

## Question 61

Do you have a view on the appropriate materiality threshold (trigger) for the revenue reopener?

## Response to 61

We support the consultation's proposals to include a revenue reopener in cases where unforeseen and/or unpredictable factors have a material impact on DCC in a way that is beyond its control.

Using a threshold to decide the level at which negotiations will be reopened is a sensible approach and will avoid the need to process multiple small adjustments on a daily basis. We propose that these small items are logged until a threshold value is reached and they are all processed as part of one reopener.

However, the reopener threshold of 10% of DCC's revenue is in our view is significantly too high. Given the commercial risk transfer and the expected margin we would expect to see a revenue reopener at 2% of DCC revenue. This level will help to ensure the financial viability of the DCC whilst promoting an efficient method of change.

## Question 62

Do you consider that any other cost areas may require mechanisms to deal with uncertainty?

## Response to 62

Given the uncertainty of timing and requirement of the DCC activities it is inevitable that other cost areas will require mechanisms to cope with this uncertainty and deliver the flexibility to change. At this stage it is too early to tell specifically what the other cost areas could be.

Our preferred mechanism to deal with this uncertainty is the revenue reopener option.

## Question 63

Do you agree that market share should be based on MPANs and MPRNs that are mandated to receive smart metering systems, rather than all MPANs and MPRNs?

## Response to 63

We agree that it makes sense to calculate market share based on MPANs and MPRNs that are mandated to receive smart metering systems (domestic smart meters and suppliers signed up to the SEC).

We believe that equitable charges should be applied to those who are mandated or who elect to use DCC services but do not think it would be appropriate to base market share assumptions on MPANs and MPRNs that are not mandated to receive smart metering systems as this could lead to a distorted outcome for Users and therefore customers.

## Question 64

Do you have a view on whether suppliers of only larger non-domestic customers should be charged a proportion of DCC internal costs?

## Response to 64

We believe that those who receive a service from the DCC and gain benefit from doing so should pay a charge. The charging mechanism used should be based on equity across those who are mandated (domestic) to use the DCC services and those (non-domestic) who elect to use them. It therefore follows that the DCC internal costs should be spread equitably across all Users.

## Question 65

We welcome views from stakeholders in regards to charges on network operators for DCC internal costs pre-"go-live" and whether they should charge DCC for services provided to DCC.

## Response to 65

With regard to DCC internal costs prior to 'go live', we believe that network operators will ultimately benefit from and use the services of the DCC. Logic therefore suggests that they should pay a proportion of the DCC costs prior to 'go live'. However we recognise that the network operators' revenue may be restricted via a price control and they may be unable to recover these costs. If a mechanism can be devised whereby these costs could be recovered by the network operators then we believe they should pay a proportion of the DCC costs prior to 'go live'.

With regard to the network operators charging the DCC for services and information prior to 'go live', we believe that the DCC should pay charges for services and information received.

Our logic for both of these positions is that it would establish a formal business to business relationship at the outset.

## Question 66

Do you agree that DCC should only begin to charge Users for communication service providers' costs from "go-live"? Please provide reasons as to why this is or is not appropriate.

## Response to 66

Our answer to when charging begins will depend on the terms and conditions of the communication service provider contracts.

The communication service provider contracts are large and significant and therefore material work will need to be carried out prior to 'go live'. If they are to receive interim payments prior to 'go live', there must be a mechanism for the DCC to recover that cash from Users in order for the DCC to make interim payments. This would require charges to be levied for communication services prior to 'go live'.

However, if the communication service providers' costs are stored up to 'go live' and only start to be charged from 'go live' then the DCC can recover those costs from Users from 'go live'.

In addition, it should be considered if it is appropriate that organisations that have initiated an early roll out will pay for any communication services they receive prior to 'go live'. On balance it seems slightly inequitable that suppliers who have gone for early roll out might receive those services prior to 'go live' "free".

Therefore we suggest that communication services prior to 'go live' are charged to Users based upon their planned profiled rollout of smart meters. We accept that this may result in Users paying for services that they are not using because they have failed to achieve their profiled roll out plan but we believe this will be insignificant in the scheme of things. This principle will act as an incentive to achieve roll out plans.

## Question 67

Do you have a view on whether the data service provider(s) should be treated differently from communication service providers and be allowed to recover its fixed costs evenly over the length of its contract from "go-live"? Please provide reasons why this is or is not appropriate.

