

GREATER **LONDON** AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2597

Title: London European Regional Development Fund programme: additional funding for the Mayor of London's Energy Efficiency Fund

Executive Summary:

This Mayoral Decision seeks approval for the award of up to £10.7million from London's European Regional Development Fund (ERDF) allocation to the Mayor of London's Energy Efficiency Fund (MEEF). This is to enable further support towards the creation of low carbon infrastructure via repayable finance. MEEF was originally awarded £43million (Mayoral Decision 2165) and since its launch in 2018 the fund manager, Amber Infrastructure Limited, has committed circa. 42% of its ERDF allocation.

Decision:

The Mayor approves:

The award of up to £10.7million from the European Regional Development Fund (ERDF) to Amber Infrastructure Limited, which will be invested through the Mayor of London's Energy Efficiency Fund (MEEF).

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:

10/3/20

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Ministry of Housing, Communities and Local Government (MHCLG) is the 'Managing Authority' (MA) in England for the European Regional Development Fund (ERDF). In 2015, MHCLG MA agreed an 'Operational Programme' for England (revised in January 2019) with the European Commission (EC) for ERDF that set out the activities and targets in exchange for the funding. The ERDF programme is delivered across England's 38 Local Enterprise Partnership (LEP) areas, each of which has a European Structural and Investment Fund (ESIF) Strategy to support local delivery. In London the LEP is known as the London Economic Action Partnership (LEAP).
- 1.2. The London ESIF Committee reports to the LEAP Board chaired by the Mayor and provides advice to the Managing Authority (and the GLA as an Intermediate Body in London), on the needs and opportunities in an area and on the strategic fit of applications for funding.
- 1.3. Article 123 of EC Regulation 1303/2013 states that a Member State may designate 'Intermediate Bodies' (IB) to carry out certain tasks of the MA. MHCLG MA has devolved responsibility for managing London's share of England's ERDF programme to the GLA as an IB. The relevant arrangements between MHCLG MA and the GLA are formally recorded in a Memorandum of Understanding.

Previous Mayoral Decisions

- 1.4. This request follows on from Mayoral Decision 2165 (November 2017) where the Mayor approved the commitment and award of up to £43m from the European Regional Development Fund (ERDF) to Amber Infrastructure Limited, to be invested through the Mayor of London's Energy Efficiency Fund (MEEF).
- 1.5. This MD is in line with the Mayoral Decision 1583 (March 2016) where the Mayor:
 - approved the designation of the GLA as an IB for the 2014-20 ESIF programme and concluding a Memorandum of Understanding between the GLA and MHCLG; and
 - delegated authority to GLA officers to conclude funding agreements and authorise payments.

Background to the Mayor of London's Energy Efficiency Fund

- 1.6. The Mayor of London's Energy Efficiency Fund (MEEF) launched in July 2018 and is just over 18 months into its five-year investment timeframe (which ends in May 2023 with the option for the GLA to extend to December 2023). MEEF provides flexible and competitive finance to new or retrofit projects that can clearly demonstrate renewables credentials, with investment of up to 20 years, for:
 - building retrofit and energy efficiency measures in public, commercial and residential properties;
 - the production and distribution of low carbon heat, including combined heat and power, tri-generation and communal/district heating generation and/or networks; and
 - small scale renewable energy generation.
- 1.7. The GLA procured Amber Infrastructure Limited (Amber) to act as the fund manager through a competitive procurement process. Amber successfully secured funding from private investors which, in addition to the £43million ERDF, makes MEEF an almost £500million fund. MEEF has won backing and endorsement from commercial lenders including Lloyds Bank, National Westminster Bank, Santander UK, Sumitomo Mitsui Banking Corporation and Triodos Bank.

- 1.8. Although there is no GLA funding in MEEF, an aim of the fund is to achieve a balanced portfolio across both ERDF requirements and outputs, and Mayoral objectives (including the London Plan and London Environment Strategy).
- 1.9. Amber, as fund manager for MEEF, has made three investments to date which are delivering energy and carbon savings to London. Both expenditure and outputs are currently on track to be achieved by May 2023.
- 1.10. As at 31 December 2019, circa. £18m ERDF has already been invested (circa. 42% of the £43m ERDF allocation). Experience from MEEF's predecessor, the 2007-2013 London Energy Efficiency Fund, is that from years 2-3 of the fund there is a marked uptake in the commitment of funds due to projects in the low carbon sector being complex and taking time to set up.
- 1.11. The pipeline is strong, and the £43million ERDF award is likely to be committed within the next 18 months. Additional ERDF will help ensure further investment in more major long-term initiatives. Match funding will be required to match the additional ERDF award. In this case, sufficient private sector funding of an equivalent amount is available.
- 1.12. The original procurement strategy and specification advised that the "Initial allocation by the GLA [£43m ERDF] may be increased, by an additional amount of public money not exceeding £75million, during the investment period of the Fund [to May 2023]." The award of up to £10.7m of public money (ERDF) falls within this £75m maximum.
- 1.13. Amber receives a fee for administering MEEF. The original procurement strategy and specification advised that if the initial allocation of £43m ERDF was increased by over £10m then there would be a percentage reduction in Amber's base and performance fees on any additional commitments above the £10m. Although this MD is seeking approval for up to £10.7m it is possible that, in practice, less than £10.7m will be awarded to MEEF. This is because up to £3m of the £10.7m is expected to be committed to another ERDF project that is currently undergoing appraisal (approved via MD2477). Officers will keep this under review, and should the pipeline project not proceed, and £10.7m ERDF be awarded, then a review of the fees will first be undertaken.

