

REQUEST FOR DIRECTOR DECISION – DD1268

Title: RE:NEW Framework re-procurement

Executive Summary:

Approval is sought to fund and commission specialist legal services to support the procurement of the new RE:NEW Framework of suppliers. The intention to re-procure the RE:NEW Framework is set out in MD1289.

The current framework expires in September 2014 and a new one is required to bolster the delivery of the RE:NEW Support Team work to achieve the programme's carbon reduction and capital expenditure targets. There is currently neither the capacity nor the expertise for these services to be provided in-house.

The budget required (up to £130,000) is available from the existing RE:NEW programme budget.

Decision:

That the Executive Director approves expenditure of up to a maximum of £130,000 for specialist legal services to support the re-procurement of the new RE:NEW Framework.

AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor's plans and priorities.

It has my approval.

Name: David Lunts

Position: Executive Director Housing and Land

Signature:

Date:

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1 Introduction and background

Introduction

- 1.1 The Mayor's Climate Change Mitigation and Energy Strategy (CCMES) sets out a plan to reduce London's emissions by 60% by 2025 compared to 1990 levels. Emissions from buildings account for 78% of London's emissions, with 36% of these coming from homes. The CCMES therefore targets a reduction of 630,000 tonnes of CO₂ saved from the domestic sector by 2015.
- 1.2 Given that 80% of London's buildings will still be standing in 2050, a strong retrofit programme is essential to meeting the Mayor's targets. To date the Mayor's award-winning RE:NEW programme, which is now in its third phase of delivery, has led domestic retrofit activity in London, delivering approximately 22,000 tonnes of CO₂ savings across over 100,000 homes.
- 1.3 The current phase of RE:NEW is funded jointly by the GLA and the European Investment Bank (£2,513,700 from ELENA and a £279,300 from the GLA – a total of £2,793,000). A RE:NEW Support Team, delivered by Capita, has been commissioned by the GLA and is contracted until 31 July 2017. This team is supporting registered providers, with a wider remit to support the private sector, to let domestic retrofit programme contracts and drive a pipeline of projects worth £352 million, retrofit 175,000 homes and save 93,000 tonnes of carbon.
- 1.4 The current RE:NEW Framework of suppliers was procured in 2010 and expires in September 2014. The intention is to procure a new Framework as soon as possible. A framework is needed because although other similar frameworks exist, none are tailored to the needs and requirements of the types of organisations and projects involved, or to be involved, in RE:NEW. They would therefore not yield the carbon savings and levels of capital expenditure necessary to meet the programme's targets. Specialist legal advice is required for the re-procurement process partly because it is not simply a case of repeating a similar procurement to the one undertaken in 2010. This is because the requirements of and aspirations for the framework are now considerably different. Further details are set out in sections 1.7 – 2.3.
- 1.5 Within the remit of the Support Team is the re-procurement and management of the RE:NEW Framework (as set out in MD1289). A specialist procurement resource is included within the RE:NEW Support Team resource profile and agreed in the GLA's contract with Capita. However, the specialist legal support required to take forward the procurement falls outside of the Team's remit.
- 1.6 Through the procurement of the RE:NEW Support Team, as set out in the ITT (and contractually agreed with Capita), the GLA has retained the rights to determine how £150,000 of the overall budget will be spent in supporting the RE:NEW programme. This sum was set aside specifically to fund specialist services that are beyond the remit of the Support Team and internal GLA resources but are required to support the programme. The budget of up to £130,000 for the legal services required for the re-procurement of the RE:NEW framework is available from this ring-fenced budget.

