



## **Procedural rules**

# **Prequalification system Deutsche Bahn AG**

for the procurement of  
**consulting services**

## 1. Purpose and basis of prequalification

### 1.1 Purpose of prequalification

Deutsche Bahn AG and its affiliates intend to simplify the award procedure for consulting projects with the establishment of a qualification system pursuant to Section 48 of the Rules on Awarding Contracts in Transport, Drinking Water Supply and Energy Supply (SektVO) in order to determine the suitability and reliability of consulting firms or brokers of consulting services (hereinafter "Prequalification System for Consulting Services" or "Prequalification Process"). Prequalification does not automatically entitle suppliers to a contract. Contracts are awarded in accordance with applicable procurement law.

**Important information:** Engineering services, certification services, IT services (IT/TC), market research, M&A consulting, legal consulting, headhunting/outplacement and training/coaching are not covered by the Deutsche Bahn AG prequalification system for consulting services.

### 1.2 Prequalification principles

- (1) Deutsche Bahn AG and its affiliates have set up a prequalification process for the procurement of consulting services on the basis of Section 48 SektVO.
- (2) Calls for competition are issued on an annual basis with the publication of a notice to announce the prequalification process. The results of the prequalification process are used to create a concrete shortlist of suitable applicants (hereinafter referred to as the "Applicants") in accordance with Section 48 (9) SektVO, which stipulates that contracts may be awarded in competition among companies that qualify in accordance with this system and are listed in the Directory of Prequalified Companies (PQ Directory).
- (3) This prequalification process is carried out in German and is subject to German law to the exclusion of private international law.
- (4) Deutsche Bahn conducts the prequalification process on its own behalf and on behalf of its affiliates. Prequalification is carried out by Deutsche Bahn AG and also applies to the relationship between the consulting firm or broker of consulting services submitting an application and all companies of the DB Group. Both consulting firms and brokers of consulting services may apply to participate in the prequalification process, or to extend or requalify an existing prequalification on the basis of these Terms of Use and the other qualification documents.
- (5) 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.
- (6) The application takes place exclusively in the supplier management system provided by Deutsche Bahn AG "Supplier Management and Rating Tool" (SMaRT), available at <https://smart.noncd.db.de>. For more information on how to operate the system, see <https://www.deutschebahn.com/de/geschaefte/lieferantenportal/Lieferantenregistrierung/Lieferantenregistrierung-4395518>

## 2. Procedure of the prequalification process

### 2.1 Procedure and scope of the qualification system

During the prequalification process, the applicant is given the opportunity to demonstrate its suitability and reliability for providing the various consulting services. Applicants may only be self-employed persons as defined in the German Social Code (SGB) IV who meet the minimum requirements for prequalification. After prequalification, the applicant can participate in EU-wide award procedures for the DB Group for all, several or individual consulting services.

The Deutsche Bahn AG qualification system for consulting services/management consulting includes the commodity groups:

- 41507011 Corporate governance/organization consulting
- 41507012 Human resources/staff development consulting
- 41507013 Marketing/sales consulting
- 41507014 Technology consulting
- 41507015 Quality management consulting
- 41507021 Logistics/purchasing consulting
- 41507022 Controlling, finance and accounting consulting
- 41507023 Project management
- 41507024 Environmental management consulting
- 41507025 IT strategy consulting

The application is submitted by the company itself on the supplier management tool SMaRT (<https://smart.noncd.db.de>) provided by Deutsche Bahn AG. **One or more** commodity groups must be selected for which a **single** prequalification application can be submitted.

First, the reliability of the applicant is ascertained in the system in accordance with the grounds for exclusion pursuant to Sections 123 et seq. of the Act Against Restraints of Competition (GWB). This is followed by the assessment of suitability (expertise and performance) on the basis of rate cards and references for each individual commodity group.

The primary purpose of the prequalification process is to collect information on the expertise, experience and working capacity of the applicant for the provision or quality-assured brokerage of the respective consulting services. In the case of brokered services, both the brokers and the brokered service providers must be self-employed persons within the meaning of the German Social Code (SGB) IV.

The statements made by the applicant in the prequalification documents shall be binding and be included in subsequent contracts.

An applicant may choose to seek prequalification for all, several, or only individual areas of expertise based on commodity groups for consulting services 41507xxx.

