



Department
of Energy &
Climate Change

Final Investment Decision Enabling for Renewables

Update 1: Invitation to Participate

14 March 2013

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1. Purpose of Update

1. The Government is committed to working actively with developers to avoid any hiatus in investment during changes to the market under Electricity Market Reform (EMR) ahead of implementation of the Feed in Tariff with Contracts for Difference (CFD)^{1,2}.
2. In the Technical Update³, DECC set out the basis on which it would enter into discussions with developers with a view to considering the form of comfort that might be given to support the taking of investment decisions. It set out:
 - a. the characteristics which DECC would expect to be exhibited by a project before it was able to decide whether to enter into discussions with a potential developer;
 - b. the broad process that DECC will adopt to govern and progress any such discussions; and
 - c. further information about factors that affect what may be made available to developers to enable early investment decisions.
3. In the Operational Framework⁴, DECC provided further information on the establishment of the Final Investment Decision Enabling (FID Enabling) project which included the possibility of issuing Investment Contracts, an early form of CFD that would be provided ahead of implementation of EMR.
4. Since publication of these documents, the Government has continued to develop its policy and planning for the implementation of EMR, and also its plans for providing support for investment decisions ahead of its implementation through Investment Contracts. In addition, DECC has received feedback that it is more challenging for developers to reach final investment decisions under the Renewables Obligation (RO) during the transition to CFDs than was originally envisaged.
5. As a result of these developments, DECC considers it appropriate to:
 - a. state the qualifying criteria which projects must meet to participate in FID Enabling;
 - b. provide an update on forms of support that are available under the FID Enabling project; and

¹ <http://www.official-documents.gov.uk/document/cm80/8099/8099.pdf>, The Electricity Market Reform White Paper published in 2011, the Technical Update published in December 2011 and as set out in Overview Document to the Energy Bill published 29th November 2012

² This document refers to the 'Feed in Tariff with Contracts for Difference' as the Contract for Difference or CFD

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48253/3884-planning-electric-future-technical-update.pdf

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/65635/7077-electricity-market-reform-annex-a.pdf

- c. invite developers to apply for participation in the FID Enabling for Renewables project.
6. This update relates to FID Enabling for projects which are currently eligible to receive support under the RO and meet the qualification criteria set out in paragraph 30. Developers of projects located outside the UK, Carbon Capture and Storage (CCS), new nuclear and other non-qualifying projects wishing to engage with DECC for FID Enabling may approach DECC separately.
7. The purpose of this update is to set out for FID Enabling for Renewables:
 - a. a restatement of policy objectives;
 - b. the forms of support that will be available;
 - c. the qualification criteria; and
 - d. the process and timetable for delivering forms of support.

2. FID Enabling for Renewables Objective

8. The principal objective of FID Enabling for Renewables is to enable developers of renewable energy projects to take final investment decisions, or other critical investment decisions directly impacting on the time to commissioning the project, which would otherwise be delayed by the uncertainty caused by the transition to the enduring CFD regime.
9. In seeking to achieve this objective, a key consideration for DECC is to ensure that any assurance it provides supports, rather than undermines, the delivery and sustainability of EMR. This includes contract terms and price setting. Therefore, the nature and timing of the support available under FID Enabling for Renewables are dependent on the on-going development of the enduring EMR regime.

3. Forms of Support

10. There will be two forms of support available to developers under FID Enabling for Renewables, available in Phases 1 and 2 of the project respectively:
 - a. **Phase 1 – Status Letters:** these will confirm that the applicant meets the eligibility criteria for participation in FID Enabling for Renewables and will provide information on the developing position on strike prices, Investment Contract allocation and contract terms; and
 - b. **Phase 2 – Investment Contracts:** these are an early form of CFD as set out in schedule 2 to the Energy Bill and described in the Operational Framework. They will be conditional on the Energy Bill receiving Royal Assent and all relevant State Aid clearances. They are expected to follow the same principles as CFDs, although they

will have some differences reflecting the fact that the full EMR framework will not yet be in place.

11. The forms of support, and process and timing for them, are described in more detail below.

Phase 1 – Status Letters

12. Status letters will be available in Phase 1, upon request, once an applicant has demonstrated that it meets the eligibility criteria to participate in FID Enabling for Renewables.