Background

- 1.7 The main types of contracts anticipated to be let following support from the RE:NEW Support Team are:
- a) **Area based "service concession" style retrofit programmes:** These will typically be let by a local authority for private sector area based solutions. Requirements include range of activities including marketing and engagement, surveying, accessing funding, planning, implementation, remedial work, as well as monitoring and reporting. There will also be a need for suppliers to be able to deliver Green Deal on a local and regional basis. A range of measures are likely to be included: from loft and wall insulation, boilers, to PV installation and potentially larger projects including communal heating and energy generation. Customer service and management will be critical. Programme and delivery management will be key given the challenges of converting leads to installations.
 - b) **Social housing measures based programmes across one or more properties:** These programmes will include one or more measures including loft and cavity insulation, internal and external solid wall insulation, fuel switching, bundles of smaller measures, communal heating, boiler replacement, renewables, and small scale heat networks. Interaction between measures could be important depending on measures and existing situation. Customer management will be important. Provision of access to funding (such as ECO) through the contract will be very important. Suppliers will need to be able to provide in depth stock surveys and analysis, EPCs, technical planning, design and implementation. There may also be requirements to support the decanting of residents. These projects may include monitoring, quality assurance, remedial activities and reporting requirements.
 - c) **Social housing led mixed tenure programmes** (some tenants, some owners e.g. tower block): This a hybrid of a) and b) above and would be suitable for mixed tenure tower blocks as well as area based programmes.
 - d) **Social housing measures programmes including asset management / development:** These contracts will involve the selection of a long term partner to cover energy efficiency retrofits, similar to b), with the potential for providing wider asset management including maintenance. This area could be powerful in boosting buyer power with existing contractors through offering a quick and credible alternative to having both energy efficiency measures and whole asset management contract.
- 1.8 It is anticipated that there will be contracts that include a mix of the above.
- 1.9 The existing RE:NEW framework, commissioned by the London Development Agency (LDA) in 2010, is a fully OJEU compliant framework and includes 12 organisations capable of delivering retrofit projects or discrete packages of work within the scope of the framework. It was set up to avoid the need for buyers to go through lengthy procurement exercises themselves and to provide the primary mechanism for delivering RE:NEW phases I and II. Any London borough or housing association with the majority of their homes in London is able to run a mini-competition to call off from the framework. The framework, which expires without the ability to extend in September 2014, has been a key resource for the RE:NEW programme.
- 1.10 Simply re-procuring an identical framework would not meet London's retrofit needs going forward, largely due to the wide range of retrofit programmes that are anticipated to be supported by the RE:NEW Support Team, both in terms of the type of project (tenure and measure mix) and the funding mechanisms. Limitations of the existing framework include:

- An overly prescribed approach in terms of process and allowable energy efficiency measures. More flexibility is required in the call off and service delivery process to enable the range of anticipated projects.
- Limited detail around minimum standards for works. A rigorous set of technical standards for retrofit should be provided.
- Contract terms - Joint Contracts Tribunal (JCT) minor works. More flexibility is required to enable client requirements to be included. In addition the terms and conditions should be updated to reflect the latest standards (they are based on old LDA terms).

1.11 As well as the existing RE:NEW Framework, there are a number of other frameworks available. These are detailed in the table below.

Potential frameworks for energy efficiency retrofit in London			
Name	Contact No.	Email	Works covered
RE:NEW	07584 395086	jakub.wisniewski@capita.co.uk	Energy saving and efficiency measures; water saving measures
Fusion 21 – Alliance Procurement	0845 864 5171	info@allianceprocurement.co.uk	IWI, EWI, CWI, Loft insulation for warm roof and cold roof configurations, Air tightness and draught-proofing products
LHC - Building Insulation & Associated Services (N6)	01895 274807	mij.rahman@lhc.gov.uk	Loft & roof insulation; cavity, external & internal wall insulation; floor insulation; pipe & ductwork insulation; draught proofing
Efficiency East Midlands - EWI / IWI Solid Wall Insulation (EEM0046)	01623 726 250	pete.smith@efficiency-em.co.uk	IWI, EWI
Carbon Savings Alliance		info@carbonsavingsalliance.co.uk	EWI & other measures
The Green Services Hub	0845 850 0017	info@thegreen-serviceshub.co.uk	Green Deal & energy assessments; Insulation; heating-related; renewable energy/ microgeneration; energy efficiency

1.12 The RE:NEW Support Team are able to support organisations to draw down from these frameworks for specific types of project. However, they are not fit for purpose to enable the full range of projects detailed in 1.7. Limitations include:

- Minimal scope to run competitive mini competitions to achieve value for money.
- Standard forms of contract with limited flexibility to include client requirements.
- Limitations in the scope of works and services. For example, Fusion 21 Alliance Procurement only provides insulation and air tightness solutions, LHC only provides insulation and associated services, the Efficiency East Midlands framework only allows for internal and external wall installation programmes, and the Carbon Savings Alliance only allows for external wall insulation and renewables.
- A focus in these frameworks on implementing works. Key elements are missing from these frameworks including analysis and design, engagement and marketing, savings delivery and monitoring services.

