

EEIG “North Sea – Baltic Rail Freight Corridor” EZIG, 74 Targowa St., 03-734 Warsaw, Poland,
phone: +48 22 47 32 320, info@rfc8.eu, www.rfc-northsea-baltic.eu

TENDER RULES

**FOR
A REQUEST FOR PROPOSALS
FOR A STUDY ON CAPACITY IMPROVEMENT
OF THE EEIG "NORTH SEA - BALTIC RAIL FREIGHT CORRIDOR" EZIG**

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1. GENERAL INFORMATION

These Tender Rules define the rules for selecting the Contractor with who

The EEIG "North Sea – Baltic Rail Freight Corridor" EZIG with its registered office in Warsaw (code: 03-734) at 74 Targowa Street, entered in the Register of Entrepreneurs of the National Court Register maintained by the District Court for the City of Warsaw, XIII Commercial Division, under KRS number: 0000603675, REGON: 363805225, NIP: 113-29-03-811, hereinafter referred to as "EEIG",

will enter into an agreement in its own name and in the following scope:

Study on Capacity Improvement

The Contractor is obliged to keep all legally protected information obtained in the course of negotiations and during the performance of an agreement in confidence.

The proceeding is conducted according to provisions applicable for the place of residence of the Contracting party.

2. SHORT DESCRIPTION OF THE TERMS OF REFERENCE

The subject of the order is to conduct the study on capacity improvement which would identify measures necessary to be implemented to increase the quality of corridor products and enhance its capacity. The aim of the study is to analyze the most important parameters that have the highest impact on the capacity, i.e. train length, profile (loading gauge), train weight (axle/meter load/full train) and train speed.

Rail Freight Corridor North Sea – Baltic has declared in the CEF Action "Establishment of Rail Freight Corridor „North Sea – Baltic“ and its further development aiming at improving conditions for international rail freight transport", action number 2014-EU-TM-0217-S among other activities “Performing a study on capacity improvement”.

The starting position of the study should be the analysis of the current infrastructure parameters in order to identify bottlenecks. In the second and third stages should be proposed operational and infrastructure measures, including a cost estimation, to remove the remaining bottlenecks on the corridor ensuring the required capacity is in the place. Required capacity means that there are sufficient good quality train paths available to satisfy both the quality (parameters) expectations and the demand of the customers. In the final stage the evaluation of the demand for enhanced infrastructure parameters and comparison, whether the demand can be met with the existing or expected capacity, should be made.

Final report must cover all work packages and recommendations for next steps regarding timetabling, operations and infrastructure development with conclusions.

The Contractor is asked to provide commercial offer for all work packages according to the Tender Rules Annex 2A – Material and Financial Schedule.

WORK PACKAGES:

WP Length including:

- WPL 1 - Analysis of the current maximum train length on corridor lines;
- WPL 2 - Measures necessary to satisfy demand for 740 m trains;
- WPL 3 - Analysis of estimated cost of proposed measures;
- WPL 4 - Analysis of demand for 740 m trains.

WP Profile including:

- WPP 1 - Analysis of the current situation concerning profile;
- WPP 2 - Measures necessary to satisfy demand for P/C 400/70 profile trains;
- WPP 3 Analysis of estimated cost of proposed measures;
- WPP 4 Analysis of demand for profile P/C 400/70 trains.

WP Weight - Analysis of the current situation concerning train weight and axle/meter load;

WP Speed - Analysis of the difference among projected, allowed and operational speed on corridor lines and proposal of measures for improvement;

WP Investment Projects - Analysis of investment projects planned on the corridor.

Analysis of expected lines in Latvia and Estonia depends upon Latvia and Estonia Infrastructure managers' (IM) decision whether or not to provide necessary data and participate in the study. Therefore analysis of these lines will be proceeded as a repetition of similar services after choosing the contractor for the study for first six countries and will rely on the repetition of the survey data only for Corridor extensions.

A detailed description of the subject of the order is given in Annex No. 1 to these Tender Rules – Terms of reference.

3. TYPE OF PROCEDURE

Procurement procedure: request for proposals

Order procedure will be conducted on the basis of the regulations contained in these Tender Rules.

4. DURATION OF THE CONTRACT

Contract Period:

Start: the subject of this order will be implemented from the date of signing the contract. Signing of the contract will take place after the selection of the contractor's offer.

End: 18 months after the date of the signing the contract.

5. CURRENCY IN WHICH SETTLEMENTS WILL BE CONDUCTED

All settlements related to the implementation of this public procurement will be in EUR and in English language. The detailed information and method of settlement are set out in the Draft Contract (Annex No. 4 to Tender Rules).