2. Objectives and expected outcomes

- 2.1 The commitment of an additional up to £10.7million ERDF will allow for the continued investment in the creation of a new low carbon infrastructure and enable Amber to support current and/or future investments within its pipeline. As the finance is repayable over time it will provide returns which can be re-invested by the GLA for similar activities. Its predecessor, the London Energy Efficiency Fund (LEEF), also managed by Amber, included £35m ERDF, of which circa. £3m has been returned to date, with a further circa. £32m forecast.
- 2.2 Amber is required to ensure that MEEF meets the objectives of the England ERDF Operational Programme (OP) that was agreed between MHCLG and the European Commission in 2015. The OP focusses on investment to support economic growth and job creation; and MEEF contributes to the OP's and London's objectives of moving towards a low carbon economy. MEEF provides finance to a range of projects which leads to the achievement of several environmental outcomes that will contribute to London's share of the overall OP targets. These include:
 - additional capacity of renewable energy;
 - decrease of greenhouse gases;
 - decrease in primary energy consumption of public buildings; and
 - improved energy consumption of households.

3. Equality comments

- 3.1. In its application to manage MEEF and receive ERDF, Amber committed to ensuring that the principle of equality is integrated into all aspects of pipeline development, implementation, monitoring and evaluation. In addition, no applicant is treated less favourably than any other on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, sex or sexual orientation.
- 3.2. The low carbon infrastructure in which MEEF invests (such as public buildings including hospitals) ensures that the benefits are experienced by all people irrespective of being members of under-represented or disadvantaged groups, or protected characteristics. The award of up to £10.7m will ensure continued benefit.
- 3.3. MEEF is funded by ERDF, supporting the England ERDF Operational Programme (OP). The OP sets out the requirements for adherence to mandatory equalities 'cross-cutting' themes. ERDF promotes equality in accordance with European Union and national requirements. Furthermore, the GLA as a public authority must comply with the Public Sector Equality Duty set out in section 149(1) Equality Act 2010. This provides that, in the exercise of their functions, public authorities must have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.4. The obligation in section 149(1) is placed upon the Mayor, as decision maker. Due regard must be had at the time a decision is being considered. The duty is non-delegable and must be exercised with an open mind.
- 3.5. This duty applies in the delivery of ERDF and means that the implementation of the England Operational Programme in London, must consider the needs of all individuals and have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people.

4. Other considerations

a) Key risks and issues

Issues

- 4.1 The Withdrawal Agreement signed by the UK and EU confirmed that EU-funded programmes in the UK will continue until their closure in 2023-4; and the Government will continue to seek re-imbursement from the EU in respect of these programmes. This means the ERDF committed to MEEF is not at risk.
- 4.2 MEEF is funded under ERDF Priority Axis 4 ("Supporting the Shift Towards a Low Carbon Economy in All Sectors") within the England Operational Programme. London was allocated £65.8m (doubled once match funding is included by grant recipients) of which £54m has been committed to six projects to date, including MEEF; a further £3m is also in the pipeline. In 2019, the London ESIF Committee¹ considered the commitment of any remaining Priority Axis 4 funding to MEEF; it confirmed its support in February 2020. The Committee agreed that there are no other viable options available for

¹ The London ESIF Committee provides strategic oversight of the European Structural & Investment Funds' European Regional Development Fund and European Social Fund programmes. It reports in to the LEAP.

committing the Priority Axis 4 ERDF to support low carbon activity in London. This is because MHCLG is not permitting any further local opportunities (calls for proposals) in London. Instead it plans to use uncommitted ERDF from across the 38 LEP areas to launch an England-wide call. Although London applicants could bid into this, there is no guarantee London would be favoured above applicants from elsewhere in the country.

- 4.3 In addition, the retention and commitment of Priority Axis 4 funding in London will help the Government achieve the target agreed with the European Commission that 5% of the UK's ERDF allocation is committed to 'Sustainable Urban Development'. London is the largest contributor to this target in the UK.
- 4.4 The amount of ERDF allocated to MEEF may be revised during the final approval process as officers work to conclude the ERDF contract variation and other fund documentation. However, it is not expected to exceed the amount as stated on the cover page of this Mayoral Decision; any increase would be approved in line with the delegations listed in Mayoral Decision 1583 and any subsequently-approved delegations.
- 4.5 *Exchange rate fluctuations.* The Sterling/Euro exchange rate is managed by MHCLG for ERDF. The GLA anticipates a review of the rate will be undertaken shortly, which is expected to reduce the amount of ERDF available in England. However, MHCLG would be liable to cover any shortfall; it will not be the GLA's responsibility. This means the award of up to £10.7m will be unaffected.

