

Procedural rules regarding the prequalification system for **buses**

Deutsche Bahn AG

Beschaffung Busse und Busersatzteile
Regio Germany - FE.EA 24(1)

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1 Fundamental aspects of the prequalification system

1.1 Legal bases

Based on the Rules on Awarding Contracts in Transport, Drinking Water Supply and Energy Supply ("SektVO"), Deutsche Bahn AG and its affiliates ("DB AG") have established a "qualification system", as defined by Section 48 SektVO, within their bus procurement division in order to ascertain the supplier expertise and capability of companies and to establish that no grounds for exclusion exist ("prequalification process").

Announcements on the existence of a qualification system are made every year in the Official Journal of the EU.

Companies are entered into a directory after successfully completing the prequalification. The directory is constantly updated.

As a precaution, we would like to point out that inclusion in this directory does not give rise to a direct entitlement to participate in a bidding process or to be awarded a contract. Furthermore, when carrying out specific contract award procedures, we reserve the right to request updated or further supporting evidence (e.g. of supplier capability) in addition to the prequalification and to use such evidence as a criterion of acceptance.

1.2 Information and documents concerning the prequalification process

Besides the information in this document, additional documents can be viewed at: <https://lieferanten.deutschebahn.com/supplier/Become-a-supplier/First-Steps>

and specifically on the prequalification process at:

<https://lieferanten.deutschebahn.com/supplier/Become-a-supplier/Prequalification/Everything-on-the-safe-side-8732042>

→“Omnibusse“ → Download-Link „Sample questions test category 1 and 2“

1.3 Product categories in the established qualification system

1. Commodity group: Buses weighing > 8 tons with internal combustion engine
 - a. Public buses - non-articulated buses: 10 - 15 m long that are low-floor, low-entry, or high-floor vehicles
 - b. Public buses - articulated buses: longer than 18 m with a pivoted joint that are low-floor, low-entry, or high-floor vehicles
 - c. Public buses - midi-buses: 8 - 10 m long that are low-floor, low-entry, or high-floor vehicles
 - d. Long-distance buses - single-decker: 10 - 15 m long for touring transport services
 - e. Long-distance buses - double-decker: 10 - 15 m long for touring transport services

2. Commodity group: Buses weighing 3.5-8 tons with internal combustion engine
 - a. Public buses - minibuses: minibuses up to 9 m long with a passenger capacity of more than 9 passengers for scheduled transport services that are low-floor, low-entry, or high-floor vehicles on the basis of van chassis (LCV)

3. Commodity group: Buses with electric drive

- a. Public buses - non-articulated buses: 10 - 15 m long that are low-floor, low-entry, or high-floor vehicles
- b. Public buses - articulated buses: longer than 18 m with a pivoted joint that are low-floor, low-entry, or high-floor vehicles
- c. Public buses - midi-buses: 8 - 10 m long that are low-floor, low-entry, or high-floor vehicles
- d. Long-distance buses - single-decker: 10 - 15 m long for touring transport services
- e. Long-distance buses - double-decker: 10 - 15 m long for touring transport services
- f. Public buses - minibuses: up to 9 m long with a passenger capacity of more than 9 passengers for scheduled transport services that are low-floor, low-entry, or high-floor vehicles on the basis of van chassis (LCV)

The weight specifications in the designations for product categories 1 and 2 relate to the total permissible weight of the buses.

1.4 Participation in the prequalification process and fee

1.4.1 Request to participate ("application")

Companies can apply for a prequalification in one or several product categories at any time. Registration takes place via the Deutsche Bahn AG SMaRT (Supplier Management and Rating Tool) at:

<https://smart.noncd.db.de>

When registering for the first time, one or more relevant product groups must be selected. Upon completion of registration, an application for prequalification in the inspection system for the selected product group(s) is submitted at the same time.

