



**Northern Ireland Sustainable Energy Programme
(NISEP)**

**Consultation on revised Framework Document for
2013-14**



August 2012

Contents

- 1.0 Introduction and Consultation Questions
 - 1.1 Purpose of the Consultation
 - 1.2 How to Respond
 - 1.3 Equality of Opportunity
 - 1.4 Summary of Consultation Questions

- 2.0 Context and Strategic Intent
 - 2.1 Background to NISEP
 - 2.2 Current Situation
 - 2.3 NISEP 2013-14

- 3.0 Changes to Framework Document for 2013-14
 - 3.1 Funding Available
 - 3.2 Accedence Document
 - 3.3 State Aid Guidance
 - 3.4 Sub-contracting Arrangements
 - 3.5 Other Changes

- Annex 1 Draft Framework Document for 2013-14

1.0 Introduction and Consultation Questions

1.1 Purpose of Consultation

The purpose of this consultation is to invite comments on the revised Framework Document (attached in Appendix 1) which will apply to the Northern Ireland Sustainable Energy Programme (NISEP) for 2013-14.

The NISEP (then known as the EEL) was the subject of a major review and consultation in 2008/9. In our decision paper dated March 2009¹ the Utility Regulator stated that the NISEP should continue for at least three years after which it would be the subject of further review. Now that the three year period is nearing completion the Utility Regulator could carry out a full review of NISEP looking at all possible options. However DETI are currently consulting on policy proposals for a new Energy Bill for Northern Ireland which includes questions and options on energy efficiency provision in Northern Ireland, and (with the agreement of the Utility Regulator) questions on the continuation of the NISEP. Responses to the DETI consultation are due by 14 September 2012. There is therefore little value in convening a full review of NISEP until the outcome of the DETI consultation is known. It is unlikely that any proposals resulting from the DETI consultation will be in place by April 2013 which is the commencement date of the 2013/14 NISEP year.

We consider that it could be damaging to the overall interests of customers to have a gap in energy efficiency provision from April 2013. Therefore the Utility Regulator intends to continue the NISEP in its current form for at least one further year commencing 1 April 2013, or depending on the outcome of the DETI consultation until any new measure resulting from the Energy Bill consultation is introduced. We have however reviewed some of the NISEP operational processes, such as the approval process, to take into account lessons learnt and circumstances which have arisen during the previous year (including the introduction of the DETI Renewable Heat Premium Payment). This paper covers these technical changes to the NISEP framework document along with certain changes which are in required on an annual basis to update funding levels, cost-effectiveness targets and other figures, as appropriate.

This is a technical document on which the Utility Regulator does not usually consult stakeholders. However, given that there are slightly more changes than usual we see value in having a short consultation.

We consider that these changes are sufficient to take account of lessons learnt. While some changes are substantive they are not a ground up rewrite of the Framework Document. We consider that a short review and

¹ http://www.uregni.gov.uk/uploads/publications/2009-03-31_EEL_Decision_Paper.pdf

consultation rather than a ground up reconsideration of the document represents best value for the reasons referred to above.

Time is of the essence as schemes for the 2013-14 year must be submitted by the 31 December 2012. Those wishing to submit schemes for the period commencing 1 April 2013 should be aware of the closing date for the submission of schemes and they should also be aware that they must be a registered primary bidder in order to submit schemes.

Most of the revisions to the document have been made in response to one of the following:

- I. the decision to roll the NISEP forward for another year but retain the costs at a similar level to the 2012-13 NISEP;
- II. the introduction of the Renewable Heat Premium Incentive Payment by the Department of Enterprise, Trade and Investment (DETI);
- III. lessons learnt in the previous year.

1.2 How to Respond to the Consultation

The Utility Regulator (UR) welcomes stakeholder views and comments on all the proposals set out in this consultation paper. Unfortunately, due to time constraints i.e. the need for the 2013-14 call for schemes to be issued in September, or as soon as possible thereafter, the consultation will only run for a period of four weeks.

