



Department for  
Energy Security  
& Net Zero

# Contract for Difference for Low Carbon Electricity Generation

Additions to the Contracts for Difference  
contract arising from the introduction of a  
Clean Industry Bonus

Closing date: 10 December 2024

November 2024



© Crown copyright 2024

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gov.uk](mailto:psi@nationalarchives.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at:  
[supplychainplan@energysecurity.gov.uk](mailto:supplychainplan@energysecurity.gov.uk)

---

# Contents

General information	4
Why we are consulting	4
Scope of this consultation	4
Consultation details	5
How to respond	5
Confidentiality and data protection	6
Overview of the CIB policy	7
The main proposed additions to the CfD contract pertaining to CIBs in Schedule 2	10
Definitions	10
Compliance with the CIB Statement	12
CIB notice requirements	13
Consequences of not fulfilling CIB minimum standard	15
Payment for fulfilling CIB extra proposals	18
Nature and conclusiveness of Secretary of State determinations	21
Payment adjustments after a new Secretary of State determination	21
Indexation of CIB amounts	22
Interest	23
Contract changes outside of Schedule 2	24
The Initial Conditions Precedent Schedule 1 – Changes to Part A (F) on Conditions Precedent	24
Amendments to the Reconciliation Amounts to include CIB	24
Amendments to the conditions of CfD payment suspensions	25
Amendments to exclude CIB from the CfD’s provisions on force majeure.	26
Consultation questions	27
Next steps	27

# General information

## Why we are consulting

The Clean Industry Bonus (CIB) will provide greater revenue support to offshore and floating offshore wind Contracts for Difference (CfD) applicants if they choose to (a) invest in new or existing offshore wind supply chain infrastructure, and in so doing concentrate such investments in the UK's poorest areas; or (b) invest in cleaner manufacturers (wherever they may be), to reduce reliance on polluting manufacturers. The CIB would be additional to generators' CfD payments in recognition of likely higher costs of such actions (a "bonus").

The CIB refers to the scheme set out in the Contracts for Difference (Sustainable Industry Rewards) Regulations 2024, known in the regulations as 'Sustainable Industry Rewards' (SIRs). For the avoidance of doubt, the Sustainable Industry Rewards policy as referred to in the regulations and the current draft of the Contract for Difference contract, has evolved and become the Clean Industry Bonus. The Contracts for Difference (Sustainable Industry Rewards) Regulations 2024 refers to the SIRs, however this will be amended to CIB in the near future.

Government will introduce the CIB from CfD Allocation Round 7 onwards. The substance of the Clean Industry Bonus policy has previously been consulted on.<sup>1</sup> To operationalise the policy, which will be delivered through the CfD, changes need to be made to the contract that underpins the CfD. This consultation sets out these proposed changes.

## Scope of this consultation

This consultation invites views on the proposed amendments to the contract that forms the basis of the CfD, specifically the changes required to include the CIB in the contract. The proposed changes to the contract are required in order to deliver and enforce CIB policy. The proposed amendments will set out the rights and obligations arising from CIBs, CIB payment terms, and how performance related adjustments will operate in cases of non-delivery.

---

<sup>1</sup> <https://www.gov.uk/government/consultations/introducing-a-contracts-for-difference-cfd-sustainable-industry-reward>

## Consultation details

**Issued:** 12 November 2024

**Respond by:** 10 December 2024

**Enquiries to:**

**Email:** [supplychainplan@energysecurity.gov.uk](mailto:supplychainplan@energysecurity.gov.uk)

**Consultation reference:** Additions to the Contracts for Difference contract arising from the introduction of the Clean Industry Bonus.

**Audiences:**

The government welcomes responses from anyone with an interest in the policy area. We envisage that the consultation will be of particular interest to those considering the development of new renewable electricity projects in Great Britain, electricity traders and suppliers, businesses involved in low carbon electricity generation supply chains, and consumer and environmental groups with an interest in the electricity sector.

**Territorial extent:**

The CfD scheme applies to the United Kingdom but does not currently operate in Northern Ireland. This consultation therefore applies to Great Britain only.

## How to respond

Your response will be most helpful if it is framed in direct response to the questions we have asked, though further comments and evidence are also welcome. When responding, please state whether you are responding as an individual or representing the views of an organisation. In view of the ongoing coronavirus situation, we are requesting responses by electronic means only. Please do not send responses by post to the department, as we may not be able to access them.

All the evidence gathered will be used to assess the impacts on both the offshore wind sector and on consumers. We are seeking views and supporting evidence from stakeholders and interested parties, including but not limited to, developers of new low-carbon energy projects in GB, businesses involved in low-carbon electricity generation supply chains, and consumer and environmental groups with an interest in the electricity sector.

**Respond online at:** <https://energygovuk.citizenspace.com/clean-electricity/clean-industry-bonus-additions-to-contract>

or

**Email to:** [supplychainplan@energysecurity.gov.uk](mailto:supplychainplan@energysecurity.gov.uk)

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

## Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

## Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: [bru@energysecurity.gov.uk](mailto:bru@energysecurity.gov.uk).

## Overview of the CIB policy

The CIB works within the CfD mechanism to competitively allocate extra revenue support (“a bonus”) to offshore wind and floating offshore wind applicants who choose to invest in a more sustainable supply chain (henceforth applicants shall be referred to as ‘generators’, as per the contract). The CIB is currently open to fixed and floating offshore wind generators only. The CIB invites generators to submit proposals to DESNZ on how they could deliver the supply chain criteria the government is offering support for, along with their estimated cost of delivering those criteria, before a CfD Allocation Round opens. The criteria are:

1. investment in shorter supply chains,
2. investment in more sustainable means of production.

There is a set minimum standard investment amount that applicants must meet to gain entry into the CfD round (“CIB minimum standard”). Only those proposals that exceed the minimum standard can unlock additional CfD Bonus payments – such proposals are called “CIB extra proposals”.

