



Department
for Environment
Food & Rural Affairs

Waste Electrical and Electronic Equipment (WEEE) Regulations 2013

Guidance on submitting proposals for a WEEE Compliance Fee Methodology

July 2016



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Contents

Introduction.....	1
Timing.....	1
What will happen to information provided in proposals?	2
Submission of proposals	2
Evaluation criteria	2
1 - Proposed methodology for the calculation of the fee	3
2 - Proposed administration of the fee	3
3 - Proposed methodology for dispersal of funds	4
4 - Proposed timetable for implementation and operation.....	4
5 - Experience of proposer and proposed operator.....	5
6 - IT systems	5
Scoring system.....	5

Introduction

The 2013 WEEE Regulations establish a system of household WEEE collection targets for producer compliance schemes (PCSs). Regulation 33 provides that, where a PCS has failed to achieve its collection targets, the PCS may choose to pay a compliance fee in order to meet the cost of its financing obligations.

The existence of a compliance fee is intended to discourage PCSs from collecting WEEE significantly above their targets and then seeking to sell that surplus at excessive prices to PCSs that are short of their target amount in any category for which they have obligations. Regulation 76 of the 2013 WEEE Regulations as amended, reproduced below, sets out how the compliance fee is to be determined. It allows the Secretary of State to approve a compliance fee methodology for a compliance period.

76 —(1) The Secretary of State may, after consultation with such persons or bodies as appear to him representative of the interests concerned, approve—

- (a) a methodology for the calculation of a compliance fee; and
 - (b) the appointment of a third party to oversee the administration of that compliance fee.
- (2) Any person or body referred to in paragraph (1) may submit a proposed methodology to the Secretary of State by no later than 30th September in the compliance period in which the methodology will apply.
- (3) The Secretary of State must publish the methodology for the calculation of the compliance fee where one has been approved in accordance with paragraph (1).
- (4) Any methodology approved by the Secretary of State in accordance with paragraph (1) will take into account the different costs associated with the collection, treatment, recovery and environmentally sound disposal of each of the WEEE collection streams and will be set at a level which encourages schemes to take all reasonable steps to meet their collection target without recourse to the compliance fee.
- (5) The Secretary of State will only approve one methodology in each compliance period.

This document provides guidance for organisations that are considering submission of a proposal for a compliance fee methodology to the Secretary of State for consideration.

Timing

Proposals must be submitted by 30 September in order to be considered and approved by the Secretary of State for any given compliance year. Proposals received after that date will not be considered.

Proposers are encouraged to consult key stakeholder groups in developing their proposals prior to submission. All proposals received however will be published and subject to a consultation with interested parties (notably producers of electrical equipment, WEEE treatment facilities, PCSs, local authorities, waste management companies and the re-use sector). The exact timing of the consultation will depend on the number of proposals received. The consultation period will be a minimum of four weeks.

The compliance fee methodology and compliance fee scheme operator approved by the Secretary of State will be announced by mid-February following the compliance period to which the compliance fees will be applicable. This will allow sufficient time for PCSs to pay

a compliance fee as appropriate and include evidence of payment with their Declaration of Compliance by the deadline date of 31st March.

What will happen to information provided in proposals?

Information provided in proposals, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR). Under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence and the treatment of commercially sensitive information.

If you want any information that you provide to be treated as confidential, including personal data, it would be helpful if you could explain to us why you regard the information as confidential or commercially sensitive. If we receive a request for disclosure of that information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Submission of proposals

Proposals should be submitted to: Adetola Osho

Department for Environment Food and Rural Affairs
Resources and Waste Team
Seacole Building
Ground floor
2 Marsham Street
London SW1P 4DF
Tel 020 8225 6700
Email weee@defra.gsi.gov.uk

Evaluation criteria

Proposals should cover the following six broad areas, which have been developed to help organisations putting together their proposals. These areas will then be scored by Defra, taking into account comments received from the consultation, using the descriptors in section 3. Those scores will be multiplied by the weighting and the highest scoring proposal will be selected.

Any proposal that is judged not to comply with Regulation 76(4) will be rejected.

