

## The Federal Electricity Commission Issues the “Guidelines for Mixed-Development Schemes of the State-Owned Public Enterprise, Federal Electricity Commission”

On January 28, 2026, the “*Guidelines for Mixed-Development Schemes of the State-Owned Public Enterprise, Federal Electricity Commission*” (the “**Guidelines**”) were published in the Official Gazette of the Federation (“**DOF**”) and were issued by the Federal Electricity Commission (“**CFE**”).<sup>1</sup>

The purpose of the Guidelines is to establish the provisions applicable to the development and implementation of projects under CFE mixed-development schemes, the minimum required content of mixed-investment contracts, as well as the selection procedures for the award of projects under mixed-development schemes to one or more private parties.

An executive summary of the Guidelines is set forth below, highlighting their most relevant aspects and the implications for participants in the electric power sector.

### 1. Mixed-Development Schemes

Article 38 of the Electricity Sector Law (“**LSE**”) classifies “mixed development schemes” as follows: (i) Long-Term Production, (ii) Mixed Investment, and (iii) any other scheme defined in the Regulations to the Electricity Sector Law or in the general administrative provisions issued by the Ministry of Energy (“**SENER**”). These schemes allow CFE and its subsidiary companies to associate with private parties in order to share costs, investments, expenses, and risks in electric power generation projects.

### 2. General Guidelines

The Guidelines establish the general framework for the preparation, evaluation, approval, and execution of projects under mixed-development schemes, as well as the institutional rules applicable to their governance. Among the most relevant aspects are the following:

- **Project Approval and Supporting Document:** The approval of projects under mixed-development schemes requires prior preparation of a Supporting Document<sup>2</sup> (*Documento Soporte*) by the Mixed Development Group<sup>3</sup> (“**GDM**”), which must be submitted to the CFE Board of Directors together with the corresponding contractual model.
- **Planning and Financial Viability:** Projects must be aligned with SENER’s binding planning instruments, the CFE’s Development Program<sup>4</sup>, and the guidelines issued by the Board of Directors, and must be structured under sustainable financial viability criteria, recovering costs and expenses exclusively through project revenues.

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<sup>1</sup> Capitalized terms used in this document and not expressly defined herein shall have the meaning ascribed to them in the Guidelines.

<sup>2</sup> Technical-regulatory document integrating the technical, economic, financial, environmental, social, and legal information required to determine the feasibility of Projects under Mixed Development Schemes.

<sup>3</sup> Governing body responsible for the preparation of Supporting Documentation and for decision-making regarding the Mixed Development Scheme, pursuant to the Guidelines.

<sup>4</sup> Document provided under Article 16 of the Law of the State-Owned Public Enterprise, Federal Electricity Commission, to be updated annually, which defines the objectives, strategies, and actions of the CFE in the short, medium, and long term to ensure the sustainable and self-sustaining performance of its activities.

- Contractual Structure and Contributions: Project execution is formalized through contracts or legal instruments subject to a favorable opinion from the Legal Department. Such instruments may provide for contributions by CFE, either directly or through subsidiaries or trusts, except in Long-Term Production schemes, in which CFE does not contribute capital. In Mixed Investment schemes, State's participation must be at least 54% of the common equity capital.
- Selection Procedures: The selection of private parties must ensure the best conditions for the National Electric System, the State, and CFE, considering economic, environmental, and social benefits, as well as operational synergies.
- Applicable Legal Regime: The Selection Procedures are governed by the Guidelines and private law. The CFE's general procurement regime shall not be applicable.

### 3. Mixed Development Group

The GDM is composed of representatives from various departments of the CFE, as well as members from other government agencies (including the SENER and the Ministry of Finance and Public Credit). Its purpose is to ensure that each project has sufficient technical, operational, financial, legal, and administrative support prior to its submission for approval to the CFE Board of Directors.

The GDM's main functions include: **(i)** approving its operating rules, **(ii)** reviewing and monitoring the strategic planning of projects, **(iii)** preparing the Supporting Document for submission of projects to the CFE Board of Directors, **(iv)** determining project feasibility, and **(v)** approving the terms and conditions of the contract or legal instrument resulting from the Selection Procedures.

### 4. Minimum Content of Contracts

The Guidelines provide that final contracts shall result from the applicable Selection Procedure<sup>5</sup> and must obtain GDM authorization prior to execution. For Mixed Investment projects, the minimum required content includes: **(i)** the definition of the legal vehicle governed by private law, **(ii)** the capital contribution structure and sources of financing, **(iii)** the operating and maintenance regime of the power plants, **(iv)** corporate governance provisions with checks and balances, veto rights, and intervention mechanisms, **(v)** risk management and asset transfer provisions, **(vi)** change-in-law clauses and governmental force majeure, **(vii)** the use of independent expert determination for technical or financial disputes; and **(viii)** termination provisions, liquidated damages, and arbitration procedures.

### 5. Selection Procedures

The Guidelines provide that Selection Procedures may be conducted, among other cases, for: **(i)** specific projects determined by CFE; **(ii)** generation capacity or technology requirements; **(iii)** energy storage capacity requirements; and **(iv)** legacy projects migrating from the regime of the Public Service of Electric Power Law to the LSE. They also establish that Selection Procedures may be carried out either in person or electronically.

As a general rule, the Selection Procedure shall be conducted through public tender; however, on an exceptional basis, other mechanisms may be used. In particular, those contemplated in the Guidelines include the following:

- Public Tender: Allows the submission of subsequent bids, enabling qualified bidders to improve their economic proposals up to two times without modifying technical terms. The maximum term is 120 calendar days, extendable once for up to 60 additional calendar days.
- Restricted Invitation: Reserved for specific cases, such as risks to the reliability of the National Electric System, the pursuit of operational synergies, early termination of prior contracts, or failed public tenders. The process begins with a Request for Proposal issued to selected candidates with the required capabilities. The term is up to 80 calendar days, extendable for up to 40 additional calendar days.

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<sup>5</sup> Series of acts and stages for the award of Projects under Mixed Development Schemes to one or more Private Parties.

- Competitive Award Process: Applicable in the same cases as the restricted invitation and allows for a negotiation stage or subsequent proposals during the same bid opening session. The term is up to 50 calendar days, extendable for up to 10 additional calendar days.
- Direct Award: Permitted when the private party holds exclusive rights over assets essential to the project, such as real estate, patents, concessions, or permits. The term is 45 calendar days, extendable for up to 10 additional calendar days.

## 6. Social Witnesses

In order to ensure transparency, the Guidelines establish the mandatory participation of Social Witnesses<sup>6</sup> (*Personas Testigos Sociales*) in the Selection Procedures. These are appointed by CFE's Internal Audit Department and are responsible for observing the conduct of the procedure, warning of potential irregularities, and issuing a final public report containing observations, conclusions regarding regulatory compliance, and recommendations for improvement.

Finally, the Guidelines entered into force upon their approval by the CFE Board of Directors for internal purposes; however, their effects on third parties became effective as of January 29, 2026, the day after their publication in the DOF.

At Von Wobeser y Sierra, we remain at your disposal to advise you on the analysis and implementation of the obligations arising from the Guidelines for Mixed-Development Schemes. Should you require additional information, please do not hesitate to contact our partners and associates with expertise in this matter.

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<sup>6</sup> External actor designated by Internal Audit to independently witness the Selection Procedures, for the purpose of monitoring regulatory compliance and transparency, and issuing a final testimony regarding the process.

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S I N C E R E L Y

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