

IMPLEMENTATION RULES/BASES FOR NEW WORKS

BIDDING FOR THE AWARD OF THE RIGHTS OF CONDITIONAL WORKS IN THE EXEMPT DECREE NO. 4 OF 2019 AND IN THE EXEMPT DECREE No. 293 of 2018

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1 INTRODUCTION

The present rules of implementation for new works and its annexes contain the common provisions applicable to all new works that this database implementation regulate, in particular, the obligations, terms and scope that the successful tenderers of such works must comply with during the execution and construction of the same, their entry into operation, as well as during the first twelve months of operation of the work, including verification of the total compliance with the provisions of the Exempt Decree No. 4/2019, of the Ministry of Energy, in its technical offer and in the Adjudication Decree. In this sense, the Bases for New Works define all those obligations applicable to the construction and implementation of new works laid down in Exempt Decree No. 4/2019, of the Ministry of Energy, and supplemented by other documents that form part of the bidding rules.

2 DEFINITIONS

The terms indicated below, which are used interchangeably in singular or plural, or in masculine or feminine gender, shall have the meaning indicated, in addition to those terms defined in the document General Administrative Rules of the Bidding Process:

- i. **Year:** Calendar year of three hundred and sixty five (365) days, with the exception of leap years.
- ii. **Significant Milestone:** Event defined in paragraph 8.3 and 8.4 of the General Administrative Rules and in the decree referred to in Article 96 of the General Law of Electrical Services, that the successful tenderer must comply and failure to comply will result in fines and collection of guarantees.
- iii. **Law No. 18,045:** Law about the Stock Market of the Ministry of Finance, published in the Official Journal on 22 October 1981.
- iv. **Month:** Calendar month.
- v. **NTSyCS:** Standard of Technical Safety and Quality of Service.

2.1 Titles of chapters and numerals

The titles of the chapters and numerals only have the purpose of facilitating the reading of this document and do not define its content and should not be used to interpret it.

3 IMPLEMENTATION OF THE WORK

The work implementation in the conditions outlined in the proposal of the successful tenderer shall be monitored by the Coordinator in accordance with the conditions and mechanisms that are established in the present Rules of Implementation for new works, which shall be understood as an integral part of the Proposal.

The Coordinator will be responsible for supervising the state of progress of the work, through technical audits of the Implementation of the work, approve the compliance with the relevant milestones and to report any breaches of deadlines and technical conditions to the Ministry, with a copy to the Superintendence, to make effective the corresponding guarantees, in accordance with the procedures, formalities and times specified in the present Rules of Implementation for new works and in the applicable rules.

3.1.1 Technical audit.

For each of the Awarded Work, the Coordinator will recruit a timely technical audit that will accompany the development of the Work during the implementation stage and 12 months after the Entry into Operation. The technical audit aims to follow up and monitor the timeline compliance, milestones and technical characteristics set out in the Bidding Rules and the Technical Offer for the Implementation of the Work.

This technical audit includes the verification of compliance with the relevant milestones of the Work, as well as the technical characteristics, which undertook the Successful Bidder in its technical bid, in accordance with the present Rules Implementation for New Works, and also specifically includes at least:

- i. Monitoring and certifying, during the implementation phase, the compliance with the relevant milestones defined according to the paragraph 8.3.1 of the General Administrative Rules.
- ii. To verify compliance with the technical conditions required for the Project in the Bidding Rules.
- iii. To verify compliance with the regulations applicable to the Work.
- iv. Check the compliance of the timeline of the Work, informing the planned v/s the real progress.
- v. Check the existence of risk factors that could affect the deadlines and technical quality established for the Work.
- vi. Develop and send to the Coordinator, with appropriate frequency, executive reports of the Work status, risk factors and other aspects such as those listed above.
- vii. Develop and send to the Coordinator, compliance and modification reports of relevant milestones with the opportunity that it is required.

