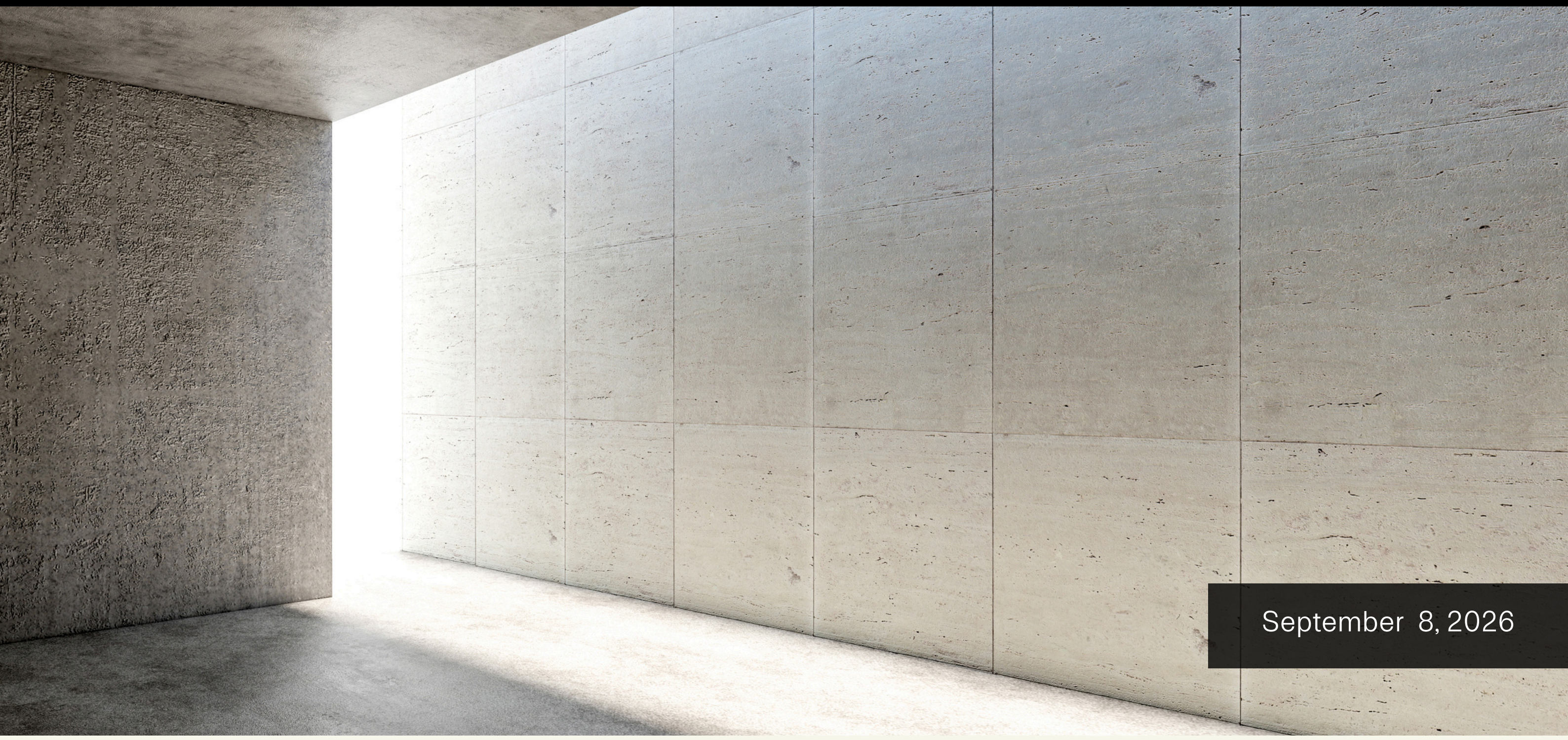
RITCH MUELLER



September 8, 2026

ENERGY AND INFRASTRUCTURE

NEWSFLASH

CFE publishes new General Provisions on procurement, leases, services, and works

On August 19, 2026, the Federal Electricity Commission (*Comisión Federal de Electricidad*, "CFE") published in the Official Gazette of the Federation (*Diario Oficial de la Federación,* "DOF") the General Provisions on procurement, leases, contracting of services, and execution of works of the Federal Electricity Commission (the "General Provisions").

