultation

In accordance with Section 36(4) of the PPA, the Contracting Authority took the opportunity to organise a Preliminary Market Consultation pursuant to Section 33 of the PPA (hereinafter referred to as the “**PMC**”). On 12 June 2024, a request to participate in the PMC was published with a deadline of 4 July 2024. The purpose of this market survey was to inform potential contractors about the project, which aims to build a rail link between the capital city of Prague and Václav Havel Airport Prague through a public-private partnership (hereinafter referred to as the "**Project**"), and to obtain their feedback and comments, if any.

These PMCs were organised in two rounds. In the first round, through a document entitled Information Memorandum on the PPP project, which included a comprehensive questionnaire focusing on particular areas of interest related to the Project. To ensure a wide range of responses, the questionnaire covered different topics through 16 questions and their sub-questions. The questionnaire was distributed to selected respondents, which included mainly construction companies, banks, investment funds and investors known to the Contracting Authority to be active in the PPP market, and was also published on the Správa železnic, state organisation profile (hereinafter referred to as the "**SŽ**") https://zakazky.spravazeleznic.cz/contract\_display\_14986.html in the PPP Market Survey Information Memorandum. A summary of the responses to the first round of questions is provided in section 4 below.

2. Industry Day

The PMC’s were subsequently organised in the second round through an Investor Day, which was open to an unlimited number of persons or potential contractors. The Investor Day, held on 5 September 2024 at the premises of the Contracting Authority, included presentations on a range of topics that the Contracting Authority considered essential to structuring the Project's TOR. The information about the Investor Day was sent by the Contracting Authority to the entities that provided their answers to the above-mentioned written set of questions in the framework of the Information Memorandum and was also published on the profile of SŽ, state organisation and in the form of a press release, which was subsequently picked up by selected media. The main purpose of the Investor Day was to provide feedback from the participants (potential contractors) to the Contracting Authority on the various topics discussed. The video recording of the Investor Day is available on the website https://www.youtube.com/watch?v=9QLYuOrRb5o.

3. Questionnaire and evaluation

The information below is a summary of the responses provided by selected respondents to the PMC, primarily from the first "written" round of the PMC. The responses include questions related to the scope of work on the S-15 and A-33 sections, consideration of access to certified materials and products with particular emphasis on signalling and communications equipment issues, as well as issues related to permitting and land acquisition, risk allocation, ESG requirements, funding considerations, evaluation and pre-selection criteria, and the length of the A-46 closure during construction. In addition, general comments on the Project are also summarized below to provide a comprehensive view of the overall Project status and recommendations.

a. Scope of Work - Section S-15 (Prague-Ruzyně - Kladno)

The majority of respondents do not recommend that the S-15 section be included in the Project. This is due to the negligible benefits and additional complications associated with it. Respondents believe that the extension would not add significant value to the Project. If the S-15 section is to be part of the Project, respondents emphasize that there should also be a comprehensive design and a clear delineation of responsibilities and risk allocation. Respondents further emphasize that if the S-15 section is part of the Project, the scope of work and responsibilities should be further addressed to determine what level of risk would be acceptable to the participant.

b. Scope of Work - Section A-33 (so-called rounding)

In general, the addition of Section A-33 to the Project is not preferred as it is more likely to result in additional complications and potential delays in the procurement process. Respondents prefer to obtain permits for it prior to the completion of the procurement process in order to synchronize the timing and amount of all funding sources for the dedicated construction phase. However, if this is not possible, responsibility for any resulting risk should be clearly defined. However, some companies find there is an advantage in participating from the early stages of design to enable them to contribute to the quality and efficiency of the Project. Nevertheless, the overall view of the PMC was that synergies and economies of scale do not justify the inclusion of a section in the Project from the perspective of potential contractors.

c. Approved Products/Materials and Signalling and Communication Equipment

i. Signalling and Communication Equipment

The majority of respondents prefer to use approved safety and communication equipment to avoid the lengthy approval process for new equipment and issues of ensuring compatibility. Some consider the risks associated with a limited pool of contractors to be acceptable, subject to certain conditions, such as allowing contractors of approved equipment to support bids from multiple entities in an effort to ensure a fair and equitable treatment for all bidders wishing to work with these contractors. The incentive to investigate anything other than equipment compatibility is very low, and most companies believe that security/signalling could be appropriately addressed by a separate public procurement, but unfortunately they do not address the issue of the possible later inclusion of the outputs of this tender in the concessionaire's scope of responsibility.

