

**14 February 2023 at the meeting of the Procurement Evaluation Commission
answers to questions raised on the open tender regulations
“On the right to supply 460 000 MWh of natural gas for the needs of JSC
“RĪGAS SILTUMS” for heating season of 2023./2024.year”,
identification No. RS2023/020/AK**

Question:

Clause 6.1.10 of the open tender contains the following qualification requirement, the eligibility of which should be required to be demonstrated in the competition by each supplier interested in participating in the procurement procedure:

“The Tenderer has the credit rating of investment grade (not below Baa3, BBB-) confirmed by a rating agency recognised by the European Securities and Markets Authority.”.

With a high probability level, the interested Supplier points out that the investment grade credit rating of an active natural gas traders in the Latvian market, which would have been approved by one of the rating agencies mentioned in the requirement, is likely to have only one market participant.

Besides, when it becomes aware of such an atypical qualification requirement for natural gas purchases only from the tender Regulation after the announcement of the procurement procedure, it is objectively not possible for the other interested suppliers to obtain the approval of such an investment grade credit rating, since it is objectively not possible until the submission of tender on 16 February 2023. In addition, obtaining such an investment grade credit rating approval in an internationally recognized rating agency requires large financial investment. The creation of such costs for the interested Suppliers is considered to be significantly disproportionate to the needs of one procurement.

In compliance with the above, the interested Supplier uses the rights specified in Clause 2.2 of the tender Regulations and asks to explain in detail why such a qualification requirement is included. What possible considerations of the Customer should be recognized as sufficient and justified to narrow the competition in the tender so much?

Would interested suppliers be able to fulfill the mentioned qualification requirement if they could present the investment grade credit rating of their parent company or other group companies, which would correspond to the provisions of Clause 6.1.10 of the regulations? If the answer to the previous question is in the affirmative, please explain in particular what the fulfillment of such a qualification requirement would be able to bring to the Customer, if the parent company of the interested Supplier or another company of the group does not conclude a procurement contract with the Customer and does not undertake any direct (unmediated) financial and/or material responsibility for the performance of the procurement contract?

Answer:

The Customer is an energy supply merchant who has a responsibility to provide the public with a safe and high-quality energy supply service. As part of an open tender, it is planned to purchase the entire natural gas volume of 460,000 MWh for the heating season of 2023/2024 JSC "RĪGAS SILTUMS". The qualification requirement of Clause 6.1.10 of the Regulations was included to ensure a safe source of supply and reduce the risks of contract withdrawal.

In addition, we point out that under the provisions of Section 5 of the Regulations "Associations of entities and partnerships" the Tenderer can submit the offer as an association of entities (partnership) and fulfill the qualification requirements mentioned in Clause 6.1.10 of the Regulations by submitting corresponding documents to the tender.