

# Phase 3 Consultation responses

Early Competition Plan

March 2021



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## Introduction

A key ambition for the ESO is 'competition everywhere', which forms the basis for a central theme of our RIIO-2 business plan – unlocking consumer value through competition. Our five-year strategy is to use competition to support the development of the network – ensuring it is always ready for the demands placed on it and can operate securely as we transition to a zero-carbon electricity system.

The ESO has recently expanded competition in electricity transmission through our NOA Pathfinders ('pathfinders'). The pathfinders focus on seeking wider "whole system" solutions to transmission system needs that do not require a transmission licence.

There remains significant scope for extending competition by also allowing third parties to offer solutions across all network needs, regardless of whether they require a transmission licence. As requested by Ofgem, we are currently developing an Early Competition Plan (ECP) for the onshore transmission network in Great Britain to explore options to address this area.

Early competition refers to competition before the solution to a network 'need' has been decided. Based on information provided by the Transmission Owner's (TOs), Ofgem estimates the pipeline of potential projects that may be suitable to undergo competitive processes over the course of the RIIO-2 price control, has an estimated average value of over £1bn annually. The ECP will supplement the late Competitively Appointed Transmission Owner (CATO) model thinking currently being developed by Ofgem. Following completion of the ECP Ofgem will decide whether and how early competition will be introduced.

This document sets out the key messages captured in the stakeholders' written responses received to our [Phase 3 consultation on the Early Competition Plan \(ECP\)](#) that ran from December 2020 to February 2021.

In total, we received 12 responses, where one response is partially confidential:

- |  |  |
|--|--|
| 1. Centrica                                      | 7. Scottish & Southern Energy Power Distribution (SSEPD) |
| 2. Citizens Advice (CA)                          | 8. SP Energy Networks                                    |
| 3. National Grid Electricity Transmission (NGET) | 9. Storelectric  |
| 4. National Grid Ventures (NGV)                  | 10. Transmission Investment                              |
| 5. ScottishPower Renewables (SPR)                | 11. Western Power Distribution                           |
| 6. Scottish & Southern Energy Networks (SSEN)    | 12. Confidential response                                |

Stakeholders' responses have been anonymised into four groups:

- TO's
- DNO's
- Potential bidders
- Other stakeholders

We have only included feedback which relates specifically to the model proposed. Comments in relation to topics outside the scope of early competition (e.g. pathfinders) have been considered internally but omitted from this document.

For each question, where applicable, the type of response provided have been identified and categorised in one of the four groups: 1) number of responses that agree with the ESO proposals set out in the consultation (shown in the diagrams below as 'Yes'), 2) number of responses that disagree with the ESO proposals set out in the consultation (shown in the diagrams below as 'No'), 3) number of responses provided without a clear 'agree' or 'disagree' response (shown in the diagrams below as 'Didn't provide agree/disagree'), and 4) number of stakeholders who didn't provide a response to the specific question (shown in the diagrams below as 'No response').

We thank the responders to the consultation for their valuable feedback and working with the ESO collaboratively on the ECP.



# Detailed responses to questions

**Roles and Responsibilities**

**1. Do you agree with the activities of the Approver we are proposing?**

Most stakeholders who provided a clear agreement or disagreement to this question agree with the activities of the Approver and that Ofgem should be the Approver and with the proposed activities.

A potential bidder suggested that greater clarity on which basis Ofgem would provide approval of the needs to be competed under early competition will be required. A stakeholder proposed that the Approver’s role could be delivered at two levels:

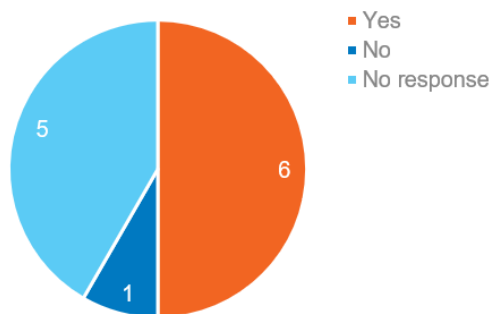
1. design and approval of the tender process, tools and required adjustments to fulfil network needs; and
2. approval of the outcomes of such a process, including a confirmation that the successful bidder meets all licence requirements at the Invitation to Tender ("ITT") stage 2 instead of gate 3.

A stakeholder noted that the Approver should also have check and assurance role over the network planning body, oversee tender process and help protect consumer value at the operational stage.

Two TOs proposed the Approver role should also include the following activities:

1. The approver should ensure clear governance is in place for the creation of the Post Preliminary Works Cost Assessment ("PPWCA")
2. Tender Revenue Stream ("TRS") change requests should be assessed during an approval/decision stage prior to licence being formalised
3. Issue guidance to bidders to help understand what solutions would require a Transmission Licence
4. Simplify the amount of parties involved in the preparation and procurement process
5. Check and balances should be built into the process, rather than as an additional layer of assurance.

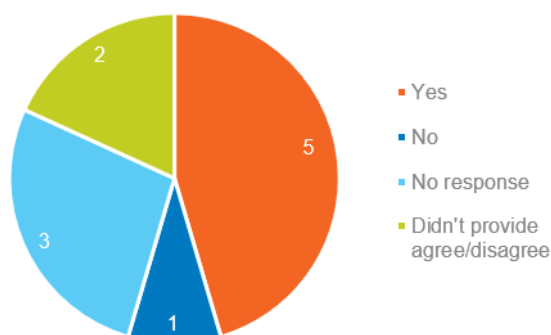
A TO also noted that ESO must ensure that the additional time it will take Ofgem to approve or reject each stage is built into the proposed timescales of running early competition and Cost Benefit Analysis ("CBA") that must be carried out.



**2. What do you think the checks, that make up the other activities, should look like? Should there be a formalised process?**

Most stakeholders who provided a clear agreement or disagreement to this question agree that there should be a formalised process. Some stakeholder suggested that any checks that would impact the procurement process should be formalised and published.

A potential bidder noted that there are a relatively large number of stages given the nature of the procurement process. Some stakeholders agree that it will be critical that bidders understand the process and basis of the checks in place as currently the Stage Gate process is unclear in terms of how it will look and in what format it will be formed.

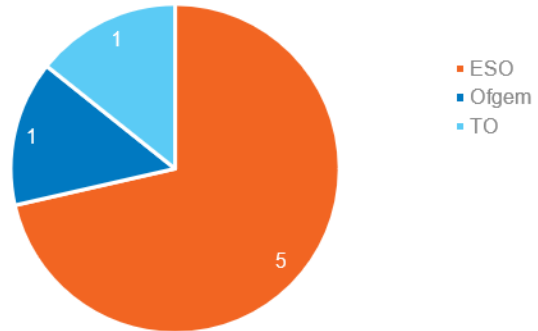


A TO noted that Ofgem is not best placed to undertake the proposed activities as these would require input from other parties, such as TOs. Stakeholders also noted that additional third-party approval of the preferred bidder is not required as checks and balances are embedded within the proposed process and in existing regulations (e.g. UCR 2016). A stakeholder highlighted that additional activities and the proposed Stage

Gates could unnecessarily prolong the tender process and delay the delivery of timely interventions, increasing costs to bidders and exposing the Procurement Body to legal challenge.