13. These will be letters from DECC providing information on strike prices, Investment Contract allocation and contract terms as follows:

- **Strike prices:** information on the process, methodology and expected timing for strike price setting;
- **Investment Contract allocation process:** confirmation of the applicant's qualification for Phase 1 of FID Enabling for Renewables and description of the process that the developer may face up to entry into Investment Contracts; and
- **Contract terms:** an update on the expected terms of the Investment Contracts, including any published changes (if any) to the CFD contract terms published in November 2012, and a preliminary indication of changes or additions that may be required as a result of Investment Contracts being entered into in advance of the main regime.

14. Note that any Status Letter will be non-contractual, non-legally binding and will not fetter the future exercise of discretion of the Secretary of State in any way.

15. While Status Letters will be largely standard across applicants, DECC will be willing to consider requests for the inclusion of additional items of information which may be helpful to a particular applicant in the circumstances of its project for making investment decisions, to the extent that such information is available to DECC and is suitable for release. Where DECC makes available such additional information to an applicant, or where more generally new or updated information relating to the content of Status Letters has become available, DECC may at its discretion issue such information to all applicants.

Phase 2 – Investment Contracts

16. Investment Contracts will be made available to applicants determined through an evaluation process in Phase 2 of the FID Enabling for Renewables project.

17. The Energy Bill contains specific provisions on FID Enabling. These provisions are a transitional measure aimed at addressing the risk of a hiatus in investment in low carbon generation until the CFD regime is fully established. They do this by anticipating the Secretary of State entering into early CFDs – referred to in the Energy Bill as 'Investment Contracts' – with prospective generators prior to the implementation of CFDs, and giving him the power to transfer such contracts to the CFD counterparty or to an Investment

Contract counterparty once the relevant provisions of the Energy Bill have been enacted and come into force.

18. The Secretary of State is unlikely to be in a position to enter into Investment Contracts for renewable generation before the following events have occurred:
 - a. **Publication of the draft First Delivery Plan:** the Operational Framework sets out a timeframe for publishing a draft 2014/15-2018/19 First Delivery Plan and draft renewables CFD prices for consultation, currently expected in July 2013, and final strike prices currently expected by December 2013. It is currently intended that the draft strike prices will provide the basis for strike prices in Investment Contracts under the FID Enabling project;
 - b. **Settlement of the Levy Control Framework (LCF) annual profile:** An Investment Contract will represent a financial commitment under the LCF. The LCF spend allocation for 2020/21 was announced in December 2012. However, the annual profile of the LCF for 2014/15-2020/21, as well as decisions on headroom and flexibility (inter-year and inter-programme), are still under development and are expected to be agreed across Government in the first half of 2013; and
 - c. **Publication of the form of CFD:** The heads of terms published alongside the Energy Bill in November 2012 will form the basis for the enduring scheme CFD contract terms. The Operational Framework sets July 2013 as the expected date for publishing the CFD contract.
19. The FID Enabling provisions in the Energy Bill are time limited: the Secretary of State can only give effect to investment contracts entered into on or before the earlier of 31 December 2015 and the date on which the regulations defining “eligible generator” for the purpose of the EMR regime come into force. The FID Enabling regime therefore extends beyond the timeframes set out in this Update. Applicants wishing to enter into an Investment Contract for renewables projects who consider that they meet the qualification criteria are advised to apply under the procedure set out in this Update.

Strike prices in Investment Contracts

20. Investment Contracts are intended to give legal certainty to applicants on contract terms including strike price in advance of the implementation of the EMR regime. As outlined above, Investment Contracts are contemplated by separate provisions of the Energy Bill which are designed specifically to encourage early investment decisions in low carbon projects. In particular, when laying an Investment Contract before Parliament (which is required in order to qualify as an Investment Contract once schedule 2 to the Energy Bill has been enacted and come into force) the Secretary of State must make a statement that, inter alia, he considers that without the Investment Contract there is a significant risk that the electricity generation to which the contract relates will not occur or will be significantly delayed.
21. At the same time, a key consideration for DECC is to ensure that any assurance it provides under FID Enabling for Renewables supports the delivery and sustainability of the EMR and the enduring CFD regime, including its approach to strike price setting.

22. In striking a balance between these joint objectives, DECC considers that it is appropriate to link strike price setting under FID Enabling for Renewables with the administrative price-setting process set out in the Operational Framework. However, in the interests of encouraging early investment, DECC is minded to set strike prices in Investment Contracts using the draft strike prices issued for consultation in the draft First Delivery Plan.
23. Given that this draft strike price setting process is still on-going and is being completed for the first time, DECC may need to modify or change its approach to setting strike prices in Investment Contracts.

