

To: Mary Smith[Mary.Smith@ofgem.gov.uk]
From: Keith Avis
Sent: 2012-11-21T12:09:43Z
Importance: Normal
Subject: RE: Admin Agreement
Received: 2012-11-21T12:09:45Z

Mary

Thanks. On the baseline scope document (link below) I have added some comments against yours. On the para referencing I am intending to update this just before the last proof read on the final draft. With regards the points you wanted to check in your covering email I have the following to offer:

AA 4.2h – are you going to email separately with confirmation if there is any? I discussed this with Joanne. The point is that DETI need to tell us if there are any changes/additions to their legislative portfolio that would impact on the scheme. Joanne was not sure exactly how they were going to track this, but did not question the need to have this. So no change needed to the text here. Her remark about Ofgem informing DETI of any GB legislative changes is OK – in as much that there are unlikely to be any, although as we do not own the Regs I can't see that this is our role.

AA 7.1 – are you planning to just respond to this via email? The line will be that we will let them have all data an associated documentation that they need, within the boundaries of what we are legally able to give them (goes back to the data ownership issue).

Scope doc

1.2 7th bullet – are you confirming this separately to updating the doc? I confirmed in discussion with Joanne that this would only mean those schemes that interact with NIRHI. She was content with that.

I hope that this helps. Having talked this through with Joanne she knows that we will make amendments to the documents where she needs and I have clarified where she has asked for it. So I would hold fire on sending further updates until we have the decision on data ownership as any details we send now could be superseded in a couple of days.

Of course, happy to discuss this further with you as you need.

Keith

From: Mary Smith
Sent: 21 November 2012 09:54
To: Keith Avis
Subject: RE: Admin Agreement

Thanks Keith – AA and letter look fine to me. I did have some comments/ queries re the baseline scope which I've highlighted as comments in the version saved below. Once you've reviewed, please can you check all paragraph references as some need updating.

Also, re the queries on the email we ran through yesterday, can I just check:

AA 4.2h – are you going to email separately with confirmation if there is any?

AA 7.1 – are you planning to just respond to this via email?

Scope doc

1.2 7th bullet – are you confirming this separately to updating the doc?

Thanks

Mary

From: Keith Avis
Sent: 20 November 2012 12:51
To: Mary Smith
Subject: FW: Admin Agreement

Mary

Following the latest exchange the following docs have been updated in track changes:

Admin Arrangements

http://sharepoint/Ops/Environ/New_Scheme_Development_Lib/New%20Projects/NIRHI/Development%20phase/NIRHI%20admin%20arrangements%2020Nov2012.docx

Baseline Scope

http://sharepoint/Ops/Environ/New_Scheme_Development_Lib/New%20Projects/NIRHI/Development%20phase/NIRHI%20Baseline%20Scope%2020%20Nov.docx

Covering letter

http://sharepoint/Ops/Environ/New_Scheme_Development_Lib/New%20Projects/NIRHI/Development%20phase/NIRHIletter%2020%20Nov.docx

Happy to update further if you have any comments. I'll then send to Matthew for info. Suffice to say, we can't really move any further on this until the data ownership issue is resolved.

Keith

From: Keith Avis
Sent: 20 November 2012 11:07
To: Mary Smith; Matthew Harnack
Subject: FW: Admin Agreement

Mary, Matthew

By way of an update, I spoke to Joanne, supplementary to her email. The bottom line is that we appear to be pretty much there on all issues, apart from the point on who owns the data. DETI know that we will let them have what they need in this respect, and the point about including a data sharing line in the application form has been point to them. What they are waiting on is how their legal reps see this. If they consider that the nature of the arrangement between us, reflected in the regs, means that DETI own the data then they want to consider the ramifications for them. I pushed on exactly what they envisaged the ramifications would be, but Joanne was unsure, preferring to wait for the legal read-out. If the read-out from DETI legal reps is that ownership is with us then the impression I got was that DETI will sign off the arrangement.

I pushed Joanne on when they are expecting a read-out from their legal reps. She said that it would be a couple of days, but would push for something as soon as is practicably possible. I flagged my concern that this was dragging on and that the response from DETI legal may result in further consideration being necessary from our legal team. I said that it was in both our interests to resolve this quickly. Joanne agreed, and we discussed that one option may be to sign a short term Admin Arrangement to the end of the fy, allowing time to bottom out the data ownership point. I should say that I was non-committal here, being mindful of the fact that we would need think this through.

I mentioned that Matthew would be looking to set up a meeting with Fiona. Apparently Fiona is equally keen to sign the Admin Arrangements off, but would want the feedback from her legal reps on the data issue before feeling comfortable to do so.

Pending the formal view from DETI on the data ownership point, I will update the three docs (AA, baseline scope, letter) to reflect the agreed position on all other issues and will send this around in track changes.

Rgds
Keith

From: McCutcheon, Joanne [<mailto:Joanne.McCutcheon@detini.gov.uk>]
Sent: 20 November 2012 09:43
To: Keith Avis
Cc: Hepper, Fiona; Hutchinson, Peter; Mary Smith; Matthew Harnack
Subject: FW: Admin Agreement

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
Senior Manager
New Scheme Development
9 Millbank
London
SW1P 3GE
Tel: 020 7901 3077
www.ofgem.gov.uk

From: McCutcheon, Joanne [<mailto:Joanne.McCutcheon@detini.gov.uk>]
Sent: 13 November 2012 10:56
To: Keith Avis

Received from OFGEM on 11.05.2017
Annotated by RHI Inquiry

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’

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

Department of Enterprise, Trade & Investment

Netherleigh

Massey Avenue

Belfast, BT4 2JP

Tel: 028 9052 9425 (ext: 29425)

Textphone: 028 9052 9304

Web: www.detini.gov.uk

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



www.ni2012.com

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

This message may be confidential, privileged or otherwise protected from disclosure. It does not represent the views or opinions of Ofgem unless expressly stated otherwise.

If you have received this message by mistake, please contact the sender and immediately delete the message from your system; you should not copy the message or disclose its contents to any other person or organisation.