



Israel Railways Ltd.

Procurement & Contracting Division

Tender No. 41707

For the Manufacture and Supply of Fastening System Check Rail

("Tender")

General Terms and Conditions

Israel Railways Ltd. ("ISR"), in accordance with its obligations under the Israeli Mandatory Tender Laws, its implementing regulations and the International Agreement on Government Procurement, wishes to obtain proposals for:

The manufacture and supply of Fastening Systems Check Rail, including Clips No. 17 and T-Head Bolts with Nuts and Double Spring Washers (the "Systems") all in accordance with and subject to the terms specified in these General Terms and Conditions and the accompanying Tender Documents.

1. Pre-requisites for Participation in the Tender (the "Pre-requisites"):

- 1.1. Bidder must be the manufacturer and supplier of the proposed Systems; and
- 1.2. From 2014 and up to the Final Submission Date, Bidder has manufactured and supplied at least 450,000 (four hundred and fifty thousand) systems for railway companies.

2. Proof of Compliance with the Pre-requisites

- 2.1. **Proof of Compliance** - The bidder is required to submit with its proposal all documents and certificates necessary to prove its full compliance with the Pre-requisites, which shall include, *inter alia* the following:
 - 2.1.1. Bidder shall prove full compliance with the Prerequisite specified in Section 1.1 above by submitting a signed statement certifying that it is the manufacturer and supplier of the proposed Systems.
 - 2.1.2. Bidder shall prove full compliance with the Prerequisite set forth in Section 1.2 by submitting a signed and completed Experience and Reference List, in the form attached hereto as **Appendix D** evidencing that from 2014 and up to the Final Submission Date, Bidder has manufactured and supplied at least 450,000 (four hundred and fifty thousand) identical or similar System for railway companies.

2.2. Notwithstanding the aforesaid in Section 2.1, ISR shall have the right, in its sole discretion, not to disqualify proposals which do not contain all the documents and certificates necessary to prove its compliance with the Pre-requisites. ISR shall have the right, in its sole discretion, to request from any of the bidders, details and/or approvals and/or recommendations and/or certificates and/or additional documents, necessary to enable ISR to reach the required decisions.

2.3. The bidder undertakes to maintain its compliance with the Pre-requisite specified in Section 1 above, at all times, up to and including the Proposal Validity Period as set forth in Section.

2.4. In order to remove any doubt, this request for proposal by ISR shall not be construed as compliance with any of the Pre-requisites specified above.

3. **Technical Requirements**

The proposed Systems shall fully comply with all of the requirements and terms included in the technical specifications attached hereto as **Appendix A1** and **Appendix A2** (the "Technical Specifications")

4. **Governing Agreement**

The supply of the Systems, including but not limited to, the price, terms of payment, scope of liability, responsibility and all other general and legal terms for the engagement with the supplier, shall be governed by the terms and conditions of the frame agreement attached hereto as **Appendix C** (the "Agreement"). The Agreement and the appendices attached thereto constitute an inseparable part of this Tender.

5. **Delivery Terms**

The terms of supply and delivery of the Systems shall be "DAP" " Delivery at Place" (as that term is defined in Incoterms 2010, International Rules for the Interpretation of Trade, ICC Publication No. 715) at ISR's site, as determined solely by ISR in the time of the Purchase Order (the "Site"), in accordance with the terms and the conditions specified in the Agreement.

6. **Time of Delivery**

The time of delivery for the supply of the Systems shall be in accordance with the terms and the conditions specified in the Agreement as follows:

6.1. For the first one hundred thousand (100,000) Systems - ninety (90) days following the issuance of the Purchase Order.

6.2. For the next three thousand fifteen hundred (315,000) Systems –one hundred and eighty (180) days following the issuance of the Purchase Order.

6.3. For Optional Systems and anymore Systems purchased- ninety (90) days following the issuance of the Purchase Order.
(**"Time of Delivery"**).