The Procurement Consultancy Services department reserves the right, in order to satisfy any need for clarification that may arise from its point of view or to verify the information provided by the applicant, to have audits carried out by third parties or to pursue other suitable avenues together with the applicant in order to answer unresolved questions.

In the event of prequalification, the prequalified applicant agrees to participate in the subsequent award procedures for consulting services. If the prequalified applicant does not participate in four consecutive award procedures after being requested to do so, Procurement Consultancy Services reserves the right to withdraw the applicant's prequalification.

The applicant undertakes to comply with the requirements assured within the scope of prequalification in the event that consulting services are rendered. Procurement Consultancy Services reserves the right to refuse the corresponding consulting service in case of non-compliance with these requirements.

**Important information:** The existing prequalification system for consulting services will be discontinued on August 31, 2022. The prequalifications stored there will lose their validity from September 1, 2022. Suppliers still prequalified via the previous system or new suppliers only submit

their applications for prequalification in Deutsche Bahn AG's SMaRT supplier management tool (<https://smart.noncd.db.de>).

## 2.2 Procedural provisions

### 2.2.1 Prequalification applications

Each interested consulting firm or broker of consulting services must submit a separate application. This also includes affiliates in a group of companies, for example.

Applications from applicants who are affiliated with other consulting firms or brokers consulting services pursuant to Sections 15 et seq. of the Stock Corporation Act (AktG) are only valid on behalf of and in relation to the applying consulting firms or brokers of consulting services.

Economically dependent branches with a place of business in the applicant's country shall be prequalified together with the applying consulting firm.

The documents and evidence provided by the applicant will be treated confidentially by Procurement Consultancy Services. For further details, see section 2.2.16.

The application is considered complete when the PQ questionnaire, rate cards and references are received. The application for prequalification is deemed to have been submitted as soon as the applicant's application has been conclusively triggered in SMaRT.

If applications or application documents have been submitted incompletely or implausibly, or if extra information or clarifications are required for the submitted documents, the corresponding documents or explanations will subsequently be requested or demanded with a deadline. If this deadline is missed, a decision on the application is made on the basis of the available documents. Documents submitted late can no longer be considered. The processing time for the application is extended by at least the total time from the day on which the request was sent until the day on which the supplementary documents are received.

Procurement Consultancy Services may request additional documents and proof from the applicant if necessary for its decision-making.

Upon completion of the prequalification process, the applicant will be informed of the decision regarding their application. If the prequalification is successful, the applicant will be included in SMaRT as prequalified and informed accordingly. Prequalification is granted for one or more 8-digit commodity group(s).

If the application is rejected, the applicant shall be notified thereof and of the reasons for the rejection.

### 2.2.2 Duration

Companies are able to access the prequalification system at all times. The granted prequalification is valid for five years. Companies will be notified in good time before the respective expiration date so that they can apply for renewed prequalification. During this period, the prequalified company may also extend the prequalification to additional commodity groups for consulting services.

### 2.2.3 Admission

The applicant shall be included in the PQ directory if the general supporting documents and the required proof to assess capability and expertise (suitability) as well as the absence of grounds for exclusion pursuant to Sections 123 et seq. GWB (reliability) for the contract types have been submitted in full and without errors.

### 2.2.4 Prequalification team

Deutsche Bahn AG

Procurement Consultancy Services, FE.EA 3

E-mail: pq-beraterleistungen@deutschebahn.com

## 2.2.6 Rights of inspection and modification

Procurement Consultancy Services reserves the right to review applicants at any time during the course of the prequalification process or during the period of validity of the prequalification with regard to the existence or continued existence of the suitability criteria evaluated in the prequalification process or of grounds for exclusion pursuant to Sections 123 or 124 GWB.

Procurement Consultancy Services likewise reserves the right to change the regulations of the prequalification system - encompassing existing prequalifications - including the requirements and criteria, and to obtain further information from the applying consulting firm as a result. The customer shall announce any relevant changes in due time.

## 2.2.7 Duty to update information

The applicants or suppliers that have already been prequalified shall immediately notify the team mentioned in section 2.2.5 of any significant changes that are relevant to inclusion or retention in the PQ directory, even without a separate request, and shall provide evidence in a suitable form, e.g. by submitting excerpts from the commercial register. These notifications must be submitted in writing in the SMaRT tool.