All fixed/floating offshore wind applicants must obtain an CIB Statement from the Secretary of State before they can take part in the main CfD round. This Statement will set out whether an applicant has met the required minimum standard, and what bonus they are entitled to, if any. The contract will make the CIB Statement binding on all eligible generators, meaning that generators will need to deliver the contents of the statement.

In stage one of the CIB Allocation Process, the CIB extra proposals will be scored based on a combination of their quality and the cost of delivering them. Those scores will be ranked, and proposals awarded the funding they bid for based on their position in the ranking. The highest scoring proposals will draw down from the available CIB budget first, and funding will be assigned to each of the proposals in the order they are ranked, until the budget is fully used-up. This means some proposals would not be eligible for funding, depending on the size of the budget and where they are placed in the ranking.

A second stage CIB allocation process (post-CfD allocation) may be run at the discretion of the Secretary of State if they deem that there is a risk of significant underspend against the CIB budget because of the number of projects that were allocated a CIB that did not go on to obtain a CfD in the main auction.

After the CIB allocation round, the Secretary of State will notify eligible generators through a CIB Statement whether their CIB application has met the minimum standard, and which of their CIB extra proposals are successful (if any). The share of the CIB budget assigned to each successful proposal will be delivered as a bonus added to an applicant’s CfD payments, should the applicant go on to win a CfD contract, and should they deliver the relevant proposals.

Once a generator has entered into a CfD, the Department for Energy Security and Net Zero will begin the CIB monitoring process. The purpose of the monitoring process is to gather

information on the implementation of all of the CIB minimum standard commitments a generator has made, and the implementation of the CIB extra proposals.

Generators must apply for a CIB Implementation Statement in order for the Secretary of State to confirm the extent of delivery of the CIB minimum standard and CIB extra payments (i.e. bonus payments), if applicable. The Secretary of State may provide a CIB Implementation Statement confirming that a generator has invested the sums required under the minimum standard, and how much by way of bonus payments (if any) they are entitled to. The Secretary of State will refuse to issue such a Statement if the minimum standard has not been delivered, which would trigger 'Performance Related Adjustments'. These adjustments will take the form of a reduction in a generator's CfD payments proportional to the level of non-delivery of the minimum standard. Note that if a generator has delivered on their 'extra proposals', but *not* on their minimum standard, they will not be entitled to any bonus payments given that they did not meet the minimum standard required and will still face Performance Related Adjustments.

CfD contract amendments are proposed to set out the rights and obligations arising from CIBs, CIB payment terms, and how performance related adjustments will operate in cases of non-delivery.

The proposed contract amendments set out that a generator cannot obtain CIB payments for delivery of their extra proposals, nor can they avoid Performance Related Adjustments, if they do not obtain an CIB Implementation Statement that confirms that the contents of the original CIB Statement were delivered. The proposed additions to the contract would require generators to provide their CIB Implementation Statement (or CIB refusal notice) to the CfD Counterparty (the Low Carbon Contracts Company - LCCC), so that the LCCC knows whether to release CIB bonuses, take no action, or impose Performance Related Adjustments.

However, generators may also be granted an extension period of 6 months after the CfD Start date, at the discretion of the Secretary of State, if they are unable to deliver their commitments within the original deadline. An extension may only be granted upon receipt of evidence that there is a credible plan to rectify the non-delivery of the CIB minimum standard and CIB extra proposal, if applicable. While the extension period is decided by the Secretary of State and not the contract, should one be authorised, the contract provides for extra time to present LCCC with an CIB Implementation Statement.

Generators can make a claim to the Secretary of State that events out of their control have resulted in non-delivery of the minimum standard— i.e. failure to deliver has been caused by circumstances that could not reasonably have been foreseen and for which the generator should not be penalised. A claim based on events outside a generator's control will be considered through the process of obtaining a CIB Implementation Statement as set out in the CIB guidance. Should the Secretary of State agree with this claim, it is possible that they may deem that the generator has met their commitments and issue a CIB Implementation Statement. This will have the same contractual effect as any other CIB Implementation Statement.



DESNZ reserves the right to review and amend all provisions within the draft contract document for any reason and in particular to ensure that proposals are consistent with subsidy control principles.

# The main proposed additions to the CfD contract pertaining to CIBs in Schedule 2

The proposed contract changes will enable the CIB mechanism to operate through the CfD and will mainly be in a newly drafted Schedule 2 of the contract. Schedule 2 requires the generator to comply with the terms of their CIB Statement, including the obligations in respect of CIB commitments, and allows the CfD counterparty, the LCCC, to act on the contents of the generator's CIB Implementation Statement. This includes payments in the case of delivery, and the application of Performance Related Adjustments in the case of non-delivery. The schedule will outline how they will be applied. As set out above, the schedule does not include force majeure clauses which will be in the CIB Guidance, as this will be at the discretion of the Secretary of State rather than the LCCC.

## Definitions

There is a list of key proposed terminology for the contract changes (p.264-266 in the draft contract). For the purposes of this consultation, the terms used in the contract will be explained with reference to how the policy is described in the CIB Allocation Framework.

Proposed additions to the include new definitions in Schedule 2.

The following concepts are set out in Schedule 2. Below are set out plain English versions of the definitions utilised in the contract. The purpose of this section is to outline key terms in the contract and cross-reference these to the terms employed in the CIB Allocation Framework and Guidance.

