

Questions and Answers on the NER300 programme and the first call for proposals (06/12/2010)

The below list of Questions and Answers continues the list of Questions and Answers on the NER300 programme and the first call for proposals that was published as MEMO/10/549 (http://ec.europa.eu/clima/funding/ner300/docs/faq_en.pdf).

25) How should follow-up questions be asked?

Further questions should be sent to the NER 300 functional mailbox: CLIMA-NER300@ec.europa.eu The Commission will endeavour to answer all questions received within the shortest possible delays. Answers will be included in the Q&A document on the NER 300 website.

26) Does the Commission foresee any flexibility in the deadline for submissions of projects to the EIB?

The deadline of 9 May 2011 for submission of proposals to the EIB is fixed. Further delays in the selection process would delay the implementation of projects. The Commission has engaged with project sponsors and Member States since February 2010 and expects that potential project sponsors have advanced their projects since that time. Projects that cannot meet the 9 May 2011 deadline can still prepare to apply in the second call for proposals.

27) How much interaction can there be between project sponsors and Member States in the period between 9 February 2011 and 9 May 2011?

Interaction in this period can take place if and to the extent necessary to finalise proposals for submission to the EIB, provided the relevant information could and should not already have been provided by 9 February 2011. It is for the Member States to determine the details of such interaction.

28) Is the maximum award for a single project 15% of 300 million allowances or 15% of 200 million?

The maximum award for a single project is 15% of 300 million allowances.

29) How will the funding ratio between CCS and RES projects be determined?

The EIB will determine the funding ratio once it has established the total funding requests of the CCS group and of the RES group, hence of the selected CCS projects and of the selected RES projects (in principle 8 CCS projects and 34 RES projects, see Question 6). The funding ratio will be equivalent to the ratio of the two funding requests.

30) Will any information on projects received by Member States on 9 February 2011 be published?

The Commission has asked that Member States provide the Commission, copied to the EIB, with an interim report on the number of projects submitted and the funding requirement of submitted projects by category and sub-category by 9 March 2011. With a view to ensuring transparent and harmonised information on the call process, the Commission intends to publish summary information on the proposals received on the basis of the interim reports provided by the Member States.

31) Will there be interaction between the EIB and the Member States or Project Sponsors during the evaluation phase?

The EIB will seek any necessary clarification and confirmations with project sponsors or Member States, where appropriate.

32) What does 'confirming value and structure of the total public funding contribution' involve?

Following receipt of the list of recommendations for award decisions from the EIB, the Commission will confirm the eligibility of the recommended projects and will then reconsult the Member States concerned to confirm, where appropriate, value and structure of the total public funding contribution. In case a Member State is not in a position to confirm parts or all of foreseen national co-funding, a project could still remain on the list if and when it finds other sources of funding for the relevant amount.

33) Which procedures apply for State aid approval?

NER300 funding, when combined with co-funding by Member States, involves State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU). In accordance with Article 108 of the TFEU, Member States must notify the Commission before the aid is granted. State aid procedures are laid down in Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Article 88) of the EC Treaty (OJ L 83/1, 27.03.1999, p. 1).

34) How will the geographical balancing work in practice?

If, following the confirmation of value and structure of the total public funding contribution for the recommended Projects (see Question 32), a Member State has more than three Projects on the list of recommended projects, this Member State will select the three national Projects that should remain on the list.

35) How will the competitiveness check work in practice?

If there are no more than 2 projects eligible for the selection in a particular sub-category, the Commission will assess whether the cost per unit performance scores (CPUPs) for the Projects for which the due diligence assessment has been concluded positively are competitive. No rigid rules for this have been issued; the Commission will look at each case on its own merits.

36) What is the requirement for relevant permits?

As one of the eligibility criteria, projects must demonstrate that all relevant permits are in place or sufficiently advanced at the time of application to ensure entry into operation within four years upon adoption of the respective award decision. Member States will be asked to confirm that this is the case when the Commission verifies the eligibility of the projects recommended for award decisions. All relevant national permits in accordance with the relevant requirements under Union law then have to be issued within 24 months of adoption of the award decision. In the case of CCS projects with saline aquifer storage, the relevant period is 36 months from the adoption of the award decision.

37) If a project is not selected in the first call for proposals, can it be re-submitted in the second call?