## Response to 67

Yes, it makes sense to treat the data service providers differently because they will clearly have to have the full service capability up and running at the 'go-live stage' irrespective of how many meters it will be servicing, whereas communications service providers will be paid as they go. We understand the proposal described and find it acceptable.

The 'straight line' approach seems more sensible for the recovery of costs for data service providers.

However, we do not believe that the data service provider's payment should depend solely on setting the infrastructure up as this by itself is intangible. We would prefer to see some improvement to this mechanism by making payment more results driven. This could include linking payment to assurance from the data service providers that the system is viable, such as a proof of delivery or acceptance test completion.

## Question 68

Is it appropriate that the allocation of costs on suppliers during rollout be based on the suppliers' rollout plan for the year plus actual smart meters installed in preceding years? If so, can this option for allocating costs during rollout be improved? If not, what is your preferred option and why?

## Response to 68

We support exploring the three options set out in the consultation document – they are the right guiding principles for cost allocation.

Allocating costs to suppliers according to their rollout plans plus actual smart meters installed in preceding years, as set out in the third option, may be the most appropriate as it will enable improved planning and cooperation regimes between the suppliers and the DCC, and will deliver an incentive to install meters in accordance with rollout plans. We suggest any rollout target that is not achieved in a year is automatically added to the next years rollout plan to ensure consistency of charging.

However, we can see merit in the other two approaches described and we welcome the proposed dialogue with service providers to pursue a faster rollout.

A suggested improvement would be to offer lower charges to suppliers who intend to roll out their meters earlier in the 2014-19 period. This would incentivise earlier adoption and more ambitious roll out of smart meters, ensuring that everyone realises the benefits of them as soon as possible.

## Question 69

Do you have a view on how any additional costs resulting from suppliers exceeding their rollout plans should be allocated? Should DCC be able to pass through to the relevant supplier any higher costs resulting from this (or should such costs be averaged across all Users)?

## Response to 69

We recognise the challenges between adequately recovering costs from suppliers who have not accurately forecast their rollout plans and the desire to ensure and incentivise a timely rollout of smart meters.

In reality it is likely that there will be some over achievement and some under achievement of rollout. In the instance that rollout is exceeded, the charges for the following year will quickly take this into account by charging on the basis of actual and planned rollout. We feel that the extent of under recovery of costs due to over achieving rollout is likely to be relatively insignificant and it may be possible for DCC to negate under charging by the charges levied where planned rollout has not been achieved. Where the DCC has not been able to negate the under recovery of costs we would prefer recovery on the basis in the following paragraph.

Although there is a natural justice element to expecting suppliers who exceed their rollout plan and place additional pressure on the DCC to be charged for this, we are concerned that to do so would provide a strong disincentive to earlier and more ambitious rollout – it would encourage risk aversion in rollout plans and that would be undesirable. Therefore to provide an incentive to overachieve, we recommend sharing these costs caused by exceeding the rollout plan averaged across all Users, so that everyone is incentivised to overachieve.

## Question 70

Do you agree that network operators should be charged in line with their market share?

## Response to 70

Yes. The consultation document rightly states that network operators are not in direct competition with each other and therefore charges based on market share should not cause a distortion of competition.

## Section 5 – Charging Methodology

### Question 71

Do you agree that a standing charge should cover the service providers' fixed costs for providing core services, DCC's internal costs and the SEC management funding requirements?

### Response to 71

Yes, we believe this is a fair way to ensure reliable, stable and sustainable cost recovery for the new infrastructure and service offering. As DECC finalises the charging structure during the dialogue stage of the procurement process, we believe an equitable approach would be for all DCC Users to contribute to the cost of operation.

## Question 72

Do you agree that a proportion of service providers' fixed operating expenditure should be converted to volumetric charges?

## Response to 72

We agree with the approach outlined – the service provider revenue should consist of two elements, a core charge to cover a proportion of fixed costs and a variable charge to recover the remaining fixed costs plus variable costs.

## Question 73

Do you agree that the proposal for postage stamp charging is consistent with the objectives of the smart metering programme?

## Response to 73

Yes, we accept that the postage stamp principle is consistent with the objectives of the smart metering programme principally because it will promote the wide rollout of smart metering and spread the cost equitably over Users and ultimately consumers.

## Question 74

Should postage stamp charging apply to all Users including network operators?

