

SCHEDULE 1

Regulation 8

Qualification stage

The information specified in this Schedule in relation to a particular tender exercise is as follows—

- (a) the instructions particular to the qualification stage of the tender exercise;
- (b) the qualification questionnaire;
- (c) the date, time and manner in which a completed qualification questionnaire is to be submitted to the competent authority;
- (d) the evaluation criteria to be applied by the competent authority in evaluating a completed qualification questionnaire submitted to the competent authority by a bidder;
- (e) an outline description of the regulated business information; and
- (f) any other such information in relation to the qualification stage of the particular tender exercise as the competent authority may determine is necessary.

SCHEDULE 2

Regulation 10

Proposal stage

The information specified in this Schedule in relation to a particular tender exercise is as follows—

- (a) the instructions particular to the proposal stage of the tender exercise;
- (b) a description of the information required by the competent authority for the submission of a proposal;
- (c) the date, time and manner in which a proposal is to be submitted to the competent authority;
- (d) the proposal evaluation criteria to be applied by the competent authority in evaluating a proposal submitted to the competent authority;
- (e) the regulated business information as at the point of the issue of the proposal documentation; and
- (f) any other such information in relation to the proposal stage of the particular tender exercise as the competent authority may determine is necessary.

SCHEDULE 3

Regulation 13

Best and final offer stage

The information specified in this Schedule in relation to a particular tender exercise is as follows—

- (a) the instructions particular to the best and final offer stage of the tender exercise, including—
 - (i) a description of the process to be followed during the dialogue phase; and
 - (ii) a description of the process to be followed during the final offer phase;
- (b) the regulated business information as at the start of the best and final offer stage;
- (c) the date on which the dialogue phase is to commence;
- (d) the minimum duration of the dialogue phase and any other information as the competent authority considers necessary in relation to the duration, or the method of determining the duration, of the dialogue phase;

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- (e) a description of the information required by the competent authority for the submission of a best and final offer;
- (f) the date, time (or a method of calculating these relative to the end of the dialogue phase) and manner in which a best and final offer is to be submitted to the competent authority;
- (g) the evaluation criteria to be applied by the competent authority in evaluating best and final offers; and
- (h) any other such information in relation to the best and final offer stage of the particular tender exercise as the competent authority may determine is necessary.

SCHEDULE 4

Regulation 21

Events of cancellation

The events in this Schedule are—

- (a) the competent authority does not receive any completed and compliant qualification questionnaires in accordance with regulation 9, or only receives one such questionnaire;
- (b) the competent authority determines that there are no bidders, qualifying bidders or, where appropriate, selected qualifying bidders, or that there is only one of any of these;
- (c) only one qualifying bidder or, where appropriate, selected qualifying bidder remains in the tender exercise after the disqualification or withdrawal of another qualifying bidder or selected qualifying bidder;
- (d) the competent authority does not receive any completed and compliant proposals in accordance with regulation 12;
- (e) the competent authority does not receive any compliant best and final offers in accordance with regulation 16;
- (f) the competent authority determines it is not appropriate to appoint a preferred bidder when evaluating the best and final offers in accordance with regulation 16;
- (g) a preferred applicant withdraws or is disqualified from a tender exercise and the competent authority has not determined a reserve applicant;
- (h) the matters referred to in accordance with regulation 17(2)(a) in the notice given under paragraph (1) of that regulation are not satisfied by a preferred applicant and the competent authority has not determined a reserve applicant;
- (i) the reserve applicant (where only one is appointed) withdraws or is disqualified from a tender exercise or both reserve applicants (where two are appointed) withdraw or are disqualified from a tender exercise after a preferred applicant has withdrawn or been disqualified from that tender exercise, or after a preferred applicant has failed to satisfy the matters referred to in accordance with regulation 17(2)(a) in the notice given under paragraph (1) of that regulation;
- (j) the matters referred to in accordance with regulation 17(2)(a) in the notice given under paragraph (1) of that regulation are not satisfied by a reserve applicant and the preferred applicant has withdrawn or been disqualified from that tender exercise, or the preferred applicant has failed to satisfy those matters;
- (k) a successful applicant withdraws from the tender exercise;
- (l) the competent authority determines that it would not be appropriate to grant a smart meter gas licence and a smart meter electricity licence to any qualifying bidder;
- (m) the competent authority determines that—