- **"Sustainable Industry Reward"** means what is defined as Sustainable Industry Reward in the Contracts for Difference (Allocation) Regulations 2014. The SIR refers to the sum of money that may be payable to generators, following an Allocation Round, in return for making and delivering on extra commitments to support the development and sustainability of supply chains. This is now known as a "Clean Industry Bonus" – but is flagged here given the regulations continue to carry the "SIR" name.
- **"Facility"** refers to the generating station being built by the generator to which the Contract applies.
- **"CIB Implementation Statement Application"** means an application from a generator to the Secretary of State for a CIB Implementation Statement. This may enable generators to receive confirmation of the delivery of CIB minimum standard and extra proposals from the Secretary of State.
- **"Facility CIB Requirements Statement" and "CIB Requirements Statement"** refers to the "CIB Statement" in the Allocation Framework and Guidance. The CIB Statement in this case refers to the notice provided by the Secretary of State in response to a

generator confirming they have met the minimum standard required as part of CIB applications, and sets out, where relevant, sets out any CIB extra proposal rewards they may be entitled to.

- **“Facility CIB Implementation Statement” and “CIB Implementation Statement”** means a CIB Implementation Statement in respect of the Facility, as set out in the CIB guidance. The CIB Implementation Statement refers to the notice provided by the Secretary of State that will confirm the delivery of CIB minimum standard and CIB extra proposals, if applicable.
- **“Facility CIB Refusal” and “CIB Refusal”** means the refusal notice provided by the Secretary of State in response to a generator’s CIB Implementation Statement application in respect of a Facility. This means that the Secretary of State deems a generator to not have delivered on their CIB Statement. This is referred to as CIB refusal in this consultation.
- **“Facility CIB Minimum Standard Investment” and “CIB Minimum Standard Investment”** means CIB minimum standard as set out in the CIB Allocation Framework. The minimum standard refers to the investment amount set out in the CIB Allocation Framework that generators must meet in order to be eligible for a CfD round as set out in a generator’s CIB Statement.
- **“Facility CIB Extra Investment” and “CIB Extra Investment”** means “CIB extra proposals” as set out in the CIB Allocation Framework, which have been successful in obtaining revenue support and are set out in the applicant’s CIB Statement. This is referred to as CIB extra proposals in this consultation.
- **“Facility CIB Extra Commitment Reward Amount”** means the “CIB extra proposal payment” as set out in the Allocation Framework, i.e. a payment in return for successful delivering CIB extra proposals which are in receipt of revenue support. This is referred to as “CIB payments” in this consultation.
- **“Facility CIB Minimum Standard Performance Amount”** means Performance Related Adjustment in the CIB Guidance, i.e. the sum a generator must pay to the LCCC for not delivering the minimum standard (unless the Secretary of State deems that the failure to do so was beyond their control). The level of payment required will be proportionate to the extent to which the generator has failed to deliver the minimum standard.
- **“Extension Period”** means time provided by the Secretary of State after the Start Date for CIB investments to be made as outlined in the CIB Guidance.
- **“Indexed”** means any indexed amount by the LCCC utilising the formulas outlined in Schedule 2, i.e. CIB Payments and Performance Related Adjustments will be indexed.
- **“CfD Start Date”** refers to the date after which generators can receive payments under the CfD, which includes CIB payments.
- **“Investments Final Date”** means either: the Start Date under the CfD contract or, if there is an extension period to obtain a CIB Implementation Statement, the end of that period.

- **"CIB Extra Commitment Reward Amount Instalments"** means the CIB payments paid out in instalments as set out by the LCCC. This is referred to as CIB payment instalments in this consultation.
- **"CIB Minimum Standard Performance Amount Instalments"** means the Performance Related Adjustment payments, paid out in instalments by the Generator.
- **"Instalment Interval"** means the interval between, and frequency of payments, as defined by the LCCC.

## Compliance with the CIB Statement

### Policy context

Eligible generators (here fixed and floating offshore wind generators only) must apply for and obtain a CIB Statement in relation to the relevant CfD unit in order to take part in CfD Allocation Round 7. CIB Statements will be issued by the Secretary of State in accordance with the proposed rules set out in the CIB Allocation Framework that will be published ahead of each CIB Allocation Round. The Secretary of State will notify generators, through a CIB Statement, whether they have met the CIB minimum standard. CIB minimum standards must be delivered by all eligible generators who obtain a CfD, regardless of whether CIB revenue support is obtained through the CIB competition. The CIB Statement will also set out which, if any, CIB extra proposals the eligible generator has been awarded CIB funding for.

The Secretary of State will also confirm to LCCC and National Electricity System Operator (NESO) which projects are in receipt of a CIB Statement.

As per regulation 28E of the Contracts for Difference (Allocation) Regulations 2014,<sup>2</sup> the Secretary of State may withdraw or amend a CIB Statement where it is apparent that: (1) the statement contains an error; (2) the information included in, or in support of, a CIB application was materially incorrect; or (3) a material change in circumstances occurs after the CIB statement is given.

### Proposals to ensure compliance with the CIB statement.

We propose to add a new provision to the CfD contract requiring the generator to comply with the requirements set out in their CIB Statement (paragraph 3 of Schedule 2). This means not complying with the CIB Statement is a breach of the contract, which will lead to contractual consequences as set out below in the form of performance related adjustments.

We propose this on the basis that CIB generators have made a commitment to make a certain level of investment in sustainable supply chains, as part of their participation in the CfD. The contract should reflect, and hold developers to, that commitment.

---

<sup>2</sup> All references to regulations are to the Contracts for Difference (Allocation) Regulations 2014, as amended, unless otherwise stated.

## CIB notice requirements

### Policy context

Eligible generators must submit an application to the Secretary of State for a CIB Implementation Statement in order to confirm whether, and the extent to which, they have delivered the CIB commitments set out in their CIB Statement. A CIB Implementation Statement is required to release CIB Payments (if applicable) and to avoid Performance Related Adjustments relating to the minimum standard.