7. **Purchase Order**

- 7.1. ISR intends to issue a Purchase Order for four hundred fifteen thousand (415,000) Systems (the "**Initial Purchase Order**") within two (2) months from the effective date of the Agreement (the "**Effective Date**") subject to the terms and conditions set forth in the Agreement.
- 7.2. Additionally, during the Agreement Period, ISR, in its sole discretion, shall have the option (but shall not be obligated) to purchase from the Supplier additional Systems ("**Optional Systems**"). The relevant terms and conditions detailed in this Tender, including its Appendices, shall apply, *mutatis mutandis*, to the Optional Systems.

8. **Warranty**

- 8.1. The Supplier shall provide a Warranty and perform Warranty Services with regard to the Systems as such terms are defined in the Agreement, and in accordance with the provisions set forth therein.
- 8.2. The Systems shall be fully warranted by the Supplier for a period of two (2) years commencing on the day that a Final Acceptance Certificate (as defined in the Agreement) was issued in respect to the Systems (the "**Warranty Period**").
- 8.3. The cost of the Warranty and the provision of the Warranty Services, including the replacement of Defective Products (as such term is defined in the Agreement), labor, required equipment and any other cost related thereto, shall be borne and paid solely by the Supplier, and be considered as part of the Proposed Price for the Systems.

9. **Price Proposal**

- 9.1. The Bidder shall provide the proposed price for the supply of the Systems (the "**Proposed Price for the Systems**") in the Bidder's Proposal Form attached hereto as **Appendix B**.
- 9.2. The Proposed Price for the Systems, shall be denominated in Euro (€) currency, and shall be inclusive of all taxes, fees, duties, licenses, costs or other payments that are to be paid in connection with the manufacture, exportation, supply and delivery of the Systems, including but not limited to all types of importation and custom duties and services, such as transportation costs, customs agents' fees, purchase tax (in Hebrew "Mas Kniya" or "מס קניה"), wharfage fees (in Hebrew "Dmei Ratzif" or "דמי רציף"), Israeli customs duties, port handling fees (in Hebrew "Dmei Nitul" or "דמי גישול"), port infrastructure fees (in Hebrew "Dmei Tashtit" or "דמי תשתית"), cleaning of the containers, stuffing and unloading of the containers, cam locks for discharging the Systems at port, supervision while discharging at port, discharging terms at port, etc. For the sake of clarity, the Proposed Price for the Systems shall include any sum which the Israeli Tax Authorities require to be withheld at

source. Notwithstanding the above, Israeli Value Added Tax, if applicable, shall be borne by ISR.

- 9.3. The Proposed Price for the Systems shall be the final, complete and inclusive price that will be paid to Supplier for the supply and delivery of the Systems, including all of the related services, warranty, equipment, cost, fees duties and taxes as specified in the Agreement. Supplier shall not be entitled to any other payment, fee or compensation whatsoever from ISR.

10. Terms of Payment

Payment by ISR to the Supplier shall be as set forth in the Agreement.

11. Evaluation process and selection of Winning Proposal

- 11.1. The evaluation of the proposals submitted by bidders shall be conducted by ISR in accordance with the following process:
- 11.1.1. **Stage A – Preliminary Evaluation –**
- 11.1.1.1. Stage A1 – Prerequisites: Bidders will be evaluated in accordance with Section 1 above.
- 11.1.1.2. Stage A2 - Technical Evaluation – Technical Proposals shall be evaluated in accordance with the Technical Specifications.
- 11.1.2. **Stage B – Commercial Evaluation –** ISR shall open commercial proposals of Bidders who satisfy Stage A above.
- 11.2. The Winning Bidder shall be the Bidder whose proposal fully complies (and evidences compliance with) the Pre-requisites as per Section 0 above, the Technical Specifications (**Appendix A**) and all of the other requirements of the Tender and offers the lowest SP (Systems Price) for the Systems.
- 11.3. In the event of an Israeli Bidder, the Bidder must hold any and all necessary valid approvals and/or registrations in accordance with the Public Entity Transaction (Enforcement of accounting management and payment of taxation debts) Law, 5736-1976. (In Hebrew: 1976 - עסקאות גופים ציבוריים - חוק).
- 11.4. When reviewing the proposals submitted, ISR reserves the right, in its sole discretion, to take into consideration negative past experience of ISR and/or any other entity with any particular bidder and ISR may reject any particular proposal based solely on such past experience.

