

From: [Glover, Dave](#)
To: [Hutchinson, Peter](#)
Cc: [Lynch, Gabriel](#)
Subject: TRIM: RE: DAC Form - RHI administration and engagement with Ofgem
Date: 19 August 2011 17:53:02

Peter

Reference the DAC

I note that this has already been approved by the Accounting Officer therefore this gives you authority to proceed. The CPD advice that would normally be given prior to Accounting Officer Approval would be as follows

CPD Advice

N.I. Public Procurement Policy requires Competitive supply for all expenditure unless there are compelling reasons to the contrary

Managing Public Money Procurement Control Limits requires all goods and services to be publically advertised when value exceeds £30k

The threshold for Public Contracts Regulations is £106k and therefore this requirement falls just short of the scope of the regulations.

On the information provided there would seem to be minimal risk in engaging Ofgem

Regards

Dave

Dave Glover

Deputy Divisional Director

Central Procurement Directorate

Clare House

303 Airport Road West

Belfast

BT3 9ED

Tel:02890 816218

(Internal Dial : 14076218)

Mob:

Personal information redacted
by the RHI Inquiry

From: Lynch, Gabriel
Sent: 16 August 2011 15:27
To: Glover, Dave
Cc: Hutchinson, Peter
Subject: FW: DAC Form - RHI administration and engagement with Ofgem

Can you advise Peter on progress?

From: Hutchinson, Peter
Sent: 16 August 2011 12:36
To: Lynch, Gabriel
Subject: FW: DAC Form - RHI administration and engagement with Ofgem

Gabriel,

Sorry to bother you but wanted to check if there was any update on this case? We need to seek DFP Supply's approval for the spend aspect of the work and it would be useful if we could advise on whether CPD were content to authorise.

Thanks,

Peter

Peter Hutchinson
Sustainable Energy
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9532 (ext: 29532)
Textphone: 028 9052 9304
Web: www.detini.gov.uk

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From: Hutchinson, Peter
Sent: 12 August 2011 16:37
To: Lynch, Gabriel
Cc: McManus, Gary
Subject: DAC Form - RHI administration and engagement with Ofgem

Gabriel,

As previously discussed, please see attached DAC form relating to the contract with Ofgem for the feasibility study into the administration of the NI RHI, signed by our Accounting Officer, David Sterling.

Grateful if you would consider and advise if CPD are content to authorise also.

Many thanks,

Peter

Peter Hutchinson

Sustainable Energy

Department of Enterprise, Trade & Investment

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From: [Hutchinson, Peter](#)
To: [Hutchinson, Peter](#); [McFarlane, Iain](#)
Cc: [Hepper, Fiona](#); [McCutcheon, Joanne](#); [Hawthorne, Jill](#); [McAvera, Gerry](#)
Subject: RE: DFP Approval required for a feasibility study into the administration arrangements for a NI RHI
Date: 22 August 2011 14:14:36
Attachments: [Signed authorisation from CPD.pdf](#)

Iain – Signed form from CPD now attached.

Thanks,

Peter

Peter Hutchinson

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Please consider the environment - do you really need to print this e-mail?

From: Hutchinson, Peter
Sent: 22 August 2011 12:28
To: McFarlane, Iain
Cc: Hepper, Fiona; McCutcheon, Joanne; Hawthorne, Jill; McAvera, Gerry
Subject: FW: DFP Approval required for a feasibility study into the administration arrangements for a NI RHI

Iain,

In Jill's absence please see response to the queries she had raised;

- **Corporate Governance arrangements:** DETI will work with Ofgem to ensure that appropriate governance structures and reporting arrangements are considered as part of this feasibility study and put in place in any future contract. Ofgem will advise on appropriate structures based on previous experience of dealing with DECC on the Renewables Obligation, the Feed-in-Tariff and GB Renewable Heat Incentive (RHI), as well working with DETI on the NI Renewables Obligation. DETI will ensure that proposed structures are fit for purpose and suitable for DETI. Energy Division is happy to work with Accountability and Casework Branch on this aspect to make sure the agreed structures are appropriate.
- **Resource requirement:** Energy Division will require robust evidence on the rationale for resources (both staffing costs and non-staffing costs) for delivering the NI RHI. The ongoing resource costs will also need to be subject to review as this will be dependent on the uptake of the RHI i.e. low uptake should result in lower resource costs. DETI can also utilise costings provided by Ofgem to DECC for the GB RHI as a benchmark figure.
- **Direct Award:** It is Energy Division's view that Ofgem are the only organisation that can successfully deliver the RHI and also present the best vfm considering the work