**3. What do you think is the most appropriate party or parties to perform the Procurement Body role?**

Most stakeholders who identified a clear party to perform the role, agree with our proposal that the ESO is the most appropriate party to perform the Procurement Body role. Some stakeholders highlighted that this will require the ESO to upskill significantly in order to be able to deliver detailed procurement tender specifications and run procurement for large scale projects either by internal resourcing or through procuring specialist services. A potential bidder is concerned with an introduction of a third party providing this role since Ofgem has procurement experience. e.g. offshore transmission.

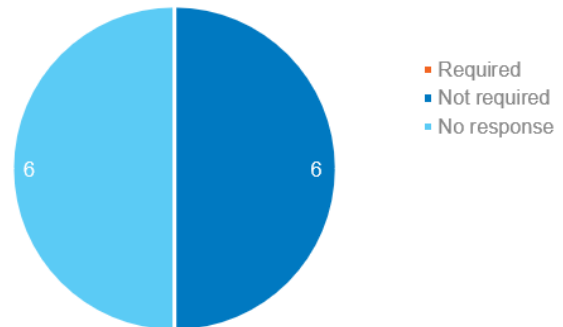


A TO highlighted that TOs are best to play the role of the Procurement Body as they have well established relationships with stakeholders and have community support which are essential to progressing projects.

A potential bidder suggested that the roles and responsibilities between the Network Planning Body and the Procurement Body should be clearly defined to avoid any overlap or interference in the process.

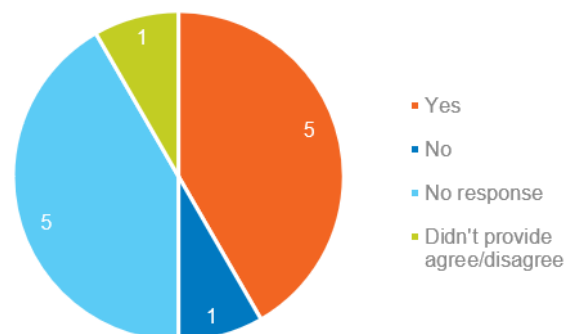
**4. Taking into consideration the role of the Approver, do you think an Independent Assurance activity is needed?**

All stakeholders who responded to this question noted that independent assurance is not required as long as the Approver also has an oversight role. Some stakeholders noted that this process would be inbuilt into any process run by Ofgem or its external advisers who can complete the third-party assurance activities, if needed.



**5. Do you agree with our position on the Contract Counterparty role?**

Most stakeholders who provided a clear agreement or disagreement to this question agree that the ESO is the most appropriate party to perform the Contract Counterparty role. A TO noted that the Contract Counterparty should retain the same authority as the Licence Counterparty as well as be able to enforce actions if a third-party non-network solution is not delivered, is partially delivered or fails.



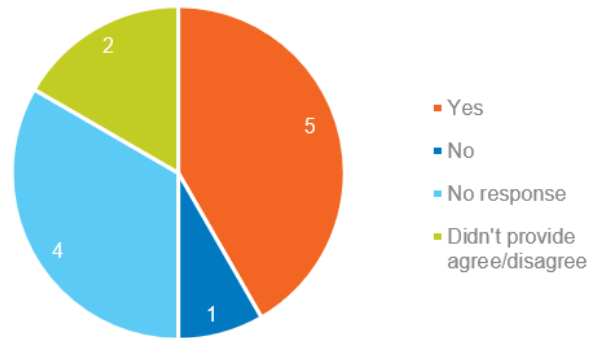
A potential bidder supports the ESO proposal subject to implementation of adequate liability, risk and remuneration framework. However, a stakeholder noted that a fully independent organisation would be more suitable to carry out the Contract Counterparty role.

**6. Do you agree with our position on the Payment Counterparty role?**

Most stakeholders who provided a clear agreement or disagreement to this question agree that the ESO is the most appropriate party to perform the Payment Counterparty role. Some stakeholders noted that consistency between Contract and Payment Counterparties makes the most commercial sense and it is in line with standard contractual practices.

A potential bidder noted that further clarity is needed on what credit rating the ESO would need to become an independent entity from NG Group.

A TO noted there may be potential changes required to the ESO's proposal due to wider industry developments and changes to network charging.



**7. Do you agree with our proposed approach to conflict mitigation?**

Three stakeholders who provided a clear agreement or disagreement to this question agree with our proposed approach to conflict mitigation, five stakeholders disagree and one stakeholder didn't provide a clear view on this question.

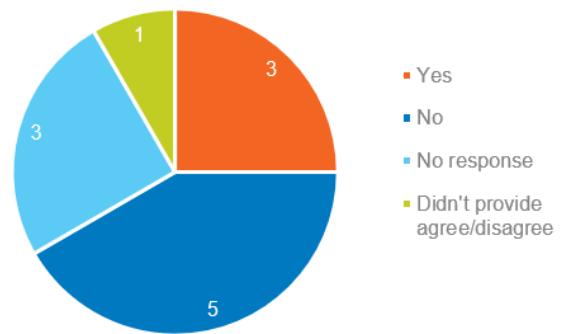
A potential bidder is concerned with the impact of the incumbent TOs on the competition. A stakeholder agrees that ringfencing approach is the only practical approach, however how it is actually monitored and enforced may be challenging.

A potential bidder company noted that TOs should continue to play their current role with respect to network planning, but with additional mechanisms to minimise actual or perceived conflict of interest. Stakeholders noted that the suggested ring-fencing approach is similar to the ring-fencing arrangement set in place between NGV and National Grid, which led to significant delivery of consumer benefits.

Some stakeholders noted that there is a need for a fully independent network planner that would take into consideration various technologies.

Some stakeholders also suggested that comparison between RIIO funded proposal and competitively procured bid is important to ascertain whether early competition offers better value for consumers. This will also require a sufficient and accurate CBA process to compare regulated and competitive bids.

A TO noted that ring-fencing bidding teams appears to be the least disruptive option, noting that there will need to be a clear guidance for TOs to identify who would fall under the Network Planning team. The ESO may not be well placed to undertake additional challenge of TO proposals.

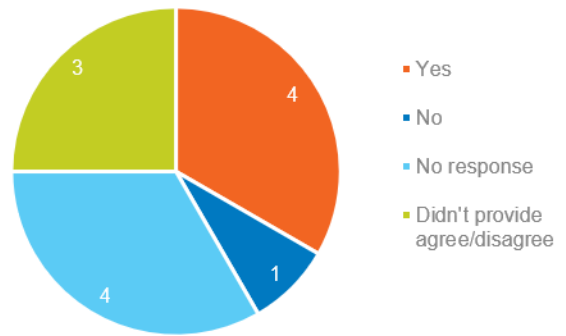


**8. Do you agree with the key differences between early competition and these case studies? And do you agree that the key differences would limit the lessons that can be learnt for the purposes of developing the model for early competition?**

Four stakeholders who provided a clear agreement or disagreement to this question agree with key differences between early competition and the case studies and three stakeholders didn't provide a clear view on this question. A TO noted that there will be lessons learnt from other case studies, but it may be difficult to draw parallels to the ECP process. There were varied views of stakeholders on comparisons of case studies comparability to early competition.