6. CONDITIONS FOR PARTICIPATION IN THE PROCEEDINGS AND METHOD OF EVALUATION OF COMPLIANCE WITH THESE CONDITIONS

Contractor may apply for the award of this order that fulfill the terms related to:

- 6.1 Competence or authority to pursue a specific professional activity, if it is provided for in separate regulations;
- 6.2 The economic and financial situation;
- 6.3 technical and professional capabilities and
- 6.4 their bid will not be subject to rejection under Article 16 point 5-10 of the Tender Rules.

Within the scope of the condition specified in 6.1, the Contractor will submit to the Contracting party a Statement made in accordance with Annex No. 3 to the Tender Rules.

Within the scope of the condition specified in 6.2, the Contractor is required to prove having financial means or creditworthiness in the amount of not less than EUR 20,000.00.

Evaluation of meeting the condition indicated in 6.2. will be based on the documents provided by the Contractor: information of the bank or the cooperative savings and credit bank where the Contractor holds an account, confirming the amount of financial means or the creditworthiness of the Contractor, issued not earlier than 3 months before the deadline for submission of the bid.

Within the scope of the condition specified in 6.3, the Contractor is required to indicate:

- executing during the last three years before the deadline of submission of the bid, at least 2 (two) feasibility studies in the scope of rail transport with a description of the value, object, date of execution, and the entities for which the services were performed with the attachment of evidence that the service was executed properly.

For the description of the value of services expressed in currencies other than EUR, the average exchange rate published by the National Bank of Poland from the first working day of the month of the notice of the proceedings should be taken.

Evaluation of meeting the condition indicated in Article 6.3. will be based on documents submitted by the Contractor:

- a list of orders performed, including the subject matter of the order, the dates of execution and the recipients of the services, and the documents confirming that the services had been duly executed (prepared in accordance with Annex No. 5a to the Tender Rules).

Within the scope of the condition specified in 6.4, in order to demonstrate that the Contractor's bid is not subject to rejection under Article 16 point 5-10 of the Tender Rules, the following documents must be submitted by the Contractor:

- a valid extract from the relevant register or from the central business records and information, if separate regulations require entry in the register or filing with the business register, issued not earlier than 6 months before the deadline for submission of bids;
- up-to-date information from the National Criminal Register within the scope defined in Article 16, point 5 - 7, 9, 10 of the Tender Rules, issued not earlier than 6 months before the deadline for submission of bids;
- current certificate of the appropriate head of the tax office and the relevant branch of the Social Insurance Institution or the Agricultural Social Insurance Fund confirming respectively that the Contractor is not in arrears with the payment of taxes, fees, and health and social insurance premiums or a certificate that they obtained the legal exemption, postponement or distribution of the outstanding payments or suspension of performance of the decision of the competent authority in full, issued not earlier than 3 months before the deadline for the submission of the bid.

The Contractor with their registered office or place of residence outside the territory of the Republic of Poland, they shall submit a document or documents issued in accordance with the law of the country in which they are established or domiciled, confirming that:

- no liquidation or bankruptcy related to them has been declared,
- no ban on applying for the order has been adjudicated against them,
- they are not in arrears with the payment of taxes, social security or health insurance fees or premiums, or they have obtained legal exemption, postponement, or spreading of outstanding payments into installments, or suspension of the full implementation of the decision of a competent authority.

7. TENDER BOND

The Contracting party does not demand security in the form of a tender bond.

8. RULES OF PROVIDING CLARIFICATIONS

1. The Contractor may request the Contracting party to clarify the content of the Tender Rules. The Contracting party shall provide clarifications without delay, provided that the request for clarifications of the Tender Rules has been submitted to the Contracting party no later than until the end of the day marking the half of the period for proposal submission.
2. If the request for clarification of the Tender Rules, including all Annexes of the Tender Rules, was received after the deadline for submission of proposals referred to in subsection 1, the Contracting party may provide appropriate clarifications or leave the request unprocessed.
3. Extending the deadline for submission of proposals shall not influence the deadline for submission of motions for clarification set forth in subsection 1.

4. The Contracting party shall post the content of requests and clarifications on its website and the Official Journal of the European Union without revealing the source of the inquiry.
5. In justified cases, the Contracting party may change the content of the Tender Rules before the deadline for the submission of proposals. Such a change shall be communicated without delay on its website and the Official Journal of the European Union.
6. Should a major change in the Tender Rules not resulting in the change in the content of the announcement on the procurement require additional time for introducing necessary modifications to the proposals, the Contracting party shall extend the time prescribed for submission of proposals by posting proper information on the Contracting party’s website and the Official Journal of the European Union featuring the Tender Rules as well.
7. Should the Tender Rules result in change of the procurement notice, the Contracting party shall publish proper information on the website of EEIG „North Sea – Baltic Rail Freight Corridor” EZIG and the Official Journal of the European Union.

