

To: Keith Avis[Keith.Avis@ofgem.gov.uk]
Cc: Hepper, Fiona[Fiona.Hepper@detini.gov.uk]; Hutchinson, Peter[Peter.Hutchinson@detini.gov.uk]; Mary Smith[Mary.Smith@ofgem.gov.uk]; Matthew Harnack[Matthew.Harnack@ofgem.gov.uk]
From: McCutcheon, Joanne
Sent: 2012-11-20T09:42:33Z
Importance: Normal
Subject: FW: Admin Agreement
Received: 2012-11-20T09:44:49Z

Keith

Please see our responses below in red. I think we are nearly there on most issues.

We hope to have the legal view on the data ownership within the next few days and I will try to speak to audit colleagues today, now that you have confirmed that we will be able to have sight of bank statements to confirm that payments have been made.

Speak soon.

Regards

Joanne

From: Keith Avis [mailto:Keith.Avis@ofgem.gov.uk]

Sent: 15 November 2012 17:06

To: McCutcheon, Joanne

Cc: Hepper, Fiona; Hutchinson, Peter; Mary Smith; Matthew Harnack

Subject: FW: Admin Agreement

Joanne cc: Peter, Fiona, Matthew, Mary

Following our telephone conversation yesterday, please find attached my comments (in blue) added to your email, following your latest points on the Administrative Arrangements. I appreciate that you are not in the office until 19 November, but happy to discuss any of this further with Peter tomorrow (16 November) if it would help.

Regards

Keith

Keith Avis

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From: McCutcheon, Joanne [mailto:Joanne.McCutcheon@detini.gov.uk]

Sent: 13 November 2012 10:56

To: Keith Avis

Cc: Hutchinson, Peter; Hepper, Fiona

Subject: Admin Agreement

Keith

I met with Fiona yesterday to look at the revised letter, Admin Agreement and Scoping document. I think we are nearly there – just a few points.

Firstly, we urgently need clarification on who is considered to own the data/documentation provided by the installer. Matthew was to come back to us on this point once he had sought the legal opinion. We believe this is an important issue which impacts on the Admin Agreement in a number of places. In addition, we have the following questions/suggestions:-

In our discussion I put forward a suggestion that we add a statement in the participants application form that Ofgem may share any data on installations with DETI, thus giving you access to all information provided by the installer. I note your point that you wished for a definitive view on who owns the data, and your reference that this links into who is responsible for supplying data to a third party. It is the case that ultimate clarity on this point would take some time to work through with lawyers which would in turn hold up the signing of the Admin Arrangements. I appreciate that you are going to speak to Fiona following our conversation, but as a next step would it be helpful if she spoke to Matthew to see if there was a way to secure a way forward in the arrangements on this point? As I understand it, this issue has moved on from your perspective since Matthew and Fiona last discussed and we are keen to ensure that this does not hold up the signing of the Arrangements. As I say, to reiterate the point in our proposed covering letter, we will provide you with all information that you need, as long as it does not pose any legal issues or places undue resource demands on us.

It is still our view that we need proper clarification on this point. We hope to have an initial legal view within the next few days .

Letter

Para 3 – ‘additional costs which we may need to agree with you’ – we would prefer this read ‘additional costs which we would agree with you in advance’

Received from OFGEM on 11.05.2017

Annotated by RHI Inquiry

The wording we used was on the basis that some costs may be small and it would be inefficient if we went through the approval process with you in every instance. Having said that, we are prepared to change the wording as you suggest if this would help.

Grateful if the wording could be changed.

Para 4 - you say the KPI's are 'internal performance measures' just wondering how are they internal if they are published on the web?

These are 'internal performance measures' in as much that they are measures that we have decided are appropriate for the scheme. We can reword the text to make sure that this is clear. Would you be content if we were to do this?

Yes, grateful if you can reword to make clear

As regards the KPI – how regularly will you provide management us with info on these indicators? – don't need this in the letter just for info.

We can provide you with monthly reports on the scheme. Michelle Murdoch, who has moved over to be the Operations Manager for the scheme will contact you to discuss the detail of the reports that we can provide.

This is fine

Admin Agreement

4.2 h still causes us some concern. Just not sure how this is going to work going forward. We may not even be aware of what regulations you use never mind any changes to them. Is there some way you can provide us with a list of regulations that you use and highlight when GB changes take place – in much the same way as Marcus did on the gas safety issue? Think we need to discuss this further.