For example, a TO noted that Thames Tideway Tunnel ("TTT") model may be suitable for transmission sector and a financial investor highlighted that there are similarities with Contract for Difference ("CfD") scheme based on the process and scheme intent. A potential bidder, however, noted that TTT and CfDs are very different scenarios to early competition as neither involved detailed procurement of construction works alongside financing. To this extent the early competition model is more akin to the public sector procurement of PFI/PPP.

A potential bidder also recommended to further investigate the Direct Procurement for Customers and pathfinders for non-network solutions.

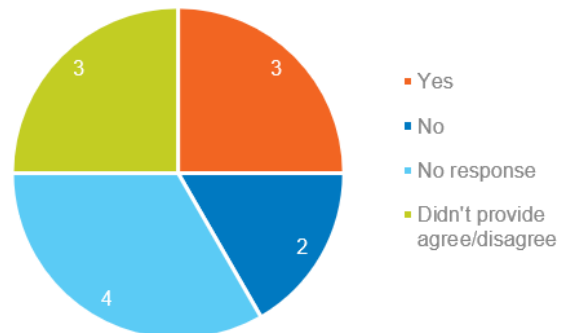




**Identifying Projects**

**1. Do you agree that only competing projects that appear in at least two FES scenarios will provide sufficient confidence that the project will go ahead?**

Five stakeholders provided a clear agreement or disagreement to this question, three stakeholders agree that only competing projects that appear in at least two FES scenarios will provide sufficient confidence that the project will go ahead. A potential bidder noted that certainty is only needed at bid stage, but not necessarily for the pre-NOA stage.

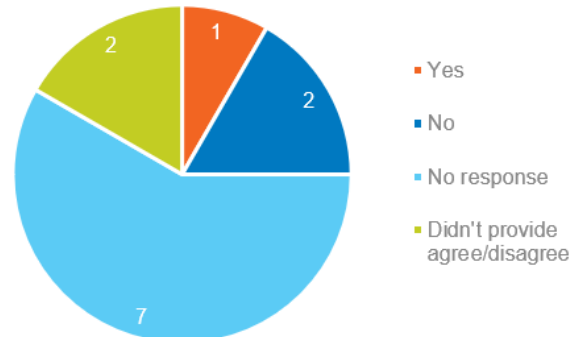


A potential bidder suggested that ESO should also consider what would happen to a project which was no longer in 2 FES scenarios in a future NOA publication after being eligible for early competition. Stakeholders noted that early competition would need to begin 2.5 to 3 years earlier than current 'proceed' projects.

Some stakeholders questioned that ESO should consider whether NOA and FES are fit for purpose. A potential bidder noted that under the current process, TOs do not incur costs without receiving a proceed signal from the NOA process. Two TOs proposed that the NOA process should be expanded to consider detailed voltage, fault level, stability requirements and delivery risk. Also, that there is a lag between the FES publication and the NOA, meaning that NOA may not take into consideration the latest available information. A stakeholder proposed that the ESO should consider both the strength of drivers across the FES scenarios as well as considering local issues and sensitive cases that may impact the need for the reinforcement.

**2. Do you agree with our proposed approaches for different drivers of network investment? Are there ways single party connections could be identified as having sufficient certainty to compete?**

Two stakeholders who provided a clear agreement or disagreement to this question didn't agree with our proposed approaches for different drivers of network investment, one stakeholder agreed and two stakeholders didn't provide a clear view on this question.

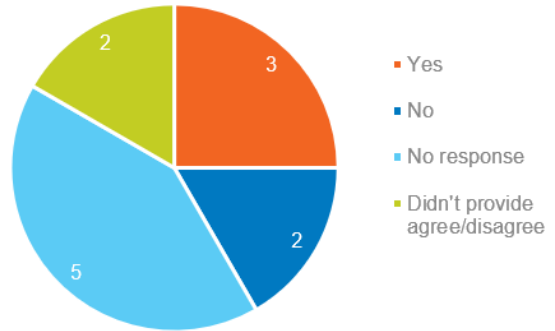


Two TOs suggested that given time criticality customer connections, time critical projects or projects replacing existing assets shouldn't be in scope of early competition. Stakeholders suggested that clear parameters should be set for early competition, focusing on ensuring the implementation of a robust process. The current proposal looks to incorporate lots of different drivers, which makes it difficult to derive a robust process and meet all objectives of the early competition.

A potential bidder doesn't agree with excluding enabling works as this would exclude all of the existing offshore windfarm connections.

**3. Do you agree that continuing to develop the Interested Persons Options process is the best way to engage stakeholders in initial solution design?**

Three stakeholders who provided a clear agreement or disagreement to this question agree that continuing to develop the Interested Persons Options process is the best way to engage stakeholders in initial solution design, but extensive work will be required to ensure the process is attractive and useable. A stakeholder noted that stakeholder engagement should then become a critical tool in the development of project definition. Two other stakeholders disagree with the ESO proposals and two didn't provide a clear view on this question.



Two TOs noted that further work is required to understand the benefits and impacts. The ESO should work with stakeholders to understand what are the barriers to entry, how would participants benefit from getting involved in the process and how roles and responsibilities around NOA submission could be clarified with the growth of the Interested Persons Option process. TOs suggested that the ESO should also provide analysis on how it thinks third parties can deliver these drivers more efficiently than TOs.

**Commercial Model**

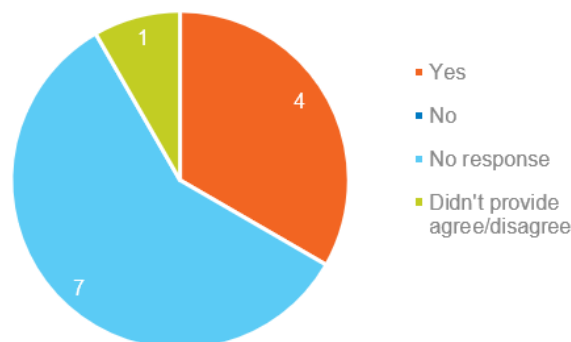
**1. Do you agree with the partial indexation of the TRS and the adoption of CPIH as the index?**

All stakeholders who provided a clear agreement or disagreement to this question agree with the adoption of CPIH.

A potential bidder noted that the indexation of the TRS should match the underlying cost base although bidders may wish to bid this percentage based on their costs and possibility of the provision of index linked debt. As an institutional investor matching long term liabilities, there is a strong appetite for index linked debt that can be offered more competitively in certain circumstances relative to fixed rate debt. The use of CPIH is important, given the HMG announcement around the change index from RPI it is best to pre-empt this change by utilising CPIH directly.