9. PREPARATION OF THE BID

1. Each Contractor may submit only one bid.
2. The bid should be prepared strictly according to the requirements specified in these Tender Rules.
3. The bid must be signed by persons authorized to represent the Contractor in accordance with the form of representation of the Contractor specified in the register or other document appropriate for the organizational form of the Contractor or by an authorized representative of the Contractor. If the document stating the legal status of the Contractor or the power of attorney shows that several persons are authorized to represent the Contractor, the documents included in the bid must be signed by all these persons.
4. The power of attorney to represent the Contractor must be directly redound from the Statutory Document (representatives from National Court Register).
5. The Annexes to these Tender Rules should be completed by the Contractor and attached to the bid, or prepared by the Contractor in another form - in accordance with these Tender Rules.
6. The Contracting party does not allow making any changes in the documents attached to these Tender Rules (abbreviations, omissions, deletions, corrections, or annotations) except for dotted spots, to be filled in or specially marked with a footnote for instance.
7. The Contractor shall bear all costs associated with the preparation and submission of the bid.

10. DESCRIPTION OF THE PRICE CALCULATION METHOD

1. The gross price specified in the bid must take into account all the requirements of these Tender Rules and shall cover all direct and indirect costs that will be borne by the Contractor for the timely and proper performance of the whole of the subject matter of the Order and the value added tax (not applicable to foreign Contractors that are not VAT payers in Poland).

2. The bid price and the manner of its presentation in the bid is specified in the Bid Form, which constitutes Annex No. 2 to these Tender Rules.
3. In the case of a foreign Contractor that is not registered in Poland, the Contracting party shall, in order to evaluate the bid, add to the (net) price shown in it, the value added tax which the Contracting party would be obliged to pay in accordance with the applicable regulations.

11. FORM OF THE BID

1. The Bid along with the Annexes should be drawn up in English, in written form and format no larger than A4, in original. The words "original" should be mentioned on paper-based Bids.
2. Appropriate filling in the dotted places in the templates of documents constituting annexes to these Tender Rules and subsequently being incorporated in the Bid can be made by computer, machine, or manually.
3. Documents prepared by the Contractor himself on the basis of the annexes to these Tender Rules must be in the form of a computerized print or a typed manuscript.
4. The whole Bid must be submitted in a form that prevents it from becoming accidentally incomplete - bid sheets (pages) must be stitched, in saddle stitch binding, or combined using a different technique.
5. Any places in the bid where the Contractor has made amendments or changes in the content entered by them (i.e. only in places where it is acceptable by the Contracting party) must be initialed by the person(s) signing the bid, otherwise they will not be included.
6. The additional documents included in the bid may be presented in the form of originals or certified true copies. Compliance with the original of all recorded pages of copies of documents included in the bid should be confirmed by the person (or persons if two or more persons are authorized to represent the Contractor) signing the bid according to the content of the document defining the legal status of the Contractor or the content of the power of attorney attached to the bid.

12. CONTENT OF THE BID.

1. The complete bid must contain the following documents:
 - a) The completed bid form (Annex 2 and 2A to the Tender Rules);
 - b) A statement by the Contractor on the fulfillment of the conditions - filled out (Annex 3 to the Tender Rules);
 - c) list of the orders performed - filled in (Annex No. 5a to the Tender Rules);
 - d) confirmation of the technical and professional qualifications of the persons - filled in (Annex No. 5b to the Tender Rules);
 - e) other documents referred to in Article 6.3 of the Tender Rules.
 - f) list of work for subcontracting - filled in Annex No. 6 to the Tender Rules

2. Submitting a table of contents in the bid specifying the number of sheets (pages) included in the bid is desirable.

13. BID VALIDITY

The Contractor is bound by the bid until 60 days from the date of the opening the proposals.

14. PLACE, DATE, AND METHOD OF BID SUBMISSION.

1. The bid must be submitted at the seat of the Contracting party EEIG "North Sea - Baltic Rail Freight Corridor" EZIG 03-734 Warsaw, 74 Targowa Str., within the deadline:

by 02.02.2018. until 02:00 p.m.

2. A bid made after the deadline will be returned to the Contractor without opening.
3. The bid should be submitted in a non-transparent envelope secured against opening to the following address:

**Weronika Karbowskiak
EEIG "North Sea – Baltic Rail Freight Corridor" EZIG
03-734 Warsaw, 74 Targowa Str.**

and describe it as follows:

**"Request for proposal for
a study on capacity improvement
of the EEIG "North Sea – Baltic Rail Freight Corridor" EZIG"**

Do not open before: 02.02.2018 at 02:00 p.m.