Yes, provided it meets the eligibility criteria for the second call, which may be different from the first call with a view to addressing any technological or geographical imbalance resulting from the first call.

38) Do procurement rules apply to the selection of projects at national level?

No, but pursuant to Article 10a(8) of the EU ETS Directive, projects shall be selected on the basis of objective and transparent criteria. Moreover, Member States must comply with the general principles of EU law, including the principle of equal treatment, the principle of non-discrimination and the principle of transparency.

39) Will the Commission verify the Member States eligibility assessment?

Only projects which have passed the Member State eligibility assessment can be submitted to the EIB for evaluation. The Commission will verify the eligibility of the Projects on the list of recommendations for award decisions received from the EIB.

40) What if a Member State submits only one project and this is ranked second?

It would be very unlikely that this project would be funded from the first call, but the project could potentially be resubmitted following the second call (see Question 37).

41) Why do Member States define the reference plant? Would having a single reference plant provide a level playing field for all projects?

National circumstances are very different, therefore the reference plant will need to be defined by Member States, rather than having one reference plant across EU. This is also the case for State aid assessments. Thus, the Project Sponsor will, in agreement with Member States, determine any assumptions e.g., fuel price, rate of inflation etc., for their own individual project. As the definition of the reference plant is crucial to the calculation of the cost per unit performance (CPUP), and therefore for the ranking of the projects, it is expected that the Member State will ensure that assumptions made for all the projects they submit are identical unless justification is provided for a difference, and that assumptions are reasonable. Where relevant for the financial Due Diligence, the EIB will consider whether these assumptions are appropriate and may, following confirmation/discussion with the Project Sponsor, undertake alternative scenarios/sensitivity testing based on its own assumptions and inform the Commission of the outcomes. In addition, the Commission will provide guidance on the definition of reference plant to the Member States.

42) Can a Member State provide financial support to a project after the five or ten year period?

Under NER 300, the disbursement period will be limited to the five or ten year period. Member State support after this period is possible, provided it complies with State aid rules.

43) How can a project demonstrate that it has secure and stable financing?

The Commission intends to award NER 300 funding to financially robust projects only, although there may remain uncertainties on financing at the point of submission of the application. The Commission asks for detailed information on costs and financing. It is stated in the application forms that if a project does not have all the information at the time of application it should explain how it will get that information. All projects need to provide some information on financing and estimated costs. The greater the amount of information and assurance concerning the project finance is the greater is also the prospect of passing the evaluation by the EIB.

44) How should feed in tariffs be included in the calculation of relevant costs? How will cost savings from lower carbon emissions be included in the calculation of relevant costs?

Existing feed in tariffs are 'operating benefits' and considered as set out in Article 3.5 of the NER300 Decision (Decision 2010/670/EU of 3 November 2010, OJ L 290 of 6.11.2010, p. 39), and any income from these should be deducted from the relevant costs as stipulated in Article 3.5. Cost savings from lower carbon emissions should also be deducted from relevant costs, again as stipulated in Article 3.5.

45) Do Member States have discretion on public funding for projects (can Member States support CCS and not RES)?

It is entirely up to Member States to determine which projects they fund, provided that the selection process is based on objective and transparent criteria. Moreover, Member States must comply with the general principles of EU law, including the principle of equal treatment, the principle of non-discrimination and the principle of transparency.

46) If a project receives a loan from the EIB, does this disqualify it from NER300 funding?

No.

47) Can a Member State provide additional funding, if 50% of the relevant costs exceeds the 15% available from the NER300 fund.

Yes, provided the additional Member State funding receives State aid approval.

48) What level of confidence is required for the cost information, and what are the consequences for the award decisions if those costs change?

It is anticipated that there will be uncertainty in the costs at the time of application. More detailed and robust cost information will be beneficial during the evaluation phase (as it is in part an indicator of the level of development of the project). After the award decision is made, the award can be adjusted downwards in the event that the relevant costs based on the estimates on which Final Investment Decision is taken are lower than the estimated relevant costs on the basis of which the Award Decision was determined. The award cannot be adjusted upwards, as there would then be no cost control, and in any case all available NER 300 funds will normally have been allocated.

49) Will the Commission provide any of the assumptions underlying the cost information, such as carbon prices?