## Response to 74

Within the decision to apply postage stamp charging we can see the arguments in favour of charging Distribution Network Operator (DNO) companies according to a regional volume charge rather than a GB-wide one. We believe that empowering the DCC to procure the most appropriate provider for each region and ensuring that the price paid to them reflects the efficiency best practice is the right way to apply this requirement.

We are confident that there will be other stakeholders with different perspectives on the merits of a range of approaches here and we are supportive of these being given their due consideration.

## Question 75

Do you agree with the proposed charging principles?

## Response to 75

Yes. The principles outlined encourage and incentivise the right environment, i.e. charges are fair and reflect cost incurred but are also universally equitable; revenue is stable; and early rollout and competition are promoted.

We believe the second principle proposed (i.e. the charging methodology should take account of development in DCC's business) should include the words "and encourage an innovative approach".

## Question 76

Do you consider that an objective for the charging methodology should be to promote innovation in the supply of energy, provision of energy related services and energy distribution?

## Response to 76

Yes and further more, we believe the chief driver for innovation will be in the elective services that DCC is able to offer. These services will enable the infrastructure to bring benefits to customers and wider society far beyond those of just electricity and gas usages. The key to unlocking these innovations will be in affording DCC the flexibility and freedom to develop and offer them whilst ensuring continued focus on delivering "business as usual".

We strongly emphasise that reliability and consistency in delivering the core DCC services to a high standard must always be the DCC's number one priority. Any elective services must be the secondary priority and should only be offered once the core services are up and running and maintained at the level expected.

## Question 77

Do stakeholders have views on whether DCC's internal costs should be allocated across the different types to Users on the same basis as service provider fixed costs?

## Response to 77

We do not believe that the DCC internal costs should be allocated on the same basis as the service provider fixed costs. They should be allocated on a fair, predictable, stable and ultimately equitable way across Users such that they are fully recovered in year. This will ensure that the DCC remains financially viable and provides the most cost effective service.

## Question 78

Do you agree with the proposals to charge Users for extensive assessment and design work in relation to AMRs? Should a similar approach be adopted for other elective services offered by DCC, regardless of the User accepting the service?

## Response to 78

Where DCC is required to offer terms for AMR services, we agree with the proposal to charge Users for extensive assessment and design work.

Where DCC is offering elective services, we suggest that it is fair that core Users are not charged for the costs of this activity. However if the DCC is approached by a User to explore an elective service it may be appropriate for the DCC to charge that entity for those assessment and design services.

We support the principle of the arrangements to reimburse 'first comers' if similar work is required by additional Users.

## Question 79

Do you agree that "a second comer principle" can be applied?

## Response to 79

We do believe that a "second comer principle" can be applied, as this will incentivise and encourage innovation take-up and sharing of best practice and avoid the unfair situation of competitors 'piggy-backing' on innovations made by pioneering elective services.

## Section 6 – WAN Requirements

## Question 80

Please indicate whether the Minimum Core Service Requirements (i.e. message size, frequency, response time and coverage) for each of the message flows in the above tables can be modified to reduce the potential impact on the WAN cost without compromising the corresponding benefits. Please quantify the additional Programme benefit that could be realised by including each of this message flows in the aggregate Minimum Core Service Requirements.

## Response to 80

We are not currently in a position to answer whether the proposed Minimum Core Service Requirements can be modified. In order to do so, we would need access to information we are not currently able to obtain. However, as a DCC Licence holder we would work with both the Users and the Service Providers to identify whether the network load (which directly drives the costs of the network) can be reduced without compromising the benefits of smart metering.

We would do this by challenging the requirement on an item by item basis in order to ensure an appropriate balance between value for money for all Users and an appropriate service provision for current and future use.

We are not in a position to quantify the potential programme benefits that could be realised.

**Question 81**

Please quantify the additional benefit, if any, that could be realised by using the 'User Target' rather than the 'Minimum Core Service Requirement' in table 6.1. as basis for the procurement of DCC communication services.

**Response to 81**

We are not in a position to answer this question.

## Question 82

Please provide views on whether the Service Requirements described in the above table represent the Minimum Core Service Requirements. Please also indicate whether in your view there are any additional Minimum Core Service Requirements not identified in the above table, and for any such requirement please quantify the additional benefits, if any, that could be realised.

## Response to 82

We are not in a position to answer this question.

## Section 7 – Performance Incentives

### Question 83

Please provide comments on the incentive regime proposed for DCC.