▲ 10610	Road Vehicles
<input checked="" type="checkbox"/>	10610030 Busses > 8 t combustion engine
<input checked="" type="checkbox"/>	10610031 Busses 3,5 - 8 t combustion engine
<input checked="" type="checkbox"/>	10610033 Busses electric drive

Companies that are already registered can initiate prequalification independently.

The prequalification application is submitted under:
"Prequalification" → "Start pre-qualification" → Select the relevant product group(s) → Confirm selection

1.4.2 Qualification

Applications in accordance with Point 3.2 of these procedural rules
(New applicants for a product category)

1.4.3 Requalification

Applications in accordance with Point 3.4 of these procedural rules
(Applicants wishing to renew (extend) existing prequalifications in product categories)

1.4.4 Other applications

Applications in accordance with Point: 3.3 of these procedural rules (applicants wishing to add additional product categories to existing prequalifications)

1.4.5 Fee

No fee is charged for participating in the prequalification process.

1.5 Supplier qualification – conditions for qualification

These procedural rules apply only in conjunction with the latest version of the DB conditions for qualification

– supplier qualification

<https://lieferanten.deutschebahn.com/supplier/Become-a-supplier/Prequalification>

1.6 Entity performing the prequalification

Deutsche Bahn AG

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2 Prequalification principles

- (1) Deutsche Bahn AG uses this qualification process for its own account and for the account of and on behalf of its affiliated companies. Prequalification is determined by Deutsche Bahn AG and also applies to relations between the applicants (hereinafter also referred to as companies) and all DB Group companies.
- (2) This prequalification process shall be carried out in German and shall be subject to German law to the exclusion of private international law. Information, documents and evidence in English will be accepted and assessed.
- (3) Each interested and legally independent company must submit its own application; this also applies to DB Group companies. The evaluation is based solely on the company submitting the application. Applications from companies that are affiliated with other companies from a corporate law perspective are valid only for and in relation to the company submitting the application.
- (4) Economically dependent branches with a place of business in the applicant's country shall be prequalified together with the main establishment. Where applicants can be described as a single economic unit, DB AG reserves the right to issue the prequalification for the corporate units performing the service. The evaluation is based solely on the company submitting the application.
- (5) Evidence from a subcontracting relationship (subcontractor of the prime contractor) is not checked as part of the prequalification process unless the test category 1 and 2 documents contain other specifications. If evidence from a subcontracting relationship is submitted, the entity performing the prequalification reserves the right to request additional explanations and confirmations regarding the provision of services.
- (6) Companies may join together to form groups, or applicant consortiums. The prequalification of the applicant consortium does not also include the individual prequalification of its members. Each member can apply separately for this individual prequalification regardless of the application that has been collectively

submitted. Any changes in the composition of an applicant consortium must be disclosed to the entity performing the prequalification without undue delay, and entitle DB AG to cancel the prequalification of the applicant consortium with immediate effect.

- (7) The documents and records provided by the applicant are treated as confidential by DB AG. The results of the prequalification process shall be used in the event of a future specific selection of suitable applicants, cf. Section 48 (9) SektVO.
- (8) After completion of the prequalification process, the applicant is informed of the decision regarding the application for prequalification. If the applicant is not prequalified, the reasons for this are stated. Upon successful prequalification, the applicant is included in a directory (list) of prequalified companies and informed of this.
- (9) DB AG reserves the right to review the company at any time in the course of the implementation of the prequalification or during its period of validity with regard to the existence or continuance of the suitability criteria evaluated in the prequalification process. This may occur, inter alia, as part of an "on-site audit" or by means of written enquiry.
- (10) The prequalification is not a substitute for any technical certification that may be necessary.
- (11) If an application is rejected or the prequalification cancelled, a new application can be made 6 months after receipt of the rejection or the cancellation at the earliest.
- (12) Existing supplier evaluations by Deutsche Bahn AG can be included in the review of the company's applications.
- (13) DB AG reserves the right to amend the rules of the prequalification system and to obtain further information from the applicants as a result.