The General Provisions were issued by the Board of Directors of CFE on July 13, 2026, through resolution CA-CFE-058/2026, in compliance with article 81 of the Law of the State-Owned Enterprise, Federal Electricity Commission (*Ley de la Empresa Pública del Estado, Comisión Federal de Electricidad*, the "Law"). They replace the provisions published in the DOF on June 23, 2015, and their 10 subsequent amendments.

The General Provisions apply to the procurement of goods, leases, services, works, and related services that CFE carries out within Mexican national territory. The following are excluded: (i) procurements with subsidiary companies and with public entities under the purview of SENER, SEMAR, SEDENA, the Ministry of Economy, and the Agency for Digital Transformation, which are governed by common law; (ii) those carried out by subsidiary companies; (iii) those that do not generate a payment obligation for CFE; (iv) advisory services to independent consultants; and (v) those executed outside Mexican national territory.

The General Provisions address, among other aspects, the following:

I. General Provisions

It is established that the interpretation of the General Provisions is attributed to the central contracting area, with the opinion of the Legal Division, within a maximum period of 10 business days; the criteria issued thereby may not impose additional requirements beyond those provided for in the General Provisions. Administrative, commercial, and civil law are supplementary. Acts prior to the award are of an administrative nature; once signed, the contract and its effects are of a private nature. The Technical Advisory Council for the Supply and Procurement Process (*Consejo Consultivo Técnico del Proceso de Suministro y Contratación*) is created, chaired by the Management Division (*Dirección de Administración*), as a consultative and decision-making body.

II. Procurement procedures

The General Provisions regulate the following procedures: (i) open tender (*concurso abierto*); (ii) simplified open tender (*concurso abierto simplificado*); (iii) restricted invitation (*invitación restringida*); and (iv) direct award (adjudicación directa), each of a national, international under treaties, or open international character. The general rule is the open tender, with a minimum period of 40 calendar days to submit bids when treaty coverage applies, and publication of the award within 25 calendar days following the submission of bids. The simplified open tender proceeds when the estimated amount is below the threshold communicated semiannually by the Ministry of Anti-Corruption and Good Governance (*Secretaría Anticorrupción y Buen Gobierno*). The restricted invitation requires at least 3 invitees and 2 technically sound bids.

In the open tender, at least one clarification session regarding the bidding terms (pliego de requisitos) must be held, with at least 5 calendar days between the close of the last session and the submission of bids. The responses and clarifications derived therefrom form an integral part of the bidding terms, without being able to alter the main technical characteristics or substantially affect the subject matter of the procurement. The opening of bids takes place in two stages: first the technical bid and the documentation other than such bid, and only with respect to the bids declared sound, the economic bid. The bid of the bidder that has not submitted the bid bond (*garantía de sostenimiento de oferta*) when required by the bidding terms will not be opened and will be deemed as not received.

The periods for the other procedures are considerably shorter. In the simplified open tender, at least 3 business days must elapse between the publication of the call or the close of clarifications and the submission of bids. In the restricted invitation without a clarification session, such period will be 3 business days for goods and services and 5 business days for works and related services. In the direct award, the period between the request for a bid and the award decision may not exceed 10 calendar days for goods and services or 20 calendar days for works. Additionally, the contracting area may suspend the procedure on one or more occasions, provided that the aggregate does not exceed 90 calendar days, and may cancel it due to fortuitous event, force majeure, or justified circumstances; prior to the opening of technical bids, line items may be cancelled for up to 40% of the budget allocated for the tender.

The procedures are conducted, as a general rule, through the Electronic Procurement System (*Sistema Electrónico de Contrataciones*); pending its implementation, the Tenders Microsite (*Micrositio de Concursos*) will be used.

Suppliers and contractors may register in the system free of charge, but registration is not required to participate in procurement procedures. Registration will be valid for one year, after which the information must be confirmed or updated. The system will also support a public database showing the performance history of contracts executed during the preceding five years. In addition, procurements, services, works, or related services valued at no more than the equivalent of 900 daily Units of Measurement and Update (*Unidades de Medida y Actualización*, "UMA") will not require a formal contract; recording the transaction and issuing the corresponding tax receipt will be sufficient.