Investment Contract allocation

24. DECC will assess the potential financial impact of possible Investment Contracts against LCF 2020/2021 and annual settlements. DECC will also have regard to the balance of the LCF settlement available for CFDs under the enduring regime after taking account of any allocation to Investment Contracts. DECC may decide to impose caps on the total funding made available for Investment Contracts under FID Enabling for Renewables and/or the funding made available for different categories of Investment Contract under FID Enabling for Renewables (such as different technology types).
25. If, on receipt of binding applications for Investment Contracts, it appears that any LCF settlement levels or any FID Enabling for Renewables LCF caps may be breached, DECC will carry out a relative assessment of applications against published evaluation criteria, and rank and select as described below. However, if it is clear that no LCF levels or caps will be breached then no relative assessment will be required and all applicants who continue to meet the qualification criteria and the minimum thresholds under the evaluation criteria will be eligible for an Investment Contract.

Investment Contract terms

26. Investment Contracts are defined in schedule 2 to the Energy Bill. Amongst other things, these contracts must specify a strike price and be laid before Parliament before taking effect, supported by a statement from the Secretary of State regarding certain factors taken into account by the Secretary of State in deciding to enter into the Investment Contract.
27. The form of CFD once published is likely to provide the template for Investment Contracts under FID Enabling for Renewables. Investment Contracts are expected to follow the same structure and drafting of CFDs, although they will have some differences to reflect the fact that the full EMR framework is not yet in place, such as being conditional on the Energy Bill receiving Royal Assent and all relevant State Aid clearances. It is anticipated that Investment Contracts will be entered into between the Secretary of State and the applicant prior to implementation of the full EMR framework, though where Investment Contracts are entered into prior to schedule 2 to the Energy Bill being enacted and coming into effect the payment obligation in the contract will be conditional on schedule 2 coming into effect. After the coming into effect of schedule 2, the Secretary of State may transfer his rights and obligations under the Investment Contract to a new Investment Contract counterparty or CFD counterparty.
28. When an applicant enters into an Investment Contract it will at that point be deemed to have made a one-off choice of scheme between the CFD and the RO, and between an Investment Contract under FID Enabling and a CFD under the enduring regime. To the

extent that it is not possible to achieve this in the terms of the Investment Contract itself, detailed arrangements for this choice between the RO and FID Enabling will be set out in a consultation to be published in Spring 2013, and implemented via amendments to the Renewables Obligation Order.

29. Where an applicant is in receipt of a Status Letter, but does not enter into an Investment Contract, it will remain able to apply for a CFD under the enduring regime or to make an application for preliminary accreditation or accreditation under the RO subject to and in accordance with the rules of those schemes.

4. Qualification Criteria

30. To qualify for participation in FID Enabling for Renewables, applicants will have to demonstrate compliance with the following qualification criteria:

Qualification Criteria	Description
1. Qualifying Technology	A type of renewable electricity generation which is currently eligible to receive support under the RO.
2. Qualifying Project	<p>The developer is able to demonstrate to the satisfaction of DECC that:</p> <ul style="list-style-type: none"> i. There are credible plans in place to progress the project in order to start generating electricity within the period of the First Delivery Plan, 2014/15-2018/19. ii. Without an Investment Contract there is a significant risk that the electricity generation to which the Investment Contract relates will not occur or will be significantly delayed. iii. The project is not already accredited under the RO (see paragraph 31 below). iv. The project has an expected nameplate capacity of 50MW or greater, or in the case of an offshore project, 100MW or greater. v. The project is located in the UK.

31. As set out in the Operational Framework, renewable energy generation already accredited under the RO will not be permitted to transfer to the new CFD regime and hence will not be eligible for Investment Contracts. Renewable energy generation with only preliminary accreditation will be permitted to apply for FID Enabling for Renewables. Furthermore, in line with the policy intent to provide new renewable generation with a one-off choice of scheme and the RO policy announced in the July 2012 publication, existing RO-accredited

co-fired units that convert to full biomass will also be eligible for the one-off choice between Investment Contract and the RO biomass conversion band mentioned above. Further details on eligibility and the choice of scheme will be set out in the forthcoming consultation.

5. Process and Timetable

32. The FIDeR process is in two phases:

Phase 1: Application to participate and issue of Status Letters

Phase 2: Investment Contract allocation

33. The proposed process and timetable is set out in Annex A.

Phase 1: Application to participate and issue of Status Letters

34. Applicants who believe that their projects meet the qualification criteria and who would like to be considered for a Status Letter and/or an Investment Contract will have to submit the information in Annex B to DECC for each project during the window for Phase 1 applications set out in Annex A.