15. CONTRACT AWARD CRITERIA

The criteria for choosing the best bid will be:

No.	Criteria:	Weight
1.	Total gross price	30 %
2.	Skills of the Team Members	50 %
3.	Understanding of the topic	20 %

In order to choose the most advantageous bid, the Contracting party will use the following formula for the criteria and their weight:

Price		Max	100 points	30%
Skills of the Team Members Performing	Project Manager	60 points	100 points	50%
	Knowledge of English language	10 points		
	Min. 5 years’ experience in rail logistics	20 points		
	Experience in participating in at least 2 studies	30 points		
	Expert in rail freight logistics	40 points		
	Knowledge of English language	10 points		
	Min. 5 years’ experience in performing the study (2 studies)	30 points		
Understanding of the topic	Evaluation of brief description of the methodology	100 points	100 points	20%

Score points:

$$\text{Points} = \frac{\text{the lowest gross price} \times 30}{\text{Price of tender X}} + \frac{\text{total score of skills} \times 50}{100} + \frac{\text{underst. of the topic} \times 20}{100}$$

Points will be given to two decimal places.

Skills of the Team Members Performing:

The team delivering the service should include the following profiles:

- Project Manager: at least 5 years’ experience in rail logistics (operational railway knowledge) , including overseeing project delivery, quality control of delivered service, client orientation and conflict resolution, experience in participating in at least two rail studies.
- Expert in rail freight logistics: relevant higher education degree and/or 5 years professional experience in the field of rail transport experience in participating in at least two rail related studies.
- Language quality check: all of the team members having contact with the contracting party should have proficiency level language skills in English

Confirmation of the educational and professional qualifications of the persons who will provide the service for this tender including the management staff (prepared in accordance with Annex No. 5b to the Tender Rules and CVs of team members).

Understanding of the topic – brief description of the methodology of the study.

As part of this criterion, the Contractor will provide a brief description of the methodology, which should include:

- Understanding of the objective of the tender - the Contractor must prove that they understand the objectives and context of the tender and of the issues involved, with special focus on the specificities of the content of the Terms of Reference as specified in Annex 1 - for this part of the description, the Contractor may receive up to 50 points;
- Proposed methodology of work - quality and appropriateness of the methodologies for undertaking the different tasks defined in the Tender Rules (Annex 1), as demonstrated on the basis of the content of the Terms of Reference as specified in Annex 1 - for this part of the description, the Contractor may receive up to 50 points.

16. BID REJECTION

The Contracting party shall reject a proposal if:

1. its content fails to comply with the Tender Rules, subject to Article 17 subsection 11 point c) hereof;
2. submission of the proposal constitutes an act of unfair competition under the Polish Act of Counteracting Unfair Competition;
3. it contains an abnormally low price or costs in relation to the object of procurement or if the contractor failed to submit clarifications within the established period of time;
4. the contractor fails to meet the conditions specified in Article 6 subsection 2 or was not invited to negotiate or submit a proposal;
5. the contractor is a natural person legally convicted of an offence:
 - a) Offence under section 165a, sections 181-188, section 189a, sections 218-221, sections 228-230, section 250a, section 258 or sections 270-309 of the Act of 6th June 1997 – the Polish Criminal Code (Dziennik Ustaw item 553, as amended 127) or section 46 or 48 of the Act of 25th June 2010 of sport (Dziennik Ustaw of 2016 item 176),
 - b) Offence of a terrorist nature under section 115 Article 20 of the Act of 6th June 1997 – Kodeks Karny [*Polish Criminal Code*],
 - c) financial offence – tax fraud.
6. the contractor with their registered office or place of residence outside the territory of the Republic of Poland, shall not submit a document or documents issued in accordance with the law of the country in which it is established or a statement which confirms what is required in the proceedings.
7. the contractor whose incumbent member of its management board or supervisory body, a partner in a general or professional partnership, or a general partner in a limited partnership or limited joint-stock partnership, or a holder of a commercial power of attorney has been sentenced for an offence referred to in point 5 hereof by a final and binding judgement of court;
8. there is a final and binding judgement or a final administrative decision convicting the contractor of being in delay with payment of taxes, fees or contributions on social and health insurance,
9. the contractor participated in preparing the procedure for awarding the procedure or the contractor’s employee, as well as person hired under an agreement for specific work, for personal services, of agency or other agreement on provision of services took part in preparations of such procedure, unless breach of competition caused by such a relationship may be eliminated in a manner other than rejection of the contractor’s proposal;
10. the contractor being a collective entity against whom the court has ruled the prohibition of applying for public procurement contracts pursuant to the Act of 28th October 2002 on liability

