



**From: Fiona Hepper
Energy Division**

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**To: 1. David Sterling
2. Andrew Crawford
3. Arlene Foster MLA**

*2 in content 10/8/11
12/8 - Note cost & risk of OFgem
11/8 content*

BUSINESS CASE FOR THE APPOINTMENT OF OFGEM (VIA A DIRECT AWARD CONTRACT) TO CARRY OUT A FEASIBILITY STUDY INTO THE ADMINISTRATION ARRANGEMENTS FOR THE RENEWABLE HEAT INCENTIVE (RHI) FOR NORTHERN IRELAND

- Issue:** The submission seeks the mandatory internal approvals to appoint Ofgem to carry out a feasibility study into the administration arrangements for the Northern Ireland Renewable Heat Incentive. If approvals are forthcoming Energy Division will approach Central Procurement Directorate to consider the award of the direct award contract and DFP supply for the consultancy spend element. To note: CPD have informally indicated that they are content.
- Timing:** Urgent: DFP Supply approval is required and the study must begin as soon as possible to allow for implementation of the Northern Ireland RHI within proposed timescales.
- Need for referral to the Executive:** Not applicable at this stage.
- Presentational issues:** Not at this stage, however there has been increased interest in this work area following the launch of the public consultation document.
- FOI implications:** This submission is exempted under Section 35 of the Freedom of Information Act.
- Financial Implications:** This assignment will cost in the region of £100,000. Her Majesty's Treasury (HMT) has advised that

scheme, should one be introduced.

Legislation Implications:	DETI does not hold primary powers for renewable heat, however, Energy Division officials have secured an amendment to the current 2011 Energy Bill to extend necessary powers. Subordinate legislation to prescribe the administration aspects of the RHI will be required in due course and in advance of implementation.
PSA/PFG Implications:	None at present, but it is likely that new PSA targets in relation to renewable heat will have to be developed.
Statutory Equality Obligations:	None.
Recommendation:	<p>That the Departmental Accounting Officer authorises awarding this contract to Ofgem via a direct award contract and approves the attached business case for the project.</p> <p>That the Minister notes the award of the contract and approves the business case for the appointment of Ofgem at a cost of £100,000, to undertake a feasibility study into the administration arrangements of a RHI scheme for Northern Ireland.</p> <p>Once approval has been obtained, DFP approval to award the contract and incur the expenditure will be sought.</p>

Background

You will be aware that the consultation on the development of a Northern Ireland Renewable Heat Incentive (RHI) was launched on Wednesday 20th July and will be open for comments until Monday, 3 October 2011.

2. The consultation document sets out DETI's proposals to incentivise the uptake of renewable heat technologies in Northern Ireland. The development and implementation of the Northern Ireland RHI follows on from research commissioned by DETI Energy Division and is designed to support the achievement of the Executive set target for renewable heat.

Administration of the Northern Ireland RHI

3. For the Northern Ireland RHI to be implemented it requires the services of an appropriate delivery agent. The resource needed to deliver the scheme in terms of technical expertise, people and IT systems, is not

available within DETI. The GB RHI is to be administered by the Office of Gas and Electricity Markets (Ofgem). I am proposing that DETI also seek the services of Ofgem to act as the administrator of the Northern Ireland RHI.

4. 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.
5. 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 as well as the GB RHI. E-Serve is also responsible for the administration of the Northern Ireland Renewables Obligation (NIRO).
6. There are several reasons for having Ofgem administer the Northern Ireland RHI;
 - a. **Track record and expertise** – Ofgem has a proven track record in delivering large scale energy projects, as outlined in para 5, similar to the Northern Ireland RHI. For the Northern Ireland RHI to be successful it must be accessible and professionally delivered.
 - b. **Economies of scale** – Given that Ofgem has been engaged with DECC over the past 18 months in designing the GB RHI they have built up expertise that can be utilised in implementing the Northern Ireland RHI. The existing administrative system can be used – bringing a significant saving to DETI.
 - c. **Legislative position** - 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 therefore, 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. A similar legislative position will exist for DETI when the 2011 Energy Bill receives Royal Assent.

Feasibility study

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>

7. In order for Ofgem to implement the Northern Ireland RHI a detailed feasibility study is required to determine exactly how the Northern Ireland scheme could be administered, what resource requirements are needed and what the expected ongoing cost may be. The feasibility study will ensure that the implementation of the Northern Ireland is fully costed, that guidelines and governance issues are in place and that the final scheme is fit for purpose.
8. Specifically the feasibility study will deliver the following;
- A high level reporting and governance structure between Ofgem E-Serve and DETI.
 - A cost/benefit analysis to identify the most effective internal options for developing and operating the scheme, focusing on those (few) elements which are different from the GB RHI.
 - High level process maps showing how the processes will be carried out in practice.
 - Risk analysis identifying the risks associated with Ofgem E-Serve taking on this role in addition to operating the GB RHI - and proposed mitigation.
 - Identified key workstreams and deliverables for development, and resources (staff, IT, legal, technical support etc) required.
 - Evaluation of resources required for operations.
 - Detailed costs for the development and implementation phase.
 - A full timetable for delivery of the scheme.
 - Legislative advice on draft regulations.
9. Ofgem will provide a full outline proposal in advance of the work beginning. It is expected that the study will take up to 12 weeks and will cost in the region of £100,000 (budget cover is available within Energy Division).
10. The feasibility study will advise on the appropriate administrative arrangements required for the Northern Ireland RHI and the expected delivery timetable and costs. This is an **essential piece of work** for the future implementation of the Northern Ireland RHI.
11. A full business case for this proposal is attached at **Annex B**.

Direct Award Contract

12. I have sought guidance from Central Procurement Directorate (CPD) within DFP on the award of the contract for the proposed feasibility study. CPD has advised that this contract would be classed as a Direct Award Contract (formerly a Single Tender Action). The reasons for the award of this contract to Ofgem have been outlined above, specifically the legislative position of Ofgem within the primary legislation provides a sound argument for this direct award contract.

13. CPD have indicated that there is a case for a direct award contract in this instance.
14. For a direct award contract to be awarded Departmental Accounting Officer approval is required. I have attached the necessary completed pro forma at **Annex A** for your consideration. If you provide your approval this will be forwarded to CPD for authorisation.

Recommendation

15. It is recommended that the Departmental Accounting Officer;
- i) Authorises the appointment of Ofgem to carry out a feasibility study into the administration arrangements for the Northern Ireland RHI via a Direct Award Contract (pro forma at **Annex A**); and
 - ii) Approves the business case for the proposed assignment (attached at **Annex B**).
16. It is recommended that the Minister;
- i) Notes the appointment of Ofgem for this assignment via a Direct Award Contract; and
 - ii) Approves the business case for the proposed assignment (attached at **Annex B**).

(signed)

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