12. Tender Procedure – General

12.1. Download of the Tender Documents

- 12.1.1. Tender Documents are available for review and download at no charge at ISR's website at the following address:
<http://www.rail.co.il/HE/ISRTenders/Pages/TenderList.aspx>
(The interface at ISR's website with respect to the Tender Documents is currently in Hebrew only).

13. Submission of Proposals

- 13.1. All proposals must be submitted no later than **July 3rd, 2017 by 13:00 (Israel time)** ("**Final Submission Date**") in three separate envelopes, and these three envelopes shall all be inserted into one main envelope as specified below, which shall read Tender No. 41707 (hereinafter: the "**Main Envelope**") at the address set forth below.
- 13.2. The proposal shall be submitted by a single bidder. A bidder which submits more than one proposal shall be disqualified.
- 13.3. The proposal is to be submitted **in 3 copies** into **Tender Box No. 8**, located at the following address:
- Israel Railways Ltd.
Contracting & Procurement Division – Tender Box #8
Tel Aviv Train Station – Savidor (Arlozorov)
Tel Aviv, Israel
- 13.4. The Bidder is requested to read carefully all of the documents attached herein and submit the following documents in three separate envelopes as set out below, which should be included in the Main Envelope, signed, where applicable, by the authorized signatory bodies.
- 13.5. A separate envelope which shall read "**Prerequisites –Tender No. 41707**" shall be inserted in the Main Envelope and shall include the following:
- 13.5.1. A signed copy of the Agreement (**Appendix C**), including the Bidder's relevant information in the heading thereof (excluding the date) and including the Bank Account Form, attached to the Agreement as ***Annex C*** (only the winning Bidder is required to complete part B of the Bank Account Form).
- 13.5.2. A declaration certifying that the Bidder is the manufacturer and the supplier of the proposed Systems.
- 13.5.3. A signed and completed Experience and Reference List in the form attached hereto as **Appendix D**.
- 13.5.4. In addition Bidder shall submit additional proof such as supply reports and documentation.
- 13.6. A separate envelope which shall read "**Commercial Proposal –Tender No. 41707**" shall be inserted in the Main Envelope and shall include the following:
- 13.6.1. A signed and completed Bidder's Proposal Form (***Appendix B***).
- 13.7. A separate envelope which shall read "**Technical Proposal - Tender No. 41707**" shall be inserted in the Main Envelope and shall include the following technical information:

13.7.1. A signed copy of the Technical Specifications (*Appendix A1* and/or *Appendix A2*).

13.7.2. Company profile of the Bidder and its expertise; relevant information and data regarding the Systems.

13.8. All documents, drawing and information (in accordance with the Technical Specification requirements shall be submitted also in a soft copy (PDF file format).

13.9. All submitted proposals must be valid until six (6) months from the Final Submission Date as set forth above (the "**Proposal Validity Period**"), and may not be revoked or changed by the Bidder during this period for any reason whatsoever. In the event that ISR for any reason whatsoever does not enter into a contractual relationship with the winning Bidder, and/or the agreement with the winning Bidder is cancelled, ISR shall be entitled to elect, as a winning proposal, the proposal which offered the next lowest price for the Systems. The terms set forth in this Section shall apply, mutatis mutandis, following the replacement of the Bidder's proposal as aforesaid.

14. **Appendices**

The following appendices are attached hereto:

Appendix A1-A2 - Technical Specifications.

Appendix B - Bidder's Proposal Form.

Appendix C - A copy of the Agreement.

Appendix D1 - An Experience and Reference List.