The Successful Tenderer and the owners of the corresponding substations, must grant free access to the staff of the technical audit and to the Coordinator to the facilities of the Work and its corresponding required background that is considered necessary for the work of technical audit, monitoring, certification and control of the implementation of the obligations of the Decree that secures rights of exploitation and execution.

For these purposes, the Successful Tenderer shall deliver to the auditor appointed by the Coordinator, in a timely manner, the following background:

- i. All relevant information that allows to verify the compliance of each Significant Milestone with **30 calendar days** prior to the date of compliance of the respective Milestone.
- ii. All the information that allows to consistently verify the capacity and performance of the tenderer and its subcontractors, in order to develop the work in an appropriate manner, within the time limits, with the technical characteristics and quality required in the regulations and in the Bidding Rules.
- iii. Financial reports, certificates and other documents that the auditor considers appropriate and that demonstrate that the Work complies with its Technical Offer and with the requirements of the Bidding Rules.

- iv. Documentation to support the efforts and communications that the Successful Tenderer is carrying out toward the public agencies related to the Work.
- v. Programs of work, progress, testing and commissioning. The protocols of these works and the results obtained.
- vi. Memories of seismic calculation of structures and equipment, and primary substations that support compliance.
- vii. Results reported by the Technical Inspection of the Successful Tenderer in respect of the requirements outlined in the present Rules of Implementation for New Works and those offered by the Successful Tenderer in his offer.
- viii. Results reported by the Technical Inspection of the Successful Bidder in respect of the jobs to perform in substations.
- ix. The protocols for implementing the work at the request of the auditor.
- x. At the start of the Work, the total list of engineering deliverables documents of the project with their respective deadlines, as well as the procedures that the Successful Tenderer shall apply in the implementation of the work or that it will require to its contractors.

The technical audit that the Coordinator hired cannot be made by companies that are related or affiliated according to the terms set forth in paragraph (b) of article 100 of the Law No. 18,045 with the Successful Tenderer, nor will it be found paying any type of services to this that is/are related to the work to audit.

The Coordinator may define reports, financial reports, and protocols additional to those included in this section, as it deems necessary for the proper monitoring of implementation of the work, verification of compliance with milestones, among others, which will be requested by the technical audit to the Bidding Winner of each Work, which must respond in the time manner that the Coordinator or the auditor set. The technical audits will be on the cost of the Coordinator, without prejudice to that shall be done by the Tenderer the costs to be incurred to comply with the established in the Bidding Rules and for the purposes of the audit, among others, the costs of studies which allow the checks of the technical audit. In addition, in order to safeguard the compliance with the technical characteristics, the Coordinator may reject counterfeit to the Seismic Expert of the Successful Tenderer or reject plans or other documents of the Work.

4 GUARANTEES OF IMPLEMENTATION AND OPERATION OF THE WORK

In addition to the constitution of the warranty described in paragraph 8.2.5 of the document General Rules, the successful tenderer shall lodge the guarantees listed below for each awarded project.

4.1 Ensuring compliance with the milestones of the Work

The Successful Tenderer shall bond the compliance of the Milestones of the Project awarded, established in the paragraph 8.3.1 of the General Administrative Rules, through the presentation of the following guarantees.

The reporting mechanism of the guarantees will be as follows:

- i. The successful tenderer for each work must submit a warranty for a period of not less than **60 days** after the expiration of the time limit set out in the Schedule for the first significant milestone of the work, equivalent to 2% of the referential V.I. of each work, established in the Decree of new works. This warranty must be submitted to the Coordinator within **5 Working Days** following publication in the Official Journal of the Decree that secures the rights of exploitation and execution.
- ii. Once approved the compliance with the first significant milestone, or no later than 15 business days prior to the date set for compliance with the same, **whichever comes first**, the successful tenderer shall submit another guarantee for the same amount indicated in the preceding paragraph, but for a period of not less than the date corresponding to **60 working days** after the expiration of the time limit set out in its letter Gantt Chart for the next pending relevant milestone, according to schedule. The above is without prejudice to whether or not proceeded to collect the guarantee by the Ministry of the first significant milestone.
- iii. For the rest of the Relevant milestones of each work the same way.