- of collective entities for acts prohibited under penalty (Dziennik Ustaw 2015 item 1212, 1844 and 1855 as well as of 2016 item 437 and 544);
11. the contractor is an entity which is prohibited to apply for public procurement as a preventive measure;
 12. the contractor failed to provide the tender bond within the period for submission of proposals, for the tender binding period the tender bond was provided in an incorrect manner or the contractor refused to extend the tender binding period;
 13. within 3 days from being serviced with a proper notice, the contractor refused to correct errors specified in Article 17 subsection 11 point c) hereof;
 14. the proposal is invalid under separate provisions;
 15. the contractor failed to complete lacking documents within the established deadline despite being noticed to do so;
 16. the proposal contains errors in calculations which cannot be corrected under Article 20 subsection 11 hereof;
 17. the contractor submitted improper information influencing or possible to influence the result of the pending procedure;
 18. acceptance of the proposal would breach public safety or a vital interest of national safety and such safety or interest cannot be ensured in any other way.

17. EXAMINATION AND EVALUATION OF PROPOSALS

1. The Contracting party shall examine the compliance of the proposals with the Tender Rules.
2. In the course of examination and evaluation of proposals the Contracting party may request contractors to provide clarifications on the content of submitted proposals. Negotiations concerning the submitted proposal between the Contractor and the Contracting party, as well as introducing amendments to the submitted proposal other than those prescribed in these Tender Rules shall be forbidden.
3. The Contracting party shall analyse the provided documents in order to check compliance of the documents with the requirements.
4. The Contracting party begins with evaluation of the proposals and only then examine if: the winning proposal meets the conditions for participation in the procedure on the basis of documents submitted with the proposal and under application of notices specified in subsection 5 and 7 below; the proposal is not subject for rejection under Article 16 points 5-10 hereof, should such a possibility be provided for in the Tender Rules or the procurement announcement.
5. Should the Contractor: not submit documents confirming circumstances specified in Article 6 hereof or other documents required for conducting the procedure; not submit all the documents; submit documents that feature mistakes or provoke the contracting party's doubts, the Contractor shall be required to provide the lacking documents, complete the documents or provide clarifications within the period established by the Contracting party, unless despite submission, completion or provision of clarifications the proposal is subject to rejection or annulment of the procedure would have been necessary.
6. The Contracting party shall require the contractor to submit the original or the document certified by a notary to be a true copy of the power of attorney for conclusion of the proposal, unless such a power is stipulated by other documents submitted with the proposal. The content of the power of attorney shall clearly state which action is the holder of the power of attorney authorised for.

7. Should the Contractor not submit the required powers of attorney or submit incorrect powers of attorney, the Contractor shall be required to provide the documents unless despite submission, completion or provision the proposal is subject to rejection or annulment of the procedure would have been necessary.
8. The Contractor shall submit original documents or documents certified to be true copies of original documents.
9. The Contracting party may request presentation of the original or certified copy of the document, should the submitted copy of the document be illegible or provoke doubts in terms of its genuineness.
10. Documents shall be submitted in English. Documents in a language other than English shall be submitted together with a translation into English.
11. The Contracting party shall correct the following mistakes in the proposals:
 - a) obvious typographical errors;
 - b) obvious errors in calculation, with considering the consequences of the introduced corrections for further calculations;
 - c) other errors leading to lack of compliance of the content of the proposal with the procurement announcement and the Tender Rules but which shall not result in major changes of the content of the proposal.

All Contractors who submitted their proposals shall be informed about such a fact without delay.

18. SELECTION OF THE BEST PROPOSAL

1. Each Contractor who submitted a proposal shall be informed on the choice of the winning proposal.
2. Should the winning Contractor whose proposal has been selected avoid conclusion of the agreement on the public procurement, the Contracting party may choose the best proposal among the remaining ones without examining or evaluating it, unless there are indications that the procedure shall be annulled under Article 21 or the procedure provided for in Article 17 subsection 4 hereof has been applied.
3. If it is impossible to choose the most favourable proposal because of the identical scores of the price and other criteria in two or more bids, the Contracting party shall select the bid with the lowest price from among these proposals.
4. The Contracting party may request the Contractors to submit additional proposals, should the price of the best offer exceed the amount assigned to financing the procurement. In the case of the additional proposals, the Contractors shall only offer prices lower than in the primary proposals.
5. The Contracting party shall publish information on the choice of the best offer through request for proposals on the website of the EEIG „North Sea – Baltic Rail Freight Corridor” EZIG and the Official Journal of the European Union.