III. Mechanisms and evaluation criteria

The mechanisms differ depending on the subject matter. For procurement, leases, and services, 12 are provided: (i) consolidation, (ii) next-year procurements, (iii) on-demand procurement, (iv) multi-year procurement, (v) procurement by limits, (vi) negotiation, (vii) joint bid, (viii) Base Discount Price (Precio Base de Descuento), (ix) prices subject to adjustment, (x) auctions, (xi) subcontracting, and (xii) simultaneous supply. For works and related services, 7 are provided: (i) next-year procurements, (ii) multi-year procurement, (iii) negotiation, (iv) joint bid, (v) Base Discount Price, (vi) auctions, and (vii) subcontracting. Consolidation, on-demand procurement, procurement by limits, prices subject to adjustment, and simultaneous supply do not apply to works.

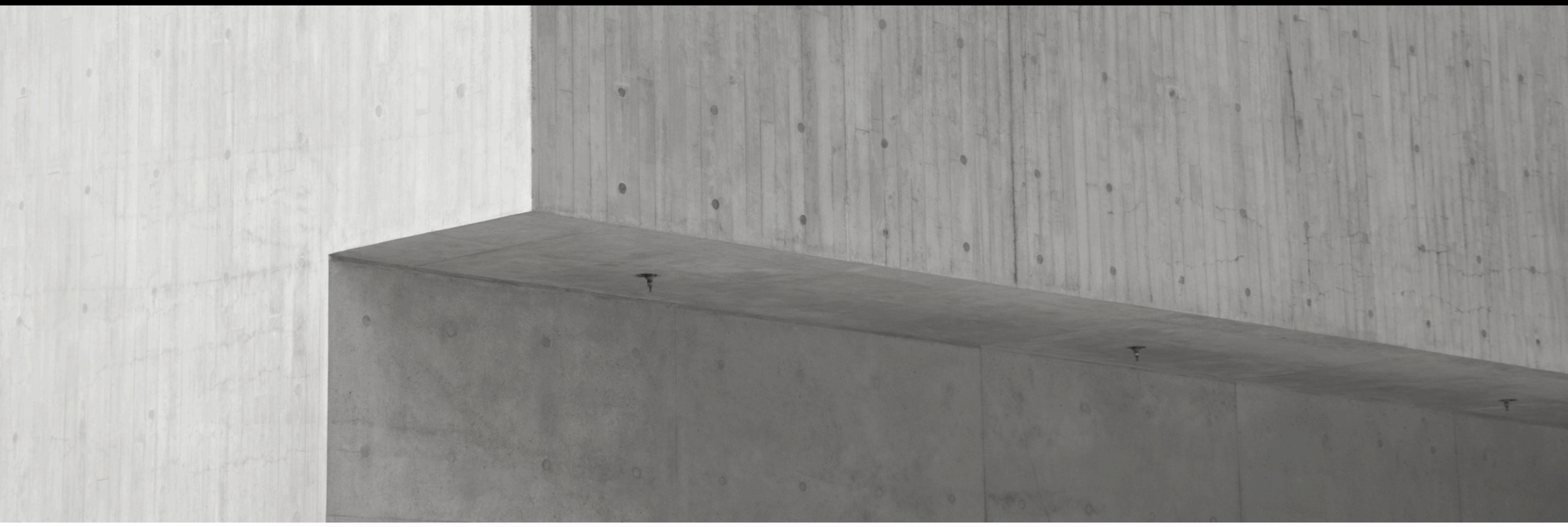
In the simultaneous supply mechanism, the price differential between suppliers of the same line item may not exceed 5% of the lowest sound bid nor the Maximum Procurement Price, and the first-place bidder is awarded more than 50% of the requirements.

The evaluation criteria also diverge. For goods and services: (i) cost-benefit, (ii) evaluation by price, or (iii) evaluation by points (best combination of quality, experience, specialty, and price, among others). For works and related services: (i) life-cycle cost, (ii) evaluation by price, or (iii) evaluation by points. The applicable criterion must be indicated in the bidding terms issued by CFE.