Under the proposed terms, the generator must make a CIB Implementation Statement Application by the Start Date (or if applicable, by the end of any extension period granted by the Secretary of State). Otherwise, no CIB Payments will be released, and there will be relevant Performance Related Adjustments

The Secretary of State will review the generator's application, to assess whether the minimum standard investment value and, if applicable, the CIB extra proposal commitments have been fully implemented. Once and if the Secretary of State is satisfied that the CIB minimum standard and, if applicable, the CIB extra proposals have been implemented, they will issue a CIB Implementation Statement to the generator to this effect. This process allows the LCCC to be notified as to whether any payments should be made, the total value of the payments, and if there are any Performance Related Adjustments that should be applied. If the CIB minimum standard has not been implemented, the Secretary of State may decide to issue a CIB refusal statement.

A provision is therefore needed in the contract to ensure that the LCCC is aware of the status of a generator's CIB Statement (e.g. whether it is still in place, has been revised, or withdrawn) and CIB Implementation Statement (or the refusal to issue a CIB Implementation Statement).

### Proposals to provide CIB statements to LCCC

The proposed additions to the CfD contract require generators to update the LCCC as to the status of their CIB Statement, CIB Implementation Statement Application and where relevant, their CIB Implementation Statement or CIB refusal, by doing the following:

As part of their Initial Conditions Precedent, generators must provide a copy of their CIB Statement, including confirmation of whether it has been revised or withdrawn (paragraph (F) of Part A of Schedule 1).

### Information requirements

Within 5 business days of:

- The generator's CIB Statement being revised or withdrawn;
- The generator's CIB Implementation Statement being revised or withdrawn; or
- The generator receiving an CIB refusal.

the generator must give notice to the LCCC, along with a Director's Certificate setting out details and a copy of the relevant statement, withdrawal or refusal (paragraph 4.1).

### **Notifications to be made at the Start Date**

The draft provisions also require the generator to update the LCCC with the latest status of their Statements within 5 days of the Start Date. Under the proposed terms, bar any extension granted by the Secretary of State, the generator must have made a CIB Implementation Statement Application by the Start Date to release CIB Payments (if applicable) and to avoid Performance Related Adjustments relating to the minimum standard.

This means that within 5 business days of the Start Date, generators must provide a notice to LCCC, accompanied by a Director's Certificate, setting out:

- whether the CIB Statement has been withdrawn or revised since the Agreement Date or last provided (4.2(A));
- whether there is an Investment Extension Period and if so, when it will end (paragraph 4.2(B)).
- whether any CIB Implementation Statement previously provided remains in effect or if it has been revised or withdrawn (paragraph 4.2(C)-(i)-(ii)).
- if no CIB Implementation Statement has been provided by the Start Date:
  - whether a CIB Implementation Statement Application has been made, and any CIB Implementation Statement or CIB refusal which has been issued the Secretary of State in response.
  - details of whether and if so, when, the generator expects to make an application if they have not done so.
  - if applicable, details of any revision or withdrawal of an CIB Implementation Statement which has been issued (paragraphs 4.2(D)(i)-(ii)).

If generators are granted an Investment Extension Period by the Secretary of State, the same information must be supplied within 5 business days of the last day of the Investment Extension Period as for the Start Date.

Generators must provide to the LCCC any further information they may request about any of notices required at any time. Responses to the LCCC must be as soon as reasonably practicable after the LCCC's request is made (paragraph 4.4).

The government proposes these clauses to ensure that there are no circumstances in which the LCCC is not informed of any material changes to the CIB Statement or CIB Implementation Statement that could have an effect on the value of CIB Payments or Performance Related Adjustments.

### **Consultation questions**

1. Do you agree that the notice requirements capture a sufficient number of scenarios in which it would be necessary to inform the LCCC of updates to CIB Statements and CIB Implementation Statements? If not, please state your reasons and an alternative proposal.

## **Consequences of not fulfilling CIB minimum standard**

### **Policy context**

Under the proposed contract amendments, a generator will be required to implement the CIB minimum standard set out in their CIB Statement. A generator which does not deliver their minimum standard will have Performance Related Adjustments (“CIB Minimum Standard Performance Amounts”) applied to their CfD payments. A generator will be deemed to have met their minimum standard if the full minimum standard investment sum committed to in the CIB Statement has been made by the CfD Start Date, or by the end of any extension period that the Secretary of State may have granted. Conversely, if the investment has not been made by these deadlines, the minimum standard will be deemed unmet in most circumstances.

If the CIB minimum standard has not been met, the Secretary of State will issue a refusal notice in response to the generator’s CIB Implementation Statement Application which will signal to LCCC that performance related adjustments should be applied. Generators must provide the LCCC with the notice issued by the Secretary of State.

Any Performance Related Adjustments (“CIB Minimum Standard Performance Amounts”) applied for non-delivery of the minimum standard will be applied to CfD payments until the full adjustment has been made. The adjustment will be equal to the difference between the total minimum standard required, and the actual spend of the generator against that minimum standard.

It is proposed that the deductions will be recovered in full as either a one-off lump sum or over a series of CfD payments, as set out by the LCCC. Deductions will only be made after the generator has begun generating electricity under their contract and may receive or be liable to make CfD payments for such generation. Note that no Performance Related Adjustment will exceed the total payments a generator might have otherwise received in the event that they were receiving CfD payments from the LCCC (i.e. the adjustment applied over a given period will never be greater than the potential CfD revenue over the same period).

Note that, as set out in the CIB Guidance, a generator may make a claim to the Secretary of State that events outside of their control, which could not have reasonably been foreseen, have affected their ability to fulfil their CIB commitments. If the Secretary of State agrees with the claim, the generator will be expected to find alternative commitments in the first instance. If that is not possible, the Secretary of State may then consider whether to deem a commitment, including the minimum standard, to have been met for the purposes of releasing a CIB

Implementation Statement. This relief, at the discretion of the Secretary of State, is not in the CfD contract, but by deeming a commitment to be met in such circumstances, the Secretary of State's decision has contractual effect through the release of an CIB Implementation Statement.