19. NOTIFICATION ON THE RESULT

1. When selecting the most advantageous bid, the Contracting party will apply only the criteria specified in these Tender Rules.
2. The Contracting party will award the order to the Contractor whose bid will be considered the most advantageous.
3. Promptly after selecting the most advantageous bid, the Contracting party will notify the Contractors who have submitted bid about:
 - a) the selection of the most advantageous bid, giving the name (company), seat, and address of the Contractor whose bid was selected and justification of its selection, as well as the name (company), seat, and addresses of the Contractors that submitted the bids together with the score awarded to the bids in each bid evaluation criterion and a total score;
 - b) the Contractors whose bids have been rejected, providing factual and legal justification.
4. Promptly after selecting the most advantageous bid, the Contracting party will provide the information referred to in Article 19 subsection 3a) of the Tender Rules on the Contracting party's website and the Official Journal of the European Union.
5. The place and date of signing the contract will be indicated to the Contractor, whose bid has been selected, in a separate letter.
6. In case of refusal to sign the contract by the selected Contractor, the Contracting party may re-select from the other valid bids, unless their validity has expired. The Contracting party will be entitled to seek from the Contractor, who refused to sign the Contract, claims arising from the provisions of the Polish Civil Code, including, among others, compensation on general terms (for damage caused by refusal to sign the contract).

20. INFORMATION WHICH CONSTITUTES A BUSINESS SECRET IN THE MEANING OF REGULATIONS ON COUNTERACTING UNFAIR COMPETITION.

1. The Contractor may reserve in the Bid Form (Annex No. 2 to these Tender Rules) that the Contracting party will not be permitted to disclose information constituting a business secret within the meaning of the regulations on counteracting unfair competition.

In such case, the Contractor is obliged to submit their bid in such a way that the sheets (pages) connected with the business secret are permanently disconnected from the remaining part of the bid. In addition, every sheet (page) covered by the business secret must be inscribed with an indication that it is a business secret (e.g. "Confidential"), whereas all sheets (pages) containing the business secret must be stapled, in saddle stitch binding, or combined using a different technique. If the Contractor fails to comply with the provisions of this point related to isolation of the sheets (pages) covered by business secret from the remainder of the bid, the Contracting party will not be liable in case of disclosure of information contained therein, e.g. when third parties review the bids.

2. The Contractor cannot specifically reserve the following information: name and address, price information, date of order execution, warranty period, and terms of payment.

21. ANNULMENT OF THE PROCEEDINGS

1. The Contracting party will annul the proceedings on awarding this order if:
 - a) all submitted bids were subject to rejection;
 - b) there has been a significant change in the circumstances that conducting of the proceedings or fulfillment of the order is not in the interest of the EEIG;
 - c) the price of the most advantageous bid exceeds the amount that the Contracting party may spend on financing the order, unless the Contractors will make additional proposals and offer prices lower than in the primary proposals;
 - d) the proceedings are subject to a defect which prevents the conclusion of a valid contract;
 - e) in cases mentioned in Article 18.4 of the Tender Rules, additional bids with the same price have been submitted.
2. The Contracting party notifies about the annulment of the proceedings all Contractors who applied for the award of the order, giving factual and legal justification.

22. LEGAL REMEDIES FOR CONTRACTORS.

1. In case of violation of the provisions of the Tender Rules or an announcement concerning:
 - conditions for participation in the procedure;
 - criteria for the evaluation of bids and their significance,
 - rejection of the Contractor's bid,having or likely to affect the outcome of the proceedings - the Contractor may lodge a complaint.
2. The complaint shall be lodged within 5 calendar days running from the date on which the contractor was informed or with due diligence one could have been informed of the circumstances giving rise to its lodging.
3. The complaint lodged after the deadline or by an entity not entitled to lodging complaints shall be rejected.
4. Complaints shall be received and decided on by the Contracting party conducting the procedure for awarding the procurement.
5. The complaint shall indicate the procedure giving rise to the complaint and include:
 - 1) brief description of the charges;
 - 2) legal and factual circumstances providing grounds for the complaint;
 - 3) the contractors claims;
6. The Contracting party shall inform the Contractors participating in the procedure about the instance of lodging the complaint and about the content of the complaint. Contractors shall have the right to take part in the complaint procedure through providing a written statement.

7. If necessary, the Contracting party conducting the procedure shall inquire about prolonging the tender binding period to the Contractors.
8. The Contracting party may hear explanations provided by the Contractors having interest in the procedure as well as the Contracting party’s explanations. The hearing shall be public.
9. The Contracting party shall waive, reject or allow the complaint. Should the complaint be allowed, the Contracting party shall repeat the actions included in the complaint or the procedure for awarding the procurement shall be annulled.
10. The decision on the complaint shall be sent to the contractors who are directly involved in the complained within 10 days from the date of lodging.

