

NISEP Framework Document 2023-25

There have been a number of key changes to the NISEP Framework Document 2023-25. All changes to the Framework Document have been highlighted however some of the key changes are summarised below. Please read the Framework Document in full to understand all changes.

Eligible Initiatives - See Page 19

For commercial schemes, or for schemes targeting priority domestic customers in privately rented accommodation, Primary Bidders should request customers to declare in their application form whether they have been accepted under any other government funded programme or received any other public funding for the previous three financial years. This may impact energy savings reported and/or whether the scheme gives rise to State aid or subsidy control risks. Please speak to the Programme Administrator for further information. Energy savings will be apportioned between NISEP and any other government grant scheme in proportion to the funding provided, unless agreement has otherwise been reached with the grant awarding body.

NISEP Schemes for Non-Priority Customers - See Page 40

Grant funding provided to commercial enterprises may be considered 'State aid' or a 'subsidy' and is subject to regulation in order to avoid unfair distortions of competition. Commercial enterprises include landlords of privately rented accommodation inhabited by priority domestic customers. All Primary Bidders who are working with schemes which offer support to commercial undertakings must ensure that their procedures comply with the guidance on State Aid and subsidy control provided in Appendix 7.

Separate rules apply depending on whether the funding constitutes 'State aid' or a 'subsidy'. Primary bidders should consider the guidance included in Appendix 7 to determine the rules that apply to their schemes.

It should be noted that the rules in relation to State aid in the agricultural sector are slightly different. There is also a national ceiling for the cumulative amount of de minimis State aid to the agricultural sector at Member State level. There is also a requirement on the UK to actively monitor the ceiling. Therefore, any Primary Bidder intending to give support to commercial enterprises in the agricultural sector should inform the Programme Administrator of how much they forecast will go to that sector this year. At the end of the year the Primary Bidder will also need to report the actual amount given to the agricultural sector which will then be notified to DEFRA.

APPENDIX 5 – NISEP ACCEDEENCE DOCUMENT - See Pages 106-130

Please note that the changes to the obligations under the Accedence Agreement are demonstrated below with the addition of new defined terms for EU state Aid Law and Subsidy Control Act.

EU State Aid Law means the provisions of EU State aid law which apply within Northern Ireland pursuant to Article 10(1) of the Ireland/Northern Ireland Protocol on the UK-EU Withdrawal Agreement 2018

Subsidy Control Act means the provisions of the Subsidy Control Act 2022 and any implementing legislation.

7 Conduct of the Project

7.2 The Primary Bidder shall use all reasonable endeavours to ensure that Approved Schemes are implemented and conducted in a manner so as to be consistent with the requirements on the Utility Regulator in law in relation to:

- (a) EU State Aid Law;
- (b) the Subsidy Control Act; and
- (c) Article 6 of the Directive.

9. Suspension of Payments

9.1 The Utility Regulator may suspend authorisation of any payment without notice, in addition to any other remedy under this Agreement or in Law, in the following circumstances:

- (a) When the Utility Regulator has reason to believe or suspect that any of the following apply:
 - (i) any payment under this Agreement has been deemed or is likely to

be deemed aid under EU State Aid Law or a subsidy under the Subsidy Control Act;

10 Return of Funding

10.1 The Utility Regulator may require the Primary Bidder to promptly repay to the Fund such proportion of the Funding as the Utility Regulator may reasonably specify in writing in the following circumstances:

- (d) the Funding is held to be incompatible with EU State Aid Law or the Subsidy Control Act.

16 Documentation

16.2 The Primary Bidder shall provide a copy of such documentation to any Competent Authority upon request regarding any payment under the NISEP which may be considered aid under EU State Aid Law or a subsidy under the Subsidy Control Act by that Competent Authority.

Appendix 7 - State Aid and Subsidy Control Guidance and Declaration Forms - See Pages 133-142

This appendix has been updated to ensure that any funding issued under NISEP satisfies the requirements for "*de minimis aid*" under the EU State aid rules and "*minimal financial assistance*" for the purposes of the Subsidy Control Act 2022. The Framework Document has been updated to reflect the current legislation which will apply to grants of public funds within Northern Ireland. The majority of these changes have been made to Appendix 7 which provides guidance on State aid and subsidy control. In particular, the wording of the declaration forms has been amended to ensure that these satisfy both the current requirements of the EU State aid rules and the UK subsidy control regime.