

## Invitation to participate in a preliminary market consultation

in accordance with Section 33 of Act No. 134/2016 Coll., on Public Procurement, as amended  
(hereinafter referred to as "**Public Procurement Act**" or "**APC**")

Dear,

The City of Prague and the Central Bohemia Region (referred to hereinafter collectively as "**Contracting Authority**") kindly invite you to participate in a preliminary market consultation ("**PMC**"), which will be conducted with the aim of preparing award criteria and to inform potential suppliers (public service operators) and relevant market entities about the intentions and requirements of the Contracting Authority for the performance of public contracts in the area of rail transportation services on the territory of both regions.

The invitation to participate in this PMC concerns public service operators who may be a potential supplier within the framework of the upcoming public contract "*Selection of a public service operator for the conclusion of a contract for public services in the transport of passengers by rail on selected lines by large-capacity electric units*" (hereinafter also referred to as "**Public Contract**") and who meet **the condition set by the Contracting Authority for participation in this PMC**, namely previous experience with a similar subject of performance in the Czech Republic or within the member states of the European Union, the European Economic Area or the Swiss Confederation in the last 3 years (from the beginning of the National Rail Timetable 2020 in December 2020 until the start of this PMC), specifically previous experience in providing rail transportation services (motor and/or electric traction) in a total volume (within one or more services combined) of at least **15,000,000 train kilometres for the period of the last 3 years**. For the sake of completeness and avoidance of any doubt, the Contracting Authority states that the fulfillment of the condition for participation in this PMC can be fulfilled by the public service operator alone or together with another public service operator (similarly as in the case of joint participation of economic operators within the meaning of § 82 APC) or with the use of another supplier (similarly as in the case of proving of qualification through other persons within the meaning of § 83 APC).

The invitation to participate in PMC will be sent to nine selected public service operators from the Czech Republic and abroad. The invitation to participate in the PMC, including the annexes, will be simultaneously published on the contracting authority profile (contracting authority, the Central Bohemia Region<sup>1</sup>), allowing for the submission of statements by other to the other public service operators, who have not been directly addressed and who meet **the condition set by the Contracting Authority for participation in this PMC** mentioned above.

### **I. Information on the planned Public Contract and on the planned use of the new EMU400 units**

#### **Information provided by the Contracting Authority on the planned subject of the Public Contract**

The subject of the Public Contract "*Selection of a public service operator for the conclusion of a contract for public services in the transport of passengers by rail on selected lines by large-capacity electric units*" is the provision of rail transportation services by the selected public service operator in the territory of the Contracting Authority, mainly on the following routes and lines:

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<sup>1</sup> <https://zakazky.kr-stredocesky.cz/vz00014223>



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- Český Brod – Praha hl.n. – Beroun (line S7)
- Praha-Veleslavín – Kladno-Ostrovec (lines S5, R45)
- Praha-Veleslavín – Praha-Václav Havel Airport (line S55)
- Praha Masarykovo n. – Poříčany – Kolín – Kutná Hora hl.n. (lines S1 and R41).

On the basis of reserved changes in obligation, the concluded contract can also be extended to other selected routes or sections, in particular:

- Praha Masarykovo n. – Praha-Veleslavín (lines S5, S55, R45)
- Kutná Hora hl.n. – Kutná Hora město (line R41)
- Praha – Mladá Boleslav město (line R48)

The public contract in the area of rail transportation services will be concluded with the selected public service operator on the basis of a procurement procedure in accordance with § 10 et seq. Act No. 194/2010 Coll., on Public Services in Passenger Transport, as amended (hereinafter referred to as "PTA"). The contract with the selected public service operator will be concluded for a period of up to 30 years, with the expected start of operation from the the beginning of the National Rail Timetable 2029 in December 2029.

### **Information from the Contracting Authority for public service operators regarding the planned use of new EMU400 units to carry out rail transportation services in the territory of the City of Prague and the Central Bohemian Region from December 2029.**

Rail transportation service by electric railway vehicles (hereinafter referred to as "ERV") with a capacity of 300+ seated passengers within the territory of the Capital City of Prague and the Central Bohemia Region is covered by a contract with the public service operator České dráhy, a.s., with its registered office at Nábřeží L. Svobody 1222, 110 15 Praha 1, ID Number: 70994226 (hereinafter referred to as "**current operator**"), which, for the operation, normally uses its owned electric units 471 (Škoda 1Ev, resp. CityElefant). It will not be possible to extend the contract with the current operator after its expiry or to conclude a new contract with the current operator based on a direct award. Due to this fact, the Contracting Authority analyzed and considered the possibilities of how to ensure transportation services by rail after the expiry of the current contractual relationship in accordance with the legal regulations.

