STATUTORY INSTRUMENTS

2025 No. 658

ENERGY

The Code Manager Selection (Competitive) Regulations 2025

Made - - - -	*5th June 2025*
Laid before Parliament	*9th June 2025*
Coming into force - -	*7th July 2025*

The Gas and Electricity Markets Authority(**a**) makes these Regulations in exercise of the powers conferred by sections 189 and 331(2) of the Energy Act 2023 (the "Act")(**b**).

The Secretary of State has approved the making of these Regulations in accordance with section 189(5) of the Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Code Manager Selection (Competitive) Regulations 2025 and come into force on 7th July 2025.

(2) These Regulations extend to England and Wales and Scotland.

Interpretation

2. In these Regulations—

"application period" means the period specified in the competitive selection notice in accordance with regulation 6(2)(d);

"Authority" means the Gas and Electricity Markets Authority;

"competitive selection" means a procedure carried out in accordance with these Regulations in order for the Authority to determine the person who is to be selected to be the code manager in relation to a designated document(**c**);

"competitive selection notice" means a notice given in accordance with regulation 6;

"eligible candidate" means a person who may apply to be selected to be the code manager in relation to a designated document in accordance with the determination made by the Authority in regulation 3;

"mandatory criterion" has the meaning given by regulation 5(1)(c)(i);

"open procedure" has the meaning given by regulation 3(a);

"restricted procedure" has the meaning given by regulation 3(b);

(**a**) The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c. 27).
(**b**) 2023 c. 52. See section 332 for the definition of "the GEMA".
(**c**) See section 182(1) of the Energy Act 2023 (c. 52) (the "Act") for the definition of "designated document" and section 183(1) of the Act for the definition of "code manager" in relation to a designated document.

"selection criteria information" means the matters determined in accordance with regulation 5(1).

Eligibility

3. For each competitive selection the Authority must determine whether an application for selection may be submitted—

(a) by any person (an "open procedure"), or

(b) only by persons that the Authority determines may apply for selection (a "restricted procedure").

Conflict of interest

4.—(1) Except as provided in paragraph (2), the Authority may not select a person to be the code manager in relation to a designated document unless the Authority is satisfied that the person has no financial or other interest that might prejudice the discharge by that person of the functions of code manager (a "potential conflict of interest").

(2) The Authority may select a person that has a potential conflict of interest if the Authority is satisfied that it is manageable.

(3) For the purposes of this regulation a potential conflict of interest is "manageable" if—

(a) measures can be taken by the person by which either—

(i) its interests which give rise to the potential conflict are removed, or

(ii) the risk of prejudice is avoided or mitigated to a level that the Authority considers acceptable, and

(b) either—

(i) those measures are taken by the person before selection, or

(ii) the person (if selected) will be required to take those measures, and the Authority is satisfied that the person will in fact take those measures.

(4) In determining whether a potential conflict of interest is manageable, the Authority may take into account—

(a) the terms and conditions of the code manager licence(**a**) that will address conflicts of interest, and

(b) the ability of the person to comply with those conditions.

Selection criteria information

5.—(1) For each competitive selection, the Authority must determine—

(a) the criteria against which an application will be assessed,

(b) how an application will be assessed against those criteria,

(c) for each criterion—

(i) whether it must be met for the applicant to be selected as the code manager (a "mandatory criterion"), and

(ii) if so, how it will be determined whether the criterion has been met, and

(d) where there is more than one criterion, an indication of their relative importance by—

(i) weighting each as representing a percentage of total importance,

(ii) ranking them in order of importance, or

(iii) describing it in another way.

(**a**) See section 183(2) of the Energy Act 2023 for the definition of "code manager licence".

(2) Paragraph (1)(d) does not apply to any mandatory criterion.

Competitive selection notice

6.—(1) For each competitive selection, the Authority must publish a proposal for the selection of a code manager in the form of a notice inviting eligible candidates to apply for selection.

(2) Subject to paragraph (3), the notice must set out—

(a) the name of the designated document it relates to;

(b) whether the competitive selection is to follow an open procedure or restricted procedure;

(c) where the competitive selection is to follow a restricted procedure, the names of the eligible candidates;

(d) the period during which an application must be received by the Authority;

(e) the form in which an application must be submitted;

(f) the selection criteria information;

(g) the information required from an applicant;

(h) such other information as the Authority may determine is appropriate in relation to the competitive selection;

(i) where paragraph (3) applies, the form of the confidentiality agreement.