ii. Responsibilities relating to network elements

Most respondents demonstrated the ability to put in place precise procedures and technical arrangements to ensure accountability for network elements in specific parts of the project. They are able to use advanced monitoring and diagnostic techniques to determine the causes and locations of failures, even when they occur outside of their direct responsibility. While some companies may have less experience, the overall trend points to effective practices for managing network elements and resolving problems outside of their direct control.

iii. Certification of materials and products

Many respondents considered the requirement to use only materials and products approved by the SŽ to be somewhat restrictive but solvable. They suggest possible solutions such as allowing products standardised within the EU or allowing the use of materials commonly accepted in other countries. Although this requirement may be a constraint, it is not perceived as a significant barrier in railway infrastructure projects.

However, most companies are not willing to take the risk of meeting technical specifications for materials/products not yet approved by public authorities before their inclusion in the Project. This poses a challenge for contractors. On the other hand, respondents agree that contractually described exemptions from the obligation to use only certified materials/products could lead to CAPEX, OPEX and LCC cost savings. A simplified or accelerated certification process for EU approved products could be a solution to ensure quality and safety while reducing costs.

d. Permitting and land acquisition

i. Prolongation of the procurement process due to unexpected complications in project preparation by SŽ.

A significant number of respondents are willing to tolerate an extension of time from the conclusion of the competitive dialogue to the date of the Invitation for final bids in the event of unforeseen obstacles in obtaining permits or land acquisition for sections A-46, A-47, and A-48. In the event that the predetermined deadlines are not met, they then propose to build a mechanism or guarantee into the contract to clarify those deadlines and move the bidding process to the next phase. Some respondents pointed to a loss or reduction of interest in the project by the private sector if the private sector were to assume the risk of higher financing costs due to time limits being exceeded; furthermore, the six-month time limit set from the date of financial close for delivery of all land is considered reasonable and any overrun of the time limit should be negotiated with the lenders to keep the project attractive.

ii. Handover of the site

The vast majority of respondents considered a six month timeframe to be acceptable, with some bidders considering a longer timeframe (9/12 months) to be acceptable. The most common argument for not extending the time period beyond what will be necessary was the limitation of the range of lenders available to bidders, particularly given the interest in maximizing the project's financing in CZK. The argument of the necessary increase in construction management costs overhead and the impact on resource allocation on the participant side was also raised.

e. Risk allocation

Respondents considered the assumed risk allocation to be satisfactory, with specific reference to Section A-33. Responses mentioned the need for further discussion or additional clarification - land acquisition, the permitting process, and risks associated with force majeure and geophysical conditions were frequently mentioned.

f. Scope of ESG requirements

Respondents emphasized the need for clear ESG requirements, including a well-defined approach to structuring incentives for sustainability. They also noted that the project should be consistent with the EU taxonomy and the Equator Principles to ensure compliance with environmental and social standards. This requires a well-articulated risk management plan and stakeholder engagement at an early stage to realize the benefits of the Project. It is also recommended to record the carbon footprint, ensure that it is not harmful to biodiversity and that it has a positive impact on local communities as well as society as a whole. Open communication about ESG and good management before challenges become problems is essential for a successful Project.

g. Funding

i. Project funding in CZK

Most respondents believe that there will be no major problems with partial funding in CZK. The recommendation is to make availability payments (AVP) in both EUR and CZK to replicate the capital/cost structure. The objective is to maximize the required liquidity, to split the availability payments into components with different escalation rates and to introduce indexation mechanisms in the project contract to respect the construction and operation time issues.

ii. Level of funding commitment required for the BAFO

In this question, respondents were asked to present their comments on a binding or non-binding funding requirement for the bidding stage of the bidders' submission. Specifically, the focus was on defining the potential benefits to the Contracting Authority of allowing bidders to submit final bids without binding bank financing. The majority of respondents indicated that they understood the increased requirement by Contracting Authorities for binding financing to ensure a comprehensive binding offer not only in the construction part but also in the key area of financing. Thus, financing banks need to get to know the project in detail and apply their suggestions for improvements early on in the dialogue phase with the Contracting Authority.