### Response to 83

In order to ensure common goals and continued performance improvement it is important that the DCC and its service providers stand to gain from performance improvement or over performance. Equally important is that the DCC Users share in and benefit from any improvement.

The viability of a thin DCC may be questioned if penalties are not capped at the level of margin in any one year. However, if the scope of work is more significant (thick) for the DCC and attracts large commercial organisations, these commercial organisations may be confident in their performance and may be prepared to demonstrate this by placing at risk sums which exceed the annual profit.

A particularly harsh payment and performance mechanism may lead to "gold plating" of the services provided. It is also worth noting that the DCC is unlikely to have the time and opportunity that would be necessary to significantly influence the initial service provider contracts and therefore may be limited in the amount of risk it can take under the performance mechanism.

A balanced score card approach allowing reward for over performance often complicates the operation of a payment and performance mechanism. The public sector is littered with contracts where over complex KPI and performance mechanisms have been put in place. This has resulted in huge administrative effort on the part of the contractor and the Authority to keep pace with the performance mechanism. We have seen and experienced this in defence, education and justice contracts. In some cases this has proved so ineffective and costly that the performance mechanism has been abandoned by agreement of the contractor and customer. A well thought through, and appropriately proportioned performance mechanism will undoubtedly deliver tangible benefits to all.

"Thin" DCC is a relative concept. Compared to the size and operations of the data and communications service provider contracts, the value of the work to be completed is relatively thin. However in terms of the other services to be managed or self delivered by the DCC there is a significant scope of work upon which the DCC should be prepared to take performance risk.

Risk should sit where it is best managed and therefore the consultation document correctly identified that the risk associated with the poor delivery of data and communications services should sit with the DCC's contracted service providers. A normal commercial model would see some of this risk sit with the DCC, however risk attracts reward and this would have a couple of significant consequences:

- a) If the DCC is required to take risk on the major service provider contracts, external financial audit will require that the service contracts revenue and cost must be passed through the financial accounts of the DCC. This will immediately mean that the revenue will need to attract appropriate margin.
- b) If the service provider contracts are to attract margin it will not be the most cost effective

solution as there will be "margin on margin". We believe this would significantly increase the cost of the DCC.

Many large commercial organisations will be used to taking the sort of risks that are suggested for the major service provider contracts. However, placing these risks on the DCC will change the accounting treatment required in the DCC financial accounts from pass through to full revenue and cost accounting with appropriate margin. We believe this will significantly increase the cost of providing the DCC services.

It is agreed that DCC should be incentivised in a manner that:

- a) avoids gold plating
- b) supports the rollout of meters
- c) encourages excellence in the delivery of its services
- d) ensures that costs are managed in line with expectations
- e) rewards continuous improvement and innovation

It will be essential that the DCC is capable of flexibility in the early years and the Authority will need to make provision for a simple and swift change mechanism. It is suggested that a swift and simple change mechanism will not be achieved by including these provisions within the licence. We suggest the change mechanism is included within the Smart Energy Code.

It is unavoidable that the incentive mechanism will be different in the early years of the DCC licence as it has not been directly responsible for the procurement of the data and communications services contracts and there will be no history against which to set performance standards.

The DCC should be measured against KPI for its internal performance – setting targets and KPI for the first generation of licence may be difficult but not insurmountable. It will be key to the flexibility and success of the DCC that there are appropriate swift and effective ways of achieving change. Undue governance or restrictive conditions will potentially fetter the activities and continuous improvement of the DCC services.

We believe that the option to allow the DCC licence applicants to bid in its own KPI targets is seriously flawed. If each applicant submits different performance standards (even against common KPI set by the Authority) there will not be a level playing field on which to equitably evaluate each applicants proposal – there will be a subjective assessment of different prices against different performance standards. Potentially there is significant danger this could lead to a procurement challenge by unsuccessful applicants. It is essential that applicants bid against a common set of requirements and standards.

We agree that it may be appropriate to vary KPI from time to time. However the negotiation and agreement of revised performance standards can be an extremely time consuming and costly exercise for the DCC licence holder, SEC panel and the Authority. This would not deliver best value to the Users and therefore we would suggest that this exercise should be undertaken at 5 year intervals.