## Proposals on the consequences of not fulfilling minimum standard.

In the context of the draft contract, 'payment' refers to the liability to pay, meaning that generation payments will be adjusted by the Performance Related Adjustments amount by the LCCC. The government proposes the following additions to the contract.

### **Liability to pay Facility CIB Minimum Standard Performance Amount**

If the generator has not delivered the CIB minimum standard set out in their CIB Statement, the generator will be liable to have Performance Related Adjustments applied by the LCCC (paragraph 5.1). The LCCC will adjust a generator's CfD payments (i.e. reduce them) in a way that is proportionate to the level of non-delivery, which will be set out in the generator's CIB refusal notice (paragraph 5.2).

The generator must meet its liability to pay the Performance Related Adjustment amount in several lump sum instalments ("CIB Minimum Standard Performance Related Adjustment Instalments"), at intervals determined by the LCCC (paragraph 5.3). The Performance Related Adjustment amount will be indexed using the CPI measure, like all other CfD payments.

### **Determination and notice of instalments**

Government proposes the following methodology for applying Performance Related Adjustments.

Each Performance Related Adjustment payment shall be a Reconciliation Amount in respect of a Billing Period nominated by the LCCC (paragraph 5.4(A)). This means that the Performance Related Adjustment instalments will be one of the payments taken into account by the LCCC when calculating amounts payable between the generator and LCCC, and it will be included in the generator's overall billing statement.

The amount of each CIB instalment will be determined by the LCCC and will be indexed as set out in paragraphs 5.7 to 5.9 in the contract and the indexation section of this consultation (5.4(B)). The value of each net Performance Related Adjustment payment instalment cannot be higher than the net payment for generation for over the same period. The formula is set out in paragraph 5.3 of Schedule 2. The government has proposed this on the basis that the consequence for not fulfilling the minimum standard should remain proportional to the revenue received by the generator under their CfD.

Subject to paragraphs (5.3(A) and 5.5), the LCCC must determine and notify the generator of the instalment amounts owed within 30 business days of the later of (paragraph 5.4(C) and (i)(ii)):

- the Investments Final Date;



- The date on which the LCCC is satisfied that it is aware and aware of the extent to which the CIB minimum standard has been met;
- the date that CPI for January of the calendar year in which the notice is being given has been published.

We expect that the LCCC will notify generators of instalment amounts via their billing statements and this is accommodated by the draft provisions (paragraph 5.5).

The government has proposed this approach to settling Performance Related Adjustments so that it remains consistent with the broader CfD payment and reconciliation mechanisms and does not require the creation of new and complex additions to existing systems.

### **Effect of termination**

If a generator's CfD contract is terminated before the Start Date, there will be no Performance Related Adjustments applied (nor CIB payments made). This is the case regardless of whether a CIB Implementation Statement or CIB refusal has been issued. This is because the government believes it is unreasonable for Performance Related Adjustments to apply if a project is terminated before its Start Date, as this implies significant issues with the operational or financial viability of the project that the government does not seek to compound.

However, if a project has started generating but is terminated after its Start Date, this implies that the generation station has been fully or almost fully built and commissioned, and therefore CIB investments made into the supply chain can reasonably have expected to happen by this point – and therefore any shortfall in this respect should lead to Performance Related Adjustments.

As such, if the generator's CfD is terminated on or after the Start Date or the last day of any relevant extension period, the generator will be liable to pay to LCCC the lower amount of (paragraph 5.6):

- the balance of any remaining Performance Related Adjustment amount; or
- the amount of payment they have received in return for generation of electricity under their CfD from LCCC.

The latter is included to ensure that the Performance Related Adjustment does not exceed the net payment for generation over the length of the contract.

If the termination occurs before the Investments Final Date (but after the CfD Start Date, i.e. there has been an extension period), and the generator has not applied for a CIB Implementation Statement, the CIB minimum standard will be considered not to have been met. However, if a generator has applied for a CIB Implementation Statement by the Investments Final Date and a CIB refusal has been issued, any relevant Performance Related Adjustment amount will be applied accordingly (paragraphs (5.6)(ii)). The generator is due to pay the amount within 30 business days the later of the Investments Final Date and the date that CPI for January of the calendar year in which the CfD is terminated has been published, if applicable (paragraph (5.6)(iii)).

## Indexation of amounts

All Performance Related Adjustments will be indexed starting from the value of the minimum standard set out in the CIB Statement<sup>3</sup>, until the final payments have been made. See the section on indexation for full description and paragraphs 5.7-5.9 in the draft contract.

### Consultation questions

2. Do you agree that the Performance Related Adjustments provisions linked to the minimum standard are clear and capture all reasonable scenarios? If not, please state your reasons and an alternative proposal.

## Payment for fulfilling CIB extra proposals

### Policy context

Developers who successfully obtain funding for their CIB extra proposals (“CIB Extra Investments”) and who obtain a Contract for Difference through the main CfD allocation round, will have their CIB extra proposals outlined in their CIB Statement. These must be delivered alongside their CIB minimum standard to unlock the CIB Payments (“CIB Extra Investments Reward Amount”). If the CIB extra proposals are delivered, a generator’s CIB Implementation Statement will set out the sum and period of payment for the CIB extra proposals, which will be paid by the LCCC in full over a series of CfD payments.

A generator that does not deliver CIB extra proposals will not receive their CIB payments. Generators that partially deliver their CIB extra proposal will be paid proportionate to the level of delivery (e.g. 80% of delivery equals 80% of payment), after the Start Date.

No payment for extra proposals will be made if the generator fails to meet the CIB minimum standard, as set out in the CIB Statement and the Allocation Framework. A generator that does not deliver their CIB extra proposal but does invest to the CIB minimum standard will not face a Performance Related Adjustment in respect of their minimum standard but will not unlock the CIB Payment.