15. **Confidentiality and Proprietary Rights**

15.1. By participating in the Tender process, each purchaser of the Tender Documents and each Bidder are deemed to have agreed to keep in strict confidence, and not to disclose and/or to make any use of any information or data, or any form or media, partial or complete, provided to them by ISR on its behalf or made known to them otherwise as a result of or in connection with the Tender; except that each Bidder may use such information or data solely for the purpose of preparing its proposal. It is hereby clarified that this section shall not apply to documents and/or information published by ISR on its website.

15.2. By submitting a proposal, each Bidder (including its members) shall be deemed to represent and warrant to ISR that (i) it is not bound by any contractual or statutory obligations which would preclude the Bidder from providing the data and information contained in the proposal or any portion thereof, (ii) it has the right to make all disclosures that are made in the proposal; (iii) the data and information contained in the proposal do not include any confidential information, trade secret or other proprietary information of the bidder and/or to any third party (except as and to the extent that the bidder may otherwise clearly indicate in writing) that ISR is prevented from using it.

- 15.3. All rights and titles in and to any and all drawings, sketches, and other technical documents and information provided by ISR or on its behalf to the Bidder as well as to all of the Tender Documents and the contents thereof, shall be deemed to be the sole and exclusive proprietary of ISR, and/or their use by ISR allowed by third parties.

16. **General**

- 16.1. A proposal reflecting any reservation regarding the attached documents or any part thereof, including the Agreement or the appendices attached thereto, whether by rejection, insertion or amendment to any part of the attached documents, may be disqualified.
- 16.2. ISR shall not be bound to accept the lowest-priced proposal or any other proposal whatsoever. In addition, ISR does not commit itself in any way to acquire the Systems or to enter into a contractual relationship with any of the Bidders.
- 16.3. ISR shall have the right, at its sole and absolute discretion, to verify the recommendations and other documents provided by the Bidder, and to request from any of the Bidders additional details, approvals, recommendations and/or certificates. In addition, ISR may, at its sole and absolute discretion, upon prior coordination with the Bidder, inspect the facilities of such Bidder at any time or any facilities where components of the Systems proposed by the Bidders are being manufactured. ISR may, at its sole and absolute discretion, contact and/or visit each of the customers detailed in **Appendix D** in order to check and evaluate the Prerequisites, the Technical Proposal, and/or Bidder's Proposal.
- 16.4. The Systems acquired shall be on a non-exclusive basis and ISR, at its sole discretion may, at any time, obtain Systems from any of the Bidders, and/or may acquire similar or identical Systems from any third party.
- 16.5. ISR shall issue Purchase Orders under the Agreement following the receipt and subject to the receipt of the necessary budgetary approvals.
- 16.6. ISR, in its sole discretion, may decide not to select any of the submitted proposals or may decide to cancel the entire Tender at any time.
- 16.7. ISR reserves the right to reject a proposal of a Bidder which does not have the financial strength required for the performance of the Agreement or that its commercial proposal is significantly lower than ISR's estimation.
- 16.8. In addition to any other event which entitles ISR by law to cancel the Tender, ISR reserves the right, at ISR's sole discretion, to cancel this Tender in the following events:
 - 16.8.1. If only one of the proposals is found suitable, according to the Prerequisites and/or other specification requirements according to these Tender Documents;

- 16.8.2. If ISR concludes that there was a flaw in the Tender process and/or in the evaluation of the proposals;
- 16.8.3. If ISR has found that a critical mistake has been made in the Technical Specifications, *inter alia*, by giving false data, missing data or incomplete data;
- 16.8.4. If the circumstances and/or ISR's requirements have been significantly changed, to such extent which requires the cancellation of the Tender;
- 16.9. ISR reserves the right, at its sole discretion, to conduct negotiations with any of the bidders in this Tender that it finds suitable, with respect to their commercial and/or technical proposals, or not to conduct negotiations at all.
- 16.10. All documents submitted in this Tender must be in English or Hebrew (including but not limited to all attachments, schedules, annexes, sketches, drawings, diagrams, tables and charts) and any additional information, questions, requests for clarification and interpretation, or any other communication, must be submitted in writing in English or Hebrew only, unless otherwise specifically stated in the Tender Documents or approved by ISR.
- 16.11. Each Bidder shall solely bear all costs associated with the preparation and submission of its proposal. This shall include, without limitation, any and all expenses and losses, which may be incurred by the Bidder, consultations with professionals, conducting investigations and inquiries of any kind, preparation of surveys and documents and the authentication and translation thereof and any other aspect in connection with the proposal. ISR will in no case be responsible or liable for any of the above costs, nor shall it be required, under any circumstances, to reimburse any such costs to any bidder.