4.1.1 General terms and conditions of the guarantees of compliance with the milestones of the Work

The payment of a guarantee will not affect the compliance of the obligation of the tenderer in respect to the presentation of the remaining guarantees within the milestone provided for such purposes.

The guarantees will ensure that the successful tenderer will comply with the time limits referred to in the Letter Gantt for the respective phases and Milestones that are Relevant to the Work. In the event that compliance does not occur, the Coordinator shall within **5 Working Days** of found non-compliance, reporting such situation to the Commission, to the Superintendence and the Ministry of Energy, referring to the latter, the guarantees for their collection or implementation, as appropriate.

The guarantees shall comply with the terms, conditions and characteristics as described below:

- i. It must be taken or contracted, policies, by the tenderer or by the company indicated in paragraph 8.2.7 of the General Administrative Rules, if emissions of the guarantees are subsequent to its constitution.
- ii. In the case of partnership, guarantees may be taken or contracted by the company indicated in paragraph 8.2.7 of the General Administrative Rules if the emissions of the guarantees are subsequent to its constitution, or by any of its members. In the latter case, the holder of the guarantee must be expressed in accordance with the following format: "Taker: (The name of the company an integral part of the Consortium) on behalf of the consortium (the name of the consortium or of society)".
- iii. You must provide a guarantee for each milestone and contract awarded.
- iv. Must be issued in the name of the Ministry of Energy, Ruth No. 61,979.830-5, in quality of the beneficiary and, in the case of the policies guarantee the beneficiary and insured.
- v. Shall be irrevocable, of immediate implementation and payable in full, or, in the case of Surety Policies (it is an insurance contract), upon first demand.

- vi. Must be issued in Chile by a banking institution or insurance company constituted in Chile and authorized by the SBIF¹ and the CPM, respectively.
- vii. The glossary of each warranty must be:

To ensure the time limit for the implementation of the (note the significant Milestone of the work), as indicated in the Document ONT-2: "Promise of deadlines Compliance" of the Technical Offer, for the exploitation and implementation of the New Work "(name of the Work)" and, in accordance with the terms and conditions established in the Decree that secures the rights and conditions of implementation and exploitation of that Work, issued by the Ministry of Energy".

The guarantees will be returned to the Contractor and/or released by the Coordinator, within **15 days** of receiving in accordance by the Coordinator of the respective Technical Auditor's report, in which recorded the compliance of time and form of the deadline for the respective milestone, and after delivery of the ballot of guarantee for the compliance of the next relevant milestone.

The guarantee compliance for the Relevant Milestone associated with the Operation Entry of the Work, will be returned and/or released to the Successful Tenderer by the Coordinator, within **15 days** of verified compliance the milestone and delivery from the Successful Tenderer to the coordinator of the Guarantee for the Proper Operation of the Work in accordance with the conditions offered by the Successful Tenderer.

If for any reason it will delay the entry into operation of the work, the successful tenderer must renew the validity of the ballot of Guarantee of compliance of the relevant milestone associated with the entry into operation, a single application of the Coordinator.

4.2 Fines for late Operation Entry of the Work

Without prejudice to the charging of the Compliance guarantee established for the Entry into Operation of the Work, the Successful Tenderer shall be subject to a fine the benefit tax of the 0.068% of the equivalent referential V.I. of the Work, established in the Decree of New Works, for each day of delay of the Entry into Operation, with a maximum of **730 calendar days**.

For these purposes, the date of Entry into Operation of the Work shall be as stated in the Decree that secures rights of exploitation and implementation that given the opportunity are dictated by the Ministry.