### Proposals to outline the payment for fulfilling CIB extra proposals

The government proposes the following additions to the contract to facilitate release of CIB Payments.

### Liability to pay Facility CIB extra proposal

If the generator has fully delivered the CIB minimum standard and the CIB extra proposal as set out in the CIB Statement in full or in part by the Investments Final Date, the LCCC must pay the generator the CIB Payment proportionate to the level of delivery (paragraph 6.2). This

---

<sup>3</sup> The value of the minimum standard, as per the Allocation Framework, is indexed until the Milestone Delivery Date. The Performance Related Adjustment will start with the value of the minimum standard value as set out in the CIB Statement, and will be indexed all the way to year of payment (if payment is due).

payment will be indexed using the CPI measure like all other CfD payments. This means that either a full or partial share of the eligible CIB Payment for the facility will be paid (“Payable Share of the Facility CIB Extra Reward Amount”) if the generator’s CIB Implementation Statement confirms that the extra commitment has been fully or partly delivered (paragraph 6.2(A)(B) and paragraph 6.3). All cases will be indexed according to paragraphs 5.7 to 5.9 of the draft contract and outlined in the indexation section of this consultation.

CIB Payment may not be made in the following scenarios (paragraph 6.5):

- In the event the generator has not made a CIB Implementation Statement application by the Investments Final Date, no CIB Payment amount will be payable by the LCCC (paragraph 6.5 (A))
- If a generator has applied for a CIB Implementation Statement by the Investments Final Date and has not received a CIB Implementation Statement from the Secretary of State confirming delivery, either in full or partially, then no amount will be payable by the LCCC (paragraph 6.5(B)).

The LCCC will be liable to pay all or a proportionate share of the CIB Payment in lump sum instalments – the frequency of payments will be determined by the LCCC (paragraph 6.6).

### **Determination and notice of instalment amounts**

Each instalment of the CIB Payment will be a Reconciliation Amount in respect of a Billing Period as nominated by the LCCC. This means that each CIB Payment instalment (“CIB Extra Investment Reward Amount Instalments”) will be taken into account by LCCC in determining what payment is owed between LCCC and the generator, and will be included in the generator’s overall billing statement as set by the LCCC (paragraph 6.7(A)).

The frequency of payments, and the amount of individual CIB Payments shall be determined by the LCCC to ensure that the CIB Payments have been fully paid to the generator by no later than the end of the 4<sup>th</sup> (fourth) year after the Start Date or final day of the extension period, or the date the LCCC is satisfied that it is aware of the Secretary of State’s determination that the CIB extra proposals have been fulfilled. The payments will be indexed using the CPI measure like all other CfD payments (paragraph 6.7(B)).

The LCCC shall determine and notify the generator of the CIB Payment instalments within thirty 30 business days the later of (paragraph 6.7(C)):

- the Investments Final Date which may be the Start Date;
- the last day of the extension period if granted, starting from the date they receive the CIB Implementation Statement;
- from the date the LCCC is satisfied that it is aware that CIB Payments are payable;
- the date that CPI for January of the year in which the notice is being given has been published.

The government expects that instalments will be notified to the generator by LCCC via their Billing Statement and this is provided for in the draft contract (paragraph 6.8).

The government has proposed that CIB payments be delivered through existing CfD payment mechanisms (i.e. reconciliation amounts) for the sake of simplicity and predictability.

### **Effect of termination**

If a generator's CfD contract is terminated before the Start Date, there will be no payments for the generator's CIB extra proposal. Even if the generator has applied for a CIB Implementation Statement or has been given an extension period for meeting CIB commitments, the fact of termination before the Start Date means no CIB payments will be made. This is because the government will not authorise the release of CIB payments made to projects that have not become fully operational, to protect consumer costs (paragraph 6.9(A)).

Note that in practice this means that if a generator receives a contract termination notice before the CfD Start Date and has not yet received a CIB Implementation Statement, one will not be issued, even if an application has been made. If they have already applied for and received a CIB Implementation Statement, it will have no effect, as the project will have been terminated pre-Start Date.

In the case the generator's CfD is terminated on or after the Start Date, the LCCC will be liable to pay the remaining balance of CIB payments within 30 business days from termination. This is because the government is prepared to accept CIB payments made towards a project that was fully or almost fully completed, implying supply chain investments were made (6.9(B)(i)).

However, if termination has occurred before the Final Investment Date (but after the Start Date) and a generator has not applied for a CIB Implementation Statement, it will be deemed that there is no CIB Payment to be made (6.9(B)(ii)(a)). On the other hand, if a generator has applied for a CIB Implementation Statement before the termination and has received a response from the Secretary of State by the Investments Final Date, the payment will be made in accordance with the Implementation Statement (6.9(B)(ii)(b)(1)). If the CIB Implementation Statement has not been issued, there will be no CIB Payment (6.9(B)(ii)(b)(2)).

The LCCC must pay the amount (the total CIB Payment) due within thirty business days the later of (i) the Investments Final Date, (ii) the date on which the CfD terminates or (iii) the date on which the CPI for January of the year of termination is published (6.9(B)(iii)).

### **Indexation of amounts**

CIB Payments will be indexed starting from the value set out in the CIB Statement. See section on indexation for full description and paragraphs 6.10-6.12 in the draft contract.

#### **Consultation questions**

3. Do you agree that the provisions on CIB Payments are clear and capture all reasonable payment scenarios? If not, please state your reasons and an alternative proposal.

## Nature and conclusiveness of Secretary of State determinations

### Policy context

Generators must apply for a CIB Implementation Statement in order to evidence that they have met their CIB commitments. The Secretary of State may respond with a CIB Implementation Statement outlining that the generator has delivered the CIB minimum standard, and CIB extra proposals. The Secretary of State may also issue a CIB refusal outlining a generator's level of non-delivery. The Secretary of State's notice is a conclusive determination and only can be amended through an updated decision from the Secretary of State.