Two TOs noted that a full indexation could cause some funding issues due to lower initial cashflows and therefore partial indexation would keep allowed revenues and costs to be better aligned for bidders. If bidders have to price inflation risk, then the process may not result in the best value for consumers. A partial solution could be to include risk sharing mechanism to allocate differences between indexation and CPI inflation between bidders and consumers.

One TO also noted that there is a significant lack of detail or analysis to justify the use of TRS as the most appropriate commercial model and further work is required to illustrate that TRS is the best commercial model.



**2. Which of the options for extending the revenue period do you think are most appropriate?**

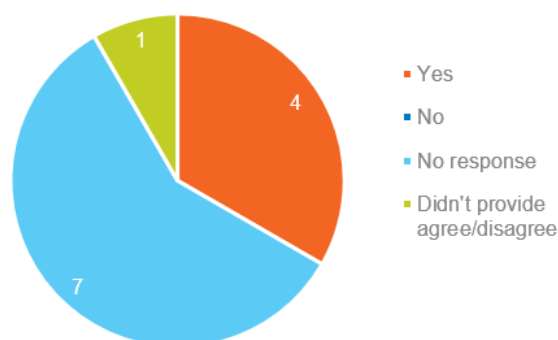
All stakeholders who responded to this question provided different suggestions.

A potential bidder agrees that a competitive process to extend would be potentially complex and a fair balance can be achieved through pre-agreeing a process for the extension alongside a consideration of some future cost elements closer to the point of extension. Other potential bidder agrees that the asset shouldn't be transferred to the TO at the end of period.

Two TOs noted that all three options are viable, however it is too simplistic to look at the end of life requirements based solely on the NOA assessment. Broader network compliance considerations will be needed as more generators will have connected with that asset and removal of it may require another asset to be built or a derogation to be put in place.

**3. Do you agree with the preferred option of a fixed payment to the successful bidder upon the delivery of key milestones during the preliminary works period?**

All stakeholders who provided a clear agreement or disagreement to this question agree with a fixed payment to the successful bidder upon the delivery of key milestones during the preliminary works period. Stakeholders noted that this approach will help in preventing any gaming of the preliminary and construction allowances and encourage a wider pool of bidders. Overall, payments during the relatively long preliminary works period are considered to be very important and the proposed fixed, capped amount is a reasonable basis that allows bidders to have some cost recovery.

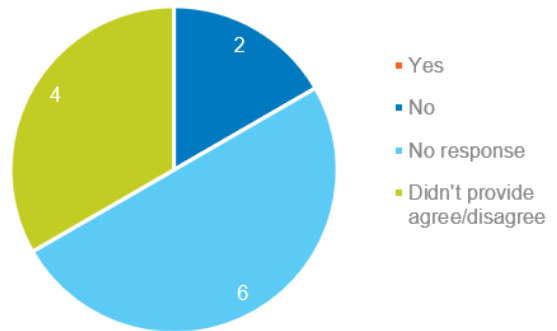


**4. Do you agree with our revised views and preferences in respect of the Post Preliminary Works Cost Assessment, Performance Bond and Income Adjusting Events?**

All stakeholders who provided a clear agreement or disagreement to this question do not agree with our views and preferences in respect of the Post Preliminary Works Cost Assessment, Performance Bond and Income Adjusting Events.

**PPWCA**

A potential bidder believes that these measures in the round will have a material impact on the overall contracting structure and risk allocation to the project equity and debt. The PPWCA concept works in theory, but stakeholders are concerned with the concept of a cap and its possible impact to investors. Two TOs noted that the cost assessment process appears to be complex and it is unclear what the permissible costs are that will be shared with consumers.



**Caps and collars**

A potential bidder highlighted that the cost of equity is linked to the project risk profile and therefore adjustments to the risk provisions during the PPWCA stage may be required (e.g. changes to costs margins). They did not agree with the proposed cap and collar treatment for the Total Revenue Stream as some projects have significant cost variations over time that could breach the caps or collars. They proposed the ESO should also consider allowing bidders to have a right to exit without penalty should the cap be reached.

**Performance bonds**

A potential bidder noted that the timing is too early for the bond as there is a significant risk for the bond being forfeit outside of the bidder's control in the early stages. Another potential bidder questioned the value for money of a performance bond as it is very likely that bidders will price this into their development costs. A stakeholder proposed that the bond should only be applicable from the construction phase and could be slowly reduced throughout the construction period. The size of the bond should be relative to the project size as obtaining very large securities may be costly and there may be little appetite from banks to provide such security. A TO noted that the level of bond can also be determined by the technology risk of the proposed solution.

**Risk allocation table**

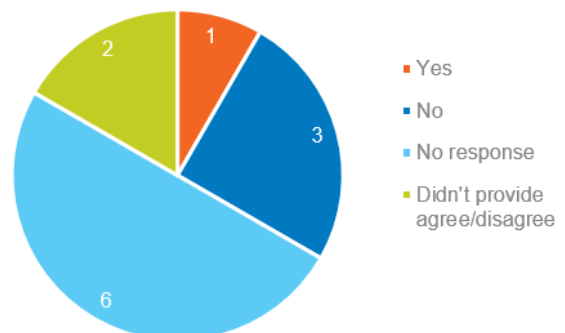
A potential bidder proposed to exclude the risk of connection delays from risks being borne by bidders as this appears to be outside of bidder's control. A TO noted that a greater clarity of late delivery penalties will be required as it is not clear if principle-based arrangements provide sufficient detail to facilitate efficient bidding.

**5. Do you agree with our preferred option regarding margins and overheads?**

Three stakeholders who provided a clear agreement or disagreement to this question disagree with our proposals and note that margins and overheads should be flexible or fixed with ability to reopen the costs.

A potential bidder suggested that bidders should be able to review project management costs subject to the efficient and economic test. A TO suggested that fixing overheads should be done at the PPWCA instead of at the ITT stage as the preliminary works are where the design is likely to change.

A potential bidder agreed with our proposal and noted that for early competition it still remains important to determine as many cost variables as possible early in the process.



**6. Are there any additional measures a Procurement Body could take to further drive value for consumers in securing debt finance?**

A potential bidder noted that the proposed approach is well tested. Some bidders may be able to procure relationship with banks not available to all participants. This capital can be materially more competitive and hence may need to be taken into account in bid evaluation. Structures should be set out on a consistent basis and an indicative credit rating should be produced by bidders to support confidence that the structure is financeable.

A potential bidder suggested to allow for a further adjustment to bids should the debt competition deliver a level of gearing significantly different to that assumed by the Bidders. Under the proposed process, equity cannot benefit from efficient gearing (above that assumed at ITT) but equity will face the risks from gearing above that assumed at ITT.