- (i) the regulated business information has varied from the regulated business information—
 - (aa) which was provided in a previous stage of the tender exercise; or
 - (bb) issued at the beginning of a tender stage, where the variation occurs during that stage of the tender exercise but after the required date and time for the submission to the competent authority of, as the case may be in that stage, the qualification questionnaire, proposal or best and final offer;
- and
- (ii) the extent of that variation is such that continuing with the tender exercise would not be fair and equitable to any qualifying bidder or bidder;
- (n) the competent authority determines that the dialogue phase of the best and final offer stage is not likely to reach a satisfactory conclusion in accordance with the rules for that stage contained in the best and final offer documentation; or
- (o) the competent authority determines that—
 - (i) the tender exercise has been compromised by the act or omission of (or on behalf of) any tender participant; and
 - (ii) in the circumstances, a competitive determination of the person to whom a gas smart meter communication licence and an electricity smart meter communication licence are to be granted cannot be ensured by continuing with the tender exercise.

SCHEDULE 5

Regulation 22

Disqualification events

1. The events in this Schedule are that a tender participant or any person acting on behalf of a tender participant—
 - (a) causes or induces any person to enter into an agreement to collude in relation to any aspect of the tender exercise or to inform a tender participant of the detail of any other tender participant's competition document;
 - (b) submits any information to the competent authority which is false or misleading, unless the competent authority permits the submission of further information in order to correct the false or misleading information;
 - (c) engages in or attempts to engage in any anti-competitive behaviour in respect of a tender exercise, or allows or encourages any such anti-competitive behaviour by any other tender participant or person acting on their behalf;
 - (d) does anything which would constitute the commission of an offence under section 1, 2 or 6 of the Bribery Act 2010⁽¹⁾;
 - (e) fixes or adjusts the detail of a competition document—
 - (i) by or in accordance with any agreement or arrangement with any other tender participant; or
 - (ii) by improperly using insider information;
 - (f) enters into any agreement or arrangement with any other tender participant that either tender participant shall refrain from submitting any competition document;

⁽¹⁾ 2010 c. 23.

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- (g) communicates to any person other than the competent authority the details of a competition document, except where the disclosure is made in confidence in order to obtain advice or information necessary for the preparation of that document;
 - (h) where that tender participant is a bidder group, changes the membership of the bidder group other than in accordance with the approval of the competent authority; or
 - (i) contacts any relevant person other than in a manner permitted in accordance with—
 - (i) any instructions particular to the conduct of the stage of the tender exercise during which the contact is made; or
 - (ii) any requirements specified in these Regulations.
2. In this Schedule, “competition document” means a document to be submitted or which has been submitted to the competent authority by a tender participant in accordance with these Regulations.
3. In paragraph 1(e), “insider information” means information which—
- (a) is used by a tender participant in the preparation of a competition document;
 - (b) relates to any other tender participant, or to any matter concerning the competent authority’s consideration of competition document, or otherwise to the requirement to provide a smart meter communication service;
 - (c) is relevant to the tender exercise; and
 - (d) is not generally available to all the tender participants who are participating in the stage of the tender exercise to which the competition document relates.
4. In paragraph 1(i)—
- (a) “relevant person” means a person acting on behalf of the competent authority—
 - (i) with respect to the tender exercise; or
 - (ii) who is otherwise capable of influencing in any way the conduct of the tender exercise;
 - (b) a reference to contacting a relevant person includes contact made for the purposes of discussing the possible transfer of such person to the employment of the tender participant.
5. A reference in this Schedule (other than in paragraph 1(h)), with respect to a tender exercise, to an action of or in relation to a tender participant includes a reference to an action of or in relation to a bidder, which occurs—
- (a) after the coming into force of these Regulations; and
 - (b) prior to the time that the bidder submits a qualification questionnaire.