The issue of binding financing for the bidding phase of bidders has its real pitfalls and problems, such as the limited number of Crown banks providing project financing products for PPP projects, the maximum six-month commitment period usually required by banks for their bids, the high cost of due diligence and the availability of qualified advisors.

The majority of respondents were nevertheless in favour of binding nature of banks' offers for the BAFO phase and tailoring the project schedule to this regime.

iii. General financing issues

In conclusion, respondents generally agree with the current risk allocation, payment mechanism principles, and commitment allocation for the project. However, key points for further discussion may be CZK exchange rate movements, CZK market liquidity, bank exclusivity, FX hedging, indexation, shortening of commitment period, and geopolitical/sociodemographic concerns.

h. Evaluation, qualification and pre-selection criteria

i. Qualification/reduction criteria (shortlisting)

The majority of respondents considered the qualification and shortlisting criteria sufficiently transparent and appropriate for the purposes of the procurement process. Respondents also indicated modifications or additions to the proposed criteria, in particular suggesting an extension of the deadline for the required reference projects, a reduction of the number of participants (shortlisting) to only 3 participants, an increase in the minimum threshold of project financing experience, a greater focus on qualification criteria, a modification of the experience assessment and consideration of a more flexible submission of references for railway projects.

ii. Evaluation criteria

The majority of respondents believe that the evaluation criteria are adequate, but also believe that the qualitative aspects of the evaluation should be increased to better assess technical and environmental issues, completion time and financial health. Other suggestions focus on design strategy, construction methodology, asset maintenance and SPV management capability. There should be clear and objective evaluation criteria for environmental, social and compliance aspects.

i. Closure of the A-46 railway line during construction

The majority of respondents believe that a 22-month timeframe for the closure of the A-46 rail line would be an optimal timeframe - some suggest that it may even be extended slightly to reduce risks and allow for better cost optimization. Several suggest reducing the timeframe to 18 months, while others suggest a minimum of 30 months. There are several key structures on the A-46 section, including rail bridges and tunnels, that will require in-depth study by the engineering group. However, the consensus is that a comprehensive plan should be developed to handle the closure request.

j. General comments on the project

Some of the major recommendations from respondents that would have a positive impact on the project are as follows:

- Gain government and public support.

- Start the land acquisition process early.

- Make technical information about the site available to bidders in a timely manner.

Other general recommendations include ensuring transparency and speed in the procurement process or incorporating an objective mechanism for payments. In addition, the main comments noted include risk management in relation to product/material security and certification, public response and financial uncertainty.

The evaluation of the questionnaire and PMC is reflected in the following sections of the request to participate:

1) The Contracting Authority states that the Invitation contains information that is the result of, or has resulted from, the Preliminary Market Consultation. Specifically, the following provisions of the Invitation should apply, including its annexes.

2) On the basis of the respondents' suggestions, the Contracting Authority has extended in Article 3.2.1 of the Invitation the range of applicable materials and products for construction also to those which, at the time of incorporation into the works, will not be approved for use on the railway track within the meaning of the internal regulations of the SŽ, provided that they subsequently obtain the necessary approvals or meet the general technical conditions (OTP). The rules for placing products on the EU market, including the directly effective TSI Regulations and other generally binding legislation applicable in the territory of the Czech Republic, remain unaffected.

3) Proposals for adjustments to specific ESG and sustainability criteria are not directly reflected in the text of the Invitation, but according to Article 4.2 of the Invitation the Contracting Authority will take into account the current requirements of the EU and financial institutions (including multilateral ones). It assumes that these requirements will be reflected in the contractual documentation on the basis of which the Public Contract will be implemented. The procurement is prepared in accordance with the environmental and social standards of the EIB and EBRD to allow participation in the financing of both institutions while fully respecting their specific requirements.

4) The recommendation that the Contracting Authority should include wording in the terms of reference or issue an official notice to prevent bidders from securing exclusivity with banks during the procurement process was taken into account. The Contracting Authority reserves the right, in Article 7.5 of the Invitation, to require Participants to declare during the competitive dialogue or in their tenders that they do not have exclusivity arrangements with any bank for the financing of the Public Contract.

5) Based on respondents' suggestions, the Contracting Authority has extended the period for recognition of completed contracts under reference contracts from 5 to 10 years in Article 10.11 of the Invitation.