35. Developers of multiple projects should note that projects will not be considered in aggregate: each project will be considered on its own merits and will require separate submission.

36. DECC will assess the submissions against the qualification criteria on a pass/fail basis, and notify applicants of their qualification status.

37. DECC reserves the right to request evidence to support the information provided before determining whether a project meets the qualifying criteria.

38. If DECC notifies an applicant developer that it has achieved qualifying status then:

- a. DECC may hold clarification talks with the applicant on the nature of its project and, on a no-commitment basis, on any specific information it seeks in advance of formal issuance of a Status Letter; and
- b. DECC will finalise the Status Letter and issue the letter to the applicant.

39. Applicants for FID Enabling for Renewables in Phase 1 consent to DECC naming them and their project when making public announcements concerning FID Enabling.

Phase 2: Investment Contract allocation

Application for Investment Contracts

40. Applicants for Phase 1 may also apply for the allocation of an Investment Contract in Phase 2. Some applicants who receive Status Letters in Phase 1 may opt to wait to apply

for a CFD under the enduring regime. However, all applicants who wish to apply for Investment Contracts in Phase 2 must first have applied for participation in FID Enabling for Renewables in Phase 1, regardless of whether or not they request a Status Letter.

41. DECC will issue details of how to apply for Phase 2, including the additional information that may be required from applicants for the purposes of applying for Investment Contracts, and information regarding the process, evaluation criteria and evaluation methodology, in a further publication titled 'Final Investment Decision Enabling for Renewables: Update 2: Investment Contract Allocation' which we expect to publish in May 2013. The process for Phase 2 outlined below in this document is, therefore, subject to revision in Update 2.

Investment Contract evaluation

42. On receipt of all necessary information from applicants, DECC will carry out an evaluation exercise to determine whether an applicant meets the minimum threshold evaluation criteria (as set out in Update 2) to be considered for an Investment Contract.
43. DECC reserves the right to request further supporting evidence from an applicant before determining whether its project meets the minimum threshold evaluation criteria.
44. Following publication of the form of CFD, draft strike prices, LCF settlement levels and FID Enabling for Renewables LCF caps (if any) DECC will send draft Investment Contracts to applicants whose projects meet the minimum threshold evaluation criteria. Following receipt of the draft Investment Contracts and a period of time for applicants to carry out their internal appraisals and approvals, applicants will be requested to confirm to DECC by a specified deadline their interest in an Investment Contract by way of a binding application for an Investment Contract.
45. Once the deadline for receipt of binding applications for Investment Contracts has passed, DECC will assess their likely aggregate affordability against the published LCF settlement levels and FID Enabling for Renewables LCF caps (if any). If it is apparent that the financial impact of the applications may exceed any of these levels, DECC may carry out a further evaluation process against its evaluation criteria. This would involve ranking applications and eliminating lower ranking applications to the extent necessary to remain within applicable caps.
46. The evaluation criteria and minimum thresholds will be developed in the light of the processes and criteria to be used in the allocation rounds of the enduring CFD regime and of DECC's policy objectives for FID Enabling for Renewables, and having regard to matters to which the Secretary of State is required to cover in the statement that he must make when laying an Investment Contract before Parliament, being⁵:
 - a. That the Secretary of State considers that the contract would encourage low carbon electricity generation;

⁵ Paragraph 1(5) of schedule 2 and paragraph 5(2) of the Energy Bill

- b. That the Secretary of State considers that without the contract there is a significant risk that the electricity generation to which the contract relates will not occur or will be significantly delayed;
- c. A summary of the regard which the Secretary of State has had, in deciding to enter into the contract, to the following matters:
 - a. the duties of the Secretary of State under sections 1 and 4(1)(b) of the Climate Change Act 2008 (carbon targets and budgets);
 - b. ensuring the security of supply to consumers of electricity;
 - c. the likely cost to consumers of electricity; and
 - d. the target set out in Article 3(1) of, and Annex 1 to, the renewables directive (use of energy from renewables sources).

47. Evaluation criteria may also potentially address:

- a. **Value for money:** as informed by the draft First Delivery plan;
- b. **Encouragement of low carbon generation:** the desirability of securing the long term growth and economic viability of the industries associated with the generation of electricity from renewable sources;
- c. **Deliverability:** the technical, commercial and financial maturity of the project in respect of delivering a fully operational project up to the expected nameplate capacity, including the robustness of plans to develop a suitable, sustainable and fit for purpose supply chain (including in terms of transport and logistics), assuming receipt of an Investment Contract; and
- d. **Technology type:** consideration will be given to including a mechanism designed to ensure that a range of different technologies benefit from Investment Contracts.