3 Prequalification procedure

3.1 General

- (1) The application is processed and decided upon in accordance with the indicative time limits in Section 48 SektVO.
- (2) The prequalification process is implemented as a two-stage process along the lines described below.
- (3) The company registers itself in accordance with Point 1.4 and after successfully registering, receives the appropriate application documents (questionnaires etc.) for the first stage of the qualification process. After it has passed the first stage, the applicant receives the application documents for the second stage.
- (4) The application documents for the relevant test category (1 - basic questions and 2 - reference certificates) are generally provided to the applicant in electronic form. The same applies with respect to reminders, change orders or claims, etc. The documents processed by the applicant must likewise be submitted in electronic form, and should preferably be uploaded to the case file through links that have been provided for this purpose.
- (5) Once the applicant has sent/provided the relevant application documents for test categories 1 and 2, a deadline is set for its submission of the requested questionnaires/statements/documents/etc. (hereinafter "documents").
- (6) If any documents have not been submitted by the deadline that has been set, the entity performing the prequalification reserves the right to request these subsequently.
- (7) The intended formation of applicant consortiums (ACs) should be declared by all members prior to registration, stating the target of the application (product category), and the entity performing the prequalification should be informed by e-mail. The e-mail should be sent to PQ-Omnibusse@deutschebahn.com and there are no requirements as to its form. Each member of an AC must initially submit its own application in test category 1 - basic questions or hold a valid proof of prequalification in the desired product category. If test category 1 for each member/the other company and in overall terms has been successfully completed, the application is merged for the AC and the further proof of supplier expertise/capability should be provided jointly in test category 2 - references. The applicant consortium is placed on an equal footing with an individual applicant during the evaluation of the results.
- (8) An admissions committee, consisting of experts within DB AG, takes the decisions in this prequalification process. The admissions committee may request additional documents and records if these are necessary for its decision-making.

3.2 Prequalification in a product category

3.2.1 Test category 1

- (1) In this test category (first stage), the general requirements as to the suitability of the applicant are examined and evaluated.
- (2) In test category 1 - basic questions, material minimum requirements that would result in the application being rejected if they are not met are examined in addition to fundamental minimum requirements.

3.2.2 Test category 2

- (1) In this test category (second stage), special suitability requirements are examined with regard to the relevant product category. The evaluation is carried out with

reference to information about selected projects (to be submitted by the applicant), with the minimum requirements stipulated also having to be met.

- (2) Detailed information on the points below can be found in the test category 2 documents.
- (3) The subject matter of the review includes the applicant's market position and reference, service criteria, and the product range with regard to the relevant product category.
- (4) In the public bus division, only information on projects concerning services for DB Group companies or another public contracting entity operating in the public transport sector is evaluated. Stipulations are contained in the relevant product categories.
- (5) The applicant alone is responsible for carefully selecting information on selected projects in keeping with the subject matter of the application. Decisions are taken solely with reference to the information submitted. Additional information on selected projects that is submitted after the application may remain unconsidered.
- (6) If the applicant does not meet the minimum requirements, the application is rejected and the applicant informed of the reasons for the rejection.

3.3 Addition(s) to an existing prequalification

- (1) Prequalified companies have the option of expanding the prequalification issued to them for a given product category to include additional product categories.
- (2) An application can be submitted to expand the prequalification at any time during the term of the prequalification. The application is made via the comment function of the SMaRT system for the valid prequalification process or informally by e-mail to PQ-Omnibusse@deutschebahn.com.
- (3) In order for the prequalification to be expanded, the applicant must be able to provide information on selected projects (references) that have been carried out in the relevant product category on behalf of a DB Group company or a public contracting entity operating in the public transport sector.