The consultation period will therefore close on 26 September 2012

Responses to this consultation should be forwarded to reach the UR on or before 5pm on 26 September 2012 to:

Alison Farr
Social & Environmental Sustainability
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: alison.farr@uregni.gov.uk

Note: We regret that due to the NISEP timetable we will not be able to permit extensions to the consultation period.

Your response to this consultation may be made public by the UR. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is

automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

Information provided in response to this consultation, including personal information may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.

This document is available in accessible formats. Please contact Sarah Brady on 02890311575 or Alison.farr@uregni.gov.uk to request this.

1.3 Equality of Opportunity

As a public authority, the UR has a number of obligations arising from Section 75 of the Northern Ireland Act 1998. These obligations concern the promotion of equality of opportunity between:

- I. persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- II. men and women generally;
- III. persons with disability and persons without; and
- IV. persons with dependants and persons without.

The UR must also have regard to the promotion of good relations between persons of different religious belief, political opinion or racial groups.

In the development of its policies the UR also has a statutory duty to have due regard to the needs of vulnerable customers i.e. individuals who are disabled or chronically sick, individuals of pensionable age, individuals with low

incomes and individuals residing in rural areas. Some of the above equality categories will therefore overlap with these vulnerable groupings.

The NISEP represents an important element of the UR's response to its duty to protect customers and its duty to have regard for the environment. The importance of the Programme has increased over the years (since its inception in 1997/8 as the Energy Efficiency Levy programme) as issues such as fuel poverty, fuel security and environmental sustainability have increased in importance. It is intended that the continuation of the NISEP and the changes to the Framework Document should have a positive impact for all groups within the population.

In order to assist with equality screening of the proposals contained within this consultation paper, the UR requests that respondents provide any information or evidence in relation to the needs, experiences, issues and priorities for different groups which they feel is relevant to the implementation of any of the proposals. Furthermore, the UR welcomes any comments that respondents might have in relation to the overall equality impact of the proposals.

□

Question 1. Respondents are asked to provide any comments or evidence they have in relation to the equality impact of the proposed changes.

1.4 Summary of Consultation Questions

Q1.	Respondents are asked to provide any comments or evidence they have in relation to the equality impact of the proposed changes.
Q2	Do you agree that the final date for schemes bids to be submitted to the Programme Administrator should be put back to 31st December 2012 to allow more time for schemes to be developed following this consultation?
Q3	Do you agree that the NISEP funding should remain static at the 2012-13 level until the NISEP is reviewed or a new energy efficiency measure is introduced?
Q4	Do you agree that Solar PV should be the only type of renewable energy measure approved for NISEP schemes? (Bearing in mind that, as per Section 2.1 of the Framework Document, measures promoted must be in customer's financial interest i.e. the present value of the lifetime customer benefits should exceed the cost of the measures.)
Q5	Do you agree that a 10% ring-fence of funding for innovative and renewable energy measures (Solar PV), is more appropriate than a 5% ring-fence for renewable (Solar PV) and a 5% ring fence for innovative?
Q6	Respondents are asked to comment on what the appropriate level of incentives should be for delivery of NISEP schemes.
Q7	Do you have any comments on or issues with the revised Accedence Document contained in Appendix 8 of Annex 1?
Q8	Do you think that the guidance regarding compliance with State Aid, now contained within the Framework Document, is clear and adequate?
Q9	Do you have any comments on the additional clarification in the Framework Document regarding procurement arrangements, sub-contracting arrangements and partners?
Q10	Do you have any comments on the revised Section 2.5, Payment of NISEP Funding, in the Framework Document?

2.0 Context and Strategic Intent

2.1 Background to NISEP

The Northern Ireland Sustainable Energy Programme (NISEP) is a voluntary incentivised programme of energy efficiency/renewable energy schemes, funded by customers through the electricity system in the form of a Public Service Obligation. This means that a small charge is applied per kilowatt hour of electricity used by all electricity customers.