In particular, the following changes are considered significant:

- Legal company name
- Mergers with other companies, in particular consulting firms or brokers of consulting services
- Sales of resources or parts of the company that are essential for prequalification
- Company form
- Ownership structure
- Register entries of the company
- Business locations
- Disclosures on supplier expertise and capability
- Minimum personnel requirements (number and qualification)
- Information on grounds for exclusion under public procurement law pursuant to Sections 123 et seq. of the German Act Against Restraints of Competition (GWB)

If changes are not communicated or are communicated late and Procurement Consultancy Services learns of changes, this may result in the revocation of prequalification.

## 2.2.8 Request for updates

For reasons of timeliness, Procurement Consultancy Services may request prequalified suppliers to update their prequalification or renew individual supporting documents at any time. In this case, the documents must be available no later than the date of the next invitation to tender.

## 2.2.9 Decision on admission

The decision on whether an applicant shall be included in the supplier directory shall be made in accordance with the standard deadlines pursuant to Section 48 SektVO depending on the clarity, quality, accuracy and completeness of the supporting documents submitted, but no later than within six months of receipt of the application. If a decision cannot be reached within four months, the customer shall announce this within two months of receipt of the request, together with the expected date of the decision. The company must be notified if the application is rejected within 15 days of the decision, stating the reasons. The applicant will not be included in the supplier directory if they answer "No" or fail to answer at least one of the questions or statements marked as exclusion criteria in the SMaRT tool, or fails to fully meet the minimum requirements (mandatory statements) according to the prequalification questionnaire after a case-by-case review.

## 2.2.10 Supplier management

The prequalification system is also part of Deutsche Bahn AG's multi-stage supplier management system for consulting services, which includes supplier evaluation and supplier development.

Existing supplier evaluations conducted for supplier management may be included in the review of an applicant's application. Supplier evaluations with the result "poor" may lead to the application being rejected.

## 2.2.11 Exclusion from the procedure, revocation of prequalification

Procurement Consultancy Services reserves the right to reject applications for prequalification in justified individual cases in accordance with Section 48 (12) SektVO, to refuse to recognize prequalifications that have already been granted, or to request the consulting firm, or the broker of consulting services, to resubmit documents. This applies in particular if significant changes to the prequalification requirements (section 2.2.7) have not been communicated, or have not been communicated in good time, or if there are reasonable doubts about the expertise or capabilities of the consulting firm or the broker of consulting services as a supplier to Deutsche Bahn AG, if there is a reason for exclusion pursuant to Sections 123 et seq. GWB or if one of the other circumstances mentioned in this information sheet occurs.

At any time during the process and during the period of validity of the prequalification, the existence of the requirements of Section 123 GWB or Section 124 GWB may lead to the immediate exclusion of the company concerned from the prequalification process or to the revocation of prequalification pursuant to Section 48 (12) SektVO.

The supplier concerned shall be notified of the intended revocation of prequalification in writing, stating the reasons, at least 15 days in advance. Prequalification can be revoked on the basis of the criteria for inclusion in the supplier directory and the supplier evaluation (section 2.2.10). The supplier rating can be updated after each completed order.

## 2.2.12 Directory of prequalified companies (PQ directory)

The PQ directory is maintained for individual prequalified suppliers. Information about individual references is passed on to external third parties in order to verify references.

## 2.2.13 Rotation and rationality principle

The idea behind the rotation principle is to ensure that, in the case of a large number of prequalified companies, all applicants are given an equal opportunity to submit a bid over the longer term, depending on their size and competence. The rationality principle states: In individual cases, the number of candidates invited to submit a bid may be reduced in proportion to the effort involved in the procedure, provided that competition is thereby ensured.

## 2.2.14 Minimum requirements (mandatory information)

The applicant is required to provide complete information when applying using the SMaRT tool. The system guides the applicant through the application procedure and checks whether the required information has been entered.

