



Department for
Business, Energy
& Industrial Strategy

Guidance on development costs and the nuclear Regulated Asset Base model

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1. Document background

1. On the 31st March 2022, the Nuclear Energy (Financing) Act 2022 received Royal Assent. The Act established the framework for the nuclear Regulated Asset Base (RAB) model, creating a new method for funding future nuclear projects. RAB models have typically been used to finance large scale infrastructure assets such as water, gas, and electricity networks in the UK, and enables investors to share some of a project's construction and operating risks with consumers and taxpayers.
2. Under the RAB model introduced by the Act, the Secretary of State is able to 'designate' an eligible nuclear company provided certain criteria are satisfied, relating to the project having reached a mature stage of development and designation being likely to result in value for money. The Secretary of State is then able to modify the designated company's electricity generation licence to incorporate RAB licence conditions and terms which would allow the company to receive regulated revenues in respect of the design, construction, commissioning, and operations of a nuclear project. The Act supports this by ensuring that Ofgem, as the economic regulator, has the information and powers required to regulate a nuclear company benefitting from RAB conditions.
3. Licence modifications can be made under the Act to facilitate the costs of development, construction, commissioning and operation of a nuclear plant. Funding a project in this way could bring significant amounts of private investment into nuclear projects at relatively low cost. Given that the cost of finance is the main driver of overall project costs for nuclear new build, this should lead to better value for money for consumers over the life of a nuclear RAB Project.
4. As part of bringing a nuclear project to the point of being able to enter construction, the company must invest significantly in the project's development. This could include, for example, building the project company, maturing the supply chain and investigating the land. If, following this investment, a project is taken forward under the nuclear RAB model, it is right that appropriately incurred development costs can be added to the RAB.
5. Including development costs within the scope of the RAB will be important in encouraging further projects to be brought forward. It will provide reassurance that development spending which, prior to any Final Investment Decision, is incurred at the risk of developers, can be recouped if the project enters into a revenue collection contract under a RAB. It will also incentivise developers to undertake early actions that will de-risk the project by helping prevent projects withholding spending until it is possible for it to be recouped through the RAB. This will make it less likely that projects overrun, bringing down overall costs in the long term. These are vital goals in both guaranteeing our future energy security and meeting our ambitious climate change targets.

6. This document is non-statutory guidance, which is designed to give an indication of how the Secretary of State would expect to assess and agree development costs that should be allowed onto the RAB for relevant licencees. This guidance is relevant to all future nuclear projects intended to be funded through the nuclear RAB model, with the final arrangement to be agreed on a project-by-project basis, as outlined below. It sets out the broad principles, criteria and process for assigning the costs of the development phase of the project.
7. We intend to keep this guidance, and our approach to cost assessment, under review to ensure alignment with wider policy intentions and to deal with project specific issues as they arise. We will continue to engage with stakeholders to ensure the approach remains fit for purpose.

2. Principles

8. The approach to development costs will be guided by three principles.

Scope of the RAB

9. The Government believes that development costs should be eligible to be placed on the RAB, provided that they meet the criteria laid out in this document. This reflects the Government's understanding that spending in the development phase of a project plays an important role in de-risking the later stages of the project, reducing costs in the long-term, as well as incentivising further projects.

Value seeking

10. In considering whether costs meet the criteria, the Government will not simply focus on minimising costs. Instead, it is intended that development spending will be judged on whether it has produced a suitably mature project which will be able to progress through to construction, ultimately delivering better value for consumers and avoiding disincentivising necessary development costs.

Compliance with wider obligations

11. Any development costs that are placed on the RAB must be compliant with all wider legal and policy requirements, including relevant value for money tests and the UK's subsidy control regime. This will mean that any costs must be, amongst other things, proportionate and targeted.

3. Treatment and categories of costs

Categories of costs

12. Within development spending, there are a range of categories linked to the development of the project, including in relation to preparing its financing. This includes the production of accurate cost and schedule estimates, the development of the project delivery organisation, developing and retaining a suitably qualified, engaged, inclusive and diverse workforce and culture, and the acquiring of relevant permits and consents.
13. Provided that costs meet the criteria outlined later in this document, they will be eligible for inclusion on the RAB. This is inclusive of appropriate costs for engaging with potential investors, as well as investing in local and national engagement necessary to support the delivery of the project. The costs reasonably incurred by the Secretary of State in relation to the consideration of a funded decommissioning programme, which is charged back to the nuclear company, will also be eligible for inclusion.
14. Alongside the construction of the nuclear project, companies may invest in the development of “wider benefits”. This includes development costs associated with the establishment of cogeneration facilities, including hydrogen or Direct Air Capture (DAC). The treatment of these development costs will depend on the purpose of the spending. The Government considers that, for example, the cost of development and operation of a valve to extract heat which is covered under the project’s electricity licence should be eligible to be placed on the RAB. However, if a project is seeking to construct facilities outside the scope of the generation licence, for example DAC or demonstration facilities, this would not be eligible for inclusion. They should fall under a separate entity from GenCo which may purchase heat and/or electricity from GenCo, but which would not receive funding through the RAB model.
15. For investment in other wider, strategic benefits, this would be discussed and agreed with the Government prior to them being placed on the RAB. The sale of assets funded through the RAB model will be dealt with as part of the licence modifications.