carried out previously on the GB RHI. This is a view shared by DECC who contracted directly with Ofgem also. Ofgem, in its role as Energy Regulator in GB, has the expertise and understanding of the energy market to implement and run the RHI, Ofgem is also a trusted industry body with a track record of delivery. It is difficult to identify other suitable organisations that could deliver the NI RHI successfully or in the timeframe required. The expertise already built up by Ofgem in this area is vital for DETI, especially the development of specific IT systems that could be utilised by DETI for the NI RHI. Ofgem are described as the 'authority' under the [primary legislation](#) which underpins the RHI scheme and grants them powers to run the scheme, make payments and seek information from consumers.

I hope this covers the queries to date.

I have received confirmation from CPD that they are content with the DAC on the basis that the DAO has approved and that there "*would seem to be minimal risk in engaging Ofgem*". I have asked CPD to add their signature to the attached pro forma already signed by David Sterling but in advance of receipt of this I have attached the confirming email.

Thanks,

Peter

Peter Hutchinson

Sustainable Energy
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Please consider the environment - do you really need to print this e-mail?

From: Hawthorne, Jill
Sent: 19 August 2011 18:22
To: Hutchinson, Peter
Cc: McAvera, Gerry; McFarlane, Iain
Subject: FW: DFP Approval required for a feasibility study into the administration arrangements for a NI RHI

Peter,

As per our phone conversation, we have considered and would be grateful if you provide clarity on the following points:

- The business case states that the proposed consultancy will examine and report on the required 'high level reporting and governance structure between Ofgem E-Service and DETI'. Given that the programme will be administered by Ofgem, does this not represent a potential conflict of interest? Should governance and reporting arrangements not be dictated by the responsible department rather than the delivery agent?
- I understand that the costs Ofgem's service delivery costs (e.g. staff, IT) will be met by the Department. I note that the proposed feasibility study will assess the necessary resource

requirement to administer the programme. How will the Department satisfy itself that the resource requirement, as identified by Ofgem through the feasibility study, is robust and is the absolute minimum required to administer the RHI.

- DETI Energy Division is proposing to seek the services of Ofgem to act as administrator of the NI RHI. However, the business case makes no assessment of alternative delivery agents.

Have alternative options been explored?

I am off on leave next week so grateful if you could liaise with Iain in my absence.

Thanks,

Jill

Jill Hawthorne

Accountability and Casework
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Please consider the environment - do you really need to print this e-mail?

From: Hutchinson, Peter
Sent: 12 August 2011 16:37
To: Hawthorne, Jill
Cc: Hepper, Fiona; McCutcheon, Joanne; McFarlane, Iain; Stewart, Susan
Subject: DFP Approval required for a feasibility study into the administration arrangements for a NI RHI

Jill,

Please see attached signed business case, approval from DAO and Minister and DFP pro forma for the engagement of consultants to consider the administration arrangements for the Northern Ireland RHI.

It is proposed to appoint Ofgem to carry out this work. This will be done via a Direct Award Contract, DAO has approved this course of action and approval is now being sought from CPD (preliminary discussions indicated they would be content to approve).

Grateful if you would engage with DFP Supply on this issue and seek necessary approvals. This work is scheduled to begin 1 September, this is important to allow for the study to complete in time for scheme to be in place for April 2012.

Many thanks,

Peter

Peter Hutchinson

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Annex A

CENTRAL PROCUREMENT DIRECTORATE (CPD)**Request for Procurement Advice in respect of a Direct Award Contract (DAC)**

Please complete this form with all relevant details and send to CPD.

