
STATUTORY INSTRUMENTS

2009 No. 1340

**The Electricity (Competitive Tenders for Offshore
Transmission Licences) Regulations 2009**

PART 9

EVALUATION STAGE

Evaluation of tenders

14.—(1) The Authority shall evaluate each tender in respect of a particular qualifying project submitted to it by a qualifying bidder in accordance with the evaluation criteria set out in the invitation to tender documentation, in order to determine which qualifying bidder shall become the preferred bidder in respect of that qualifying project.

(2) The Authority may decline to consider a tender submitted to it by a qualifying bidder where the Authority determines that the submitted tender does not comply in any material respect with the requirements specified in the invitation to tender documentation sent in accordance with regulation 13(2).

(3) Where the Authority considers that it is unable to determine the preferred bidder in accordance with paragraph (1), it may commence a best and final offer stage in accordance with regulation 15.

(4) The Authority may evaluate each tender in respect of a particular qualifying project submitted to it by a qualifying bidder in accordance with the evaluation criteria set out in the invitation to tender documentation, in order to determine which qualifying bidder shall become the reserve bidder in respect of that qualifying project.

(5) The Authority shall give notice to each qualifying bidder of its determination made in accordance with paragraph (1), (2), or (4) or its action in accordance with paragraph (3) as applicable.

Best and final offer

15.—(1) Where regulation 14(3) applies, the Authority shall determine in accordance with the evaluation criteria set out in the invitation to tender documentation, which qualifying bidders shall be invited to participate in a best and final offer stage.

(2) The Authority shall give notice to each qualifying bidder as to whether they have or have not been invited to participate in a best and final offer stage.

(3) The Authority shall send to the selected qualifying bidders the best and final offer documentation, which shall include the information specified in Schedule 5.

(4) The Authority shall evaluate each best and final offer in respect of a particular qualifying project submitted to it by a qualifying bidder in accordance with the evaluation criteria set out in the best and final offer documentation, in order to determine which qualifying bidder shall become the preferred bidder in respect of that qualifying project.

(5) The Authority may evaluate each best and final offer in respect of a particular qualifying project submitted to it by a qualifying bidder in accordance with the evaluation criteria set out in the

best and final offer documentation, in order to determine which qualifying bidder shall become the reserve bidder in respect of that qualifying project.

(6) The Authority may decline to consider a best and final offer submitted to it by a qualifying bidder where the Authority determines that the submitted best and final offer does not comply in any material respect with the requirements specified in the best and final offer documentation sent in accordance with paragraph (3).

Notification of preferred bidder and reserve bidder

16.—(1) As soon as the Authority has determined the preferred bidder in respect of a particular qualifying project in accordance with regulation 14(1) or 15(4), it shall publish a notice to that effect.

(2) As soon as the Authority has determined the reserve bidder in respect of a particular qualifying project in accordance with regulation 14(4) or 15(5), it shall give notice of that fact to that reserve bidder.

- (3) The notice referred to in paragraph (1) must—
- (a) specify the name and address of the preferred bidder; and
 - (b) describe, in general terms, the matters to be resolved by the preferred bidder to the Authority's satisfaction as specified in paragraph (4), before that preferred bidder becomes the successful bidder in accordance with regulation 21(1).
- (4) The matters referred to in paragraph (3) shall include—
- (a) that the preferred bidder has established necessary arrangements to provide offshore transmission services for that particular qualifying project;
 - (b) that the preferred bidder has in place a bilateral agreement with the holder of a co-ordination licence to provide transmission services for that particular qualifying project;
 - (c) that the preferred bidder has acceded to the contractual framework which defines the relationship between the holder of a co-ordination licence and any provider of transmission services that the co-ordination licence requires the holder of a co-ordination licence to have in force; and
 - (d) any other matters which the Authority may determine are necessary in relation to that particular qualifying project.
- (5) The Authority shall give notice to the preferred bidder as to—
- (a) how the matters referred to in paragraph (4) shall be satisfied and by what date; and
 - (b) the amount of payment payable to the Authority as calculated in accordance with its cost recovery methodology in relation to the preferred bidder stage of that tender exercise.
- (6) Where—
- (a) the matters referred to in paragraph (4) are not resolved by the preferred bidder to the Authority's satisfaction;
 - (b) the preferred bidder fails to make the payment referred to in paragraph (5)(b); or
 - (c) the preferred bidder withdraws from the tender exercise in respect of that qualifying project in accordance with regulation 17(1),

the Authority may withdraw the notice published in accordance with paragraph (1) by publishing a further notice to that effect.

(7) Where the Authority has published a further notice in accordance with paragraph (6), it shall discontinue the tender exercise with the preferred bidder and may determine to treat the reserve bidder (where such reserve bidder has been determined in accordance with regulation 14(4) or 15(5)), as if that reserve bidder were the preferred bidder.

(8) Paragraphs (1) and (3), (4), (5) and (6) shall apply in circumstances where the Authority determines to treat the reserve bidder as if it were the preferred bidder.

(9) The Authority shall give notice to any qualifying bidder of the fact that it is not a preferred bidder or a reserve bidder.