Most commercial models provide for a set of KPI against which the licence holder or contractor will self monitor and report. In our experience, independent auditor involvement is expensive and has not stood up to cost/benefit analysis. There are further complications with independent audits; they are, at least to a degree, subjective. Trying to impose a payment and performance

mechanism against a set of subjective assessments leads to debate, discussion, delay and significantly increased costs.

Our extensive experience indicates that self monitoring and reporting against an agreed set of requirements and KPI has been proven to be the most cost effective and efficient mechanism for performance management. Our strong preference would be against the use of annual independent audits.

Target cost incentive fee schemes (TCIF) are generally successful and encourage the right behaviour provided the share pain/gain line is appropriately drawn. We have successfully worked with TCIF schemes in the defence, justice, education and transport sectors.

Asking licence applicants to bid the amount of revenue they are prepared to put at risk under the payment and performance mechanism is entirely appropriate and best practice. This does not have to be restricted to the DCC's profit level. If it is not, there would be an increased emphasis on achieving the appropriate level of financial security and robustness for the DCC.

Flexibility in the early years is going to be essential and therefore provision for reopener's and flexible change mechanisms is paramount.

## Question 84

Do you consider it appropriate and feasible for the SEC panel and DCC to negotiate KPI targets?

## Response to 84

It will be necessary for the DCC to negotiate appropriate KPI targets with either the SEC panel or the Authority. We consider this is appropriate and feasible although the initial KPI targets will probably have to be negotiated with the Authority due to timing complications.

Moving forward, we would expect a proactive and collaborative licence holder to be recommending changes in requirements and performance standards on regular basis to the SEC panel. The Authority could act as an arbitrator in the unlikely event of non agreement.

## Question 85

Do you have views on the use of an independent audit of DCC performance? Should this be on a regular and/or ad hoc basis?

## Response to 85

Most current commercial contracting models provide for a set of KPI against which the licence holder or contractor will self monitor and report. In our experience, independent auditor involvement is expensive and has not stood up to cost/benefit analysis.

Further complications that have been experienced with independent audits – the most significant one is that they are, at least to a degree, subjective. Trying to impose a payment and performance mechanism against a set of subjective assessments leads to debate, discussion, delay and significantly increased costs. This does not lead to a collaborative partnering environment in which all parties are working hand in hand towards improvement and efficiency.

Self monitoring and reporting against an agreed set of requirements and KPI has been proven to be the most cost effective and efficient mechanism for performance management. Our strong preference would be against the use of regular annual independent audits – we would envisage greater benefit from self monitoring and reporting in a collaborative culture.

If the Authority deems it essential to hold independent audits we suggest that they are carried out at no greater frequency than every 3 years.

## Question 86

Do you consider that a sharing mechanism should be in place for DCC internal costs? Should a sharing mechanism be included in the contracts with the service providers?

## Response to 86

Sharing mechanisms or target cost incentive schemes are generally successful and encourage the right behaviour provided the share pain/gain line is appropriately drawn. We have seen successful sharing mechanisms in contracts within the defence, health, transport and justice market sectors.

In our opinion, it would be entirely appropriate (and best practice) to include such a scheme for the DCC internal costs and the service provider contracts.

## Question 87

Do you consider that it is appropriate to invite DCC licence applicants to propose KPIs?

## Response to 87

We believe there are potentially two elements to this. The first element is the establishment of a set of KPI measures that must support desired outcomes. The second element is the setting of the target performance levels against the agreed KPI metrics.

We believe that asking applicants to set or "bid" either of these is flawed. We would suggest that it is essential that applicants should bid against a common set of requirements, standards and KPI. In our opinion it would therefore be inappropriate to invite DCC applicants to propose their own KPI or target performance at the ITA stage.

If each applicant submits different performance standards (even against common KPI set by the Authority) there will not be a level playing field on which to equitably evaluate each applicants proposal – there will be a subjective assessment of different prices against different performance standards. Potentially this could lead to a procurement challenge by unsuccessful applicants.

## Section 8 – Adoption of Foundation Stage Communication Contracts

## Question 88

Are the criteria for adoption of contracts discussed in paragraphs 8.8 and 8.9 appropriate? Are there any additional criteria that should be included? Can quantitative thresholds for any or all of criterion be defined and, if so, how?

## Response to 88

The criteria in paragraphs 8.8 and 8.9 are appropriate, however we feel that there are some additional items that it is necessary to include:

1. Robust KPIs underpinned by a thorough and measurable SLA
2. Warranties maintained by the relevant service providers
3. Charges not increased on novation
4. Clear and simple account and customer service management regime
5. Supply chain fully declared, including sub-contractors and any sub-contracts

We are not in a position to provide quantitative thresholds for the criteria at this time.