3.4 Requalification of an existing prequalification

- (1) Before the validity of the prequalification expires, the company will make a new application to participate in the prequalification process. If an appropriate application has not been submitted before the expiration of the prequalification, it will end with the term of validity specified in the decision. The expiry date of the prequalification that has been issued is the decisive factor with regard to the date of the application.
- (2) The prequalified company makes an application in accordance with Point 1.4.3. Solely the applicant is responsible for the timely and complete submission of the application.
- (3) The prequalification that has been issued shall be suspended when its validity expires if the decision to extend it cannot be made by the expiration of its validity and the applicant is responsible for this.
- (4) A requalification application is only admissible within three months of the expiration of the prequalification's validity.

4 Prequalification – term of validity, obligations and conditions for obtaining and maintaining this status, and grounds for exclusion under procurement law

4.1 Term of validity of the prequalification

- (1) The prequalification issued is valid for three years.
- (2) If an existing prequalification is "expanded" in accordance with Point 3.3, the term of this prequalification does not change.
- (3) Likewise, the validity of the prequalification is not extended as a result of deadline extensions, change orders or claims, or documents submitted during the project phase.

4.2 Obligations and conditions for obtaining and maintaining the prequalification

- (1) If the disclosures made by the applicant change significantly in the course of the implementation or during the period of validity of the prequalification, the applicant is obliged to inform DB AG of this without undue delay. Changes deemed significant include the following changes in the applicant's company or in the company that has provided a declaration of commitment pursuant to Section 48 (7) SektVO ("committed company"):
 - ⇒ Legal company name
 - ⇒ Mergers with other companies
 - ⇒ Divestiture of resources/business units that are material to the prequalification
 - ⇒ Company form
 - ⇒ Ownership structure
 - ⇒ Register entries of the company
 - ⇒ Business locations
 - ⇒ Composition of the applicant consortium
 - ⇒ Disclosures on the company's fundamental and economic reliability (including law-abidance) and on supplier capability
 - ⇒ Grounds for exclusion under procurement law in accordance with Point 4.3
- (2) (Changes falling under 4.2 (1) must be disclosed without prompting and substantiated in suitable form. The entity performing the prequalification reserves the right to demand that the first level is updated in order to determine the company's continued suitability under Point 3.1.
- (3) If changes falling under 4.2 (1) are disclosed late or not at all, or if the entity performing the prequalification becomes aware of changes, this may result in the rejection of the application or cancellation of the prequalification.

4.3 Reasonable doubts as to the supplier expertise or supplier capability of the company, grounds for exclusion

- (1) In justified individual cases, DB AG reserves the right to reject the application(s), cancel previously issued prequalification(s), or request that the applicant resubmit certain documents. This applies particularly if material changes to the prequalification conditions (Point 4.2) have been disclosed with significant delay or not at all, if there are reasonable doubts as to the expertise or capability of the company as a supplier to DB, or if one of the circumstances mentioned in Point 4.3 (2) occurs.
- (2) Grounds for exclusion under procurement law:
At any time in the process and during the term of validity of the prequalification, grounds for exclusion pursuant to Section 123 and/or Section 124 of the German Act Against

Restraints of Competition (GWB) may result in the immediate exclusion of the company from the prequalification process/cancellation of the prequalification. The same applies to any committed company, upon which the company is relying for its prequalification.

The review of an exclusion from the prequalification process or a prequalification cancellation also covers declarations including concepts and proofs concerning any possible self-corrective action undertaken by the company pursuant to Section 125 GWB. If grounds for exclusion exist under Sections 123 et seq. GWB, DB AG has the right to suspend the prequalification or its application during the period required to check these self-corrective actions. To this end, it is necessary for the company to give a written undertaking to DB AG that it will take appropriate and adequate self-corrective action and will implement this within a fixed, appropriate period of time. If DB AG informs the company that its prequalification has been suspended, the company shall no longer be permitted to use the proofs of prequalification in business transactions from that point in time until evidence of sufficient self-corrective actions has been provided. The company will be removed from the list of prequalified companies during this period.