17. Request for clarifications and/or additional information

- 17.1. Any Bidder may submit to ISR, in writing, inquiries and/or requests for clarification and/or additional information regarding the Tender or relating to the Tender Documents, as specified herein below.
- 17.2. Any inquiries with regards to this Tender should be addressed, in writing only and no later than **June 12th, 2017**, to Chen Gevirtz International Procurement Coordinator, by e-mail: cheng@rail.co.il. Bidders shall be responsible for verifying receipt by ISR of Requests for Clarification.
- 17.3. Should ISR decide, at its sole discretion, to respond to any requests for clarifications, such response shall be published in ISR's website (in the "Tenders section under the Tender's name) and, as of the date of such publication, shall constitute an integral part of the Tender Documents (each, a "**Notice to Bidders**").

17.4. Bidders shall be solely responsible to check ISR's website on a regular basis in order to follow publications by ISR. Any Notice to Bidders published at ISR's website shall be binding upon each bidder, whether or not bidder is aware of such Notice to Bidders, and bidders shall not have any claim in connection therewith.

17.5. It is hereby clarified that only information provided by ISR to the bidders by the way of a Notice to Bidders in accordance herewith shall be binding upon ISR (unless expressly specified otherwise therein), and ISR shall not be bound by any oral or written response or information communicated to Bidders in any other way.

18. Amendment of Tender Documents

At any time prior to the Final Submission Date, ISR may amend the Tender Documents by issuing notices to the Bidders. Any notice thus issued, shall be deemed as an integral part of the Tender Documents, and shall be communicated in writing. Each Bidder shall promptly acknowledge receipt of each notice to ISR (however, each notice shall be binding upon each Bidder, regardless whether the Bidder has acknowledged receipt of such notice(s) or not).

19. Notification of the Winning Bidder

ISR shall send notification of its decision to the Bidder selected as the winner in the Tender. Notifications shall also be sent to the other Bidders. For the removal of doubt, the aforementioned notification of the winning proposal shall not constitute the formation of a contract between ISR and such Bidder, and the entering into a binding agreement is conditioned upon the fulfillment of all required terms and conditions as detailed in the Tender Documents and the Agreement.

Appendix A1
TENDER No. 41707

Technical Specifications for Clip No. 17

Attached Separately

Appendix A2
TENDER No. 41707

**Technical Specifications for T-Head Bolt with
Square Neck M24x100 with Nut M24
and Double Spring Washer**

Attached Separately

Appendix B
TENDER No. 41707

BIDDER'S PROPOSAL FORM

Appendix B

Bidder's Proposal Form Tender No. 41707

For the supply and Manufacture of Fastening System Check Rail

Date: _____

Israel Railways Ltd.
Procurement & Contracting Division
Tel Aviv Central Train Station (Savidor)
Tel Aviv, Israel

Name of Bidder: _____

Address: _____

Telephone: _____

Facsimile: _____

Re: Proposal for the Supply and Manufacture Fastening System Check Rail

1. Bidder declares that it has read, fully understands, and agrees to the terms and conditions included in the Tender Documents of Tender No. 41707, including the General Terms and Conditions, the Technical Specifications and any appendices thereof (collectively the "**Tender Documents**"), and hereby submits to ISR (as that and all other terms not otherwise defined in this Appendix are defined in the Tender Documents) its proposal for the supply and Manufacture Fastening System Check Rail ("**Systems**").
2. All of the terms and conditions included in the Tender Documents shall be considered integral parts of this proposal.
3. All prices mentioned herein, including the Proposed Price for the Systems, shall be denominated in Euros (€).
4. Bidder hereby acknowledges and declares that sums stated herein (Appendix B) shall be the final, complete and inclusive price that will be paid to the Supplier for the supply, delivery of the Systems and the accompanying services to be provided by it as specified in the Agreement, including all warranty and spare parts obligations. The

Supplier shall not be entitled to any other payment, fee or compensation whatsoever from ISR.

