

Questions and Answers on the NER 300 Programme and the first Call for Proposals (31/01/2011)

This document continues the series of Questions and Answers documents on the NER 300 programme and the first call for proposals published on the NER 300 website (http://ec.europa.eu/clima/funding/ner300/index_en.htm).

164) Is it possible to ask questions relating to a specific Project on a confidential basis?

All questions are answered by including them in a Q&A document so that all potential applicants have equal access to relevant information. However, questions and answers will be drafted as necessary to reflect the general issue at stake without pointing to any specific Project.

165) If the application is submitted by a single Project Sponsor, are there any limits to the proportion of work that can be outsourced?

No. Pursuant to para 21 of the Call document, the Project Sponsor may outsource the provision of one or more aspects of the Project to a third party, on condition that the contract with the third party is transparent and concluded on an arm's length basis (see also Questions 66 and 130).

166) Is it possible to specify various location options in a Project proposal?

No. A Project proposal should be made with regard to a specific Project location (see also Application Form 7).

167) For a CCS Project, the Power Plant will have to be stopped for a period of time to install the capture plant. During this period, the Power Plant will continue to incur fixed costs but will not have revenues from sales of electricity. Which part of these costs would be considered as relevant costs under NER 300?

None. Fixed costs of a Power Plant without CCS are considered to be Non-Article 3 operating costs. According to Article 3(2) of the NER 300 Decision, the relevant costs of CCS demonstration projects shall be those [...] costs, which are borne by the project due to the application of CCS [...]. This is reflected in Application Form 11, Worksheet "Operating Costs & Benefits", where electricity production and revenues of the project incl. CCS should be reported, which may then result in lower values than those without applying CCS. Note 3 of that Worksheet further outlines this ("3. Net electricity sales from power plant when CCS is in operation.").

168) For a CCS project, if the hydrocarbon production is stopped slightly early in order to commence storage of CO₂ at an early date, can any allowance be made in the relevant costs for the residual value of small quantities of hydrocarbons remaining in the reservoir?

No, loss of profit does not constitute relevant costs under Article 3 of the NER 300 Decision.

169) Will lost revenues due to a reduction in output as a result of the application of CCS at an existing Power Plant be considered as operating costs for the calculation of Relevant Costs?

See Question 168. Application Form 11 requires to state Non Art. 3 Operating Costs and Benefits and Operating Costs and Benefits of the Project (incl. CCS). Note 3 of that worksheet should be taken into account ("3. Net electricity sales from power plant when CCS is in operation."). Expected lower electricity production (in case of the same installed electrical capacity) due to the application of CCS would therefore be reflected there and thus implicitly reflect loss of revenues.

170) Has the capture rate to be at least or exactly 85%? Would a Project be excluded or prejudiced if it captured more than 85%?

The capture rate has to be at least 85% pursuant to Annex I.B. Part II of the NER 300 Decision. A Project with a higher capture rate would be eligible for funding under NER 300, provided all other eligibility criteria were met, and would be treated as any other eligible Project in the selection process.

171) "Flue gases" is not a term applied to CCS pre-combustion technology. Do the requirements regarding capture rate therefore not apply to pre-combustion projects?

The requirements set out in Annex I Part B. II of the NER 300 Decision, including the requirement related to the capture rate (see Question 170), apply to all CCS Projects, hence also to pre-combustion Projects.

172) Can small and medium sized enterprises (SMEs) apply for NER 300 funding?

Yes, SMEs can submit Project applications for funding under NER 300 as any other Project Sponsor.

173) Is it possible to include in a renewable energy Project a prototype of an energy device, in addition to pre-series, provided that the whole project meets the minimum threshold?

Projects containing a prototype of an energy device in addition to pre-series are not *a priori* excluded from NER 300 funding. The NER 300 Decision requires that RES Projects fall into one of the Project categories and sub-categories set out in Annex I Part A, II. of the NER 300 Decision, including the relevant thresholds, and that they are innovative in nature (Art. 6(1) of the NER 300 Decision). Project Sponsors need to convincingly demonstrate the maturity of the technology to be ready for demonstration at pre-commercial scale (see also Questions 84, 86, 89).

- 174) For the calculation of net operating benefits and costs in the first 5 years of operation of a RES Project and in the first 10 years of operation of a CCS Project, how should taxes, loan interests and amortisation be taken into account?**

The net operating costs and benefits shall be based on the best estimate of operating expenses by the Project regarding production costs, and take into account any additional benefits resulting from support schemes even if they are not considered to constitute State Aid, avoided costs and existing tax incentive measures (see also Question 103). Taxes, loan interests and amortisation are financial elements which are not related to the production costs, and should not be taken into account calculating the net operating costs and benefits.

- 175) Regarding Annex 1, Part A., II, second category (concentrated solar power), first indent of the NER 300 Decision: Given that any thermal oil would have to be excluded due to the fact that it is not "environmentally-benign", could there be any other "environmentally benign heat transfer fluids (HTFs)" than molten salt or water/steam (which is covered in the second indent)?**

Yes.

- 176) No confidentiality provisions have been included in the Specifications for the Legally Binding Instrument (SLBI). Will the Member States be able to allow the inclusion of confidentiality provisions in the LBI to be negotiated after the Award Decision?**

Member States will be bound to take over the SLBI in their respective LBIs with the Project Sponsors (see Question 51), but may add further provisions to their LBIs, provided those go beyond the scope of and are without prejudice to the SLBI. Sponsors should note in particular that LBIs may not contain any confidentiality provision that conflicts with the knowledge-sharing provisions in the SLBI, which implement Article 12 and Annex II of the NER 300 Decision.