The coordinator will certify the number of delayed days within each month and will implement the liquidation, communicating to the Tenderer the amounts by concept of fine must be paid to the General Treasury of the Republic. The successful tenderer shall pay the fine within the fifth working day following the communication of the Coordinator through the form 10 of the General Treasury of the Republic. This obligation shall be monitored by the Superintendence, in virtue of their legal powers.

The collection of fines mentioned above does not preclude the implementation of sanctions and the possibility of taking appropriate actions, in accordance with the regulations currently in force.

4.3 Guarantee for the Operation of the Work in accordance with the Conditions Awarded

Within **30 calendar days** prior to the Entry into Operation of the Work, the Tenderer shall hand over to the Coordinator a guarantee for the purpose of safeguarding that the Work present a performance in accordance with the Technical conditions offered by this during its first year of operation, with and expiry date of 15 months from the Entry into Operation of the Work and for an amount equivalent to 3% of the referential V.I. of the Work, established in the Decree of New Works.

¹ <http://www.sbif.cl/sbifweb/servlet/ConozcaSBIF?indice=7.5.1.1&idContenido=483>

The delivery of the guarantee set forth above shall be a necessary requirement to authorize the Entry into Operation of the Work.

These guarantees will ensure that the Proponent will fully respect all the conditions and levels of operation offered in your Proposal, as may be determined by the Coordinator, prior report of the Technical Auditor, otherwise, the Coordinator shall inform the Ministry, the Commission and the Superintendence of the breach of such condition, and send the respective guarantee to the Ministry, for collection or implementation.

The guarantees shall comply with the general terms and conditions of the Guarantees of Compliance with the Milestones of the Work, as indicated in paragraph 4.1.1 of these Rules of Implementation for New Works, with the exception of the gloss, which must be:

"In order to ensure the Operation of the Work according to the technical conditions awarded, in the Process of Tendering for the rights of exploitation and implementation of the new work "(name of the work and stage number, if applicable)" of the National Electrical System".

The warranty associated with the operation of the work will be returned to the successful tenderer by the Coordinator within **15 Working Days** after receipt of order by the Coordinator of the technical auditor's report, in which is recorded both the correct operation of the project or the respective stage of the work, as appropriate, during the first 12 months of its operation in the SEN, as the correction of the outstanding issues that arose during the entry into operation of the respective stage of the work.

4.4 Guarantee of Implementation of the Work and Fines payment

The successful tenderer has to submit a guarantee with the objective to assure effective implementation of the work, as well as the payment of fines for late entry into operation, with a value equivalent to 8% of the referential V.I. of the Work, established in Decree No. 4/2019 of New Works.

This warranty shall be submitted to the Coordinator within **5 working days** following publication in the Official Journal of the decree that secures the rights of exploitation and execution, and shall be valid for a period of not less than 6 months following the expiry of the period laid down in the Letter Gantt for the fifth significant milestone of the work. Without prejudice to the validity indicated, at least **60 calendar days** before expiry, the successful tenderer must renew this warranty, to comply with the conditions required for its renewal. Notwithstanding the foregoing, the guarantee may have one year by the amount indicated in the first paragraph above, in which case you will need to renew on the same terms described above.

In the case of early ending of the process of implementation of the work, in accordance with section 4.5 of these rules for New Works , and in case of verified non-payment of late fines referred to in the preceding paragraph 4.2 , shall be proceeded with recovery of the corresponding guarantee.

The guarantees shall comply with the general terms and conditions of the guarantees of compliance with the milestones of the work, as indicated in the numeral 4.1.1 of these rules of implementation for new works, with the exception of the gloss, which must be:

"In order to ensure the effective implementation of the work and the payment of fines, in accordance with the technical offer, for the exploitation and implementation of the new work "(name of the Work)", in the corresponding Bidding Rules and the conditions laid down in the Decree that secures rights of exploitation and execution issued by the Ministry of Energy".