### Proposal to add provisions on the conclusiveness of Secretary of State determinations

The contract states that the Secretary of State's determination of an CIB Implementation Statement Application is conclusive as to whether CIB minimum standard have been met, and whether any CIB Extra Investment has been made. CIB Implementation Statements, revision or withdrawal of them, and CIB refusals all constitute determinations of a CIB Implementation Statement Application (paragraph 7.1 and 7.2)

#### Consultation questions

4. Do you agree that this provision is sufficiently clear, and captures all reasonable scenarios? If not, please state your reasons and an alternative proposal.

## Payment adjustments after a new Secretary of State determination

### Policy context

There may be cases where there is a need for the Secretary of State to issue a new CIB Implementation Statement, and consequently provide a new decision on a generator's application. This could arise due to new information being provided, or inaccurate information that needs to be corrected. This could occur after a Performance Related Adjustment has been applied or CIB Payments issued based on a prior CIB Implementation Statement. For this scenario there needs to be a mechanism to adjust any resulting payment discrepancies.

### Proposals to include adjustments to payments in the case of a new determination

Government proposes the following additions to the contract.

If the Secretary of State has issued a CIB Implementation Statement and issues another one with a new determination, there must be corrective actions taken to reflect the updated

decision. This is especially the case if the LCCC has already applied Performance Related Adjustments or paid CIB Payments to the generator.

If there is a new determination on a generator's Performance Related Adjustments or CIB Payments, if applicable, then any overpaid balance will be refunded by the LCCC to the generator. However, if a generator has underpaid compared to the new determination, the LCCC will recalculate the amounts accordingly (paragraph 8.2).

This provision is proposed so that there is an explicit contractual mechanism that gives effect to new Secretary of State decisions on implementation, so that Generators may be paid any extra sums they are due, or pay back LCCC for any CIB over-payments, or Performance Related Adjustment under-payments. Without this, there is no explicit clause allowing either party to seek the correct payment amounts.

#### **Consultation questions**

5. Do you agree that this provision is sufficiently clear, and captures all reasonable scenarios? If not, please state your reasons and an alternative proposal.

## **Indexation of CIB amounts**

### **Policy context**

The CfD scheme provides generators with broad protection from inflation by indexing the strike price to the Consumer Price Index. Similarly, for the CIBs, CIB Payments will be indexed to the year in which the payment is made, starting with the year the CIB Statement is released. Any deductions to a generators' CfD Payment in the case of a Performance Related Adjustment will be similarly indexed, to protect the consumer from overpayment for undelivered commitments under the project. Performance Related Adjustments, as stated earlier, will be indexed starting from the value of the minimum standard set out in the CIB statement (note: the minimum standard is only indexed up to the Milestone Delivery Date of a project, but the Performance Related Adjustment will be indexed all the way up to the year payment is due).

### **Proposals to add indexation for CIB amounts**

CIB Payments made under the contract will be indexed in the following ways (paragraphs 9.1-9.3):

CIB payments will be indexed using the year the CIB Statement was issued as the base year (e.g. January 2025), as set out in the Allocation Framework. The Consumer Price Index (CPI) measure of inflation will be used. It will apply until the last CIB Payment has been made.

Payments are indexed using the existing CfD methodology both for the sake of clarity, continuity, and to protect the Generator from a decline in value of their revenue support due to the length of time the CIB Bonus is paid out compared to when investments were made, not

least based on the assumption that most investments will have been debt financed and therefore will sit as a long-term costs on Generator finances.

Conversely, Performance Related Adjustments will be indexed. The base value will be the minimum standard value set out in the original CIB Statement, as explained in the Allocation Framework. The government believes Performance Related Adjustments should be indexed on the basis that a generator will be counting on CfD revenue to finance the minimum standard share of CIBs (as CfD revenue is used to unlock financing for the wider project). Therefore, if a CIB minimum standard is undelivered, it should be indexed in the same way as a generation payment would have been indexed had the investment been delivered. On this basis, it will also be indexed using the CPI measure.

### **Consultation questions**

6. Do you agree that the indexation provisions are clearly set out and functional? If not, please state your reasons and an alternative proposal.

## **Interest**

### **Policy context and proposal**

Default interest is defined in condition 24 of the existing contract, which outlines that if either party fail to pay any sum payable on the due date, then interest will accrue on that sum from the due date to the date of actual payment. We propose to apply default interest to CIB Performance Related Adjustment payments and CIB Payments to protect both parties against any delay in payments.

We do not propose to apply compensatory interest to CIBs (whether for CIB Payments or Performance Related Adjustments), on the basis that CIB payments are different in purpose to other CfD payments. Compensatory interest is designed to recompense loss of commercial revenue. As CfD payments are a revenue source for generation, missed or delayed payments represent a loss of commercial revenue for the generator which should be compensated given the wider potential impacts on the business. CIB payments are extra revenue support for extra costs incurred by the generator during the Capital Expenditure phase for a project, and as such, a delayed or missed payment (already subject to default interest) delays the reimbursement of a sunk cost but does not affect a generator's revenue stream (paragraph 10).

The addition of indexation aims to provide compensation for any delays and financial loss.

### **Consultation questions**

7. Do you agree that the proposed application of default interest but not compensatory interest is reasonable? If not, please state your reasons and an alternative proposal.

## Contract changes outside of Schedule 2

### The Initial Conditions Precedent Schedule 1 – Changes to Part A (F) on Conditions Precedent

#### Policy context

In the CfD contract, initial conditions precedents (ICPs) are part of the first process that a generator will undertake after signing a CfD. Following CfD signature, the ICPs must be satisfied within 20 business days of the CfD Agreement Date.