- 177) There is no rule in the SLBI indicating what are the remedies if any of the Parties breach the obligations to keep information under confidentiality that is labelled as confidential by any of the Parties. Could this be added to the LBIs?**

As rules on confidentiality, remedies for breaches of such rules may be added to the LBI by Member States under the conditions set out in Question 176.

- 178) Regarding point 5 of the SLBI (End of effect of award decision), if any of the events specified in point 5.a) occur, can the possibility be foreseen to include a regularisation period/procedure for the Project Sponsor? What are the consequences if any of the events specified in point 5.a) of the SLBI are caused due to external events that are not attributable directly to the Project Sponsor, such as negligence or delays incurred by Governmental authorities, events of force majeure, etc.?**

Pursuant to point 5.b) of the SLBI, it is up to the competent authority of the Member State to determine whether any of the conditions referred to under point 5.a), which recalls the conditions set out in Art. 9 of the NER 300 Decision, are met. If the Member State has established that any of the conditions referred to under point 5.a) are met, the Award Decision

ceases to have legal effect pursuant to Art. 9 of the NER 300 Decision, and the Project *ex tunc* loses its entitlement to receive funding. There is no scope for any extension of deadlines or regularisation procedure under Art. 9 of the NER 300 Decision, and any delays in relevant national procedures should therefore be avoided.

179) On Application Form 5 of the Call: Should a summary of the Project Sponsor's Health, Safety and Environmental Policy, including where applicable references to certified accreditation HSE management systems be provided for all companies of a consortium?

Yes.

180) How should the amount of CO₂ stored in a CCS Project be determined?

The CO₂ stored shall be determined pursuant to the requirements set out in point 10.a) and Annex III of the SLBI.

181) Please explain what should be understood by the Investment Costs being presented on a year 0 basis, i.e. the year prior to the first year of commercial operation, in Application Form 11?

Investment costs need to be presented on the assumption that they all occur in the year prior to the first year of commercial operation.

182) What can be considered as "lignocellulose" as referred to in Annex 1, Part A, II. first category (bioenergy) of the NER 300 Decision?

Feedstocks can be very diverse in their lignocellulose content. There are no requirements in Annex I of the NER 300 Decision. Lignocellulosic feedstocks are considered those of biomass origin constituted of either cellulose or lignin as basic components. Please note that commercial grains suitable for food or feed as well as vegetable oil extracts would not be considered as lignocellulosic feedstocks.

183) Should all finance providing entities provide the information required pursuant to Application Form 9?

Yes.

184) If an offshore wind project consists of different phases, each having a capacity higher than the required NER 300 nominal capacity, can more than 1 phase be incorporated in a NER 300 project? If yes, what are the requirements, e.g., would both phases need to be operational before 31 December 2015?

A Project can only be submitted as one single Project. If the Project's capacity exceeds the

threshold as per its subcategory listed in Annex I of the Decision and it is envisaged for technical reasons that the Project should become operational in phases, then the renewable energy produced or the CO₂ stored will be taken into account over the respective period, starting from the date of entry into operation of the first phase. Entry into operation of all Project phases shall not be later than four years from the date of the Award Decision.

185) Can a company as a Project Sponsor submit several applications related to different Projects under NER300?

Yes.

186) According to the template provided in Application Form 11 for Distributed Renewable Management (DRM) Projects in rural environment with predominant wind generation, investments costs on power generation units are not to be included as part of the project costs. Does this suggest that these projects will be implemented with existing units? Can you please clarify if costs related to power generation units will be considered as relevant costs for DRM projects?

DRM (smart grids) systems should enable the distributed renewable energy source generators to operate unconstrained or with reduced constraints, reduce losses in the network and enable the network's capability to accommodate the distributed generation. That is, relevant costs, with regard to the already deployed or scheduled-to-be-deployed renewable energy source generators within the project boundary, are only those investment and operational costs required to interface the renewable energy source generators with the DRM system. This can include control, communication, monitoring and protection interfaces. Additional costs on any active demand side equipment contributing to the management of the generators, such as smart meters, smart appliances, heat pumps, can also be considered as relevant costs. However, costs related to power generation units will not be considered as relevant costs for DRM projects, as these are not related to renewable energy management and optimisation of small and medium scale Distributed Generators, as required in for all sub-categories of the DRM category in Annex I, Part A. of the NER 300 Decision.

187) On relevant costs, does the response given to Question 126 also apply to EEPR Projects?

As EEPR funding is netted off from NER 300 funding pursuant to Article 2(3), second subparagraph of the NER 300 Decision, all costs covered under the EEPR award, including the operator contributions to those costs as required under the EEPR programme, will be included as relevant costs under NER 300. Privately financed costs not covered under the EEPR award, e.g., because they have been incurred, or legally committed to, prior to the EEPR grant agreement, will be treated as set out in Question 126.

188) Can NER 300 funding be combined with funding from the European Regional Development Fund?

Yes. NER 300 funding can be combined with Structural and Cohesion Funds (see Recital 5 of the NER 300 Decision), and the European Regional Development Fund (ERDF) forms part of the Structural Funds.