23. SUBCONTRACTING

1. Subcontracting is permitted but the Contractor will retain full liability towards the Contracting party for performance of the Contract as a whole.
2. The Contractor is obliged to indicate in Annex No. 6 to the Tender Rules, the parts of the order which they intend to entrust to the Sub-Contractors.
3. Failure to submit Annex No. 6 to the bid is deemed by the Contracting party as the Contractor's consent to perform the entire object of the order alone, without entrusting any part of the order to Sub-Contractors.
4. During Contract performance, the change of any subcontractor identified in the tender or additional subcontracting will be subject to prior written approval of the Contracting party.

24. JOINT BID.

1. Contractors may jointly apply for this order. A joint bid must meet the following requirements:
 - a) Contractors jointly applying for the order must establish and appoint a Proxy to represent them in the proceedings for award of this order or to represent in the proceedings for award of this order and conclusion of a Contract for public procurement. Contractors appoint a proxy attorney who shall represent them in the procedure for awarding a procurement or to represent them in the procedure and conclude the agreement on the procurement.
 - b) In case of submission of a joint bid, the detailed terms set out in Article 6.3 shall be deemed to be met if all the Contractors submitting the joint bid meet them, whereas the documents referred to in Article 6.3 and 6.4 indicating that the bid is not subject to rejection must be submitted by each of the Contractors submitting a joint bid.
 - c) The declaration referred to in Article 6 is jointly submitted by all the Contractors submitting the joint bid or by the Proxy on their behalf.
2. All correspondence will be exchanged exclusively with the Proxy.

25. METHOD FOR COMMUNICATION OF THE CONTRACTING PARTY WITH THE CONTRACTOR

1. The bids must be submitted in writing and in English language, sent by regular post to the Contracting Party.
2. All clarifications, statements, motions, submissions, notices, and information may be sent in writing or by electronic means.
3. Clarifications, statements, motions, notices, and information provided by electronic means are deemed to have been submitted in time, if their content has reached the addressee before the deadline. The addressee may request a written confirmation of the statement, motion, notice, and information.
4. The Contracting party entitles Ms. Weronika Karbowskiak EEIG “North Sea – Baltic Rail Freight Corridor” EZIG to communicate with the Contractors on working days between 8 a.m. and 4 p.m., e-mail address: weronika.karbowskiak@rfc8.eu

ANNEXES:

Annex 1 – Terms of Reference

Annex 2 - Bid form

Annex 2A – Material and Financial Schedule

Annex 3 - Statement by the Contractor on the fulfillment of the conditions

Annex 4 – Draft Contract

Annex 5a - List of the orders performed by the Contractor

Annex 5b - Confirmation of the educational and professional qualifications of the persons

Annex 6 – List of work for subcontracting

Annex 2 - Bid form

BID FORM

Contractor	BID
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CONTRACTING PARTY:

**EEIG "North Sea – Baltic Rail Freight
Corridor" EZIG
Targowa Street 74
03-734 Warsaw**

In response to a request for proposals in proceedings for performing a the study on capacity improvement:

I / we the undersigned

_____ - _____

Entitled / entitled to single/collective representation

(Name (company), seat and the exact address of the Contractor / contractor jointly applying for the contract)

Declare that:

1. We have read the Tender Rules and we consider ourselves to be bound by the terms and their conditions.
2. We offer services covered by the subject of the order for:

Total net price _____ EUR (in words: _____) plus the due tax **VAT** ____% in the amount of _____ EUR (in words: _____), which is total gross price of _____ EUR (in words: _____) for performing a study on capacity improvement.

The above gross price shall take into account all the requirements of the Tender Rules and shall cover all direct and indirect costs incurred by the Contractor for the proper and timely performance of the entirety of the subject-matter of the contract and any applicable taxes and charges, and in particular, the value added tax.

3. We do not intend to entrust subcontractors with any part of the contract * / We intend to entrust subcontractors with the following parts of the contract _____*.
4. We declare that we are delegating to the implementation of the Contract (specify the number).
5. We consider ourselves bound by this offer for the time stated in the Tender Rules, i.e. 60 days after the deadline for submission of tenders.
6. Any correspondence regarding this proceeding should be directed to the following address: _____
7. As the person authorized to contact with the Contracting party, we indicate: _____
tel. _____, e-mail _____
8. This offer together with the enclosures are submitted to _____* sequentially numbered pages
9. We declare that the information and documents contained in the offer on the pages __ to __ constitute a business secret within the meaning of the Polish Anti-unfair Competition Act. The remaining pages of this offer and its attachments are public and do not contain information that is a business secret.