The negotiation stage is optional and must be provided for in the bidding terms. It is conducted by a negotiation group composed of a representative of the requesting area and one of the contracting area, with the accompaniment of internal audit, whose absence does not prevent the negotiation from proceeding. Only technically and economically sound bids participate. A single session is held per participant, in a single day, which may not be reopened; the agreements are recorded in minutes and are incorporated into the bid. Whoever does not participate or does not sign the minutes continues with their original bid.

Bids with an amount equal to or lower than the Abnormally Low Price (being the price resulting from subtracting up to 40% from the average of the prevailing prices of the sound bids) are under no circumstances eligible for award.

For goods and services, bids that exceed the Maximum Procurement Price or that result in a tie may access a counter-bid: a minimum discount of 1% on such price or an improvement of the price originally offered, submitted in a sealed envelope within one business day and evaluated in no more than two business days. For works, bids that exceed the Maximum Procurement Price are simply not eligible for award.



The tiebreaker criteria are established in the bidding terms. For goods and services: (i) counter-bids, (ii) superior technical characteristics, (iii) preference for MSMEs (MIPYMES), (iv) higher national content, and (v) manual drawing by lot (insaculación); the last two preference criteria apply only in national-character procedures. For works: (i) superior technical characteristics, (ii) preference for MSMEs (only in national procedures), and (iii) manual drawing by lot.

The General Provisions also incorporate two avenues of access distinct from the tender. The first are framework agreements (*convenios marco*), which CFE may enter into with one or more suppliers for goods and services for general use; the draft thereof will be published for at least 10 business days to receive comments and, while in effect, any supplier that meets its specifications may adhere to it after its execution. The second are unsolicited proposals, which any domestic or foreign third party may submit outside of a procurement procedure, provided they constitute an innovation or the party submitting them holds exclusive rights over their subject matter. Their receipt does not oblige CFE to analyze them, but it does oblige CFE to respect the intellectual property rights over the information received; should the analysis prove favorable and the condition of exclusive rights be met, a direct award may proceed.

IV. Contracts

The General Provisions establish that the contract must be formalized within the period provided in the bidding terms, which may not be less than 6 business days counted from the business day following the notification of the award; if the bidding terms do not establish such period, formalization must occur between the sixth and the tenth business day following such notification. The contracting area may defer the date of execution for up to 20 business days when a duly justified fortuitous event or force majeure occurs. The winning bidder that, due to causes attributable to it, does not execute the contract will forfeit the rights derived from the award; in such case, in the case of goods and services, CFE may request counter-bids from the other bidders, while in works and related services, CFE may award the contract to the bidder that placed 2nd, provided that the price difference does not exceed 10% of the winning bid. Contracts may be formalized through electronic signature.

It is noted that the bidding terms, the contract, and its annexes are the instruments that bind the parties, and that the contractual stipulations may not modify the conditions provided in the bidding terms. In the event of inconsistency between both, the provisions of the bidding terms shall prevail.

Regarding advance payments, the General Provisions provide for maximum amounts of 50% for the procurement of goods, 20% for services, 30% for works, and 10% for related services, percentages that may only be exceeded upon written authorization of the head of the requesting area at the deputy-director level (*subdirección*). For goods whose manufacturing process exceeds 60 days and for MSMEs, CFE will grant, under equal circumstances, an advance payment of between 10% and 50%. The total amount of the advance payment must be guaranteed by the supplier or contractor, it being understood that, for works, the failure to deliver the advance payment guarantee or the corresponding invoice will prevent the deferral of the date of commencement of works. Subcontracting will be permitted when specified in the bidding terms, provided that the accumulated amount does not exceed 49% of the total contract amount and subject to CFE's prior consent regarding the technical and financial capacity of the third parties, the supplier or contractor remaining solely liable before CFE.

The supplier or contractor may not assign the rights and obligations derived from the contract, except for collection rights, which may be assigned with prior written consent, which must be issued within 5 business days following the request, it being understood that failure to respond will be deemed a denial (*negativa ficta*). For works and related services, the contract must provide for CFE's acceptance of a deduction of five per thousand of the total amount for audit and internal control expenses, except in works that do not form part of its fixed assets or that are financed with resources from trusts or other sources of payment.

