

From: [Hepper, Fiona](#)
To: [Hutchinson, Peter](#)
Subject: RE: Conversation with Ofgem - Options for your consideration
Date: 04 August 2011 09:23:53

Peter
thanks for the note - could you pop up at 10am and we can discuss in more detail
thanks
Fiona

Fiona Hepper

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From: Hutchinson, Peter
Sent: 03 August 2011 17:28
To: Hepper, Fiona
Subject: Conversation with Ofgem - Options for your consideration

Fiona,

Just had a conversation with Ofgem in regards to the feasibility study and admin costs. They have been looking at a range of options to ensure that the April launch date is feasible and so costs can be minimised and are proportionate to the scale of the scheme. A couple of issues were brought up that require your consideration.

The more differences between the GB and NI schemes leads to greater expense, whilst some of the differences are minor they feel the inclusion of additional technologies from April 2012 (bioliquids and ASHPs) will add significantly to the cost of the feasibility study and the administration going forward. GB intend to introduce these technologies in October 2012 and delaying their introduction could provide savings. We have a number of options;

- The feasibility study should consider the deployment of all technologies, inc ASHPs and bioliquids, and if it demonstrates that the early introduction of these technologies is prohibitive it should advise that DETI wait until October 2012 to introduce these technologies. The feasibility study cost would remain high (circa 100k)
- Another option is that the feasibility study should only consider technologies included in the GB scheme and advise from the outset that additional technologies should be introduced from October 2012 in line with GB. It is felt that this would dramatically reduce the costs of the study, possibly to 60k.

- A final option, which I think might be the most appropriate, is that the study considers all the technologies barring bioliquids (the model suggests no uptake in bioliquids until 2013/14 anyway), bioliquids could be then introduced in line with GB in October 2012. ASHPs would be considered, though if the admin costs were found to be prohibitive they would be delayed. The feasibility study would reduce in cost, maybe to 80k.

Grateful for your thoughts on this – happy to discuss.

The other issue is whether we would be keen to pursue spreading up front costs over a number of years (possibly 5). As it is a 20year+ scheme this could be a sensible approach and would guard against spending more in administration and set up in year 1 than actual heat delivery. If you wanted to pursue this option we may need to discuss with colleagues in finance.

Grateful if you would consider and advise.

Many thanks,

Peter

Peter Hutchinson

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From: [Stylianou Stelios \(Energy Efficiency and Consumers\)](#)
To: [Marshall Jonathan \(Energy Efficiency and Consumers\)](#); [Hutchinson, Peter](#)
Subject: RE: Contract with Ofgem / Single Tender Action
Date: 04 August 2011 10:33:43

Peter,

We didn't conduct a tender exercise as the Primary Legislation nominated the Authority (being Ofgem) and the SoS as administrators of the scheme. In theory the SoS could nominate someone else via a tender process, however we took the decision to use Ofgem as there are synergies and lessons that can be used from their administration of schemes such as the FIT and RO.

We are developing an SLA at the moment and have in addition to their feasibility study a baseline document that sets out their deliverables, assumption and our dependencies in addition to the funding required.

Hope that helps.

Stelios

From: Marshall Jonathan (Energy Efficiency and Consumers)
Sent: 04 August 2011 10:03
To: Hutchinson, Peter
Cc: Irrelevant information redacted by the RHI Inquiry (Energy Efficiency and Consumers)
Subject: RE: Contract with Ofgem / Single Tender Action

Peter,

I'm not an expert on these things but my understanding is that there was no procurement process as the primary legislation determined that only Ofgem or the SoS can administer the scheme. Irrelevant information redacted by the RHI Inquiry (ccd) can update you on where we are with SLAs, etc.

Jonathan

From: Hutchinson, Peter [mailto:Peter.Hutchinson@detini.gsi.gov.uk]
Sent: 04 August 2011 09:56
To: Marshall Jonathan (Energy Efficiency and Consumers)
Subject: Contract with Ofgem / Single Tender Action

Jonathan,

Not sure if this is a question that you can answer or should be directed more at Ofgem.

As you know, we have been in discussions with Ofgem in regards the administration of the RHI. At the same time I have been speaking with our procurement experts in order to put in place any contracts, service level agreements etc for the duration of the contract, and more specifically for the upfront feasibility study.

My colleagues in procurement have asked me to check what procedures DECC have in place with Ofgem and whether or not the contract was awarded through a single tender action or if Ofgem has exclusive rights through the legislation as the nominated 'Administrator'?