The guarantees will be returned to the successful tenderer by the Coordinator within **15 days** of receipt of order by part of the Coordinator, of the respective Technical Auditor's report, in which attesting that the work has entered into operation, upon delivery of the ballot of guarantee for the proper operation of the work in accordance with the conditions offered by the tenderer,

and verification by the Coordinator, that the successful tenderer has paid the late penalties referred to in the preceding paragraph 4.2 , in the event that these proceed.

4.5 Early finalization of the process of implementation of the work, and revoking the Award

Without prejudice to the collection of the respective guarantees, the Coordinator reserves the right to terminate execution of the work in advance, with prior authorization of the Ministry, in the event of grave breaches, such as the non-delivery of the successful tenderer of relevant guarantees within the required time or other defaults that suggest that the successful tenderer will not be able to comply with the execution of the work.

The Ministry shall authorize the early termination of the implementation process, through the issuance of the respective administrative act, when the Coordinator has accredited or sufficiently serious infringements referred to in the preceding paragraph.

The early termination of the implementation process shall not entitle the Contractor to any compensation. In this case the Ministry shall proceed with recovery of the guarantee referred to in the preceding paragraph 4.4 of these databases for new works.

In the event of the early termination of the process of execution of the work, proceed to call a new tender in accordance with the law.

5 GENERAL OBLIGATIONS OF THE SUCCESSFUL TENDERER

5.1 Acquisitions

The purchase, acquisition and/or lease of movable property and/or properties, materials or technicians that are necessary for the emplacement of the facilities or works shall be carried out directly by the successful tenderer, under their sole responsibility and at their own risk in accordance with the provisions of the DFL N° 4 and other applicable regulations.

5.2 Bondage

All expenditure incurred or value disbursed by concept of conservation easements shall be exclusively responsible and the responsibility of the successful tenderer.

The easements shall be the responsibility of the successful tenderer, who in consequence will be responsible for form in accordance with the legal framework and with respect to compliance with the deadlines for execution of the work and entry into operation.

All costs arising from the purchase of land, expropriations and other similar referred to easements are of the successful tenderer, and must internalize them in its economic offer.

5.3 Environmental Aspects

The successful tenderer shall, as appropriate, must bear expenses and costs of compliance with environmental regulations, applicable to the work.

5.4 Civil Liability insurance for damage to Third Parties

The successful tenderer must adopt, during the implementation phase, all measures to avoid damage to third parties, personal injury and death, either to personnel working in the work as to third parties. You will still need to take all precautions to avoid damage to the property of third parties and the environment during the execution of the work.

The successful tenderer shall be solely responsible for any damage, of any nature, that on the occasion of the execution of the work and its exploitation cause to third parties, the staff of the work, the property of third parties or the environment, for which purpose shall take the appropriate insurance.

- i. No later than **30 calendar days** prior to compliance with the relevant milestone N° 2 pointed out in the letter Gantt chart of its technical bid, the successful tenderer shall deliver to the Coordinator of the copies of the insurance policies by civil liability for damages to third parties and/or their property as a result of accidents occurring during the execution of the works awarded, certified by the insurance company, with a coverage equivalent to 1% of the referential V.I of the work laid down in the Decree of New Works, with a deductible maximum corresponding to 5% of the coverage, payable in cash and that must be in force throughout the implementation phase of the work.

Insurance must include the numeral of cross liability, the values of the coverage, either by accident, by total limit added and by limit per worker for employers' liability shall be a minimum of two hundred and fifty thousand United States dollars (US\$ 250,000) per worker for employer liability.

- ii. The successful tenderer shall, in addition, certify the coverage of an insurance of civil liability for damages to third parties and/or their property as a result of accidents occurring during the operation of the workmanship for a period of up to 12 months after its entry into operation.

As an Insured party, they should at least include the successful tenderer, the related companies, contractors and subcontractors.

The foregoing is without prejudice to the right of the Ministry of Energy to implement or enforce the respective guarantees.