_____, date _____

(Signature of the authorized representative
and of the contractor / contractor
jointly applying for the contract)

*number of pages

Annex 2A - Material and Financial Schedule

WORK PACKAGES	Description	Net Amount (EUR)
WP Length	WPL 1 - Analysis of the current maximum train length on corridor lines; WPL 2 - Measures necessary to satisfy demand for 740 m trains; WPL 3 - Analysis of estimated cost of proposed measures; WPL 4 - Analysis of demand for 740 m trains.	
WP Profile	WPP 1 Analysis of the current situation concerning profile; WPP 2 Measures necessary to satisfy demand for P/C 400/70 profile trains; WPP 3 Analysis of estimated cost of proposed measures; WPP 4 Analysis of demand for profile P/C 400/70 trains.	
WP Weight	Analysis of the current situation concerning train weight and axle/meter load	
WP Speed	Analysis of the difference among projected, allowed and operational speed on corridor lines and proposal of measures for improvement	
WP Investment Projects	Analysis of investment projects planned on the corridor	
Total net amount		
VAT		
Total gross amount		

First draft of concept, prepared and delivered by the Contractor within 3 months from the date of contract signing, should define the methodology of the study, sources of information, the detailed work plan and deadlines.

Intermediate report, delivered by the Contractor not later than 9 months from the date of contract signing.

Final presentation has to be delivered within 13 months in order to enable making corrections and including modifications to final report.

Final report has to be delivered by the Contractor within 15 months of the signing the contract in the offices of the Contracting party.

Final report has to be approved by the Contracting party within 3 months from the report delivery.

**Annex No. 3 Statement by the Contractor on the fulfillment of the conditions contained in Article 6.2
of the Tender Rules**

(Contractor)

**STATEMENT BY THE CONTRACTOR ON THE FULFILLMENT OF THE CONDITIONS CONTAINED IN
ARTICLE 6.2 OF THE TENDER RULES**

Participating in the procedure for a study on capacity improvement of the EEIG „North Sea – Baltic Rail Freight Corridor” EZIG for awarding “sub-threshold” sector procurements and procurements awarded under section 136 of Polish Prawo Zamówień Publicznych (Public Procurement Law), on behalf of:

.....

.....

Full name (company) of contractors / contractors acting jointly

We declare that we meet the following conditions:

1. We have the power to carry out activities
2. We have the necessary knowledge and experience
3. We have*/will have* persons capable of performing the order
4. We are in an economic and financial situation ensuring the proper performance of the contract;
5. We meet the detailed conditions indicated in the call for tenders.

Place, date

*Name and signature of the authorized
representative / contractor*

Annex 5a - List of the orders performed by the Contractor

CONTRACTING PARTY:

Weronika Karbowskiak
EEIG "North Sea – Baltic Rail Freight Corridor" EZIG
74 Targowa Street
03-734 Warsaw

(Contractor)

LIST OF ORDERS PERFORMED BY THE CONTRACTOR

L.p.	Order name (it is also advisable to give the contract number)	This item confirms the fulfillment of the condition of participation in the Proceedings specified in the Tender Rules:	Item of executed orders (with a description of services allowing verification of the fulfillment of the conditions of participation in the procedure specified in clause 6.3 a) of the Tender Rules)	Value [EUR]	Duration	
					Start of the order (month/year)	End of the order (month/year)
1.						
2.						
3.						

ATTENTION - The Contractor is obliged to provide evidence of proper performance of the orders indicated in the table above.

Place, date

Name and signature

Annex 5b - Confirmation of the educational and professional qualifications of the persons

(Contractor)

Skills of the Team Members :

Project Manager	Years
Experience in in rail logistics	
Experience in participating in at least 2 studies	
Expert in rail freight logistics	
Min. 5 years’ experience in the field of rail transport including long trains, timetabling	
Experience in participating in at least two studies.	

Project Manager:	Level*
Knowledge of English language	
Expert in rail freight logistics:	
Knowledge of English language	

*Choose one: medium, advanced, proficiency

Place, date

Name and signature

Annex 6

LIST OF WORK FOR SUBCONTRACTING

CONTRACTING PARTY:

EEIG "North Sea – Baltic Rail Freight Corridor" EZIG
74 Targowa Street
03-734 Warsaw

(Contractor)

By acting on behalf of the above mentioned Contractor(s) I declare that the following parts of this order are intended for subcontracting:

I.p.	Parts intended for subcontracting
1)	
2)	
3)	

Place, date

Name and signature