Grateful if you would consider and if possible advise.

Thanks again for your assistance.

Peter

Peter Hutchinson

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From: [Lynch, Gabriel](#)
To: [Hutchinson, Peter](#)
Cc: [Glover, Dave](#)
Subject: FW: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI
Date: 08 August 2011 09:31:48
Attachments: [DAC Form Version 16.DOC](#)

[Peter](#)

Yes, the DAC will provide an audit trail for Accounting Officer; with the primary justification being the legislation.

From: Glover, Dave
Sent: 05 August 2011 16:57
To: Lynch, Gabriel
Subject: RE: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

[Gabriel](#)

It would seem to me to be a Single Tender Action but the procurement advice would refer to the legislation giving them the derogation to proceed with minimal risk

[Dave](#)

Dave Glover

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Mob: Personal information redacted by the RHI Inquiry

From: Lynch, Gabriel
Sent: 05 August 2011 16:53
To: Glover, Dave
Subject: FW: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

[Dave](#)

Given the position in legislation do they need to carry out a Single Tender Action?

From: Hutchinson, Peter
Sent: 05 August 2011 16:26
To: Lynch, Gabriel; McManus, Gary
Subject: FW: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

Gabriel / Gary,

Just checking if you have been able to consider this issue further and whether or not we need to put a STA in place or another mechanism? Have raised the issue with our Departmental Corporate Governance team to get their view on how to proceed.

Grateful for your consideration.

Thanks,

Peter

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From: Hutchinson, Peter
Sent: 04 August 2011 11:37
To: Lynch, Gabriel
Cc: McManus, Gary; Hepper, Fiona
Subject: RE: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

Gabriel,

DECC has advised that there was no procurement process in GB as the Primary Legislation nominated the Authority (being Ofgem) as the administrators of the scheme. This decision was taken given the synergies and lessons that can be used from Ofgem administering other renewable energy schemes previously mentioned.

DECC are currently developing a Service Level Agreement and have carried out a feasibility study (which we currently propose to do). Guidance documentation has also been developed which sets out expected deliverables, assumptions, dependencies and expected funding/budget.

Grateful if you would advise how this affects our proposal.

In essence we need to carry out the feasibility study which will determine how the scheme will be administered and the cost, depending on the outcome of this study and available budget we would expect to then develop a SLA with Ofgem to administer the RHI.

Given the position in legislation do we need to carry out a Single Tender Action or is it another

form of procurement (service level agreement or memorandum of understanding?).

Thanks for your consideration.

Peter

Peter Hutchinson

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From: Lynch, Gabriel
Sent: 04 August 2011 09:48
To: Hutchinson, Peter
Cc: McManus, Gary; Hepper, Fiona
Subject: RE: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

Peter

Yes, can you ask the question of DECC whether their contract was awarded by STA or do Ofgem have exclusive rights through the legislation as the nominated 'Administrator'?
Cheers

From: Hutchinson, Peter
Sent: 03 August 2011 15:06
To: Lynch, Gabriel
Cc: McManus, Gary; Hepper, Fiona
Subject: RE: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI

Gabriel,

Thanks for your reply. I'll try to cover some of your questions and if you need further clarification I will speak to colleagues in DECC/Ofgem.

The funding is direct from HMT and is as follows, 2011/12 £2m, 2012/13 £4m, 2013/2014, £7m, 2014/14, £12m. We anticipate further funding being made available post 2015. The funding is annually managed expenditure and direct from HMT (not EU). The administration costs and the costs of the feasibility study will need to be borne by DETI. We are currently looking at a number of possible sources of funding for this, either from existing budgets or possible EU funding.

I can check with DECC / Ofgem what sort of contract agreement they have in place – we would expect Ofgem to advise on this matter as part of this feasibility study. Ofgem deliver all the major DECC energy programmes (Fits, RO, RHI etc) and deliver the Northern Ireland RO as well. To my knowledge the administration of the GB RHI was directly awarded to them and prescribed in legislation (<http://www.legislation.gov.uk/ukpga/2008/32/part/5/crossheading/renewable-heat->

[incentives](#)).

Do you want me to check with DECC/Ofgem whether there contract was awarded by STA or do they have exclusive rights?

At this stage do you see any major issue with our proposal? To my mind, there is certainly no other organisation or body that could deliver the NI RHI for reasons already given.

Thanks again for your consideration of this issue.

