

APPENDIX 8

AUCTION PROCEDURE FOR THE RESOLUTION OF COMPETITIVE SITUATIONS

DEFINITIONS AND INTERPRETATION

Auction Day 1

The business day immediately following Day 46.

Auction Day 2

The business day immediately following Auction Day 1.

Auction Day 3

The business day immediately following Auction Day 2.

Auction Day 4

The business day immediately following Auction Day 3.

Auction Day 5

The business day immediately following Auction Day 4.

Auction procedure

The procedure set out in Sections 2 to 4 below.

Day 46

Day 46 means:

- (a) in the case of two competing contractual offers, the 14th day prior to Day 60 as determined in accordance with Note 1 on Rule 31.3 and, if relevant, the Note on Rule 31.4; or
- (b) if one or more of the offerors is proceeding by way of a scheme of arrangement, such date as the Panel shall determine under Note 2 on Rule 32.5 as being the latest date on which a competing offeror may announce a revised offer prior to the commencement of the auction procedure.

Offer announcement

An announcement of a revised offer by a competing offeror during the auction procedure.

Revised offer

Any offer which represents an increase in the level of the consideration offered by a competing offeror (including the introduction of a new form of consideration or an alternative offer).

1 INTRODUCTION

(a) This Appendix 8 sets out the procedure normally to be followed pursuant to Rule 32.5 when a competitive situation continues to exist at 5.00 pm on Day 46 and no alternative procedure has been agreed between the competing offerors, the board of the offeree company and the Panel.

(b) Prior to the commencement of the auction procedure, the Panel will issue written instructions to each competing offeror and the offeree company setting out the detailed procedural requirements which the Panel considers are necessary to give effect to the auction procedure.

(c) This Appendix 8 assumes that there are two competing offerors. If a competitive situation involves more than two competing offerors, the Panel will modify the auction procedure as it considers appropriate.

2 GENERAL

(a) Except with the consent of the Panel, the latest time by which either competing offeror may announce or make a revised offer, other than in accordance with the auction procedure, is 5.00 pm on Day 46.

(b) If a competitive situation continues to exist at 5.00 pm on Day 46, a competing offeror may announce a revised offer thereafter only in accordance with the auction procedure.

(c) If one competing offeror makes a no increase statement either on the day prior to Day 46 or on Day 46 (before 5.00 pm), the other competing offeror may announce a revised offer on Auction Day 1 in accordance with Section 3(a).

(d) If, after 5.00 pm on Day 46, a person other than the then competing offerors announces a firm intention to make an offer for the offeree company, the auction procedure will end and the Panel must be consulted as to the applicable timetable.

(e) A competing offeror which is permitted to announce a revised offer on any day during the auction procedure may make only one offer announcement on the relevant day.

(f) Any offer announcement must comply with the provisions of Rule 2.7.

(g) A competing offeror must not announce a revised offer the consideration of which is calculated by reference to a formula that is determinable by reference to the value of a revised offer by the other competing offeror.

(h) If a competing offeror announces a revised offer which the Panel determines to be contrary to the provisions of the auction procedure, the Panel may declare the revised offer to be invalid, and the competing offeror concerned shall not be permitted to proceed with an offer on the terms set out in the announcement.

(i) Except with the consent of the Panel, during the auction procedure, the competing offerors, the offeree company and any person acting in concert with any of them must not:

(i) make any public statement which could reasonably be expected to affect the orderly operation of the auction procedure; or

(ii) deal in relevant securities of the offeree company or take any steps to procure an irrevocable commitment or letter of intent in relation to either competing offeror's offer or to amend, vary, update or replace any irrevocable commitment or letter of intent previously procured.

(j) Following the end of the auction procedure at 5.00 pm on any of Auction Days 1 to 5, the Panel will make an announcement confirming that the auction procedure has ended.

(k) Between the end of the auction procedure and the end of the offer period, a competing offeror and any person acting in concert with it must not place itself in a position where it would be required to revise its offer. See also Note 3 and Note 4 on Rule 32.1.

3 AUCTION DAYS 1 TO 4

(a) The auction procedure will commence on Auction Day 1. Either or both of the competing offerors may announce a revised offer on Auction Day 1. If neither competing offeror announces a revised offer on Auction Day 1, the auction procedure will end at 5.00 pm on Auction Day 1.

(b) A competing offeror may announce a revised offer on Auction Day 2 provided that the other competing offeror announced a revised offer on Auction Day 1. If no such revised offer is announced on Auction Day 2, the auction procedure will end at 5.00 pm on Auction Day 2.

(c) A competing offeror may announce a revised offer on Auction Day 3 provided that the other competing offeror announced a revised offer on Auction Day 2. If no such revised offer is announced on Auction Day 3, the auction procedure will end at 5.00 pm on Auction Day 3.

(d) A competing offeror may announce a revised offer on Auction Day 4 provided that the other competing offeror announced a revised offer on

Auction Day 3. If no such revised offer is announced on Auction Day 4, the auction procedure will end at 5.00 pm on Auction Day 4.

(e) If a competing offeror is permitted to announce a revised offer on any of Auction Days 1 to 4 and wishes to do so, that competing offeror must submit an offer announcement to the Panel before 4.00 pm on the relevant day.

(f) Unless the Panel otherwise consents or directs, if the relevant competing offeror submits an offer announcement to the Panel in accordance with paragraph (e), that competing offeror must announce the revised offer by submitting that offer announcement, in the same form as the announcement submitted to the Panel, to a RIS before 5.00 pm on the relevant day, embargoed for publication until that time.

(g) If the relevant competing offeror does not submit an offer announcement to the Panel in accordance with paragraph (e) on any of Auction Days 1 to 4, that competing offeror may not then announce a revised offer on that day.

4 AUCTION DAY 5

(a) If a competing offeror which is permitted to announce a revised offer on Auction Day 4 does so, either or both of the competing offerors may announce a revised offer on Auction Day 5. In any event, the auction procedure will then end at 5.00 pm on Auction Day 5.

(b) If either competing offeror wishes to announce a revised offer on Auction Day 5, that competing offeror must submit an offer announcement to the Panel before 4.00 pm on that day. The offer announcement may be submitted subject to a condition that the revised offer will be announced only if the other competing offeror also submits an offer announcement to the Panel before 4.00 pm on that day (but not subject to any other conditions, such as the level of a competing offeror's revised offer). If an offer announcement is submitted to the Panel subject to such a condition, the Panel will, before 4.30 pm on Auction Day 5, notify the relevant competing offeror whether the condition has been satisfied. If both competing offerors submit an offer announcement subject to a condition as referred to in this paragraph (b), both conditions will be deemed to have been satisfied.

(c) Unless the Panel otherwise consents or directs, if a competing offeror submits an offer announcement to the Panel on Auction Day 5 in accordance with paragraph (b) and either:

- (i) the offer announcement is not subject to a condition as referred to in paragraph (b); or

(ii) the offer announcement is subject to a condition as referred to in paragraph (b) and the Panel notifies that competing offeror that the condition has been satisfied,

that competing offeror must announce the revised offer by submitting that offer announcement, in the same form as the announcement submitted to the Panel, to a RIS before 5.00 pm on that day, embargoed for publication until that time.