Section 1. Client Contact Details

Name of Contact	Peter Hutchinson
Department	Department of Enterprise, Trade and Investment
Branch/Division	Renewable Heat Branch, Energy Division
Address	Netherleigh Massey Avenue Belfast
Postcode	BT4 2JP
e-mail address	Peter.hutchinson@detini.gov.uk
Office Telephone Number	028 9052 9532
Mobile Telephone Number	-----

Section 2. Direct Award Contract (DAC) Details

Title of DAC	Feasibility study into the potential administration of the Northern Ireland Renewable Heat Incentive (RHI) by the Office of Gas and Electricity Markets (Ofgem)
What is the estimated value of this DAC?	£100k
What is the proposed length of this DAC?	12 weeks

Section 3. DAC Justification

3.1 Technical Reasons or Exclusive Rights

Is this DAC being justified for technical or artistic reasons or because the supplier has exclusive rights?

If yes, please specify the reasons and explain in detail the various intellectual property rights governing each element of the system and who owns these rights. Please reference here, if applicable, the relevant contract clauses from the original contract. If applicable a copy of the original terms and conditions of contract should be attached to this form.

Ofgem is the Energy Regulator for Great Britain and has a close working relationship with the Department of Energy and Climate Change (DECC). Ofgem acts as the delivery body for a number of DECC led renewable energy schemes including the Renewable Obligation (and the Northern Ireland Renewables Obligation), the Feed-in-Tariff and the GB RHI.

Over the past 18 months Ofgem and DECC have worked closely to develop administration arrangements for the GB RHI, design IT equipment and draft guidance documents that underpin the scheme. The work that Ofgem has carried out has been vital for the introduction of the GB RHI.

By contracting with Ofgem for the delivery of the Northern Ireland RHI DETI would be in position to benefit from the expertise developed by Ofgem in the design and delivery of the GB RHI. Further to this, DETI could utilise existing IT systems, guidance documents and legislative advice which are already in place for the GB RHI. This presents significant economies of scale, will ensure consistency in approach with GB in the delivery of the two similar incentive schemes and will assist in the implementation of the NI RHI in a cost-effective and timely manner.

The first stage of the implementation of the NI RHI through Ofgem is the carrying out of a feasibility study which will advise on the cost/benefit of the various options of administration; advise on any technical or legislative requirements; and recommend the way forward. This will also allow provide full costings for administration (up front and ongoing costs).

Given Ofgem's role in the GB RHI and expertise in delivering large scale renewable energy projects it is the view of Energy Division that it is the only viable option for the administrator of the Northern Ireland RHI.

3.2 Legislative Requirements

Is this DAC in respect of a good or service which must meet specific legislative requirements e.g. Home Office Approval

If Yes, please provide details of the legislative justification.

The primary legislative powers which provide DECC with the authority to introduce the RHI in GB lie within Section 100 of the 2008 Energy Act¹. These powers specifically define Ofgem as "*the Authority*" and refer to them as having the power to make payments under the RHI, enforce the scheme, require information from applicants etc. Ofgem are, within the primary legislation, described as the administrators of the RHI in Great Britain. Subordinate legislation² which sets out how the GB RHI will be administered, eligibility standards and regulations, prescribe in more detail the role of Ofgem as administrator.

Northern Ireland was not included under the 2008 Energy Act. DETI have been successful in seeking an amendment to the current 2011 DECC Energy Bill that will provide DETI with the powers conferred on DECC under Section 100 of the 2008 Energy Act. Therefore, the primary powers under which the Northern Ireland RHI will be implemented will prescribe Ofgem as "*the authority*" with the appropriate powers to administer the scheme. The 2011 Energy Bill is due for Royal Assent in early Autumn 2011.

Therefore, Ofgem's role as administrator of the Northern Ireland RHI will be set out in primary legislation. The appointment of Ofgem to carry out a feasibility study in advance of implementation is necessary to identify costs, risks and benefits and advise on aspects of administration.

Section 4: Current / previous contract**4.1 Was there a Contract which has / or is about to expire?**

Please provide the name of the supplier					
Please provide the start and end dates of the contract including extensions		Start Date		End Date	
If the contract has been extended beyond the original options to extend please provide details.					

