

To: Matthew Harnack[Matthew.Harnack@ofgem.gov.uk]
Cc: Claudine Edwards[Claudine.Edwards@ofgem.gov.uk]; Andrew Amato[Andrew.Amato@ofgem.gov.uk]
From: Jonah Anthony
Sent: 2011-08-03T14:04:13Z
Importance: Normal
Subject: FW: NI RHI Proposal - Agreement on resourcing and costs - review and agree by 3pm Monday 1 August
Received: 2011-08-03T14:04:14Z
[NIRHI Proposal \(Legal Mark UP\) \(2\) docx.docx](#)

Matthew,

I've gone through these comments. Many are of an existential nature which I can't answer (and don't believe we should be confusing the matter here). Happy to make some stylistic changes to accommodate – but you may need to work though this with Ruth line by line.

I (wrongly) assumed Ruth would have seen this before it went to Bob – and that may have led to a sense of alarm on their side. But the figures being quoted (£55k for legal consultancy) is completely out of step with your aim of getting under £60k. I also get a sense that they don't want us to take on this project as I don't get a sense of any solutions being forth coming.

Something to ponder when as we complete this proposal and do the next.

Jonah

From: Ruth Lancaster
Sent: 02 August 2011 12:04
To: Jonah Anthony
Cc: Matthew Harnack
Subject: FW: NI RHI Proposal - Agreement on resourcing and costs - review and agree by 3pm Monday 1 August

Further to my earlier e-mail please find attached our mark up of the draft proposal document.

Kind regards

Ruth

From: Ruth Lancaster
Sent: 02 August 2011 10:59
To: Jonah Anthony
Cc: Matthew Harnack; Elizabeth Hillman
Subject: RE: NI RHI Proposal - Agreement on resourcing and costs - review and agree by 3pm Monday 1 August

Jonah

We have reviewed your draft proposals document and are just in the process of finalising our comments on it and will forward those to you shortly by separate e-mail. I have not commented on the figures in the document, but assume they reflect the FTE figures you have allocated for Legal input as follows:

2 weeks of 2 Band D FTE in October in respect of the implementation process planning;
 4 weeks of 2 Band D FTE (2 weeks in Sept and 2 weeks in Nov) in respect of reviewing the draft Regulations
 Plus £20k legal consultancy.

We have a number of comments on this:

1. I note in the draft proposal document you have incorporated Stage 1 of the Development Phase into the Feasibility Study phase, but Stage 2 of the Development Phase falls outside of the Feasibility Study phase. Please clarify which stage the legal FTE figures outlined above fall within (we have assumed that the 4 weeks in respect of the Regulations are in Dev Phase 1 and the review of legal aspects of the implementation process is part of the Feasibility Study work).

2. Please note there is likely to be some input at Band E level or above in view of the potential risks to the Authority, say 5 days.

3. As noted above Legal involvement is limited to reviewing the Regs and reviewing the legal aspects of the implementation process (capped at 6 weeks of 2 FTE time), however:

(a) the proposal document implies a much wider role for Legal than you have budgeted for. **The proposal document needs to manage expectations in line with the budget;**

(b) remit of the Legal team is described differently throughout the proposal document and in the other documents e-mails you have sent to us you have sent to us

(b) as we have commented previously this remit makes no provision for dealing with, for example, the PID, reviewing policy papers, advising on issues raised by the NI authority, GEMA papers etc. In our view this is not realistic;

(c) as mentioned previously, the development of the Regs could be a protracted and contentious process. Your budget allows for 2 straightforward reviews only. What is the timescale for the Regulations becoming law i.e. is there scope for further discussion post November in Stage 2 of the Development Phase? **What is the Authority's position if DETI won't take on board our comments? Administering a scheme on the basis of inadequate Regulations could expose the Authority to significant risk;**

(d) There is no indication of the timeline the NI authority is working to in respect of the draft Regs or its consultation exercise;

(e) The NI scheme seems to differ from the GB RHI scheme in a number of respects. This will reduce the synergies we would otherwise be able to take advantage of;

(f) the Legal input in September clashes with Go Live of GB RHI team this means those of our team with experience of GB

RHI are unlikely to be available during that period.

4. You have provided for £20k for local lawyers. The £25k for Counsel referred to in my e-mail yesterday was in addition to the £20k for local lawyers not instead of it. If you are unwilling to incorporate both in your estimate I suggest you carve out responsibility for ensuring compliance with local law and make it clear this responsibility rests with the NI Authority.

5. In considering the budget you propose we have made the following assumptions:

- (a) The timescales set out in the Baseline document will be adhered to;
- (b) The figures are based on working days not exceeding 7 hours, Monday to Friday (excl bank holidays and Privilege days);
- (c) Time spent in meetings (internal and external) does not exceed a total of 4 hours in any week;
- (d) We will not be required to attend meetings in NI.

6. I have not reviewed the figures in Peter's spreadsheet, but assume they reflect your initial estimate and will need updating. However, I did note that whilst there is a separate line item for legal review of the draft Regs it does not show the Legal review of the implementation process as a separate item. Is this covered with in the general FTE figures?

Please call me if you would like to discuss this in more detail.

Kind regards

Ruth

From: Jonah Anthony

Sent: 01 August 2011 09:32

To: Ruth Lancaster

Subject: RE: NI RHI Proposal - Agreement on resourcing and costs - review and agree by 3pm Monday 1 August

Ruth,

Thanks for your help with this.

Unfortunately timetables are set externally from our team and I can't change – Bob wants this out this week, and under a set price. I had based my emails on the fact that you would have seen the version Keith produced and circulated on Friday 22 July – apologies if this was not the case. This is an updated version with the new cost table and split delivery. Hopefully we can still reach agreement ahead of Bob's meeting tomorrow.

In answer to your questions:

Your assumptions are right. 4 weeks for reviewing the regulations and 2 weeks for feasibility. This was based on your discussions with Matthew on limiting our legal review of the regulations (once during their consultation phases and once again when they are complete). The 2 week blocks are indicative, not actual, and can be split, joined, etc as required. For example you may choose to have 1 FTE for the whole month instead. A full complete set of draft regulations have been published already – so we are hopefully in a better position than we were with DECC – but without starting the project I can comment on how much work may be needed on them.

The 2 weeks for the feasibility stage envisages covering off all aspects of the feasibility and associated meetings. As I alluded to I've been pushed to reduce the cost of the feasibility study to £100k (negotiated up from a standing start of £60k) and everything has been squeezed. I'm not even sure if the new figure of £102k will be accepted, and more cuts will need to be made.

Happy to raise the legal consultancy from the current allocation of £20k to £25k.

If you have any questions don't hesitate to holler (now that you're two desks away).

Jonah