The Programme was set up by the Utility Regulator in 1997/8 (formerly known as the Energy Efficiency Levy) and is operated on an annual cycle with schemes running from April to March. Organisations registered as Primary Bidders to the Programme submit bids in the autumn of each year for schemes to begin the following April. The most cost-effective schemes within a number of ring-fenced categories are awarded funding.

Any organisation that can meet the eligibility criteria within the NISEP Framework Document can apply to become a Primary Bidder. Any organisation that wishes to register as a Primary Bidder should contact the Programme Administrator to express their interest. Registration commences in June each year for participation in the Programme the following year.

The strategic objectives of the NISEP are to contribute to the achievement of:

- I. Efficiency in the use of energy;
- II. Socially and environmentally sustainable long-term energy supplies;
and
- III. The above at best value to customers whilst also having due regard to vulnerable customers.

Since 2002, as a result of a consultative process, the majority of the funding (80%) has been targeted at vulnerable customers in Northern Ireland. Subsequent consultations have substantiated the view that this level of funding for vulnerable customers should remain whilst fuel poverty levels in Northern Ireland remain high.

The Utility Regulator continues to have overall managerial responsibility for the NISEP but has appointed a Programme Administrator (currently the Energy Saving Trust) to oversee the detailed operation of the programme. The fees for the role of Programme Administrator are paid for from NISEP funds.

2.2 Current Situation

The Programme was renamed the NISEP in 2010-11 following a review of the Energy Efficiency Levy in 2008, as it was felt that the new title better reflected the its strategic objectives. It was decided that, as per one of the recommendations arising from the 2008 review, the NISEP would run for at least three years i.e. until 2012-13, and after which time its continuation would be subject to review.

While decisions in relation to the NISEP are for the Utility Regulator, we work closely with DETI on energy related matters and have therefore agreed that the DETI Energy Bill consultation should contain questions in relation to NISEP. The closing date for the DETI consultation is 14th September 2012 and the Utility Regulator considers that it is important that the outcome of this consultation is known before any major review of NISEP can be undertaken. Therefore we have decided that the NISEP should continue largely in its current form for at least one further year, or (subject to the outcome of the DETI consultation) until any new energy efficiency measure resulting from the DETI consultation is agreed.

This will ensure continuity of energy efficiency provision in Northern Ireland. The DETI consultation asks stakeholders if they agree with this decision but in the meantime, as preparation has to start in September, the NISEP will run for one more year i.e. 2013-14.

2.3 NISEP 2013-14

The UR considers that the NISEP should continue in its current form for another year on the following basis;

- I. the level of NISEP funding available will remain static;
- II. the ring fence arrangements for the non-priority category will be revised to take account of the introduction of the Renewable Heat Premium Payment and the Renewable Heat Incentive (to be launched in autumn 2012);
- III. the list of approved technologies will be updated to ensure that there is no overlap with other DETI schemes;
- IV. a short, high level review of the NISEP framework document is carried out to tighten up certain provisions and drafting to take account of lessons learnt and to increase certainty that the schemes will continue to deliver value for money and within the parameters expected.

The changes to the Framework Document are discussed in the following sections.

The call for schemes for the following NISEP year to commence in April, is usually issued by the second week in September. Due to the need to

undertake this consultation exercise and to allow time for the consideration of responses, it is likely that the 2013-14 call for schemes will not be issued before October. To compensate for this and to allow time for the development of scheme submissions, we propose to move the cut-off date for scheme bids to be submitted to the Programme Administrator from 30th November 2012 to 31st December 2012.

Question 2: Do you agree that the final date for schemes bids to be submitted to the Programme Administrator should be put back to 31st December 2012 to allow more time for schemes to be developed following this consultation?