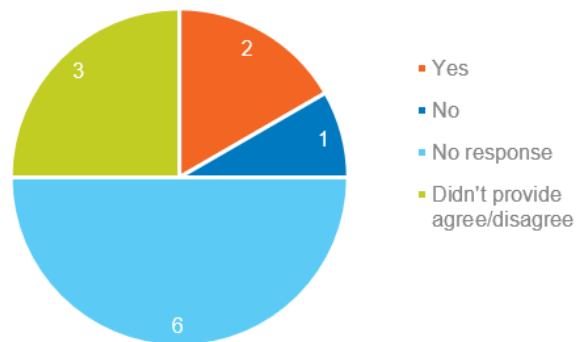
A TO noted that the Procurement Body may want to engage Development Banks and Export Credit Agencies (ECAs) in the post award stage as these lenders be attractive both in terms of flexibility and pricing, but bidders should be able to offer balance sheet financing if bidders can secure debt financing on preferable terms compared to a debt competition.

Stakeholders also suggest that debt competition should be limited for projects above a certain threshold, leaving funding for smaller projects to be completed at bidders' discretion.

**7. Do you agree with our current preferred option with regards to equity?**

Stakeholders who provided a clear agreement or disagreement to this question had varying views on our preferred option with regards to equity.

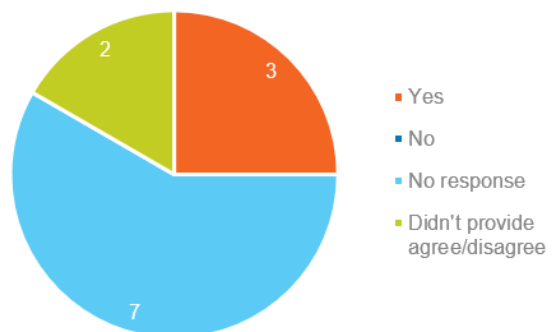
A potential bidder noted that the model is challenging for financial investors in terms of the appetite and patience during a relatively long tender process to actual project delivery. While it is important to establish equity return as a fixed parameter, stakeholder is concerned that there is a possibility of the PPWCA being capped and there being a funding gap for equity. There needs to be solid equity to support bids, but it seems more likely that financial equity will be more passive than active in leading a bid given the nature of the works.



Some TOs agree that equity investors play a fundamental role to allow bidders to access subsequent debt financing. The Procurement Body should restrict variability in the equity stakes by asking bidders for a maximum equity commitment and/or a commitment to maintain target gearing at Financial Close. In relation to the sale of equity, the equity sponsors should be able to have flexibility to exit within certain conditions once the project is operational.

**8. Do you agree with our views on indexation?**

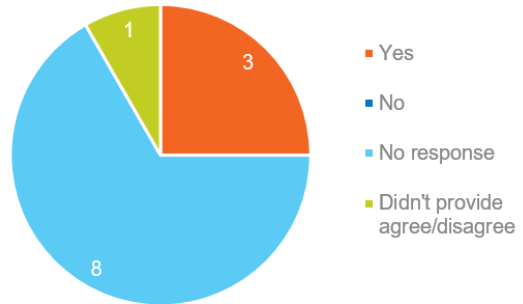
All stakeholders who provided a clear agreement or disagreement to this question agree with our views on indexation. Stakeholders should review responses to Question 1 "Do you agree with the partial indexation of the TRS and the adoption of CPIH as the index?" above.



**9. Do you agree with our updated views on licence/contract and industry codes?**

All stakeholders who provided a clear agreement or disagreement to this question noted that further work on understanding the code changes is required. A debt funder noted this would need legal diligence.

Some TOs noted that a requirement to hold a licence is a matter for primary legislation and question whether the ESO is the right body to deliver the changes. Stakeholders noted that complexity and timescales required for this change were underestimated by the ESO.

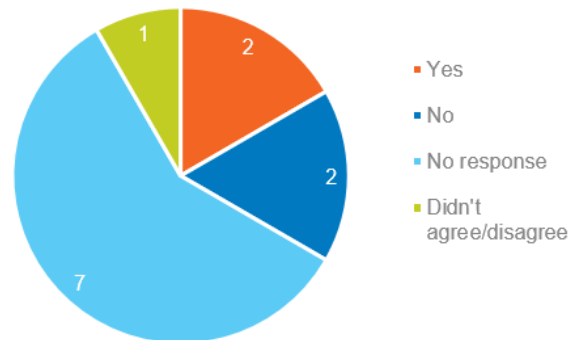


**10. Do you agree with our views on need change or disappearance?**

Stakeholders who provided a clear agreement or disagreement to this question had varying views on need change or disappearance.

A potential bidder is concerned about the assumption that this is a low risk, so bidders bid cost risk is at stake. This may be most sensitive to delivery sponsors who may have significant cost in terms of design works for example. In the counterfactual, it would be assumed that TOs would have these costs passed through their RAB so would ordinarily be covered.

A TO noted that it is also important to understand how the winning bidders can expand or change solutions to meet an increased need to ensure the network continues to develop in a way that minimises cost to consumers. A construction company suggested that there should be a mechanism for flexing the contract to allow for changes to the requirement.

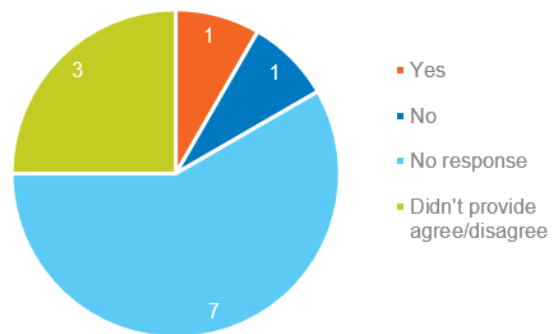


**11. Do you agree with our views and preference in respect of the 'provider of last resort' arrangements?**

One stakeholder who provided a clear agreement or disagreement to this question agree with the 'provider of last resort' arrangements, one stakeholder disagrees, and three stakeholders didn't provide a clear view on this question.

A potential bidder noted that the OFTO of last resort works well from a financial investor perspective. A stakeholder noted that financial investors are not able to seek protection from the licence as they are not able to step into the licence. The stakeholder expects that similar protections should be introduced as Ofgem set in place under the OFTO programme.

A TO suggested that the ESO should consider if an unsuccessful bidder who reached the last stage of the process, can be called upon to deliver the project as per their bids or revised bids to reduce the lead time to delivery.

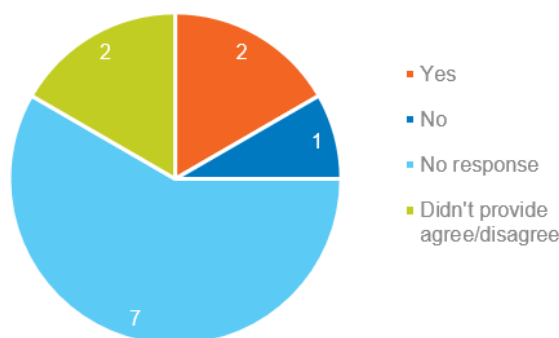


**End to End process for Early competition**

**1. Do you agree with our preferred position on pre-tender activities?**

Two stakeholders who provided a clear agreement or disagreement to this question agree with our preferred position on pre-tender activities, one stakeholder disagrees and two didn't provide a clear view on this question. Stakeholders noted that the set out activities appear to be wide ranging and would ensure an efficient competitive process although it will be resource intense for the Procurement Body.

