

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3042

Title: Termination of the London Aerospace and Technology College project

Executive summary:

The award of £6.395m of Skills for Londoners Capital Funding to London South East Colleges (LSEC) in 2018, to deliver the London Aerospace and Technology College project, was approved under cover of [MD2142](#) and [DD2205](#). The funding was for the design and construction of a state-of-the-art, 2,500sqm science, technology, engineering and mathematics education facility focusing on aerospace technology.

The project is no longer viable due to planning and cost issues, and LSEC has not secured match funding to enable its proposed alternative delivery approach. This Mayoral Decision seeks approval to terminate the contract.

The sum of £5.539m in unused funding will become available to repurpose into other skills capital schemes. The GLA will seek to claw back the £0.856m funding already paid to LSEC. This decision also seeks approval to delegate specific decisions on the approach to be taken to seeking claw back of the £0.856m paid to LSEC to the Assistant Director of Skills and Employment, in consultation with the Executive Director of Resources, after termination of the contract.

Decisions:

That the Mayor:

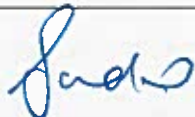
1. approves the termination of the agreement between the GLA and London South East Colleges (LSEC) for the provision of £6.395m Skills for Londoners Capital Funding as contribution to the costs of the London Aerospace and Technology College project and exercise of the GLA's contractual right to claw back the £0.856m funding already paid to LSEC
2. delegates authority to make specific decisions concerning the clawback of the £0.856m funding already paid to LSEC, to the Assistant Director, Skills and Employment, in consultation with the Executive Director of Resources.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

23/1/13

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1 The sum of £114m in Growth Deal funding, for investment in the estate and equipment of skills providers, was awarded to the London Economic Action Partnership (LEAP), the local enterprise partnership for London, to deliver a programme of capital expenditure to support the facilitation of delivery of skills services in London. The Skills for Londoners Capital Fund (SfLCF) was created and broken down into rounds.
- 1.2 The SfLCF programme was presented to LEAP on 3 February 2017. It was approved by the Mayor under cover of [Mayoral Decision \(MD\) 2142](#) on 7 August 2017, when approval of SfLCF funding allocations was also delegated to the GLA's Executive Director, Development, Enterprise and Environment, considering the recommendations of the LEAP Investment Committee (LEAPIC).
- 1.3 London South East Colleges (LSEC) submitted a successful bid to Round 1 of the SfLCF for the design and construction of a state-of-the-art, 2,500sqm science, technology, engineering and mathematics education facility focusing on aerospace technology. London Aerospace and Technology College (LATC) was devised to enable Londoners to enter and progress within the aviation industry and associated supporting sectors, thereby helping meet specific and acute industry skills gaps by offering innovative pathways to vocational, professional and higher-level qualifications. Funding of £6.395m was formally approved under cover of [Director Decision \(DD\) 2205](#). The GLA and LSEC entered into a funding agreement accordingly.
- 1.4 The project experienced delays following grant entry in early 2018 due to planning issues. The site initially selected at London Biggin Hill Airport (LBHA) was within the green belt, and after investigation was not considered suitable for planning consent. The second site selected was outside the green belt, but still within the airport boundary. This proposal was endorsed by the LEAP Programme Board in February 2019 and received planning consent in July 2019.
- 1.5 The spending profile in the grant agreement was varied in September 2019, following delays to delivery. The project drew down £0.856m of LEAP funding in 2019-20 to cover costs associated with design and planning.
- 1.6 Tender returns received by LSEC in late 2019 for the enabling and main construction packages were approximately £1.5m over budget, impacted by a volatile construction market due to uncertainty around a possible general election and a 'hard' Brexit. LSEC advised the GLA that they would likely need to delay the programme by 12 months to allow for value engineering, re-tendering and resolution of the budget gap, with a new planned completion date of September 2021.
- 1.7 LSEC completed design to stage 4 of the Royal Institute of British Architects Plan of Work, and was ready to go out to tender again by April 2020. By this time, however, the COVID-19 pandemic was having significant and complex impacts on the construction and aviation sectors central to the project's viability, so the project was put on hold.
- 1.8 In March 2021, LSEC notified the GLA's Deputy Mayor for Planning, Regeneration and Skills, Chair of LEAPIC, that delivering the project at the LBHA site was no longer viable due to planning and cost issues. LSEC proposed an alternative delivery model: to deliver higher outputs, via a broader aerospace and green technology curriculum, based at a new centre within its existing Bromley campus, funded by the remaining LEAP/GLA grant and an intended bid to the Department for Education (DfE) Further Education Capital Transformation Fund (FECTF). The Deputy Mayor expressed in-principle support for this approach, subject to the success of: the college's intended bid to the FECTF for match funding; delivery of the same or greater skills outcomes; and LEAP's endorsement of the new revised delivery approach.