(3) Where any of the information in paragraph (2) is confidential or commercially sensitive, that information may be excluded from the notice and the Authority may require an applicant to sign a confidentiality agreement in a form decided by the Authority before that information is issued to the applicant.

Proposed selection

7.—(1) Subject to paragraph (4), the Authority must evaluate each application in accordance with the selection criteria information to determine whether and, if so, which applicant it proposes to select to be the code manager (the "proposed selection").

(2) At any time during or after the application period, the Authority may seek further information from an applicant for the purposes of paragraph (1).

(3) The Authority may only propose to select a person to be the code manager if that person—

(a) is an eligible candidate,

(b) is not prohibited from selection by regulation 4,

(c) submitted an application that was received by the Authority,

(d) meets all the mandatory criteria, and

(e) has not withdrawn from the competitive selection.

(4) The Authority need not evaluate an application from a person who does not meet the requirements of paragraph (3).

(5) Before selecting the code manager, the Authority must—

(a) publish a notice which sets out—

(i) the name of the designated document the proposed selection relates to;

(ii) the proposed selection and the reasons for it;

(iii) the period within which representations may be made about the proposed selection, and

(b) consider any representations made within the period specified in that notice.

(6) If the Authority decides to proceed with the proposed selection, the Authority must, as soon as reasonably practicable thereafter, publish a notice of the selection.

Cancellation

8.—(1) The Authority may cancel the competitive selection where—

(a) it is satisfied that—

(i) following the application period, there is no person whom the Authority may propose to select to be the code manager in accordance with regulation 7(3), or

(ii) a change in circumstances makes it desirable to amend the selection criteria information,

(b) it has determined to change the basis of selection in accordance with regulation 3(6) of the Code Manager Selection Regulations 2024(**a**), or

(c) the person whom the Authority has proposed to select to be the code manager withdraws or is disqualified from the competitive selection.

(2) As soon as reasonably practicable after determining to cancel a competitive selection, the Authority must publish a notice, with reasons, to that effect.

Disqualification

9.—(1) The Authority may disqualify an applicant where it is satisfied that an applicant has—

(a) submitted any information to the Authority which is false or misleading,

(b) engaged in, attempted to engage in, allowed or encouraged any anti-competitive behaviour, or

(c) done anything which would constitute the commission of an offence under section 1, 2 or 6 of the Bribery Act 2010(**b**).

(2) As soon as reasonably practicable after deciding to disqualify an applicant, the Authority must publish a notice, with reasons, to that effect.

Notices

10. Where these Regulations require the Authority to publish any notice, the Authority must publish it in such manner as the Authority considers appropriate for bringing it to the attention of those likely to be affected by the subject matter of such notice.

The seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of

L.S.

Mark McAllister
A member of the Authority

5th June 2025

I approve

Michael Shanks
Minister for Energy
Department for Energy Security and Net Zero

28th May 2025

(**a**) S.I. 2024/1081. Regulation 3(6) of the Code Manager Selection Regulations 2024 allows the Authority to change the basis of selection in the circumstances specified in regulation 3(7) of those Regulations and "basis of selection" is defined in regulation 2 of those Regulations.

(**b**) 2010 c. 23.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure by which the Gas and Electricity Markets Authority (the "Authority") may make a determination on a competitive basis of the person who is to be selected to be the code manager in relation to a document designated by the Secretary of State under section 182(1)(a) of the Energy Act 2023 (c. 52).

Regulation 3 requires the Authority to determine whether the competition is to be open to anyone or only those invited to apply by the Authority.

Regulation 4 precludes the selection of any person with a conflict of interest, subject to certain exceptions.

Regulation 5 requires the Authority to prepare selection criteria before the start of the competitive selection exercise. Regulation 6 requires this, and other information, to be set out in a notice.

Regulation 7 requires the Authority to assess any applications against the selection criteria and make a determination of the person it proposes to select as the code manager. It requires the Authority to consult of the proposed selection before making a final determination taking account of any representations.

Regulation 8 sets out the circumstances in which a competitive selection exercise may be cancelled and regulation 9 sets out the circumstances in which an applicant may be disqualified. Regulation 10 makes provision regarding the publication of any notices required by these Regulations.

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