Peter

Peter Hutchinson

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From: Lynch, Gabriel
Sent: 03 August 2011 14:54
To: Hutchinson, Peter
Cc: McManus, Gary
Subject: FW: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI
Importance: High

Hi Peter

Interesting requirement; HMT has allocated £25m to DETI for the spending period to introduce a NI RHI. Is any of this money from EU grant? Is this funding for April 2012 to March 2020 i.e. 8 years? Presumably DECC have an Agreement/contract with Ofgem on a STA/DAC basis?; justified on the basis of;

The primary legislation which the scheme will be introduced under specifically refers to Ofgem as the **administrator** (in their role as the GB energy regulator).

- they are well positioned to deliver the Northern Ireland RHI in a timely and cost-effective manner (DECC has been working with Ofgem over the last 12 months to set up the administration arrangements and IT facilities, DETI would in essence be utilising this work and expertise. There is significant economies of scale in doing so and not having to pay for IT programmes that Ofgem already in place.)
- The consistency in approach with GB.
-

I note that Ofgem is the Authority which determines strategy, sets policy priorities and takes decisions on a range of matters, including price controls and

enforcement. The Authority's powers are provided for under the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998 and the Enterprise Act 2002.

Have they exclusive rights to administrator this RHI?

If they don't have an exclusive right to this who other than them could deliver it?

It would appear that there are exceptional reasons for STA but if they have exclusive rights it negates any risk of challenge?

Happy to discuss

From: McManus, Gary
Sent: 03 August 2011 13:38
To: Lynch, Gabriel
Subject: FW: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI
Importance: High

Gabriel,

Is this simply a case of them completing a DAC form?

Gary

Gary McManus

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From: Hutchinson, Peter
Sent: 03 August 2011 13:27
To: McManus, Gary
Cc: Hepper, Fiona
Subject: Direct Award Contract - Advice Needed - Administration of the Northern Ireland RHI
Importance: High

Gary,

Grateful for your advice on a possible single tender action/direct award contract.

DETI is currently consulting on the introduction of a Northern Ireland Renewable Heat Incentive (RHI), this will be a measure that will encourage the uptake of renewable heating technologies by rewarding renewable heat generation with a set tariff dependent on the size and type of technology. This is a major policy measure that will assist in the reaching of 10% renewable heat by 2020, an Executive set target and required under EU Regulations.

The Department of Energy and Climate Change (DECC) in GB is about to introduce a similar

scheme for England, Scotland and Wales. It was previously determined that Northern Ireland would seek to implement its own scheme because of the differences in the heat markets. DETI has carried out research in the Northern Ireland heat market and developed proposals for a Northern Ireland RHI, similar to GB but specifically designed for Northern Ireland (varying tariff levels, eligibility standards, types of technology). Her Majesty's Treasury has allocated £25m to DETI for the spending period to introduce a NI RHI.

The direct award contract relates to the administration of the scheme. The GB scheme is to be run by the Office of Gas and Electricity Markets (Ofgem). 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 also are responsible for the administration of the Northern Ireland Renewables Obligation (NIRO).

DETI Energy Division has been discussions with Ofgem E-Serve over the administration of the Northern Ireland RHI, there are a number of reasons why we feel that they are the only organisation capable of delivering the RHI.

- The track record of delivery of large scale renewable programmes
- Expertise in delivery and legal issues
- As they are delivering the GB RHI they are well positioned to deliver the Northern Ireland RHI in a timely and cost-effective manner (DECC has been working with Ofgem over the last 12 months to set up the administration arrangements and IT facilities, DETI would in essence be utilising this work and expertise. There is significant economies of scale in doing so and not having to pay for IT programmes that Ofgem already in place.)
- The consistency in approach with GB.
- The primary legislation which the scheme will be introduced under specifically refers to Ofgem as the administrator (in their role as the GB energy regulator).

Given Ofgem's role we wish to formally engage with them to develop the administrative processes required for the scheme to be in place by April 2012. As a first step a feasibility study is required that will outline how the scheme will be administrated, legislative requirements and ongoing running costs. This feasibility study is likely to cost circa100k.

I would be grateful for your advice on how this work can be progressed and the necessary steps that must be taken for a direct award contract to be agreed and put in place (i.e. DAO approval, Minister approval, CPD approval etc.) Grateful also for your advice on the necessary contracts that would need to be put in place with Ofgem for the duration of the study.

Grateful if you would consider as a matter of urgency.

Thanks in advance for your consideration of this issue.

Peter

Peter Hutchinson

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