## Question 89

Do you agree with our approach to identifying the guaranteed adoption volume of Foundation Stage smart metering systems? Are the factors we have identified the appropriate ones? What are your views as to the appropriate values of the various parameters identified in Table 8.1?

## Response to 89

We agree with the proposed approach to support guaranteed adoption and the factors identified are deemed by us to be appropriate.

At this stage we do not feel able to comment upon the appropriate values of the parameters stated.

## Question 90

Do you agree that DCC should be able to decide to adopt communication contracts associated with Foundation Stage smart metering systems in excess of the guaranteed adoption volume providing there is a net benefit to doing so? If so, does DCC need to be provided with additional obligations and incentives to encourage DCC to actively pursue such contracts and what factors should DCC take into account in making its assessments? Should we specifically provide for suppliers to compensate directly DCC for any costs incurred by DCC or its service providers in the adoption of additional contracts?

## Response to 90

Yes, we agree that the DCC should be able to decide to adopt communication contracts associated with Foundation Stage smart metering systems in excess of the guaranteed adoption volume.

DCC needs to be provided with additional obligations and incentives to encourage it to actively pursue such contracts, these include:

- Robust KPI underpinned by a thorough and measurable SLA
- Warranties maintained by the relevant service providers
- Charges not increased on novation
- A clear and simple account and customer service management regime Supply chain fully declared including sub-contractors and any sub-contracts

The key factors in assessing the adoption of foundation contracts should be ensuring that the service requirement, value of the contract and level of risk transfer are commensurate with the effort required to adopt, transition and then maintain any contracts.

We also agree that suppliers should compensate the DCC directly for any costs incurred by DCC or its service providers in the adoption of additional contracts.

## Question 91

What in your view is the most appropriate option for allocating the guaranteed adoption volume across energy suppliers and on the mechanism, including timing and frequency, by which any allocation unused by one supplier should be redistributed to other suppliers?

## Response to 91

We are not in a position to provide a specific answer to this question. Our view is that this should be worked out in association with the energy suppliers such that there is agreement on the approach.

## Question 92

Do you have views as to when Foundation Stage communication contracts should be adopted?

## Response to 92

The foundation stage contracts should be adopted as the DCC is established and importantly has transitioned to a point of agreed operational readiness, i.e. when agreement is reached between the Authority and the licensee. The adoption of the Foundation Stage communications contracts will need to be phased and can only be adopted if they meet all of the necessary mandated requirements.

Furthermore the Target Operating Model (TOM) proposed by the licensee should be one that considers milestones that cover the adoption of these contracts.

## Section 9 – Competitive Licence Application Process

### Question 93

Do you agree that a four stage process as outlined in paragraph 9.10 is appropriate for appointment of DCC?

### Response to 93

We believe that the four stage process is appropriate but we are concerned with the proposal to run with more than two applicants post-stage two of the process (i.e. with both preferred and reserve applicants post-ITA stage).

We understand that the prime objective of the application process for the Authority should be to ensure that the organisation selected can handle the challenge of running DCC, i.e. they understand the criticality of this infrastructure and have the appropriate experience to manage the risks involved. However, this prime objective needs to be balanced against the costs to both the Authority and the applicants of carrying out a process that involves a greater number of applicants than is required through all four stages of the process.

We believe too many applicants post-ITA stage will lead to a process that is longer and more costly than is necessary, as the Authority will need to keep applicants updated with all changes in the service provider contracts and review all comments and updates to DCC applications based on these changes. Our key concerns with this approach are that the licence application costs may be disproportionate to the revenues and returns, and the timetable for the rollout of the smart programme may be severely delayed.

To that end, we believe it would be more appropriate and efficient to run with only one or two preferred applicants post-ITA stage. This will allow the preferred applicant(s) to work collaboratively with the Authority around the service provider contracts ensuring that the licensee will be in a better position to take on the service provider contracts minimising the likelihood of delays to the rollout of the DCC.

Ultimately, it is our strong desire to work with the Authority to keep to the timetables envisaged and to keep this process on time and on budget. Our proposals above have these objectives in mind and drive towards an efficient, on-time licence application and appointment of licensee.