- 1.9 In November 2021 a report was presented to LEAPIC requesting that members endorse the alternative delivery model for the project (at the Bromley site), subject to the award of FEETF funding by the DfE, and noting that the GLA funding contribution remains the same. The Executive Director for Good Growth requested that officers should have further discussions on the proposal with LSEC, specifically in alignment to the Green New Deal recovery mission.
- 1.10 In April 2022 LSEC was notified that its bid, submitted to the DfE for the FEETF, had been unsuccessful. As a result, the project does not have the match funding available to cover the full costs of delivering the project. Any potential revised project would need to revert to the design and pre-planning stage and seek further funding, so would not be able to deliver outputs for many years. There is also no certainty over the outcomes that could be delivered.
- 1.11 In October 2022 the LEAP Board endorsed the decision to terminate the agreement between the GLA and LSEC for the provision of £6.395m SfLCF funding as a contribution to the costs of the LATC project, noting that the GLA should seek to claw back the £0.856m funding already paid to LSEC.
- 1.12 No further skills capital funding is expected to be devolved to London, so it is essential that all current funding is used to deliver the Mayor's current priorities as efficiently as possible. In December 2021 the Board endorsed the repurposing of funding released from current skills capital commitments for delivery of the capital element of the Mayor's Academies Programme. The Mayor approved this under cover of MD2919 with further approvals to be sought once all returning funding is identified.

2. Objectives and expected outcomes

Termination of the agreement between the GLA and LSEC relating to the provision of £6.395m SfLCF funding for the LATC project

- 2.1 As LSEC has not been able to make sufficient progress in the delivery of the project, and has not secured the match funding required to deliver the scheme using the proposed alternative delivery approach, the project cannot be delivered and therefore the funding agreement needs to be terminated. Once the termination of the agreement is approved, officers will serve notice to terminate and exercise the GLA's contractual rights to seek to claw back the £0.856m funding already paid to LSEC. It is proposed that authority to make further specific decisions concerning the clawback of funding already paid to LSEC be delegated to the Assistant Director, Skills and Employment, in consultation with the Executive Director of Resources.
- 2.2 The outcome of these decisions will be that:
- the LATC project will no longer deliver its planned outcomes
 - between £5.539m and £6.395m worth of funding would return to the GLA for reallocation in accordance with MD2919, which provides approval to reallocate funding to deliver skills capital schemes aligned to current Mayoral priorities.

3. Equality comments

- 3.1 The LATC project outcomes will no longer be delivered, so the learners originally expected to benefit will no longer do so. These outcomes would have included supporting 1,708 learners; creating 719 jobs; and improving educational outcomes. The learners would have come from the Bromley area and further afield, due to the specialist nature of the learning provision. As the LATC project is no longer viable without further external funding, and time for planning and development, these outcomes cannot be delivered soon. Repurposing the funding will enable positive outcomes to be delivered for Londoners sooner.

- 3.2 The funding will be reallocated to skills capital schemes for the benefit of Londoners after appropriate consideration of equality impacts, and for delivery of the new SfLCF Round 3. This will have a programme-level equality impact assessment, including careful consideration of the needs of those with protected characteristics and other Mayoral priority groups.

4. Other considerations

Key risks and issues

- 4.1 Whilst the GLA has contractual rights to claw back funds paid upon termination for breach there is a risk that the college may have insufficient funds to repay the sums the GLA should be seeking to claw back. GLA officers have been made aware by LSEC that they may not have sufficient funds to be able to repay the GLA sums already spent on the project. LSEC have also submitted a contingency funding application for their separate Skills for Londoners Round 2 project. Officers will work with the GLA Finance Team to resolve this situation in the best interests of Londoners..