1.13 Framework procurement planning is underway with:

- a work plan in place that targets Feb/Mar 2015 for OJEU completion;
- a thorough review of the existing RE:NEW Framework conducted;
- ongoing engagement and consultation with TfL legal and procurement teams; and
- stakeholder consultation on the scope, structure and usage for the new framework is in progress. A number of detailed workshops and meetings have been held with the GLA and Support Team subject matter experts to detail the core framework offering, supply chain, and registered providers.

1.14 This planning process has identified a need to commission (through a panel procured by TfL Legal) the services of specialist legal support to develop the contract terms for the new framework, as this specialism does not exist within the in-house team.

2 Objectives and expected outcome

2.1 The new framework will be a key resource for the RE:NEW programme to:

- help boost the level of domestic energy efficiency and provide a full range of services to meet the needs of the variety of projects supported by the RE:NEW Support Team;
- help organisations gain the benefits of competitively procured rates, robust contract terms and enhanced buyer power; and
- help organisations to quickly take advantage of opportunities, particularly given the rate of change in policy and subsidies attached to the domestic retrofit market.

2.2 The Framework will be structured in a manner that ensures a minimum set of terms and standards that must be met whilst enabling organisations to add additional requirements (both legal and technical) based upon their specific project needs. It is proposed that schedules would be used in the contract that could be incorporated (or not) into the mini-competition and then into the call off contracts.

2.3 Below is an outline of the proposed structure for the new framework.

I use Chrome on a system running 64 bit Windows 7 and was experiencing the same issues described in this topic and found that my CPU was the bottleneck causing poor performance. Looking around the interwebs, I found a suggestion to disable the built-in flash plugin Chrome uses by default and instead have Chrome use the stand-alone flash plugin. I tried that out and it worked, improving the performance of twitch.tv streams immensely, especially when ads are running.

It worked wonder for me, but of course, YMMV. Here's how you do it:

Open a window in chrome, navigate to "chrome://plugins" and be sure the details pane is expanded. There should be a plugin listed there as Adobe Flash Player with the file "pepflashplayer.dll" listed as the location. Disable that plugin.

Remove any traces of older installations of flash by following the directions given here on the Adobe forums.

Download and install the latest version of the stand-alone flash plugin from Adobe.

That should do it. To confirm that you have chrome's built in flash plugin disabled, and the stand-alone plugin enabled, open up "chrome://plugins" again and you should see something like this:

Core Contract	Framework Schedules	
Standard Framework Clauses - Basis of agreement - General liability - Disputes - Management info - General payment and SME friendly terms - PCGs and Perf. bonds - Rebate (self-sust.) - Etc...	A1 – Technical Requirements (Standards) 1a – general 1b – SWI 1c – insulation 1c1 – loft 1c2 – cavity wall 1d – boilers etc....	D1 – Installation Requirements 1a – general 1b – technologies 1c – quality assurance 1c1 – general and issue investigation 1d – WORKS TERMS etc....
	A2 – Additional Technical Requirements (to be added in Project Brief if required)	D2 – Additional Reqs inc WORKS TERMS (to be added in Project Brief if required)
	B1 – Engagement and Marketing Requirements (Standards) 1a – general 1b – communications 1c – direct engagement 1d – consumer protection	E1 – Funding Requirements 1a – general 1b – ECO 1c – Green Deal 1d – 3 rd party funding etc...
	B2 – Additional Requirements (to be added in Project Brief if required)	B2 – Additional Requirements (to be added in Project Brief if required)
Services and Scope - Allowable scope and services - Allowable mini-competition points	C1 – Analysis and Design Requirements 1a – general 1b – design standards 1c – design and planning 1d – design and funding	F1 – Service Delivery Requirements 1a – general 1b – monitoring, measurement, verification 1c – remedial work (and funding impacts)
Mini-Competition and Call-Off Contract Templates - Initial Phase - Full Implementation - Variation	C2 – Additional Requirements (to be added in Project Brief if required)	F2 – Additional Requirements (to be added in Project Brief if required)
		Other Schedules - Green Deal schedule / output schedule....