5. The Proposed Price for the Systems, shall be denominated in Euro (€) currency, and shall be inclusive of all taxes, fees, duties, licenses, costs or other payments that are to be paid in connection with the manufacture, exportation, supply and delivery of the Systems, including but not limited to all types of importation and custom duties and services, such as transportation costs, customs agents' fees, purchase tax (in Hebrew "Mas Kniya" or "מס קניה"), wharfage fees (in Hebrew "Dmei Ratzif" or "דמי רציף"), Israeli customs duties, port handling fees (in Hebrew "Dmei Nitul" or "דמי ניטול"), port infrastructure fees (in Hebrew "Dmei Tashtit" or "דמי תשתית"), cleaning of the containers, stuffing and unloading of the containers, cam locks for discharging the Systems at port, supervision while discharging at port, discharging terms at port, etc. For the sake of clarity, the Proposed Price for the Systems shall include any sum which the Israeli Tax Authorities require to be withheld at source. Notwithstanding the above, Israeli Value Added Tax, if applicable, shall be borne by ISR.
6. The country and manufacturing site where the Systems will be manufactured is _____.
7. The Proposed Price for the Systems, including two (2) years of warranty, is as follows:

Item	Price per Unit	Quantity (for evaluation purposes only)	Total Price (Quantity multiplied by Price per Unit)
Clip No. 17		415,000	
T-Head Bolts with Nuts and Double Spring Washers		415,000	
Total Evaluated Price for Initial Purchase Order of Systems ("SP")			

All prices set forth pursuant to this Section 7 shall be fixed and shall not be linked to any price increase mechanism.

8. **Linkage Mechanism**

- 8.1. The Systems Price as specified in section 8 above shall be fixed and shall not be linked to any price increase mechanism for a period of two (2) years commencing on the Final Submission Date (as such term is defined in the Tender documents).
- 8.2. As from the 2nd anniversary of the Final Submission Date, the Systems Price shall be linked to the **European Consumer Price Index** (HICP E25 - Overall

index, Monthly Index, (2005=100) as published at Eurostat website <http://epp.eurostat.ec.europa.eu/portal/page/portal/hicp/data/database> ("**HICP**").

- 8.3. The basic index for the HICP shall be the last known index on the Final Submission Date.
- 8.4. Supplier undertakes to supply the Systems at the prices herein provided until the end of the Agreement Period (including the Option Period, if applicable).
9. Bidder understands that payment by ISR to the Supplier for the Systems shall be made by way of bank transfer in the mode and terms set forth in the Agreement.
10. Bidder hereby permits representatives of ISR to inspect its facilities, at any time.

Signature of Bidder

By: (print or type name):

Title:

Appendix C
TENDER No. 41707

THE AGREEMENT

Attached Separately

Appendix D

TENDER No. 41707

Experience and Reference List

Appendix D
TENDER No. 41707

Date: _____

Experience and Reference List of the Bidder

In accordance with Section 1.2 of the Tender General Terms and Conditions:
From 2014 and up to the Final Submission Date, Bidder has manufactured and supplied at least 450,000 (four hundred and fifty thousand) identical or similar System for railway companies.

Name of company to which the Systems were supplied	Date the under Systems were Supplied	Quantity of Systems supplied	Contact person	Telephone and Facsimile no. of contact person

Signature of Bidder: _____

By: _____

Title: _____

Please copy this page in order to fill in all relevant experience