3.0 Changes to the Framework Document for 2013-14

3.1 Funding Available

Overall

In previous years the level of funding allocated to the NISEP has risen by inflation but, as discussed in Section 2.3, it is proposed that the level of funding for 2013-14 should remain at the 2012-13 level i.e. £7,941,946 (with any under-spend from the 2011-12 added to the 2012-13 year). This will be reviewed in light of the DETI Energy Bill Consultation.

Question 3: Do you agree that the NISEP funding should remain static at the 2012-13 level until the NISEP is reviewed or a new energy efficiency measure is introduced?

The estimated funding available for each ring-fenced category is set out in Table 2.1, however it should be noted that the exact amounts cannot be determined until the costs of the Programme Administrator for 2013-14 are confirmed.

Non-priority Innovative Category

The funding for Non-priority (i.e. not vulnerable/low-income domestic customers) domestic and commercial schemes is divided equally i.e. 10% of total scheme funds each, between conventional and innovative schemes. In previous years the innovative category has been further sub-divided to set aside 5% of total scheme funding for schemes which provide renewable energy measures.

In 2013-14, it is proposed that the sub-division within the innovative category will be removed which means that innovative schemes (defined as schemes which help to bring forward new but proven domestic or commercial technologies that provide a better energy efficiency performance than 'standard' measures) will now compete with renewable energy schemes for 10% of the total scheme funding. (In 2012-13, no non-priority innovative schemes were submitted and therefore the full 10% of innovative funding was given to renewable energy schemes.)

The reason for the change is, to avoid overlap with the Government's Renewable Heat Premium Payment Scheme which was launched on 24th May 2012. This scheme provides support for householders towards the costs of installing a renewable heating system (and the Renewable Heat Incentive which will be launched in the autumn 2012 for businesses). The list of approved technologies for the NISEP no longer includes air source heat

pumps, biomass boilers, ground source or water source heat pumps and solar thermal. This means that Solar PV is currently the only approved renewable technology for NISEP schemes (and will remain so unless other proven renewable technologies can demonstrate adequate cost-effectiveness). In order to ensure proper competition for funds it is not deemed appropriate to have ring-fenced funding for just one particular type of technology.

Question 4: Do you agree that Solar PV should be the only type of renewable energy measure approved for NISEP schemes? (Bearing in mind that, as per Section 2.1 of the Framework Document, measures promoted must be in customer's financial interest i.e. the present value of the lifetime customer benefits should exceed the cost of the measures.)

Question 5: Do you agree that a 10% ring-fence of funding for innovative and renewable energy measures (solar PV) is more appropriate than a 5% ring-fence for renewable (solar PV) and a 5% ring-fence for innovative?

Incentive Payments

As per Section 2.6 of the Framework Document, in order to encourage Primary Bidders to bring forward schemes and thereby ensure that the objectives of the NISEP are met, an incentive payment is awarded to Primary Bidders who exceed their energy saving target.

The funding for incentive payments is additional to the NISEP funding set out in Table 2.1 of the Framework Document as it is not until the schemes are completed and all the outturn figures confirmed that the incentive payments earned by the Primary Bidders can be calculated. For the 2010-11 NISEP year (final figures are not yet available for 2011-12 schemes), incentive payments earned by Primary Bidders totalled £471,488.

In order to ensure the total costs of the NISEP remain static and a maximum figure can be established at the start of the year, it is proposed that a cap on the funding available for incentive payments be introduced. The conclusions paper from the 2008 review of the EEL, published in March 2009, introduced a new mechanism for the calculation of incentives which intended to provide "an expected incentive payment of 6%" (of funds spent). It is therefore proposed that the funding available for incentives payments for 2013-14 will be £470,000 which is approximately 6% of the funding available for schemes and consistent with the level earned in 2010-11.

As detailed in Section 3.6 of the Framework Document, the calculation of incentives payments will remain the same but if the total amount of incentives earned by Primary Bidders exceeds £470,000 then the payments will be adjusted on a pro-rata basis.