48. The approach described above is at an early stage of development; it is intended that the Final Investment Decision Enabling for Renewables: Update 2: Investment Contract Allocation will set out the evaluation criteria, methodology and process that will be applied.

Conclusion of Investment Contracts

49. Having selected the successful applicants on the basis of the evaluation criteria and process to be set out in Final Investment Decision Enabling for Renewables: Update 2: Investment Contract Allocation, the Secretary of State will enter into Investment Contracts with successful applicants⁶.

⁶ For Investment Contracts relating to electricity generation in Northern Ireland, Investment Contracts will only be entered into with the consent of the Department of Enterprise, Trade and Investment in accordance with paragraph 1(1)(b) of schedule 2 to the Energy Bill.

Annex A – Indicative Timetable and Process

Phase 1: Application to participate and issue of Status Letters

Date	Milestone and activity
March 2013	DECC issues this document (Final Investment Decision Enabling for Renewables: Update 1: Invitation to Participate)
March – 1 July 2013	Window for submission by interested developers and generators of applications to participate, and to apply for Status Letters (where required)
April – July 2013	Assessment of applications by DECC against qualification criteria, notification to applicants of their project's qualification status and issue of Status Letters (where requested)

Phase 2: Investment Contract allocation

Indicative date	Milestone and activity
May 2013	DECC issues Final Investment Decision Enabling for Renewables: Update 2: Investment Contract Allocation This will set out the evaluation criteria and process for awarding Investment Contracts and include the additional information that may be required from applicants for the purposes of applying for Investment Contracts
June – 1 July 2013	Window for application for Investment Contracts and submission of further information by applicants
Following close of window for applications	Evaluation by DECC of applications against minimum threshold evaluation criteria Applicants for Investment Contract notified whether their projects meet the minimum threshold evaluation criteria
In or after July 2013	DECC issues draft First Delivery Plan and form of CFD
July/August 2013	DECC sends draft Investment Contracts to applicants whose projects meet the minimum threshold evaluation criteria

Indicative date	Milestone and activity
September 2013	Applicants confirm to DECC their interest in an Investment Contract by way of a binding application for an Investment Contract
Following receipt of applications for Investment Contracts	Assessment of affordability against LCF settlement levels and FID Enabling for Renewables LCF caps DECC completes evaluation and selection
Autumn 2013	The Secretary of State enters into Investment Contracts with successful applicants Investment Contracts are laid before Parliament (subject to Parliamentary timetable)

50. Applicants should note that this timetable is indicative only, and dependent on progress on key elements of the main EMR project. In particular:
- a. all dates shown are provisional and may change;
 - b. dates from July 2013 onward are dependent on the dates of publication of the draft First Delivery Plan, the form of CFD and the annual LCF settlement; and
 - c. an update on dates for Phase 2 will be provided in Final Investment Decision Enabling for Renewables: Update 2: Investment Contract Allocation.

Annex B – Applications to Participate in FID Enabling for Renewables

51. Applicants who believe that their project meets the qualification criteria set out in this update and who would like to be considered for a Status Letter and/or an Investment Contract should write to:

Final Investment Decision Enabling Project
Commercial Team
Department of Energy and Climate Change
55 Whitehall London
SW1A 2EY
Email: fidenabling@decc.gsi.gov.uk

52. Applicants should submit the following information for each project:

- a. Project description, including capacity, delivery plan, phasing and details of qualifying technology, etc., setting out, with supporting evidence where appropriate, why the developer believes that its project meets each of the qualification criteria in paragraph 30;
- b. Nameplate capacity of project and target commissioning date of plant;
- c. Timing of scheduled commissioning, both with and without an Investment Contract, with supporting evidence;
- d. Letter from the board(s) of the companies that are owners of the project and that are responsible for making investment decisions and arranging the financing of the project (signed by authorised signatories):
 - i. Stating that there is a significant risk that without an Investment Contract the electricity generation to which the Investment Contract relates will not occur or will be significantly delayed, explaining the reasons for this statement and stating the extent of such delay;
 - ii. Warranting that the information they have provided is true and accurate;
 - iii. Setting out clearly what the applicant is seeking from DECC to enable its investment to progress, i.e. Status Letter, Investment Contract or both.

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