## Question 94

Do you consider that applicants should commit to lodge a form of financial security at the invitation to apply stage that would take effect if the licence was granted to the applicant?

## Response to 94

Based on the criticality of the DCC and the risks associated with the failure of the DCC to provide the level of service required, we believe the successful organisation should be required to provide appropriate financial security.

Applicants should not be required to lodge this financial security at application stage, as it would increase the costs of application and may exclude some organisations from participating.

## Question 95

Do you agree with the proposals for dealing with changes to consortia including allowing changes up to but not beyond submission of responses to the ITA?

## Response to 95

No. We believe that speed and low bidding costs are important to keep the DECC proposals on track and to ensure a competitive process. With this in mind we feel that changes to consortia should not be permitted beyond the PQQ stage and that those applicants who fail at the PQQ stage should not be allowed to re-enter as part of a consortia.

In previous bidding processes that we have participated in that have allowed consortia changes post PQQ stage, we have found negative factors for bidders, the Authority and the process alike. Such changes tend to distract bidders and the Authority from focusing on the core challenge at hand. It has and can lead to intellectual property leakage and dispute between organisations that had previously been in consortia together.

The disadvantage for the Authority is that it has to assess each ITA consortia partner against the PQQ criteria to ensure compliance, which adds cost and delays. In addition late consortia changes may increase the likelihood of procurement challenges.

## Question 96

Do you agree with the proposal for one overarching confidentiality agreement for each applicant group rather than individual confidentiality agreements for each member of an applicant group?

## Response to 96

Yes. We believe this will assist in keeping the process as short, administratively simple, and inexpensive as possible; enabling all parties to focus on developing the details of the framework and their offer to the Authority.

## Question 97

Do you have any comments on the approach to clarifications and dialogue with prospective applicants?

## Response to 97

Yes, we accept and support the transparency envisaged for the clarifications process; however, owing to the large number of details that will need to be worked through, it is our hope that the Authority will be able to select a preferred applicant at the earliest stage possible, keeping costs to a minimum, increasing the chances of on-time project conclusion and allowing collaborative working with all stakeholders.

The Authority will need to keep every applicant updated with all changes in the service provider contracts and review all comments/clarifications from DCC applicants based on these changes. It is our opinion that working with only one or two preferred applicants will allow potential areas of concerns between the Service Providers and the DCC Licence holder to be ironed out prior to award of the Service Provider contracts reducing potential delays to the rollout.

## Question 98

Do you agree with the proposed approach to the pre-qualification stage including the timescale, the information required and the assessment methodology and criteria?

## Response to 98

We agree with the proposed approach to the pre-qualification (PQQ) stage as described in the consultation document. However, the document does not provide the assessment methodology and criteria that will be used at the PQQ stage. We would welcome some indication of how applicants will be assessed at the PQQ stage.

The timetables envisaged, also cause us some concern. Three weeks for replying to PQQ would be very challenging given the governance structures and sign-off that applicants would have to overcome internally. In our experience, the time required to reply to a PQQ for a contract of this size and complexity would usually take in the region of 4-6 weeks.

It is our understanding that the Authority intends to publish an advanced draft of the PQQ; with this document we believe we may be able to shorten the time required. But we would envisage a minimum of four weeks is required to reply to the PQQ, even with the publication of a draft PQQ.

## Question 99

Do you have any comment on the documentation to be provided by applicants for the DCC licence? Is there any other information that you think should be made available to applicants?

## Response to 99

We disagree with the proposal to share detailed and updated information on the service provider contract with applicants at the ITA stage. We believe the details of these contracts should be fixed for licence application purposes through the ITA stage in order to create a level playing field, minimise costs and ensure that the process required to assess the suitability of applicants is as straight forward as possible.

In our opinion, the continual updates to the service provider contracts should only be shared with the preferred applicants at the next stage not at the ITA stage.

We have considerable experience of other processes that have embarked on similar continuous update arrangements and these have resulted in increased costs and a poorer outcome for all concerned. To require multiple applicants to make continual changes to their submissions will cause significant delays and lead to significant legal costs to applicants, as applicants would be required to continually assess the impact of any changes to the service provider contracts and gain legal advice as appropriate.

Our preference is for the details to be worked out once the preferred applicant(s) has been selected. We strongly believe that the due diligence stage for the data and communications contracts should occur after the ITA stage and should only involve the preferred applicant(s).

We would welcome more detailed information on the process for assessment and evaluation.