Links to Mayoral strategies and priorities

- 4.2 Repurposing the funding from the terminated contract would enable better alignment with current Mayoral strategies and priorities, as these have changed since LSEC applied for the funding in 2017. All applicants to SfLCF Round 3 will be required to demonstrate strong alignment with current Mayoral priorities and strategies, including the aims of the [Skills Roadmap for London](#).

Conflicts of interest

- 4.3 No GLA officer involved in the drafting or clearance of this MD is aware of any conflicts of interest with the proposals set out in this form.

5. Financial comments

- 5.1 The termination of a grant contract currently held by LSEC is being proposed. The college has encountered a number of issues pertaining to the delivery of the LATC project.
- 5.2 Although the contract is valued at £6.396m, £0.856m has been issued to date which should be pursued for recovery. It is important to note that, given the current economic climate of post-pandemic pressures, inflation and the financial position of LSEC, there is a possibility this sum may not be fully recoverable. Therefore, it may become necessary to write off up to £0.856m as a sunk cost to the SfLCF programme.
- 5.3 As endorsed by the LEAP Board, the unreleased balance remaining on the LSEC contract (£5.539m) will become available to repurpose into other skills capital schemes.

6. Legal comments

- 6.1 The foregoing sections of this report indicate that:
- 6.1.1 the decisions requested of the Mayor concern the exercise of the GLA's general powers, falling within the GLA's statutory powers to do such things considered to further or which are facilitative of, conducive or incidental to the promotion of economic development and wealth creation in Greater London
- 6.1.2 in formulating the proposals in respect of which a decision is sought, officers have complied with the GLA's related statutory duties to:

- pay due regard to the principle that there should be equality of opportunity for all people
 - consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom
 - consult with appropriate bodies.
- 6.2 In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty - namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion) and persons who do not (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.3 The GLA's funding agreement with LSEC contains provisions which enable the GLA to:
- terminate the agreement where LSEC has failed to:
 - apply the prescribed match funding to the delivery of the stated Project Objectives, Milestones and/or Project Outputs
 - deliver or unsatisfactorily delivers the Project Objectives, Milestones and/or Project Outputs.
- 6.4 Officers have indicated that LSEC have failed in both respects and so the GLA is entitled to terminate the agreement for breach and also require the repayment of sums paid.
- 6.5 If the Mayor makes the decisions sought, officers should ensure that:
- the agreement is terminated and claw back sought in accordance with the provisions of that agreement
 - no reliance is placed upon sums currently allocated to LSEC for alternative use until such termination and claw back has been completed
 - to the extent that sums are to be reallocated to other projects that reallocation is conducted in a manner which affords value for money and in accordance with the requirements of the GLA's Contracts and Funding Code and the relevant recipients' funding agreements are varied accordingly and the appropriate variation documentation is executed by the GLA and recipients before any commitment to fund is made.
- 6.6 The Mayor may delegate the exercise of functions on behalf of the GLA pursuant to section 38(2) of the Greater London Authority Act 1999 (subject to any conditions, which the Mayor sees fit to impose). To this end, the Mayor may make the requested delegation to the Assistant Director of Skills and Employment.

7. Planned delivery approach and next steps

Activity	Timeline
MD signed	February 2023
Termination and claw back letter sent to LSEC	February - March 2023
Clawback discussions and LEAP Board	February - March 2023
Funding reallocated to skills capital schemes for the benefit of Londoners	March 2023 onwards

Appendices and supporting papers:

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral**Is the publication of Part 1 of this approval to be deferred? Yes**

The paper contains information which is legally privileged, the release of which prior to completion of termination and claw back activity would prejudice the GLA's effective exercise of its contractual rights and commercial position which is not in the public interest.

Until what date: 5 June 2023.

Part 2 - Sensitive information

Only the facts or advice that would be exempt from disclosure under the FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form - NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Kulsum Mohmed has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tunde Olayinka has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 13 February 2023.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:

D. Gove

Date:

16/02/2022

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor.

Signature:

D. Bellamy

Date:

16/02/2023