To find the optimal solution for the mentioned transportation services by rail, domestic and foreign practices were taken into account, considering regional solutions in the Czech Republic and selected EU countries, including an assessment of possible ways of procuring ERV.

After weighing the strengths and weaknesses of various scenarios, arising opportunities and associated risks to ensure rail transportation services, the variant of operating high-capacity EMU400 units was selected by the Contracting Authority, with the announcement of a procurement procedure to select a public service operator responsible for both the operation and the procurement of the mentioned railway vehicles from December 2029, for a contract period of up to 30 years.

**The expectations of the Contracting Authority** are that the selected public service operator will be able to offer **completely new ERV category EMU400** (hereinafter also referred to as "**ERV category EMU400**") for the needs of ensuring rail transportation services **from December 2029**, which will be able, in terms of number and quality, to perform the contractual volume of public rail transportation services on territory of both contracting authorities, namely in the total expected number of **approx. 50 vehicles** with their gradual ramp-up from December 2029 to December 2030 and with the options for a purchase of another **approx. 60 vehicles** during the duration of the contract (especially in the period of the first 10 years from the start of operation) on the basis of reserved changes in obligation.

The required ERV category EMU400 will have to meet the following basic parameters:

- EMU 400 type units (i.e. with a capacity of approx. 400 seats),
- Double-deck or semi-deck high-capacity low-floor traction units with redundant dual power supply (3 kV DC/25 kV, 50 Hz AC),
- Operationally and economically suitable for (regional) transportation services by rail in the territory of both the City of Prague and the Central Bohemia Region and potentially other territorial units adjacent to the Central Bohemia Region.

A document with other specific required parameters of the ERV category EMU400 will be provided to the participants of the PMC as a basis for personal negotiations within the PMC together with clarification of the topics to be discussed. The required parameters will be reflected by the Contracting authority in the award criteria of the public contract, specifically in a separate annex defining the required parameters of the ERV category EMU400.

## II. Definition of the Purpose and Objectives of the PMC

The primary purpose of this preliminary market consultation is to check the appropriateness of the award criteria and contractual terms and conditions of the upcoming public contract. For the sake of completeness, the Contracting Authority states that the parameters required by the Contracting Authority of the EMU400 category ERV have already been discussed in the framework of separate preliminary market consultations held with the manufacturers of ERV, and the purpose of this PMC with public service operators is therefore mainly to acquaint the public service operators with the requested parameters of the new EMU400 category ERV.

The subject of this preliminary market consultation is a personal negotiation in particular of the following basic topics with relevant public service operators (i.e. with public service operators meeting the condition for participation in PMC stated at the beginning of this invitation):

- Considered method of acquiring new ERV category EMU400 and securing their financing;
- Requirements of the Contracting Authority for the course of the procurement procedure and selected conditions for participation and awarding of the public service operator (for example, reservation of the possibility of negotiating the public contract, the time limit for the submission of tenders, qualitative evaluation criteria, method of calculation of some items – payment for the use of transport infrastructure, etc.);
- Requirements of the Contracting Authority for the content of the tenders submitted in the procurement procedure;
- Selected contractual conditions (for example, variability of the contract, requirements for dispatching and train staff, including the method of changes in the staffing of the train staff, purchase of vehicles, cooperation in obtaining subsidies, limitation of contractual sanctions, termination of the contract, etc.);
- Required backup vehicles, operational backup vehicle;
- Basic familiarization of public service operators with the required parameters of the new ERV category EMU400.

Clarification of specific topics and questions within the above-mentioned ranges of topics to be discussed and the required parameters of the new ERV category EMU400 will be sent by the Contracting authority to the PMC participants approximately 14 days before the personal negotiation within the PMC.



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### III. The course of the preliminary market consultation

**The contracting authority will implement this preliminary market consultation in the form of personal negotiations with public service operators.**

**Those interested in participating** in this preliminary market consultation (a specific public service operators) **will send** to the contact email address below a **completed Registration Form**, which forms attachment No. 1 of this invitation, with filled-in contact details of the carrier and an indication of previous experience with a similar object of performance, which will be clear meeting the required minimum qualification for participation in this PMC. Submitting a completed Registration Form and proving that you meet the required minimum qualifications for participation in this PMC is a condition for participation in the PMC and a condition for sending an invitation to a specific date for a personal meeting.

