



Consultation Response

By email to smartmetering@decc.gsi.gov.uk

Ref: **URN 12D/030**

15 May 2012

Smart Metering Implementation Programme – Regulatory Design Team

Department of Energy & Climate Change

3 Whitehall Place

London, SW1A 2AW

ELEXON's response to DECC's consultation on the draft DCC Licence and Licence Application regulations – Application Regulation (Questions 15-18).

We welcome the opportunity to provide a response to this consultation. Our response to questions 15-18 are below.

The licence application process remains largely consistent with what was proposed in your Autumn 2011 consultation. Given the difficulty in specifying the appropriate model for the DCC Licensee we believe that the flexibility proposed throughout the process is important in ensuring that the best possible model is adopted.

We also recognise the value of the Best and Final Offer (BAFO) process but note that the cost implications are not insignificant for remaining bidders in the process. Therefore any bidders taken forward to this stage need sufficient information to take an informed decision on whether to proceed with their bid.

If you would like to discuss any areas of our response, please contact me on 020 7380 4337, or by email at chris.rowell@elexon.co.uk.

Yours sincerely

Chris Rowell
Smart Programme Director



A consultation on Licence Application Regulations

Question 15: For the initial licence application, do you agree with the Government's intention to apply the BAFO stage in all circumstances, so as to mitigate the risks associated with the changing requirements and improve the competitive outcomes?

We recognise the benefits of the BAFO stage particularly given the difficulty inherent within drafting bespoke requirements and the value of the input from bidders in developing these. We would however make two observations:

- 1) It is suggested (5.94) that the intention would be to take forward a minimum of 3 candidates to the BAFO stage. We have estimated that this phase will cost at least an additional 50% to each applicant and will add to that of the authority. We therefore believe that all possible information, including where possible relative positions and/or ranking after Proposal stage, should be shared with the applicants prior to the BAFO stage. This would ensure those applicants remaining in the process have a clear view of how they will need to modify their positions to meet the authority's needs. Such information would enable informed decisions to be made by applicants and should expedite achieving agreement.
- 2) We have noted the 5 week period for submission of the best and final offers (5.111). Given the iterative nature of the dialogue process, which we anticipate would enhance the final solution, we feel this may be longer than necessary and using valuable 'Establishment' time.

Question 16: Do you agree with the proposal not now to include a fast-track process to appoint a temporary DCC, but instead to rely upon the provisions for intervention to keep the DCC's service functioning whilst a standard licensing application process is conducted to appoint an enduring successor DCC?

Yes, given the importance of the service the DCC manages, the proposed approach is an appropriate way to manage the risk: as it quickly stabilises the DCC service and thereby maintains continuity of this critical activity whilst normalising the on-going situation through procurement.

Question 17: Do you have any comments on the proposed competitive application process for the DCC licence and, in particular, on the Government's stated intention to operate an



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extensive 'best and final offer' stage for the first licence competition?

Yes, we believe the proposed process should allow for the selection of the appropriate organisation to deliver the initial DCC services. In particular we believe the BAFO phase is critical and will significantly improve the selection process allowing for better understanding of the Licence by the bidders, and better understanding of the Proposals for those reviewing the bids.

In addition to this we have one specific suggestion to support the programme in undertaking the appointment process; we note that running parallel appointment processes for the DCC and its Service Providers is a pragmatic means of expediting delivery. As part of this process each of the applicants for the DCC Licence will need to satisfy themselves of the probity of the Service Providers and their value chains; to understand how the services are proposed to be delivered; and to evaluate the contract management arrangements that have been negotiated by DECC. These activities will also have been undertaken by DECC (or on behalf of DECC by its advisors) as part of determining the award of the Service Provider contracts. Were DECC able to provide succinct reports and summaries of its due diligence findings to the applicants for the DCC Licence, this would minimise any duplication of effort. This would allow the successful licence tenderer to be able to rely upon those reports and summaries as if it had commissioned them itself.

Such an approach could shorten the time and effort needed to participate in the DCC licence award and hence the cost. Any action which lowers the costs and reduces the timescales of participating in this process, that does not compromise the overall integrity, is likely to make participation more attractive and to promote competition. A similar approach to this is common in large scale asset purchases where it is known as 'vendor due diligence'.

Question 18: Do you have any comments on the draft DCC licence application regulations and, in particular, whether they effectively implement the proposed competitive application process described in this consultation document?

The consultation documents and the licence application regulations draft appear to align and we look forward to further detail as it emerges

For more information on our response, please contact:

Chris Rowell, Smart Programme Director

T: 020 7380 4337 or email chris.rowell@elexon.co.uk