Timing of costs

16. The Government believes that the costs associated with the development of the project should be treated differently depending on whether they were accrued pre- or post-designation of the project company, which take place under section 2 of the Nuclear Energy (Financing) Act 2022. This judgment is based on assumptions around the project’s maturity and the level of communication between the project and the Government. For example, it would be expected that, post-designation, the Government would have greater contact on the issues covered by this document, allowing costs to be more closely monitored.

17. On this basis, it has been judged that the costs pre- and post-designation should be subject to both different criteria and approval processes. These are detailed below. The eligibility of cost categories will not differ.

4. Criteria for costs

Purpose of criteria

18. To give a greater understanding of the approach that the Secretary of State expects to take to assessing costs, it is necessary to have a clear list of criteria that outlines when development costs should be captured on the RAB. The criteria below are based on wider best practice in Government. It is expected that a developer would provide evidence of how costs meet the criteria when making an application for them to be placed on the RAB. A decision would then be made on a case-by-case basis. As highlighted above, the criteria will differ depending on whether the costs occurred pre- or post-designation. Sufficient flexibility will be shown to allow for standard accounting practices.

Pre-designation costs

Criteria one: Costs attributable to the project

19. The costs placed on the RAB should be limited to those that are attributable to the specific project in relation to which the nuclear company is designated and are accrued as part of the overall process of its development. Development costs eligible for inclusion on the RAB would not include those used to support a developer's other nuclear projects or wider interests, or those eligible for recovery through other public funding. This would include grants. Where development costs are shared across multiple projects, a proposal for appropriate allocation should be made by the developer based on the best available information at that time. The development costs cannot be utilised for projects to be paid in duplicate for the same activity.
20. When considering whether a cost is attributable to a particular project, the Secretary of State will take into account both whether the cost was reasonably incurred for the purposes of the project, and whether the cost is clearly identifiable.

Criteria two: Steps were taken to ensure the spending was reasonable in the circumstances

21. Whilst it is intended that the primary focus would be on ensuring that costs are used to develop a mature project, it is still appropriate for the Secretary of State to ensure that steps were taken by the company to ensure that these were reasonably incurred. There should be evidence that the company has undertaken activities that help to ensure the projects' budgets and costs are reasonable and in line with expectations for the activities that were undertaken. Indicators could include:
 - a. That due diligence had been undertaken and embedded within a project.

- b. Whether the processes in place would withstand public scrutiny.
 - c. Whether appropriate management and governance structures were in place.
22. In considering this criterion, the Government would expect to take into account the wider context and project specific issues. This includes the uncertain circumstances under which development spending will often take place. It is also understood that projects that are First-Of-A-Kind, or acting as pathfinders for the wider sector, will often experience more volatility than otherwise comparable projects.

Post designation costs

23. In addition to the criteria for pre-designation costs, post-designation costs would be expected to meet an additional criterion.

Criteria three: Costs appropriate to undertaking carried out

24. The costs submitted by developers should be appropriately incurred in carrying out, either directly or indirectly, an undertaking that is necessary to the overall goal of delivering the project. By this, it is meant that the costs were demonstrably and reasonably incurred for the purposes of the project. When analysing whether a cost meets this criterion, the Secretary of State would expect to consider the relationship to the project's delivery, as well as whether the judgement that the cost is appropriate to the undertaking could withstand public scrutiny.