Additionally, we believe that applicants also require the following information at the ITA stage:

- Details of the payment performance mechanism
- Details of the change mechanism for SEC or licence modifications
- A detailed timetable for the application process
- Confirmation of the 'go-live' date
- Details of payment arrangements pre 'go-live'

## Question 100

Do you agree with the proposed approach to the Invitation to Apply stage including the timescales, the assessment criteria and their weightings?

## Response to 100

We are happy with the proposed weightings and assessment criteria, although a little more detail on the criteria would be welcome.

We think that the timescales required to respond to the ITA are too short to provide the level of detail proposed and a quality application. In our extensive experience of these matters, organisations that provide critical services to Government have internal governance structures and external standards, such as ISO accreditation, to comply with. There is clearly a reputational risk to applicants and Government in getting this wrong, and quality is of vital importance. We believe it will be extremely challenging to provide the level of information asked for in the proposed 4 weeks.

We understand that a draft ITA will be published prior to commencement of the application process; however, we believe that for a contract of this size, the time required to reply of 8-10 weeks would be normal, even if a draft ITA is provided some time in advance. The ability to keep even to this revised time allowance will still depend on the quality of the information supplied within the draft ITA.

## Question 101

Do you agree with the proposals for appointing one or more preferred applicants as well as one or more reserve applicants to ensure that there are alternatives in the event that a preferred applicant withdraws or is disqualified?

## Response to 101

Our strong preference is that the process should select no more than two preferred applicants, with the right credentials at the ITA stage and that the Authority should then, collaboratively, work through the details (particularly matters such as the due diligence around the service provider contracts) with them.

The alternative – of selecting several applicants to follow through beyond the ITA stage – would be highly expensive, lengthy and complicated for applicants and the Authority. This approach would put the timetable envisaged under extreme pressure and make it far more likely that the targets for smart meter roll out would be missed.

Allowing for fluid consortia arrangements up to the ITA stage and for several applicants post-ITA, also raises the risk of intellectual property leakage. The uncertainty that surrounds so much of this programme and the likely change that will occur as it moves forward makes this licence application process unsuitable for multiple applicants over a long period of time.

We have seen a number of similar processes work with one preferred bidder and one reserve that can fill their place should they withdraw. We would hope that no preferred applicant would be excluded at that stage for lack of compliance, as the earlier stages should have assured their suitability against these criteria. We believe DECC will need to decide whether it envisages its reserve continuing to develop its bids and whether it is willing to reimburse for the costs it will incur doing this should it not be awarded the licence.

We emphasise again that to keep to the stated DECC timescales, a swift process is required to select the DCC licensee. A long period of competitive dialogue could take those involved beyond the close of 2012.

## Question 102

Do you agree with the proposal for an optional best and final offer stage in the event that two or more applicants have similar positions?

## Response to 102

We hope that the Authority will seek to progress to the next stage without selecting more than two preferred applicants and would be able to make a decision without pursuing a BAFO stage. However should there be two highly competitive applications then we would support using BAFO to select between the two of them and keeping the losing party in reserve.

Question 103

Are there any other specific issues that you think should be considered before grant of the licence?

Response to 103

We have not identified any further issues at this stage.

## Question 104

Do you agree that in the event of DCC losing its licence the Authority should have the power to fast track the appointment of a temporary DCC? If so, is eighteen months an appropriate maximum time period for the temporary DCC to hold a licence before a new DCC can be appointed via a full competitive process? Which elements of the licence application process could be accelerated or eliminated to ensure rapid appointment of a temporary DCC?

## Response to 104

While highly unlikely, the removal of a DCC licence operator clearly needs to be planned for. We support the consultation document's proposals for how this should be enacted.

However, we think that an 18 month period of operation for an interim licensee is a relatively long amount of time. It seems disproportionate given the tight timescales used to appoint the first licensee and we would expect that any subsequent process could be run more expeditiously given the experience that would have been built up. We would prefer to see a new competitive process appoint a new licensee earlier than this and would suggest that this could be achieved in six to twelve months.

Where applicable, it would also make sense for the runner-up from the original process to be considered without having to complete the process all over again, although we understand that this would very much depend upon the time elapsed since the first competition. If a DCC licensee is removed within months or in the first year or two of the licence, then appointing the reserve applicant might be a sensible option. Beyond that timeframe we are likely to conclude that a new competitive process would be more appropriate.

