

## 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<sup>(1)</sup>;
- (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;
- (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)—

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(1) 2010 c. 23.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (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.