Risks

- 4.6 *MEEF is unable to achieve additional output targets in return for the additional ERDF.* MEEF will be expected to meet increased targets in return for additional funding. As with all ERDF-funded projects, officers will seek to agree realistic targets with Amber. Officers will monitor performance throughout the remaining project lifetime.
- 4.7 *Amber Infrastructure is unable to commit the existing ERDF and proposed additional ERDF.* There is a strong pipeline of investments about which the GLA receives regularly updates. Some attrition of the pipeline is inevitable but a) there are sufficient investments already in the pipeline; and b) there is enough time to secure additional investments, as MEEF has until May 2023 to commit its ERDF funding.

b) Links to strategies and strategic plan

- 4.8 MEEF investments contribute to London's share of the England ERDF Operational Programme targets. As part of its initial appraisal, MEEF was assessed on its alignment with the LEAP's ESIF Strategy. The London ESIF Strategy, which supports the Mayoral economic objectives for a competitive and fairer London, was approved by the LEAP's predecessor, the LEP.
- 4.9 In supporting the ERDF Operational Programme's objectives of moving towards a low carbon economy, MEEF helps to achieve the Mayor's ambition of London becoming a zero-carbon city. This includes working closely with other Mayoral programmes such as Retrofit Accelerator – Homes, Retrofit Accelerator – Workplaces, and the Decentralised Energy Enabling Project. By providing repayable finance to help establish low carbon infrastructure and encourage further investment in energy efficiency measures, MEEF helps achieve key objectives in the London Environment Strategy (which promotes energy efficiency and reductions in CO₂), the draft new London Plan and the Mayor's Economic Development Strategy for London (which seeks to create a supportive environment for businesses and entrepreneurs).

c) Impact assessments and consultation

- 4.10 The London ESIF Committee, which strategically oversees ERDF investment in London, was consulted on the proposal to award additional ERDF. This included consideration of MEEF's track record to date.

d) Declarations of interest

- 4.11 The individuals involved in drafting and clearing this document do not have interests to declare. For the record, Stuart Scott sits on the MEEF Advisory Committee. This committee is convened quarterly by Amber to oversee the progress of MEEF against its objectives². The committee is not part of the management nor investment decision-making structure of MEEF, and Stuart Scott is not additionally remunerated for this role.

5. Financial comments

- 5.1 Approval is being sought for the award of up to £10.7m from London's European Regional Development Fund (ERDF) to the Mayor of London's Energy Efficiency Fund (MEEF). This award will be used to enhance the low carbon infrastructure fund which provides repayable finance to new or retrofit projects developed by public, private and not-for-profit organisations.
- 5.2 Amber Infrastructure Ltd manage the Low Carbon Infrastructure Fund and will invest the money by May 2023 (subject to a possible extension by the GLA to December 2023). The amount invested as loans or equity will be classed as capital expenditure with fees treated as revenue. Initially this will be paid from the ERDF funding and later from any returns. There will be no costs to the GLA in awarding this additional funding to MEEF. The ERDF will go directly from MHCLG to Amber Infrastructure Ltd and not via the GLA.
- 5.3 As detailed in MD2165 the European Commission rules on when Amber Infrastructure can draw down on this additional award will still be upheld. Each tranche is paid based on the rate of investment: 25 per cent is paid at the outset; the next 25 per cent when 60 per cent of the first tranche is used; the third and fourth when 85 per cent of the previous ones have been invested.

6. Legal comments

- 6.1 Sections 1 to 4 of this report indicate that 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, social development or the promotion of the improvement of the environment, all in Greater London and in formulating the proposals in respect of which a decision is sought officers have complied with the GLA's statutory duties to:
- Pay due regard to the principle that there should be equality of opportunity for all people; and
 - Consult with appropriate bodies.
- 6.2 In taking the decisions requested, as noted in section 3 above, the Mayor must have due regard to the Public Sector Equality Duty under section 149 of the Equality Act 2010, namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.3 Sections 1 to 4 above indicate that the contribution will be up to £10.7 million ERDF to MEEF. Officers must ensure that the ERDF funding is awarded fairly, transparently and in accordance with

² The committee comprises Amber representatives, Stuart Scott, other GLA officers (who are not involved in the drafting or clearance of this MD) and external representatives.

the ERDF and MHCLG requirements. Officers must ensure the appropriate legal documentation is put in place and executed by Amber and the GLA before the use of the proposed additional ERDF.

7. Planned delivery approach and next steps

Activity	Timeline
Following Mayoral approval, a variation to the ERDF funding agreement, and associated documents, will be concluded with Amber.	From March 2020
EPMU will carry out the contract management of Amber in line with MHCLG instructions and guidance and in respect of the delegation limits set out in Mayoral Decision 1583 and any subsequent approvals.	Ongoing until at least 2023.

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

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:

Stuart Scott has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

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

✓

Mayoral Adviser:

Shirley Rodrigues 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 9 March 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Allen

Date

9.3.20

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

9/3/2020