The Commission will not provide assumptions underlying the cost information. This is for Member States to determine.

50) Why use a reference plant for pre combustion CCS?

The additional costs associated with application of CCS for post combustion and oxyfuel CCS projects can be easily identified without the need to refer to a reference plant. However for pre combustion facilities, the nature of the technology means that the additional costs cannot be simply identified in the same way, and comparison with a reference plant is needed; in this case the reference plant should be a supercritical coal plant.

51) How much flexibility is there in adapting the Specifications for the Legally Binding Instrument (SLBI) to the legally binding instrument between the Member State the Project Sponsor?

Member States can adapt the wording as necessary, but cannot change the substance of the SLBI.

52) On knowledge sharing, who determines what is foreground and what is background knowledge?

This will be determined in the first place at national level, based on point 9 of the SLBI. The Commission will however closely monitor the implementing of these provisions.

53) What happens if a project fails to meet its knowledge sharing requirements?

In case of annual funding disbursement, if a Project Sponsor does not fulfil its knowledge sharing obligations for a given year in that year, it will not receive funding in and for that year. In case of upfront funding, any funding excess will be calculated, and will have to be returned at the end of disbursement.

54) Will the project sponsors be responsible if knowledge sharing arrangements are not met by subcontractor?

The Commission anticipates that some of the knowledge will be generated by subcontractors rather than by the project sponsor. The knowledge sharing obligations set out in the SLBI extend to this knowledge. The knowledge sharing obligation is imposed on the Project Sponsor who will have contractual arrangements with sub contractors. If the subcontractor fails to share the relevant knowledge, then no payment can be made in that year and for that year. Beyond this, matters will depend on the nature of the contractual arrangements between the project sponsor and the subcontractor.

55) Level 1 knowledge – what details need to be shared?

The Commission will provide more detail on this shortly.

56) What happens if a project, which has received upfront funding, definitively fails?

The Member State will have to return any excess funding to the EIB pursuant to the provisions set out in the SLBI.

57) Can the Commission provide guidance on how much can be paid upfront vs over the project period, and who decides this?

The Member State will propose any upfront funding (including share and timing). The Commission will decide on any upfront funding (including share and timing) in the award decisions.

58) What if performance is 100% one year and 50% the next?

Performance is cumulative over the five or ten year period, so if the total performance over the disbursement period is equal or above the 75% threshold, then projects will get the full funding (provided other requirements such as knowledge sharing are met).

59) What is significantly improved performance for Smart Grids?

It is very difficult to provide thresholds; this issue will have to be a judgement made in the first instance by project sponsors and Member States.

60) How should a project sponsor complete the application form, if certain aspects of the project have not been finalised?

Project sponsors should indicate in their application form where there are outstanding issues to resolve and how they plan to resolve those issues. This is stated in the different sections of the application form: "The Project Sponsor should distinguish where elements of the Project have been confirmed and where further work is required to progress Project design. Where such further work will be undertaken during the course of the Project, the Project Sponsor should outline their process for doing so including the process for monitoring and managing associated risks."

61) What if the CO₂ capture rate is less than 85%?

CCS projects should be designed for an 85% capture rate and this will determine the performance against which the project will be judged. Any reduced capture rate will make it harder to achieve the proposed performance, and if there is any shortfall below 75%, funding from the NER 300 will be reduced accordingly.

62) What is the capacity threshold for offshore wind projects?

Offshore wind projects should have a minimum capacity of 40MW.

63) Why is performance for CCS facilities measured in tons of CO₂ stored rather than in tons of CO₂ abated, which penalises gas plants?

The Commission and Member States decided that the metric for CCS projects should be tCO₂ stored rather than tCO₂ abated. This approach may be reviewed for the second call.

64) Can a transboundary project be submitted through either Member State?

The Project Sponsors can decide which Member State should take the lead. Only the lead Member State can submit the project to the EIB for evaluation. The lead Member State will need to cooperate with the other Member States when undertaking the eligibility assessment.

65) Will minimum thresholds apply to individual modules in a project?

Yes, but only where this is specified in Annex I of the Decision (such as for offshore wind projects).

66) What if part of a project is outsourced?

The contract for the outsourced component should be at 'arms length'. Details of that contract should be included in the application form.