1 - Proposed methodology for the calculation of the fee

Weighting 5 = 20 marks available

Proposals should:

- set out a methodology for calculation of a compliance fee across each WEEE collection stream that encourages schemes to take all reasonable steps to meet their collection target without recourse to the compliance fee;
- be stream specific by taking into account the different costs associated with the collection, treatment, recovery and environmentally sound disposal of each of the 6 WEEE collection streams, i.e. a PCS short of their targets by 10 tonnes of Display Equipment and 15 tonnes of Cooling Equipment will pay a fee specific to their shortage in each stream rather than a generic fee for a shortage of 25 tonnes. Proposals may consider circumstances where a negligible or zero fee might be appropriate;
- provide robust economic analysis in support of the proposed methodology and its likely impacts on the stability of the household WEEE collection system.

2 - Proposed administration of the fee

Weighting 3 = 12 marks available

Proposals should:

- describe how the overhead costs of calculating, setting up and administering the compliance fee mechanism and disbursement of funds will be met. This should include contingencies for a situation of minimal or zero uptake amongst PCSs;
- describe the mechanism by which PCSs submit information that the proposed operator will use to calculate the fee. The proposal should also describe what information must be provided, how the information will be shown to be reliable whilst maintaining commercial confidentiality;
- describe the mechanism PCSs would use to pay the fee, including evidence of auditing arrangements, to ensure declarations of payments by PCSs (if needed) are reliable, and how commercial confidentiality will be maintained;
- describe the mechanism for ensuring the environment agencies receive necessary evidence that an appropriate compliance fee has been paid by PCSs. The agencies must be able to recognise, when accepting a Declaration of Compliance from a PCS, that it is comprised of WEEE evidence and payment of a compliance fee. Validation of payment of the compliance fee must not place significant additional burdens on the agencies;
- consider the impact of and comply with other relevant law, for example Competition Law;

- consider sound contingency plans.

3 - Proposed methodology for dispersal of funds

Weighting 4 = 16 marks available

Proposals should:

- describe how payments received establish a fund from which disbursements will be made and recover the costs of administering the compliance fee process;
- show details of the mechanism for the dispersal of funds collected. This should include proposals of how the fund should be utilised. These could for example seek to support higher levels of collection, recycling and legitimate re-use of WEEE or other initiatives designed to assist the UK to meet its obligations under the WEEE Directive. This must address a range of scenarios of funding level and appropriate dispersal methodologies;
- set out how validation will take place to show that the funds have contributed to higher levels of collection, recycling and re-use of WEEE and/or wider obligations in the WEEE Directive;
- set out the governance arrangements for the receipt and disbursement of any compliance fees paid;
- provide evidence of the suitability of the proposed operator that will administer the Compliance Fee Process.

4 - Proposed timetable for implementation and operation

Weighting 3 = 12 marks available

Proposals should:

- provide a realistic and comprehensive plan for implementation and operation;
- show a clear process for staffing the proposals;
- show a clear process for developing and implementing the IT systems;
- demonstrate an understanding of project dependencies;
- have appropriate contingency plans in place.

5 - Experience of proposer and proposed operator

Weighting 2 = 8 marks available

Proposers and proposed operators should demonstrate:

- a proven track record of financial probity combined with practical experience of working in a regulatory environment;
- a clear strategy for identifying and effectively mitigating risks arising as a result of any conflicts of interest;
- experience of setting up systems to allow data to be submitted and processed effectively;
- experience of developing robust proposals for Government.

6 - IT systems

Weighting 1 = 4 marks

Proposals should demonstrate:

- appropriate IT systems, including backup systems;
- appropriate IT support.

Scoring system

Each proposal will be measured against the following criteria and awarded a score in line with the following descriptors. The score will then be multiplied by the weighting. The maximum score available is 60 marks.

0 - Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.

1 - Poor - Response is partially relevant and poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled.

2 - Acceptable - Response is relevant and acceptable. The response demonstrates a broad understanding of the requirement but may lack details on how the requirement will be fulfilled in certain areas.

3 - Good - Response is relevant and good. The response demonstrates a good understanding of the requirement and provides sufficient details on how the requirement will be fulfilled

4 - Excellent - Response is relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.