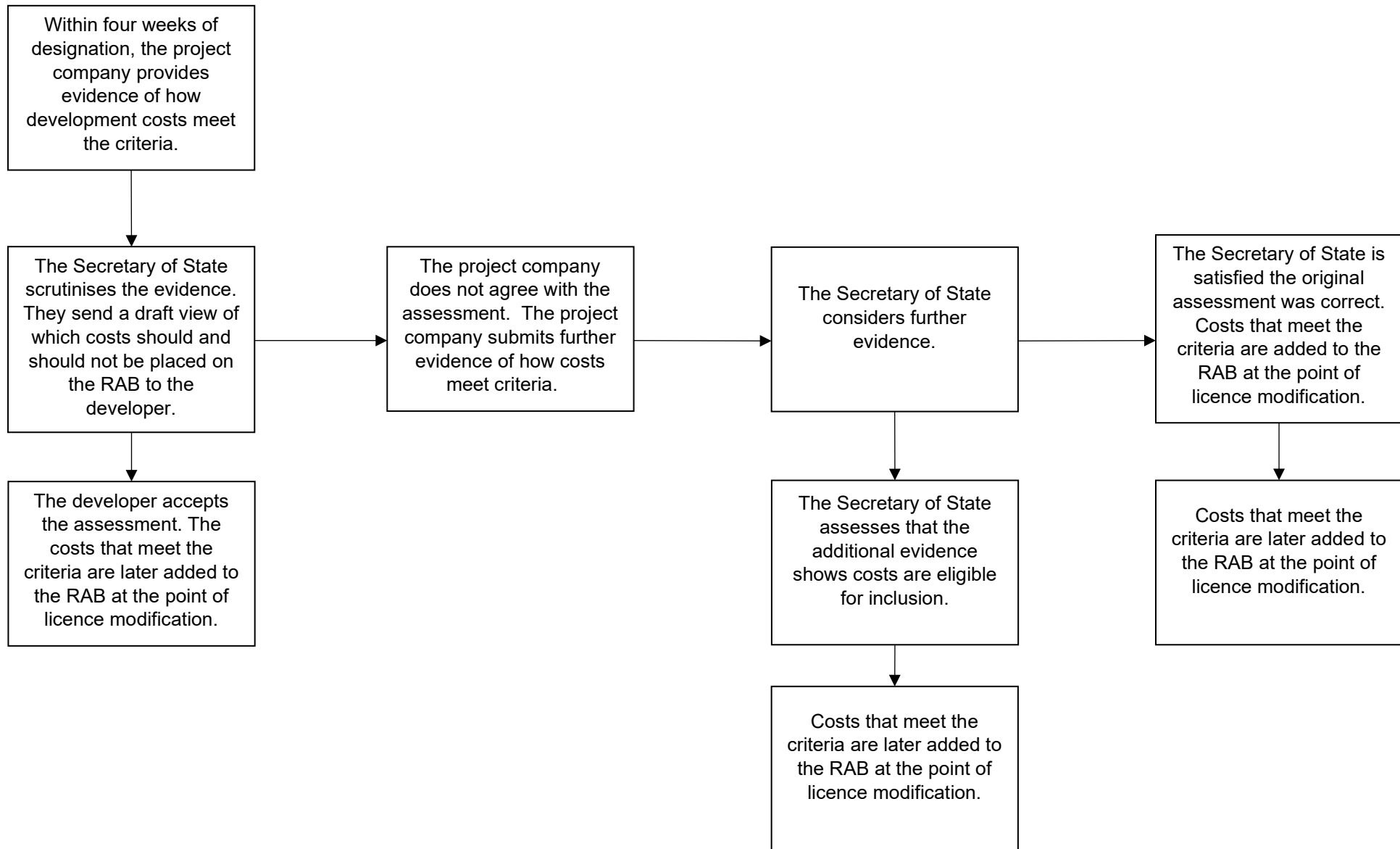
5. Process for agreeing costs

25. The inclusion of development costs under the RAB model will follow a clear process. The approach to costs pre- and post-designation will be similar, with some differences to accommodate the fact there is the opportunity for forward looking discussion of post-designation costs.
26. To support the process, it is expected that the relevant developer would undertake engagement with the Government throughout the development phase. Whilst this would not act as sign-off or agreement on the costs, it is expected that this engagement would help build confidence and provide reassurance to developers.

Pre-designation costs

27. It is intended that all costs incurred prior to to designation would be dealt with at the point of designation. The process for agreeing these costs is set out below:
 - a. Within four weeks of designation, the developer would be expected to submit a document to the Secretary of State, outlining the costs which they believe should be added to the RAB, if the company later enters into a revenue collection contract with the revenue collection counterparty. This document include evidence of how the costs meet the criteria.
 - b. The Secretary of State would scrutinise the package, including the evidence for how the criteria are met, seeking external advice as necessary.
 - c. The Secretary of State would produce a draft assessment of which costs should be eligible to be placed on the RAB. They would share this draft with the project developer.
 - d. At this point, the developer could either accept the assessment or submit further evidence to support the case behind additional costs being captured.
 - e. The Secretary of State would assess any further evidence that is submitted. They would then produce a final assessment of which costs would be placed on the RAB, which would be shared with the developer.
 - f. Secretary of State would place these costs onto the RAB, through the modifications to the project's licence. The licence modifications would only take effect if the nuclear company entered into a revenue collection contract with the revenue collection counterparty.

Process for agreeing pre-designation costs



Post-designation cost

28. A similar process would be followed for costs post-designation. However, developers would be expected to produce an initial estimate of future development costs, along with the outputs that the development costs would deliver, and submit this to the Secretary of State, who would subsequently follow a related process to that outlined above.
29. This would be supported by regular reviews with BEIS officials, the frequency of which would depend on the maturity of a project. For example, one that is relatively advanced and only has a short remaining development phase may need to update quarterly, whereas for a comparatively less mature project it may be more appropriate to discuss biannually. These reviews would ensure the forecast remained accurate and aligned with the criteria. To enter this phase of assessment, a project must already have been sufficiently mature to warrant designation.

Mechanism for inclusion on the RAB

30. Following agreement from the Secretary of State about which costs should be placed on the RAB, this would be incorporated into the project's generation licence. This would be done through the powers included in section 6 of the Nuclear Energy (Financing) Act 2022. As part of the process, the Secretary of State would need to consult a list of statutory consultees, including Ofgem, before making licence modifications.

This publication is available from: www.gov.uk/government/publications/development-costs-and-the-nuclear-regulated-asset-base-rab-model

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