The completed Registration Form will be sent by every person (public service operator) interested in participating in the PMC, regardless of whether they are directly addressed public service operators or other interested parties outside the addressed range of public service operators.

Interested parties should send the completed Registration Form **in writing to the contact email address [vz@mt-legal.com](mailto:vz@mt-legal.com) no later than April 4, 2024 at 12:00 p.m.**

A personal meeting (negotiation) will then be held with the public service operators who send the completed Registration Form within the specified period and at the same time meet the conditions set by the Contracting authority for participation in this preliminary market consultation. Personal negotiations with the public service operators will take place during the month of April and the first half of May 2024. The specific date of the personal negotiations within the PMC will be communicated to the public service operator after the delivery of the completed Registration Form, which will show that the required conditions for participation in the PMC have been met.

#### **Disclaimers:**

- The Contracting Authority reserves the right to review the veracity of the facts stated in the Registration Form, in particular as regards the fulfillment of the conditions of the required previous experience of public service operators in providing rail transportation services (motor and/or electric traction) in total volume (within one or more services combined) at least in the amount of 15,000,000 train kilometres for the period of the last 3 years. If the public service operator does not demonstrate the fulfillment of the required previous experience, the Contracting Authority will not invite this public service operator to participate in the consultation.
- We remind the participants of the consultation that in accordance with § 36, paragraph 4 of the APC, the Contracting Authority is obliged to identify the persons who participated in the consultation in the procurement documents of the procurement procedure, to state all the essential information that was the content of the PMC and to state the information that is the result of the PMC.
- We reserve the right to record the course of the consultation, e.g., through minutes, visual or audio recordings, or summaries of the main elements of communication. Physical persons participating in the consultation give their consent for the processing of personal data and the creation of recordings.
- We reserve the right to change the course of the consultation. Any such decision will be communicated to the concerned participants of the consultation with sufficient notice.



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- Participants of the consultation shall bear the costs associated with their participation independently; the Contracting Authority is under no obligation to contribute in any way to the payment of these costs.
- The consultation will be conducted in such a way that there is no disruption of competition or the principles procurement in the sense of § 6 APC.
- All communication (both written and oral) within the consultation will be conducted in the Czech language. If a participant of the consultation is a foreign person, they must provide their own translation/interpreter into a language they understand, at their own expense. This invitation to participate in the consultation is also sent in English, but the Czech language version always prevails.
- (Non-)participation in the consultation does not confer any rights or obligations on the participants of the consultation in future procurement procedure of the Contracting Authority.
- Participation in the consultation is not a condition for the possibility to apply for a public contract and participate in the procurement procedure.
- Participation in the Consultation does not give its participants the right to get acquainted with the details of the resulting evaluation of the consultation by the Contracting Authority.

Please send any questions and comments regarding the consultation exclusively by e-mail to: [vz@mt-legal.com](mailto:vz@mt-legal.com)

#### **Appendix No. 1 – Registration form for PMC**



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**Distribution list:**

1.

**České dráhy, a.s.**

Nábřeží Ludvíka Svobody 1222, 110 15 Praha 1

**(E-mail and Data box)**

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2.

**RegioJet a.s.**

náměstí Svobody 86/17, Brno-město, 602 00 Brno

**(E-mail and Data box)**

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3.

**ARRIVA vlaky s.r.o.**

Křížíkova 148/34, CZ-186 00 Praha 8 - Karlín

**(E-mail and Data box)**

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4.

**Leo Express s.r.o.**

Řehořova 908/4 Žižkov, 13000 Praha 3

**(E-mail and Data box)**

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5.

**Die Länderbahn CZ s.r.o.**

U Studánky 39/1, CZ-400 07 Ústí nad Labem

**(E-mail and Data box)**

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6.

**Železničná spoločnosť Slovensko, a. s.**

Rožňavská 1, 832 72, Bratislava 3

**(E-mail)**

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7.

**Österreichische Bundesbahnen**

Am Hauptbahnhof 2, Wien X., Österreich



Středočeský kraj

**(E-mail)**

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8.

**DB Regio AG**

Europa-Allee 70-76, 60486 Frankfurt nad Mohanem

**(E-mail)**

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9.

**POLREGIO S.A.**

ul. Kolejowa 1, 01-217 Warszawa

**(E-mail)**