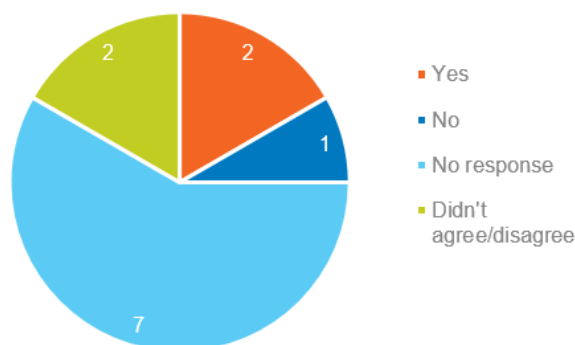
Some TOs agreed with the flexible approach, but there needs to be clarity given early in the process. Stakeholders highlighted that pre-tender activities should be completed within limited timescales in order to maintain a pipeline of suitable projects.



**2. Do you agree with our preferred position on impact studies?**

Two stakeholders who provided a clear agreement or disagreement to this question agree with our preferred position on impact studies, one stakeholder disagrees, and two stakeholders didn't provide a clear view on this question.

Some TOs raised concerns that changes to network background could invalidate the impact studies. One stakeholder suggested a clear scope and set of assumptions of the studies and background will need to be agreed with the Procurement Body. The process will need to be iterative to reflect changing background. Stakeholders also raised concerns about resourcing and who will take on the cost of the impact studies.



**3. Is there anything in our approach to sharing network information that you believe is unworkable?**

Some TOs highlighted risks and issues based on their experience. For example, there are limitations to usefulness of the ETYS model, especially around local considerations and generation dispatch and assumed dates of connection that are considered to be commercially sensitive. Other TO noted that TOs are subject to licence obligations that restrict the information they can share to third parties or information about third parties. Stakeholders also noted that based on lessons learned from stability pathfinders, the data sharing requested by bidders require significant resources from TOs to manage the volume of network data and connection agreements they need to provide.

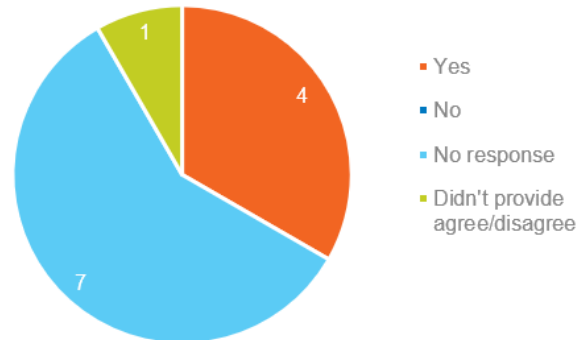
Stakeholders noted that the Electricity Ten Year Statement models do not give due consideration to potential local issues. The ETYS models need to go through internal quality assurance processes before being released to bidders as the current release of models through the Network Options Assessment process can sometimes be iterative where errors are found and need to be corrected.

Licence conditions and Grid Codes are suggested as potential barrier to sharing network information.

Stakeholders also noted that the ESO should consider non-system and contextual information, such as locations and sensitive environments.

**4. Do you agree that individual pre-submission reviews should not be offered to bidders during the tender process if the clarification question process is in place?**

Stakeholders who provided a clear agreement or disagreement to this question agree that the clarification process is sufficient to ensure that all bidders receive the same information and it will not add additional time to the process compared to the pre-submission reviews option.

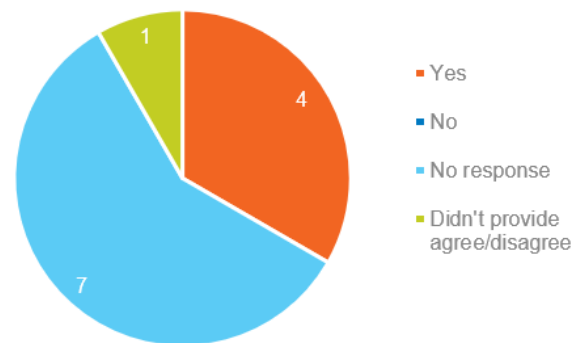


**5. Do you agree with our preferred position on the Pre-Qualification assessment and process?**

All stakeholders who provided a clear agreement or disagreement to this question agree with the proposed Pre-Qualification assessment and process.

A TO noted that the ESO should include science-based targets and commitments reflecting the Net Zero initiative and to be aligned with requirements expected of TO's under regulatory context.

A potential bidder noted that the OFTO process gave successful bidders an inherent advantage on future PQQ processes relative to new entrants which can inhibit the number of new entrants over time.

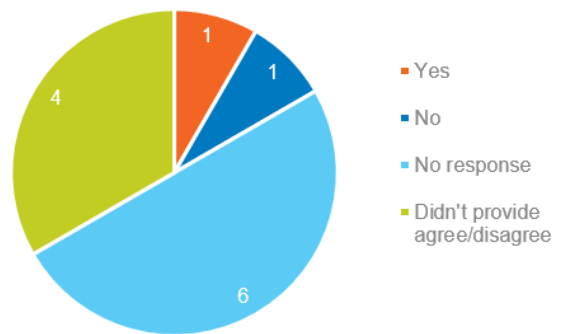


**6. Do you agree with our preferred position on Invitation to Tender stage 1 assessment and process?**

Stakeholders broadly agree with our preferred position on ITT stage 1 assessment and process and highlighted areas which require further work.

A potential bidder expects a large number of bidders to pass the ITT stage 1. Under the current process, the ITT stage 2 bid process is costly and may disincentivise people from bidding at the outset. A stakeholder recommends having qualitative and/or quantitative assessment at ITT stage 1 and setting a limit of bidders that could proceed to ITT stage 2.

Some TOs identified the following areas which require further work: 1) the extent to which solutions meet the network need and how it is measured, 2) consider project lead time when assessing the readiness level, 3) there may be limited interest in the Interested Parties process if there is no commercial incentive, 4) there could be changes to the feasibility assessment as the network background continues to evolve, 5) having an initial view on costs would help bidders to confirm if there is value to be gained, 6) partial solutions should not be allowed to be submitted, 7) consider wider impact on ensuring continued security, reliability and resilience of the electricity transmission, and 8) other information required for ITT Stage 2 that should be provided to bidders.