We discussed this issue in some detail and you are going to pick up on this further with Fiona. To confirm our position is that we need to be aware of any new local (NI) legislation or changes to existing local legislation that will impact on our ability to carry out our duties. In drafting the NI Regulations we recognise that you will have considered how this dovetails into other areas of the NI legislative portfolio, so it would be any changes/additions to this that impact on NIRHI that we should be made aware of. I await the result of your conversation with Fiona, but following that discussion and on the basis of the added clarity here could you come back to me to confirm that you are content (or otherwise) with the wording as it stands.

Don't think we can do any more on this. This is going to remain a difficult issue in practice. Going forward, we will endeavour to inform you of the appropriate local legislation (and any changes) but the fact remains we cannot always know. It would be helpful if Ofgem could make us aware of any legislation it is using (over and above the NI Regs) in administering the scheme.

5.2 Can you just clarify what the last sentence means – created doubt rather than avoided it!

In short if either party are aware of anything that would require a change to the regulations or guidance as they currently stand we should let each other know. Grateful if you could confirm that this provides the clarity that you need and, if so, that you are happy with the wording.

This clarification seems reasonable

7.1 What do you mean by assets – presumably ip rights database etc but not data, paperwork, documentation etc?

Yes these are assets that are owned by Ofgem, so computer systems, databases, reports, internal process delivery supporting documents etc. As mentioned earlier we will provide you with regular information on the operation of the scheme. Does this provide you with sufficient clarity on this point?

We want to be sure we are entitled to the data and all associated documentation – are you saying that this is the case?

Baseline Scope

Exec Summary para4 – doesn't make sense – you have used £5k of contingency

There is a £5k cost increase on the original legal forecast, but we have reallocated this from another line item rather than use contingency funding. Grateful if you could let me know whether this is sufficient clarity for your purposes, if necessary we can re-visit the wording of the baseline scope to ensure that this is clear.

Think we need to change the wording it is not clear at present – suggest something along the lines of – This represents a £5k increase on the original forecast but we have reallocated this from other development costs which has eliminated the need to use the legal contingency.

1.2 – 7th bullet – can you clarify what this means – as it reads it would appear that if you get any other work our costs could change?

This means that we will not be operating outside of the boundaries of the baseline scope or the arrangements. Should an instance occur we will approach you to discuss the implications of any cross Government and/or scheme requirement and enact the change request process as agreed between us. Are you content that this clarifies the position for you?

No I'm still not entirely clear – I'm presuming it means only schemes that would interact with ours in some way? If that is the case then we are content.

5.17(a) the 'Accounting Officer' is a specific role within the NICS. Can we change this to read 'first be discussed by the Project Managers? Branch Head? Or something else?

Yes we can insert some wording that sets out attempts to resolve issues before they go to the accounting officer. I would suggest at para 5.17 we say "The dispute will first be discussed by key Ofgem New Schemes Development and DETI working level contacts (to be agreed separately)" Is this acceptable to you?

Sounds fine – the escalation at our end would be Project manager – Head of Branch – Director of Energy

Somewhere in this document we need clarity on the £47K contingency. We understand that you need assurance that this is available to you. However, from discussions with Matthew and Paul I have been given to understand that as things stand at the moment this £47K would be available to cover the costs if we need to go it alone come Jan/Feb i.e 30-35K although this might change as the project moves forward.

We do need the full £47k to be available to us up front for the purposes of spending on the main IT build costs. As you are aware, the

intention was that we would link in with the GB RHI IT release to reduce costs. However, a risk of delay in delivering the GB RHI release in January remains. As a result, given the tightness of timing, we cannot afford to stop work for several weeks to seek this funding should we need it, as that would mean that we would spend even more and also it would mean that the end of January go-live date would well and truly be missed, resulting in more operating costs too. Therefore, moving forward, I would be grateful if you could confirm that this £47k is now available to us. Once I have your confirmation I will update the wording of the baseline scope to reflect this.

I'm not sure the question has been answered. I know that you need to know that the £47K is available (as indeed it is). What we need to know is whether the £47K will cover all the costs if we are not able to dovetail with GB i.e. the 30-35K estimated costs to go it alone.

Finally I should say that we will revisit the wording in the baseline scope so that there is absolute clarity on the make-up of operational cost funding until the end of this financial year. this may cover the previous point ? but we need to know the position now.

Think these are the main points – hopefully we can get this signed off soon

Regards

Joanne

Joanne McCutcheon

Renewable Heat

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The new website for the European Sustainable Competitiveness Programme for NI is now available - visit www.eucompni.gov.uk



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