As part of the CfD's first milestone, the CIBs will require generators to evidence the status of the CIB statement to the LCCC.

#### Proposal to add the initial conditions precedent relating to the CfD CIB.

As one of their ICPs, the generator must supply to the LCCC their CIB statement, alongside a statement supported by a director's certificate and setting out any details if it has been withdrawn or amended.

This has been added to ensure that the LCCC is always aware of the status of a generator's entitlements or liabilities under CIBs.

### Amendments to the Reconciliation Amounts to include CIB

#### Policy context

The purpose of this amendment to the definition of Reconciliation Amounts would be to ensure that any payments due from LCCC to the generator for fulfilling their CIB extra proposals, or any payments from the generator to LCCC for failure to meet their CIB minimum standard, are included in the LCCC's final payment calculations.

#### Proposals to add the reconciliation amounts

Under section (M), we propose to amend the reconciliation amount to include CIB payments, if a generator is entitled to any, or to include Performance Related Adjustments, if the generators owe any to the LCCC.

This means, for instance, that if a generator were receiving payments from the LCCC for generation, any eligible CIB payments would be added to the sum due in the given billing period. If the Generator were liable to pay the LCCC because market prices were in excess of the strike price, any CIB payments would be deducted from the amounts owed to LCCC.



Conversely, if any Performance Related Adjustment payments were due, these would be added to a Generator's payments to the LCCC or taken off any payments made by LCCC to the generator.

The government proposes that this is the simplest mechanism to settle payments and liabilities without creating a new contractual and financial mechanism within the CfD.

**Consultation questions**

8. Do you agree that the amendments to the reconciliation amounts are sufficiently clear and fit for purpose? If not, please state your reasons and an alternative proposal.

## Amendments to the conditions of CfD payment suspensions

### Policy context

The CfD contract outlines cases where a generator may be liable for the suspension of CfD payments due to non-compliance with the conditions of the contract, such as the failure to provide information requested on the CfD facility by LCCC. We do not consider it appropriate or proportionate to suspend CIB payments in all circumstances where CfD payment suspension occurs, when the suspension is for breach of an obligation which has no link to CIB payments. Therefore, we have excluded CIB payments from the scope of certain provisions concerning suspension of CfD payments.

### Proposals to add CIB in the CfD suspensions provisions

We propose to exclude suspension of CIB payments in the event that CfD payments are suspended under:

- condition 30.2 – suspension of payment where the generator has failed to comply with the undertaking to ensure that the generation technology deployed by the CfD Facility is the Facility Generation Technology.
- condition 31.11 – suspension of payment for breach of the Electrical Schematic Obligation.
- condition 31.17 – suspension of payment for breach of obligation to provide Metering Access Right.
- condition 32.17 – suspension of payment for failure to provide Know Your Customer information accompanied by Director's Certificate.

**Consultation questions**

9. Do you agree that the amendments to the conditions relating to CfD payment suspensions are sufficiently clear and fit for purpose? If not, please state your reasons and an alternative proposal

## Amendments to exclude CIB from the CfD's provisions on force majeure.

### Policy context

The CfD contract outlines circumstances in which generators may receive relief from certain obligations in the CfD, due to a force majeure event. The CIB scheme has separate provisions for relief from obligations where events outside of the generator's control have interfered with delivery of CIBs. This is set out in the CIB guidance, as part of the process for obtaining a CIB Implementation Statement Application. As such, the draft contract excludes developers from also obtaining force majeure relief under the contract terms, in respect of delivering CIB obligations given that provision is made elsewhere. Ultimately, the contract is between the LCCC and the generator, whereas only the Secretary of State (not LCCC) can determine whether a CIB Implementation Statement should be released or not.

### Proposals to add CIB in the CfD suspensions provisions

We propose to exclude CIB from the provisions related to force majeure relief which are outlined under:

- condition 69.2(B) – excludes the CIB from the force majeure relief outlined in condition 69.1.

## Consultation questions

1. Do you agree that the notice requirements capture a sufficient number of scenarios in which it would be necessary to inform the LCCC of updates to CIB Statements and CIB Implementation Statements? If not, please state your reasons and an alternative proposal.
2. Do you agree that the Performance Related Adjustments provisions linked to the minimum standard are clear and capture all reasonable scenarios? If not, please state your reasons and an alternative proposal.
3. Do you agree that the provisions on CIB Payments are clear and capture all reasonable payment scenarios? If not, please state your reasons and an alternative proposal.
4. Do you agree that this provision is sufficiently clear, and captures all reasonable scenarios? If not, please state your reasons and an alternative proposal.
5. Do you agree that this provision is sufficiently clear, and captures all reasonable scenarios? If not, please state your reasons and an alternative proposal.
6. Do you agree that the indexation provisions are clearly set out and functional? If not, please state your reasons and an alternative proposal.
7. Do you agree that the proposed application of default interest but not compensatory interest is reasonable? If not, please state your reasons and an alternative proposal.
8. Do you agree that the amendments to the reconciliation amounts are sufficiently clear and fit for purpose? If not, please state your reasons and an alternative proposal.
9. Do you agree that the amendments to the conditions relating to CfD payment suspensions are sufficiently clear and fit for purpose? If not, please state your reasons and an alternative proposal.

## Next steps

We expect to publish the Government response in January 2025.

---

This publication is available from: [www.gov.uk/government/consultations/additions-to-the-cfd-contract-arising-from-the-introduction-of-the-clean-industry-bonus](https://www.gov.uk/government/consultations/additions-to-the-cfd-contract-arising-from-the-introduction-of-the-clean-industry-bonus)

If you need a version of this document in a more accessible format, please email [alt.formats@energysecurity.gov.uk](mailto:alt.formats@energysecurity.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.