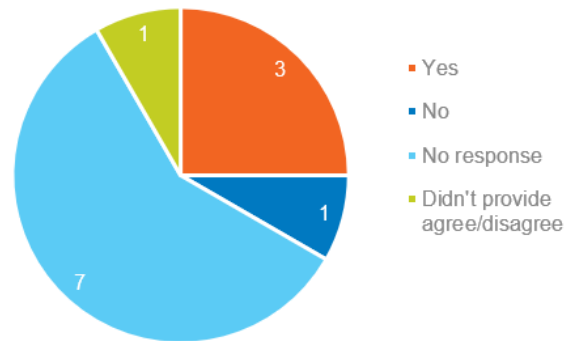




**7. Do you agree with our preferred position on Invitation to Tender stage 2 assessment and process?**

Three stakeholders who provided a clear agreement or disagreement to this question agree with the proposed ITT stage 2 assessment and process, one stakeholder disagrees, and one stakeholder didn't provide a clear view on this question.

Some TOs noted that the market may not be willing to accept submitting a planning application and carry out surveys without these costs being recovered. A stakeholder noted that further clarity is required if the Procurement Body will allow multiple parties to carry out invasive surveys at sites with no accountability or oversight of stakeholder management. A stakeholder did not agree that preliminary works should be undertaken after the Preferred Bidder is selected. This may prompt bidders to submit an inflated risk pot which is not in the interests of consumers.

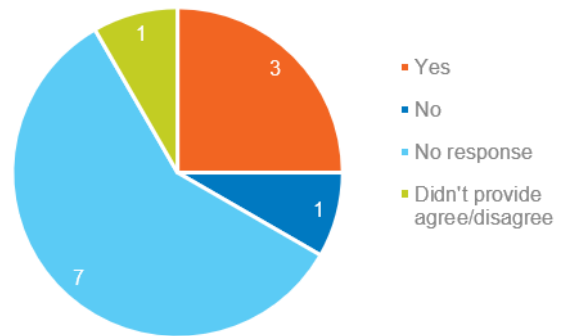


**8. Do you agree with our updated views in respect of late project delivery?**

Three stakeholders who provided a clear agreement or disagreement to this question agree with updated views in respect of late project delivery, one stakeholder disagrees, and one stakeholder didn't provide a clear view on this question. Most stakeholders noted that more work on the details of the proposal is required.

A TO noted that successful bidders should not be penalised for delays not due to their fault. A stakeholder proposed to look at the PPWCA stage to consider which risks are/aren't included when agreeing the final costs and these should be aligned to the RIIO-2 late delivery guidance.

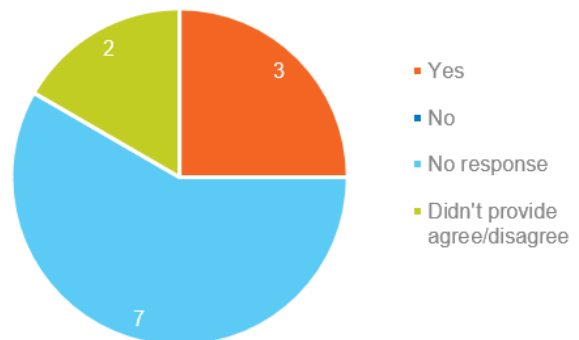
A potential bidder thinks the Public Private Partnership regime offers a good guide to relief events which can distinguish relief events from delay for poor performance. The proposed position seems aligned to the approach on the Contract for Difference.



**9. Do you agree with our updated views on the preliminary works / solution delivery incentive regime being proposed for early competition?**

All stakeholders who provided a clear agreement or disagreement to this question agree with the updated views on the preliminary works / solution delivery incentive regime.

A TO highlighted that although the reputational stakeholder engagement report incentivises good relationships with relevant stakeholders, bidders should also be required to achieve a similar level of community trust and engagement as is current practice of the TOs.

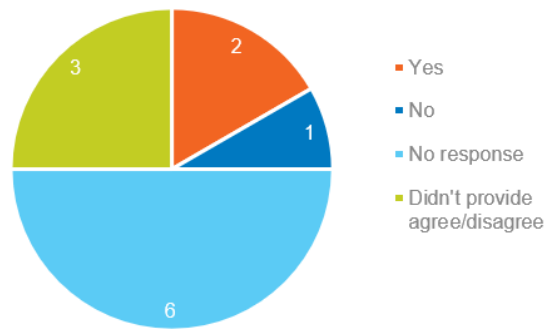


**10. Do you agree with our updated views on the operational incentive regime being proposed for early competition?**

Two stakeholders who provided a clear agreement or disagreement to this question agree with the operational incentive proposals, one stakeholder disagrees, and three stakeholders didn't provide a clear view on this question.

A TO noted that incentives should be developed on a case by case basis and it may be appropriate for network solutions to propose their own incentives as part of licence drafting.

Another TO suggested that successful bidders should be held accountable to the same standards as the TOs are, for example in terms of environmental and technical standards.

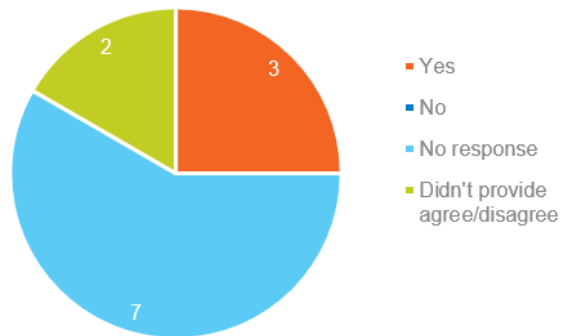


**11. Do you agree with our revised views and amended preference in respect of decommissioning securities?**

All stakeholders who provided a clear agreement or disagreement to this question agree with proposals in respect of decommissioning securities.

A potential bidder noted that the liabilities will need to be factored into any investment and the OFTO regime offers a useful guide to the treatment of decommissioning liabilities.

Some TOs questioned the need for the security if provisions have been made in the TRS as there is a risk that bidders may inflate their costs to include this requirement. One TO highlighted that the bidding party should be subject to the same decommissioning responsibilities that the incumbent TOs are currently subject to.

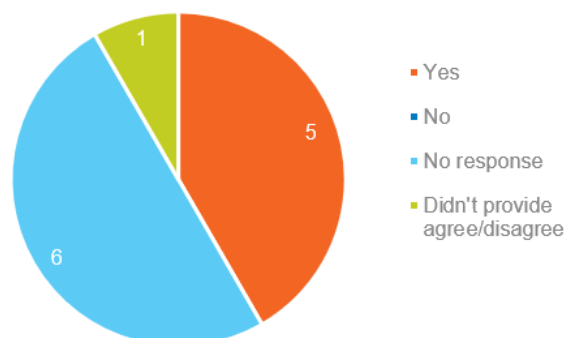


**Implementation**

**1. Do you think Table 1 is a comprehensive list of high-level implementation plan activities? If not, what has been omitted?**

All stakeholders who provided a clear agreement or disagreement to this question agree with the high-level implementation plan activities.