3 Equality comments

- 3.1 The GLA has taken appropriate steps to ensure that the RE:NEW programme is administered and managed in a manner that promotes equality of access to all Londoners of opportunities to participate in the delivery and benefit from the programme.
- 3.2 Furthermore, suppliers on the RE:NEW framework will be required to be compliant with all legislation covering anti-discrimination and the OJEU compliant procurement process will assess suppliers' commitment to these aims and values.

4 Other considerations

Key risks and issues

- 4.1 The absence of a new and fit for purpose RE:NEW Framework would result in a significant risk to the delivery of the RE:NEW Support Team's objectives and achievements of the programme's targets. Specifically, there is a risk that the volume and speed of letting contracts required to meet the EIB's minimum leverage factor (20 times the EIB funding, around £50 million, by July 2017) may not be met. If this target was missed then the EIB could claw back their entire grant.

Links to Mayoral strategies and priorities

- 4.2 The RE:NEW programme will help London become a world leader in improving the environment: identifying and investing in projects that reduce greenhouse gas emissions, reducing resource consumption and develops new green skills and services.
- 4.3 The new Framework will contribute towards achieving the following aims and objectives of the Climate Change Mitigation and Energy Strategy:
- The overall target to cut carbon emissions by 60% by 2025;
 - Policy 6 - Retrofitting existing homes with energy efficiency measures, water efficiency measures, and low and zero carbon micro-generation technologies (retrofitting of energy efficiency, energy supply, and water efficiency measures to 1.2 million existing homes in London by 2015, and all homes in London by 2030);
 - Policy 7 - Tackling fuel poverty in London.
- 4.4 It will also contribute to objective 3 of the Mayor's Economic Development Strategy to "make London one of the world's leading low carbon capitals by 2025 and a global leader in carbon finance".
- 4.5 In addition, it will contribute to the specific targets and objectives of the current RE:NEW programme to retrofit 175,000 homes, save 93,000 tCO₂ annually and lever in £50 million of capital expenditure by 2017.

Impact assessments and consultations

- 4.6 The full business case and associated modelling for the current phase of RE:NEW was reviewed by the Housing Investment Group on 23 May 2013. Consultation with local authorities and housing associations took place as part of the development of the business case.
- 4.7 The RE:NEW programme is overseen by the RE:NEW Sponsors Board which meets every six weeks and is comprised of representatives from local authorities, housing associations and other key partners.

5 Financial comments

- 5.1 Approval to spend up to £130,000 on legal support to help put together a new framework for RE:NEW is requested. This can be funded within the terms and total budget of the 90% EIB funded 2014-2017 RE:NEW programme in 2014-15.
- 5.2 Procurement support required to re-procure the framework will be funded via the RE:NEW support team contract.
- 5.3 The Policy, Programme and Services unit within Housing and Land will be responsible for managing this spend.

6 Legal comments

6.1 The foregoing sections of this report indicate that:

6.1.1 the decisions requested of the Director (in accordance with the GLA's Contracts and Funding Code) fall within the GLA's statutory powers to do such things considered to further or which are facilitative of, or conducive or incidental to the promotion of social development and environmental improvement in Greater London. 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; and
- consult with appropriate bodies.

6.2 All services required will be procured by Transport for London legal services from its Legal Services Panel.

7. Planned delivery approach and next steps

7.1 The legal services will be commissioned through Legal, drawing down from their legal services panel.

7.2 Legal have confirmed internal approval to draw down from the panel for this work, and have assigned resource to manage this commission and work closely with the RE:NEW Support Team to ensure the output is aligned with requirements and the budget.

Activity	Timeline
Delivery Start Date	Sept 2014
Delivery End Date	Mar 2014
Project Closure:	Mar 2015

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval or on the defer date.

Part 1 Deferral:**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason:

The budget information within this DD is commercially sensitive.

Until what date: For commercial reasons approval should be deferred until the legal commission has concluded, expected 31 March 2015

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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:

Koré Mason has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

Jamie Ratcliff has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Financial and Legal advice:

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date