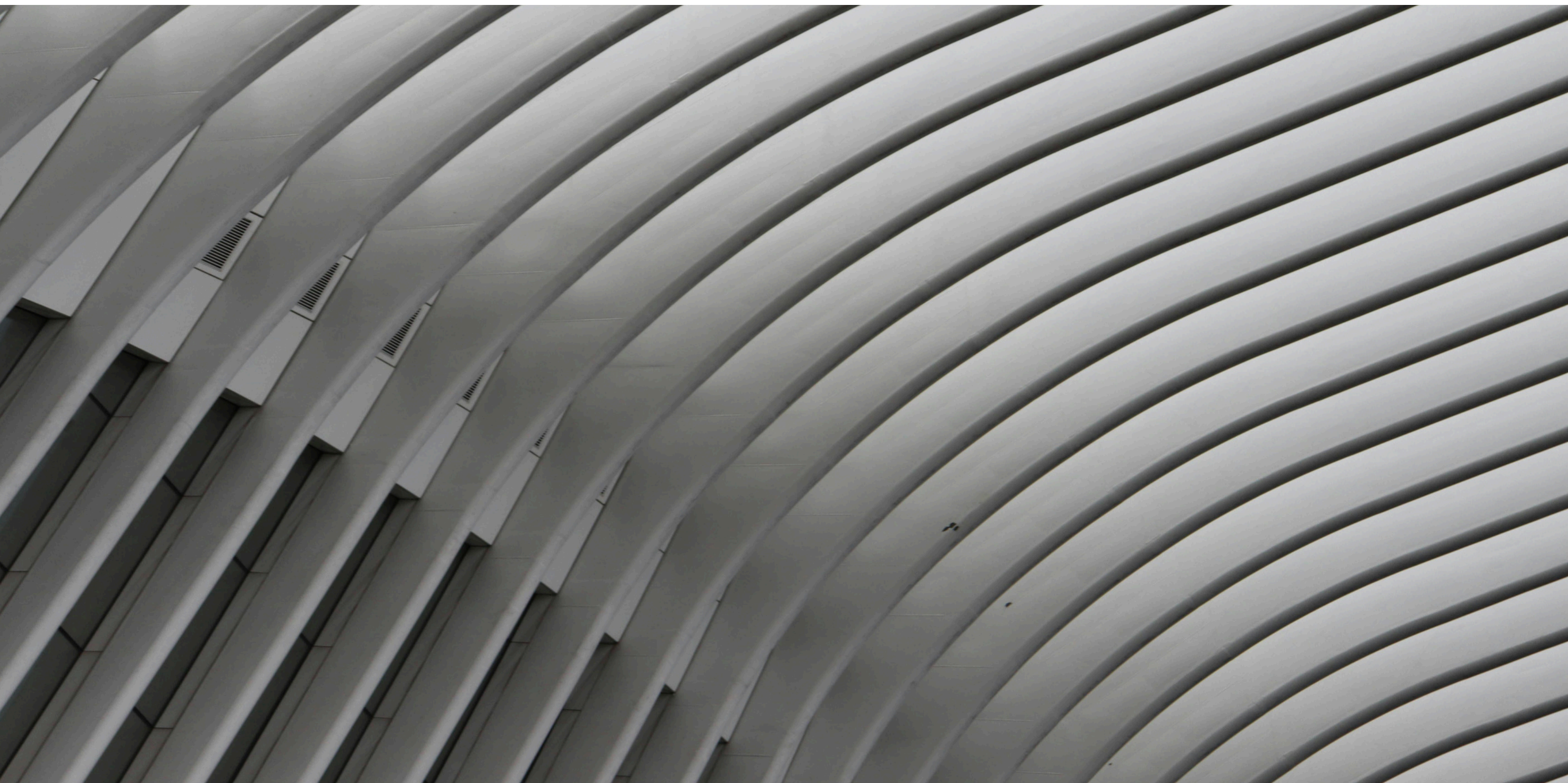
The General Provisions differentiate the modification regime depending on the subject matter of the procurement. Contracts for the procurement or lease of goods and for the rendering of services may be increased by up to 50% of their total amount, provided that the originally agreed concepts, prices, and conditions are respected. By contrast, modifications to the amount or term of contracts for works or related services at unit prices may not exceed 30%, unless previously authorized by the Technical Advisory Council, nor entail substantial variations to the original project. Contracts for works or related services at a lump-sum price (*precio alzado*) and turnkey (*llave en mano*) contracts for works at a lump-sum price may not be modified in amount or term and will not be subject to cost adjustment. For the latter, CFE may recognize extraordinary works arising from factors beyond the parties' control, which will be formalized through a contract at unit prices by direct award with the same contractor, provided that the amount does not exceed 30% of the original contract. The cost adjustment procedure will only proceed when so stipulated in the bidding terms.