If the applicant has less than five employees working in **consulting** at the management consulting firm who can be deployed on German-speaking projects, prequalification is generally excluded. The management consulting staff may also include partners, managing directors or equivalent, provided that they can work on German-speaking projects. **On the other hand, network partners, freelancers, etc. must be not be included in any case.** If the final number is less than five, however, Procurement Consultancy Services reserves the right to make the final decision on prequalification (close case-by-case examination with regard to capability and expertise along with the existence of grounds for exclusion according to Sections 123 et seq. GWB). Prequalification is often possible even with less than five employees working in **consulting** at the management consulting firm if the applicant provides proof of their expertise by providing the required references in SMaRT, both with regard to consulting services and, optionally, by arranging for independent third parties to provide

consulting services. However, the volumes required are higher due to the higher staff turnover (compared to traditional consulting firms, which provide consulting services with their own staff). Whereas in the case of traditional consulting firms, two references (project completed **within the past four years**) with a volume of **at least EUR 250,000 each** are required for each competence category, in the case of brokers, a brokered consulting volume of **at least EUR 1,000,000** per competence category is required and must be verifiably listed. The corresponding consulting projects must also have been completed **within the past four years**; as many projects required to reach the minimum volume of EUR 1 million per competence category must be listed. However, the minimum volume per listed, brokered consulting project is **EUR 100,000**. Compliance with the minimum requirements for the required reference volumes is checked by the SmaRT tool during input. The requirements for whether the volumes have been met differs based on the capacity of the applicant, who may qualify either as a consulting firm, or as a broker. The corresponding characteristic can be selected when the applicant registers in SMaRT.

**Important note:** Project references must be listed in a descriptive and comprehensible manner. In SMaRT (Step 2 references), please describe in detail the initial situation, approach, objectives, and outcomes. The respective order value needs to be selected for "Price range". The order value may not be used more than once, but may be divided among different references at most. If references are used for more than one competence category or commodity group, the key points need to be aligned with the corresponding competence category in each case (for example, in large projects with multiple subprojects). Please continue to provide a contact person for the reference provider (i.e. your customer) for each reference, for more details see section 2.2.16.

In the event of missing or incomplete information, Procurement Consultancy Services reserves the right to refuse prequalification within 15 days of the decision, after prior request by the applicant to complete its information, stating the reasons.

### 2.2.15 Competent public contracts review board

Competent public contracts review board for repeat examination: Federal Public Contracts Review Board at the Federal Cartel Office, Villemombler Straße 76, D - 52123 Bonn, telephone: +49 228 9499-0, fax: +49 228 9499-163, e-mail: vk@bundeskartellamt.bund.de.

### 2.2.16 Confidentiality and data protection

Deutsche Bahn AG undertakes to treat all information provided during the prequalification procedure as confidential, insofar as this information is not of a public nature.

It is very important to Deutsche Bahn AG that personal data of applicants or their employees is handled in a trustworthy manner. The following describes how Procurement Consultancy Services handles personal data collected as part of the prequalification process. General information on data processing and technical data protection can be found at <http://www.deutschebahn.com/de/konzern/datenschutz/> .

Procurement Consultancy Services shall only collect, process and use personal data within the scope of the prequalification procedure and prequalification that is required for this purpose. In addition to company-related information, Procurement Consultancy Services also requires personal data in certain cases to process applications for prequalification and, if necessary, to carry out the subsequent phases of supplier management in accordance with section 2.2.10 (supplier evaluation or supplier development). Personal data includes, in particular: Contact data for communication purposes and, depending on necessity for individual areas of competence, personal records or qualifications.

The information provided by the applicant to Procurement Consultancy Services as part of its application will be treated confidentially at all times and will be viewed and processed within Procurement Consultancy Services by the respective responsible employees for the purposes of the prequalification process or prequalification. A third-party company bound to confidentiality may be used to process the entered reference data. The third-party company verifies the validity and therefore the existence of each reference by obtaining written confirmation from the original referee.

If necessary, this information is also taken into account for subsequent supplier evaluations or supplier development conducted by employees from the central purchasing department (as a rule, however, this is done without reference to individuals).

Finally, individual personal details are occasionally passed on to the relevant departments at the respective DB Group companies (to the customers) in the course of a subsequent contract award, only in the applicable individual case. The same applies to applications and documents that reach Procurement Consultancy Services, which are stored for targeted and faster processing. The data is archived after completion of the prequalification process or prequalification and then deleted after expiration of the statutory retention periods.