

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD2531

Title: Innovation Partnership legal fees

Executive Summary:

The Mayor has established the Retrofit Accelerator – Homes (RA-H) with European Regional Development Fund match-funding, to support social housing providers to kick-start transformative 'whole-house' retrofit and help build the supply chain.

A key principle of the RA-H is finding ways to reduce the cost of deeper retrofit while driving up demand and supporting supply chain growth. To support this, a review of potential approaches and procurement options was undertaken. The RA-H conducted this thorough market review of available procurement routes which found that an Innovation Partnership Procedure (IPP) was the most suitable option.

The procurement for the Innovation Partnership is almost completed, with the preferred bidders having been identified following a rigorous competitive OJEU process. The final work is being done to get internal approval of this through the internal procurement governance boards and is on track to do so.

This Assistant Director Decision seeks approval for the procurement of further legal provision to finish compiling the contracts. There is not sufficient resource within TfL to deliver this work and, as such, external legal support is required through an existing framework. Additional external legal resource was previously approved under ADD2517, however there is still work outstanding, therefore this Assistant Director Decision is now required.

Decision:

That the Assistant Director, Environment and Energy approves:

Expenditure of up to £20,000 for legal fees.

AUTHORISING ASSISTANT DIRECTOR/HEAD OF UNIT

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: Pete Daw

Position: Assistant Director,
Environment and Energy (Interim)

Signature:



Date:

27 August 2021

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 The Mayor's London Environment Strategy sets out a plan to re-establish London's position as a leader in tackling climate change by setting a target for London to become zero carbon by 2050. More recently the Mayor stated his intention to accelerate his commitment to making London a zero-carbon city by 2030, and that commitment absolutely remains as part of a recovery from the Covid-19 pandemic.
- 1.2 The Mayor's Green New Deal Fund (MD2708) aims to tackle some of London's key environmental challenges, including the climate emergency and air quality, whilst creating jobs, developing skills and supporting a 'just' transition to a low carbon circular economy. The Fund is also aligned to delivering the priorities of the London Recovery Board's Green New Deal mission as part of London's response to the Covid-19 pandemic. The Mission includes the key theme of Decarbonising the Built Environment.
- 1.3 London's 3.5 million homes account for around a third of London's total greenhouse gas emissions and so are a priority sector to tackle if these ambitions are to be met.
- 1.4 The Mayor has established the Retrofit Accelerator for Homes (RA-H), with European Regional Development Fund (ERDF) match funding, to support London boroughs and housing associations to kick-start transformative 'whole-house' retrofit and to help to build the supply chain and business case to accelerate a retrofit revolution for private homes.
- 1.5 A key principle for RA-H is the development of a means to drive down the costs of 'deeper' retrofit while driving up demand and supporting supply chain growth. To support this, the team was commissioned to undertake a review of procurement options. The RA-H conducted this thorough a market review of available procurement routes which found that an Innovation Partnership Procedure (IPP) was the most suitable option.
- 1.6 The proposed procurement aims to enable the development of a solution that does not presently exist in the UK market: a performance-assured *Energiesprong* net-zero energy (NZE) 'whole house' home retrofit at an affordable economic price point while providing an effective route to market for projects, through a framework (resulting from the IPP).
- 1.7 The procurement is almost completed, with the preferred bidders having been identified following a rigorous OJEU process. The final work is being done to get internal approval of this through the internal procurement governance boards and is on track to do so.
- 1.8 This approval seeks to allow for the procurement of further legal provision to finish compiling the contracts. The work has been scoped and there is not sufficient resource within TfL to deliver this. As such external legal support is required and been procured through an existing framework.
- 1.9 Additional resource was previously approved under ADD2517 which allowed for further legal fees to complete this work, however this Assistant Director Decision is required given there is still outstanding work to do. This is due to unanticipated and prolonged clarification discussions on contractual clauses following contract award. Additional legal support has been required to ensure consistent legal advice for all parties concerned from the appointed legal firm, due to their involvement from the beginning of this tender exercise.

2. Objectives and expected outcomes

- 2.1 The legal support will allow the contracts to be finalised and issued in line with the procurement timetables. This will facilitate delivery of the Innovation Partnership to the wider project timescales, including being able to use the external funding drawn in to support delivery.
- 2.2 The Innovation Partnership will connect social landlords and Solution Providers (building firms) in order to deliver retrofit at scale and drive down retrofitting costs. Seven London based social housing providers are ready to deliver around 2,000 whole house retrofits through the Innovation Partnership, starting in 2021/22. It is estimated that at least 100,000-190,000 social homes could be retrofitted through the Innovation Partnership, creating around 150,000 jobs in the next 10 years.
- 2.3 The Innovation Partnership will support delivery of RA-H. Further information on RA-H including objectives and outcomes can be found in MD2235: Energy for Londoners: Homes Energy Efficiency Programme.

3. Equality comments

- 3.1 The public sector equality duty requires the identification and evaluation of the likely potential impacts, both Under Section 149 of the Equality Act 2010 (the “Equality Act”) as public authorities, the Mayor and the GLA must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. Protected characteristics under the Equality Act comprise age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status.
- 3.2 This work furthers actions and policies set out in the London Environment Strategy (e.g. reducing carbon emissions from homes in London) which has been consulted on publicly and sought input from all groups and communities. All responses to those consultations were analysed to help ensure the Strategy reflects diverse views and needs.
- 3.3 The Innovation Partnership is intended to develop a commercialised, cost-effective approach to delivering carbon reductions. This will allow more homes to be improved, more quickly. This in turn will support fuel poverty reduction objectives.

4 Other considerations

a) Key risks and issues

Risk/issue	Mitigating actions
1. Legal costs rise even further	This is the final tranche of work now that all clarifications have been completed.
2. Project initiation not completed on time	A huge amount of work has been done on this project by the GLA, TfL and our delivery partners to ensure timelines are met. The final elements of the legal work will support getting this project to initiation phase.

b) Link to Mayoral Strategies and Priorities

- 4.1 This work is designed to support delivery of the Mayor’s London Environment Strategy and ambition for London to be zero carbon by 2030. Delivering upon this ambition requires scaling up the pace and depth of retrofit, and the Innovation Partnership is designed to facilitate that.

- 4.2 The Green New Deal Mission has been designed in collaboration with London Councils, taking account of the views of Londoners and stakeholders. The mission has set the challenge of tackling the climate and ecological emergencies and improving air quality by doubling the size of London's green economy by 2030 to accelerate job creation for all. The mission identifies the opportunity to support London's recovery through tackling huge city challenges like improving London's homes and workplaces to reduce their energy demand and carbon emissions.

c) Conflicts of interest

- 4.3 There are no conflicts of interest to note for any of the officers involved in the drafting or clearance of this decision form.

5 Financial comments

- 5.1 Approval is being sought for additional expenditure of up to £20,000 to complete the scope of work of the external legal team procured to support development of the Innovation Partnership, following costs overrun. The funding source for this project will be drawn from the available resources within the 21-22 Energy Efficiency budgets.
- 5.2 The Energy Efficiency team are planning on paying the selected external consultant in arrears, based upon evidence of works completed. Expenditure is expected to take place by the 31 August 2021.

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? NO

If YES, for what reason:

Until what date: (a date is required if deferring)

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under 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:

Sarah Fletcher has drafted this report in accordance with GLA procedures and confirms the following:

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 23 August 2021.

ASSISTANT DIRECTOR OF FINANCIAL SERVICES:

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

Signature



Date

23 August 2021