For goods and services, contractual penalties and deductions may not, in the aggregate, exceed 30% of the total contract amount, unless otherwise determined by the Technical Advisory Council. For works and related services, the maximum accumulated limit will be established by the requesting area in the bidding terms, and additionally, economic withholdings (*retenciones económicas*) will be applied based on the degree of delay, which the contractor may recover if it regularizes the execution of the works. CFE may terminate the contracts at any time, without the need for a judicial or arbitral resolution, pursuant to the following procedure: written notification of the commencement of the termination; a period of 15 business days for the supplier or contractor to present its defense; and a period of 15 business days for CFE to notify its resolution. If the first period elapses without a response, the breaches and the termination will be deemed accepted in all their terms. For works, CFE may establish in the bidding terms the application of cost overruns (*sobrecostos*) in lieu of contractual penalties.

Finally, early termination will proceed, among other cases, due to fortuitous event or force majeure, by resolution of the reconsideration appeal (*recurso de reconsideración*), by agreement between the parties, or for reasons of general interest; in the latter two cases, CFE will compensate the supplier or contractor for non-recoverable expenditures directly related to the subject matter of the contract and duly evidenced. Impossibility of performance will be deemed to exist when the period required to address the fortuitous event or force majeure exceeds 90 calendar days for goods, services, and related services, and 180 calendar days for works. The final settlement (*finiquito*) must be formalized within 60 business days following the date on which the termination takes effect and, when the settlement of the balance is made within 35 calendar days following its execution, it will serve as the certificate of termination of rights and obligations (*acta de extinción de derechos y obligaciones*).

V. Integrity, impediments, and disputes

The figure of social witnesses (*testigos sociales*) is maintained, selected by a specific subcommittee and required to issue a final testimony. CFE must refrain from contracting with individuals who, have a conflict of interest, have been disqualified (*inhabilitadas*), have outstanding breaches, or have submitted false information, except upon express authorization in specified cases. Among such impediments, the following stand out for their commercial relevance: having outstanding breaches in contracts entered into with CFE attributable to the bidder, having been subject to a termination (*rescisión*), having failed to execute a previously awarded contract for causes attributable to the bidder, or being subject to insolvency proceedings (*concurso mercantil*) as of the date of submission of bids. Notwithstanding the foregoing, CFE may contract with disqualified persons, upon authorization of the head of the requesting area at a minimum management-level position (*gerencia*), when there are no technically reasonable substitute goods or services, there is a sole bidder, exclusive rights are involved, a fortuitous event or force majeure exists, or the matter involves electrical incidents requiring immediate attention. Alternative dispute resolution methods may be agreed upon, and the reconsideration appeal (recurso de reconsideración) lies against the award or the declaration of a failed tender, within 5 business days following such event. Such appeal must be filed with the filing office (*oficialía de partes*) of the Legal Division, before the collegiate body provided for in the Organic Bylaws (*Estatuto Orgánico*) of CFE.



VI. Transitory provisions

The General Provisions became effective on August 20, 2026, the day following their publication in the DOF. The General Provisions published in the DOF on June 23, 2015, are hereby abrogated. Procedures and contracts initiated or entered into prior thereto are governed by the rules in effect at the time of their commencement or execution.

We invite you to contact your usual contacts at Ritch Mueller to discuss any questions related to the matters described in this note.

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