Question 6: Respondents are asked to comment on what the appropriate level of incentives should be for delivery of NISEP schemes.

3.2 Accedence Agreement

Primary Bidders are required to sign an Accedence Agreement each year, before they are permitted to submit schemes for the following year. The signed Accedence Document is a legally binding agreement between the Primary Bidder and the Utility Regulator, regarding the terms and conditions under which the NISEP funding is awarded to the Primary Bidder.

The Accedence Document, included in the Framework Document as Appendix 8, has been revised to clarify the relationship between Primary Bidders and the Utility Regulator and to reflect other changes in the Framework Document. The signed Agreement will only apply to schemes for a particular year and will terminate when the schemes for that year have been completed and signed off, signified by the issuing of the Post-Implementation Report approval letter from the UR to the Primary Bidder.

Question 7: Do you have any comments on or issues with the revised Accedence Document contained in Appendix 8 of Annex 1?

3.3 State Aid Guidance

Non-priority schemes which offer support to commercial undertakings must comply with State Aid rules (see Appendix 10 of Framework Document) and therefore Primary Bidders need to ensure that they have appropriate procedures in place, including the completion of declaration forms by beneficiaries.

The Framework Document, in Section 2.8, has been updated to bring attention to the need for State Aid compliance when providing grants for commercial entities. Further guidance on the required procedures to ensure State Aid compliance, including the declaration forms to be used, is now included as Appendix 9 to the Framework Document. As there are separate State Aid rules for commercial undertakings in the agricultural sector and

those which are not in the agricultural sector, there are two different notices and declarations included in Appendix 9.

Question 8: Do you think that the guidance regarding compliance with State Aid, now contained within the Framework Document, is clear and adequate?

3.4 Procurement Arrangements

In response to issues and concerns raised by stakeholders over the past year, a number of amendments have been made throughout the Framework Document, but particularly Section 1.6, to clarify the requirements in relation to procurement, subcontractors and partners.

The Primary Bidder is entirely responsible for its own sub-contracting arrangements and for the actions of any other parties involved in the undertaking of their scheme. The Utility Regulator's only relationship is with the Primary Bidder. However, as the NISEP is funded by electricity customers any procurement processes used to engage other organisations (such as sub-contractors, suppliers and where appropriate partners) and suppliers of measures should be fair and ensure best value use of NISEP Funds.

The Framework Document now refers to the EU Energy Services Directive², which must be complied with in relation to the provision of energy services. As a regulator, UR must ensure that this directive is complied with in any of the services that it undertakes or regulates. Therefore, the UR requires all Primary Bidders to endeavour to avoid any distortion of competition in the energy services market in order to guarantee a 'level playing field' between all energy service providers i.e. procurement processes should be fair and promote equal access for all potential suppliers of the service.

Question 9: Do you have any comments on the additional clarification in the Framework Document regarding procurement arrangements, subcontracting arrangements and partners?

² Directive 2006/32/EC of the European Parliament and of Council, on energy end-use efficiency and energy services.

3.5 Other Changes

Payments to Primary Bidders

Section 2.5 has been amended to reflect the decision, implemented during 2012-13, to move to monthly payments of NISEP funding to Primary Bidders. Previously the payments had been made on a quarterly basis however in order to avoid causing cash flow problems for Primary Bidders whilst at the same time making the scheme easier to administer claims for reimbursement may now be submitted monthly.

The revised section also now contains timescales to ensure the prompt processing and payment of agreed claims for re-imbusement and reference to the handling of VAT by Primary Bidders.

Question 10: Do you have any comments on the revised Section 2.5, Payment of NISEP Funding, in the Framework Document?

Appendices

The appendices within the Framework Document have been updated to reflect the amendments within the body of the documents. This includes the scheme submission and reporting forms.

Annex 1: Framework Document

This appendix is included as attachment to the web link or if this document has been sent to you via email as an attachment to the email.