Some stakeholders proposed additional activities which should be undertaken: 1) CATO licence will need to be populated and consulted upon by Ofgem, 2) set up to undertake procurement activities, including systems that will be used, 3) ECP sign-off by Ofgem, 4) NOA process to be updated to accommodate both the scope, timings and frequency of the early competition process, 5) identifying changes to the current TO duties and obligations under the licence, codes and statute.

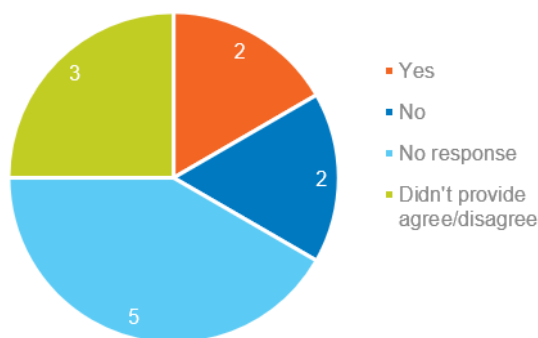


**2. Do you agree with our proposed timing and sequencing for implementation plan activities? If not, what would you change?**

Two stakeholders who provided a clear agreement or disagreement to this question are concerned about the proposed timing of the implementation stage.

A TO noted that the proposed timelines seem to underestimate the time required between finalised CATO legislation is enacted and licence award. The process may not be as linear as presented, for example, expect the code review to be initiated ahead of Ofgem's confirmation of ECP.

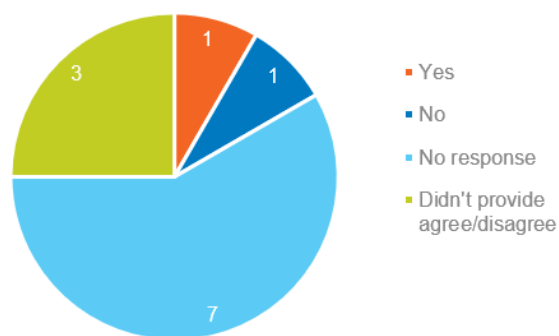
Some stakeholders suggested that a critical path of activities will need to be established. For example, the ESO should identify which of the code changes would need to be approved prior to creating and issuing tender documentation and consider potential interactions with other policy areas.



**3. Do you agree with the 'potentially advanceable' implementation plan activities? If not, what would you change?**

Stakeholders who provided a clear agreement or disagreement to this question had varying views on the 'potentially advanceable' implementation plan activities.

A potential bidder highlighted that the FES, ETYS, NOA, Early Competition Criteria Methodology, and the building of capability and capacity in the new roles could indeed be advanced prior to a final decision on the exact form of early competition being taken by Ofgem. However, some stakeholders noted that the ESO should consider the workload, resources and buy-in from other organisations required as these may not be low.

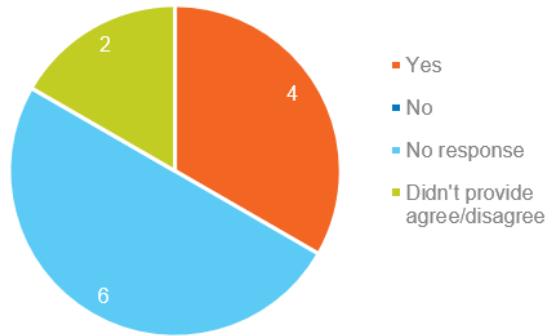


**4. Do you agree with our views on early competition prior to early competition legislation?**

Four stakeholders who provided a clear agreement or disagreement to this question agree with our views on early competition work prior to early competition legislation. A potential bidder noted that it would be sensible to reappraise what can be achieved once the early competition proposals are finalised, and again once legislation is in place.

Some TOs suggested that the ESO should adopt a transparent process to share learnings from the Pathfinders process and make it more robust/fairer ahead of early competition legislation being in place.

Some stakeholders suggested that only once the relevant primary and secondary legislation are in place the implementation stage should commence and the early competition model could be introduced.



## Early competition and Distribution

### **1. Is there any issue with the high-level early competition process being developed that means it could not be used for distribution sector needs? If yes, please specify the issue(s) and why they make the process unusable.**

Some stakeholders agreed with our proposals, noting that there are opportunities to encourage more competition in distribution and that the early competition model could be adapted to distribution.

Two DNOs noted that the roles are broadly identified. However, the early competition model would need to be modified based on the timescales commonly found at distribution, different planning and consenting, high volume and lower value projects. A stakeholder also suggested that ITT stages should be merged and similarly the CBAs should reflect smaller value of distribution level projects.

Some stakeholders highlighted that the objectives of early competition are already achieved through existing arrangements in distribution as DNOs are already incentivised to look at all options when determining investment pathways.

### **2. Which party is best placed to perform each of the key roles at distribution level? Where a third party is chosen please specify who you think this could be and why?**

Two DNOs support that the Procurement Body, Network Planner and Contract/Payment Counterparty roles should all remain with the DNOs or DSO and the Approver & Licence Counterparty to continue to be with Ofgem. They do not envisage any role for the ESO in the distribution.

However, two potential bidders are concerned with the DNO running a procurement given the conflict of interest and question whether this could dampen the market appetite. A potential bidder noted that the Procurement Body needs to be independent, whereas the theme suggests a major role for the DNO overall and if that is determined as the preferred solution then the DNO should not be able to bid the scheme - akin to the DPC model in water.

A stakeholder suggested that the ESO should investigate how third-party involvement in network planning at the distribution level could be increased and limit involvement of the DNOs or DSO.

### **3. Should any of the additional roles be created as specific roles? If yes, please set out who you think is best placed to perform the role and why?**

Two DNOs don't believe the additional roles such as best practice co-ordinator, auditor and Whole Systems Review are currently required. These parties are considered to already work together and introducing the new roles would make them redundant. Stakeholders note that regulatory mechanisms such as the Capacity Allocation Mechanism (CAM) will also reduce the need for these additional roles.

A stakeholder suggested that a role for Whole Systems Review should be created to mitigate against consumer value being lost. Creating a role for Whole Systems Review could mitigate against the risk of the bias skewing network planning recommendations and could provide an opportunity for network problems that could be resolved via a whole system solution to be identified, particularly across the transmission-distribution interface.



# Next steps

## Next steps

### Early Competition Plan

We have used the feedback we received from stakeholders to refine our proposals ahead of submission of our ECP to Ofgem at the end of April 2021. Our proposals, along with our approach to and engagement of stakeholders is subject to scrutiny by our ESO Networks Stakeholder Group. Their role is to make sure our stakeholder engagement is effective, and feedback is fairly used to shape our proposals.

### Ofgem's decision

Receiving the ECP Ofgem will need to carry out a number of activities before making a decision about implementing early competition and how and when it should be done. This is likely to include consulting on their views on roles and responsibilities and key aspects of any early competition model. This would include the form of the competition, how that competition would sit alongside other regulatory approaches, and how Ofgem would regulate the competition and its outcome.

It would also consult on its views on whether introducing early competition would ultimately deliver benefits to GB consumers.