5.5 Catastrophe Insurance

No later than **30 calendar days** prior to compliance with the relevant milestone N°2, pointed out in the Letter Gantt of its technical offer or the date of effective compliance with the referred Milestone, whichever comes first, the Contractor must make delivery of one or more insurance policies that cover the catastrophic risks throughout the execution of the work, and its validity shall be extended until 12 months after the entry into operation of the work. Such insurance shall be in an amount in the time comes to cover at least the equivalent of 20% of the referential of the V.I. work established in the Decree N°4/2019 New Works. Such insurance shall be taken as an insurance "All Risk" and as the insured at least must include the successful tenderer, the related companies, contractors and subcontractors. The sum received from the catastrophe insurance will be aimed at the reconstruction or repair of the work affected.

This insurance must be in force throughout the period of execution of the work until the entry into operation of the totality of art works and shall indicate the payment of the same. The supervision of this obligation will be in charge of the Coordinator.

These policies should cover catastrophic risks in the implementation phase, will defend all kinds of damage, including among others, as a result of fire, explosion, risks of nature, earthquake, flood, storm, volcanism, avalanches, x-rays, weight of snow or ice, floods, damage caused by strikes and acts of terrorism, sabotage, mechanical or electrical breakdown, consequential damage by design errors, consequential damage by material and defective workmanship, testing and commissioning and other risks inherent to construction and assembly.

Catastrophic insurance policies may not be included or include the policies for civil liability referred to in the preceding paragraph 5.4 , and shall be delivered separately.

It shall be the responsibility of the successful tenderer to make representations to the insurance companies for payments for damage or loss.

The above is without prejudice to the right of the Ministry to implement or enforce the respective guarantees.

5.6 Patents, Permits and Others

The successful tenderer shall assume all responsibility in obtaining permits, patents and other legal obligations, both during the period of the execution of the work, such as during its operation, including compliance with the conditions of connection to the National Electricity System in accordance with the existing sectorial rules.

5.7 Identification of Interference

The successful tenderer has the obligation to identify and resolve any interference that may occur during the period of implementation, interconnection and exploitation of the work, such as the interference to other lines, substations, or power generation facilities, among others. On the basis of the above, all transfer and adaptations of installations will be of cost and the successful tenderer.

5.8 Other criteria to be considered in the Work

The successful tenderer during the development of the work shall have the obligation to consider the following:

- i. Compliance with the NTSyCS and all other regulations (environmental, technical, electrical, DGA, DGAC, among others).
- ii. Realization of the corresponding impact studies, prior to its entry into operation, in accordance with the regulations in force.
- iii. Compatibility of the technical characteristics and constructive of the cloths line interconnection in the substations with the facilities and existing systems.
- iv. Compatibility of the control systems and protections with existing systems.
- v. Design criteria and calculation of the elements according to existing rules for projects in that area. How to reference it is recommended to see Standards NSEG 5 in 71, of strong currents.
- vi. Safety factors, the levels of environmental requirement, seismic and climatological that characterize the area of the work.
- vii. It shall be the responsibility of the proposer to include in their design criteria, seismic specifications that the experience advice. This experience is related to the own of the works in Chile and the experience of suppliers that have provided equipment for projects in Chile.
- viii. The electrical equipment in general, in all its parts, structures, electrical equipment itself and accessories annexes, must be designed in such a way that they are able to withstand, without damage or disruption to the service of the installation, the total replies more unfavorable than may be needed compared to seismic movements, and in full role of the foundation that sustains it and terrain in which they have been installed.
- ix. Consideration should be given to efforts in horizontal and vertical planes, with the acceleration values, displacement and velocities according to the accepted criteria for this type of designs.
- x. It should be considered that the team as a whole has rigid components and other parties not rigid; however, they must function as a harmonious whole in front of seismic events while maintaining the degrees of secure response within the ranges recommended.
- xi. Compliance with the General Technical Specifications of new works that are part of the bidding rules.