¹<http://www.legislation.gov.uk/ukpga/2008/32/part/5/crossheading/renewable-heat-incentives>

²<http://www.legislation.gov.uk/ukdsi/2011/9780111512753/contents>

Was this contract awarded under Single Tender Action?	Yes		No	
If No, was there an advertisement placed in the local papers and/or the OJEU, if so please provide dates	Date in Local papers		Date in OJEU	
What was the actual value of the initial contract at the time of award?				
What has been the actual spend to date from the commencement of this contract?				

4.2 Is this a new requirement?

Please provide the name of the proposed supplier

Ofgem

Please provide justification for the DAC to this supplier

This is a new requirement. DETI is proposing to introduce a Northern Ireland Renewable Heat Incentive (RHI) and is currently consulting on the design of such a scheme. The Northern Ireland RHI is designed to incentivise the uptake of renewable heat technologies to support the achievement of targets set by the Executive and obligations set by the European Union. Further to this the increase of renewable heat in Northern Ireland will assist in increasing fuel security, reduce carbon emissions and provide opportunities for 'green jobs'. Her Majesty's Treasury has provided £25m over the next 4 years for the introduction of a Northern Ireland RHI.

For the scheme to be successful, accessible and not subject to fraudulent activities, it is vital that an administrator is put in place to monitor the scheme, make payments, enforce standards and eligibility and ensure accessibility.

Ofgem have been appointed to administer the GB RHI and DETI wish to also appoint them to administer the Northern Ireland RHI. Ofgem is the energy regulator in GB and is governed by an Authority, consisting of non-executive and executive members and a non-executive chair. For funding, Ofgem recover costs from the licensed companies it regulates. Licensees are obliged to pay an annual licence fee which is set to cover Ofgem's running costs. Ofgem is independent of the companies it regulates. Ofgem has vast experience in administering large scale energy programmes and has a dedicated team, known as E-Serve, which currently deals with a range of energy schemes including the Feed-in-tariff, Smart Metering, the Renewables Obligation and the GB RHI. E-Serve is also responsible for the administration of the Northern Ireland Renewables Obligation (NIRO).

There are a number of reasons for appointing Ofgem to this role;

- Economies of scale due to Ofgem's role as GB administrator, DETI would be benefitting from existing expertise, guidance documents, IT systems etc.

- Consistency of approach with GB, the GB RHI and Northern Ireland RHI are largely similar, discrepancies in administration could cause confusion and prevent uptake.
- Ofgem has a track record in delivering large scale energy projects such as the roll out of smart metering, the Feed-in-Tariff and the Renewables Obligation (including the Northern Ireland element).

Further to this, is the legislative position (outlined previously) which determines that Ofgem can act as the administrator and provides powers for Ofgem to make payments, enforce standards and deliver the RHI.


In advance of the Northern Ireland RHI being implemented it is vital that a feasibility study is carried out to advise on technical and legal requirements, consider the most appropriate method of administrations and to allow costs to be estimated.

If Ofgem are to administer the Northern Ireland RHI they must first carry out this feasibility study.

APPROVALS

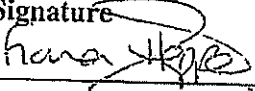
Requestor

I hereby declare that **I do not** have an external personal or monetary interest in the company to which this DAC will be awarded.

Print Name	Signature	Date
Peter Hutchinson		8 August 2011

Recommended by Head of Branch

I hereby declare that **I do not** have an external personal or monetary interest in the company to which this DAC will be awarded.

Print Name	Signature	Date
Fiona Hepper		9 August 2011

CPD ADVICE - For CPD Use Only

As per email from Dawn Slone to Peter Hutchinson
on 19/8/11 @ 17:53.

Signed: <i>J. G. Gilman</i>	
Print Name: J. G. GILMAN	
Grade (Grade 6 and above only): 6	
Date: 12/8/11	

ACCOUNTING OFFICER DECISION		
I hereby declare that I do not have an external personal or monetary interest in the company to which this DAC will be awarded. I have read CPD Policy Guidance Note 02/10 and the comments provided by CPD.		
a) I request CPD to progress this DAC on behalf of the Contracting Authority with		
Name: David Sterling	Signature: <i>[Signature]</i>	Date: 12/8/11