

PART 2 – CONFIDENTIAL FACTS AND ADVICE

DD2222

Title: Good Growth Fund – Recommendations at Detailed Application Stage

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult the Information Governance team for advice.

The information below is not for publication until the stated date, because:

This paper recommends the establishment of a contingency fund. The first priority will still be to deliver projects within budget. Public knowledge of the potential availability of contingency funding (to the extent Good Growth Fund funding becomes available to enable this) may disincentivise delivery partners to take all possible steps to deliver projects within budget.

Date at which Part 2 will cease to be confidential or when confidentiality should be reviewed: **31 March 2020.**

Legal recommendation on the grounds of keeping the information confidential:

In the event of any request for access to the information contained in this document under section 1 of the Freedom of Information Act 2000 ("the Act"), it is considered this information would prejudice both the GLA's commercial interests and those of unsuccessful funding applicants in that: successful applicants experiencing project cost increases may be disincentivised from taking all possible steps to deliver projects within budget; and unsuccessful funding applicants may suffer the stigma of having made an unsuccessful application which might impact upon their ability to secure alternative funding. This is therefore covered by the exemption under section 43 of the Act.

Section 43 of the Act provides that information is exempt information if disclosure under the Act would, or would be likely to prejudice the commercial interests of any person (including the public authority holding it). The paragraph above states that the information is considered commercially sensitive as its release could affect:

- the GLA's ability to secure value for money in its grant of funding; and
- unsuccessful bidders' ability to obtain third party funding.

The section 43 exemptions are qualified exemptions and its use is therefore, subject to a public interest assessment.

Public Interest Assessment

At present, on balance, it is considered that the public interest is best served if the information is not disclosed at this point. Disclosure by the GLA would be likely to have a detrimental effect on:

- the GLA's ability to secure for value for public money and the efficient delivery of third party projects of benefit to London and Londoners;
- the delivery of projects not funded by the GLA but which may otherwise secure funding from third parties and be of benefit to London and Londoners.

The eligibility of this exemption should be reassessed in the event of an FOI request for this information as the level of sensitivity will change over time and different circumstances may alter the arguments in favour of non-disclosure.

Legal Adviser - I make the above recommendations that this information should be considered confidential at this time

Title Principal Lawyer - Commercial Law

Date 27 February 2018

Once this form is fully authorised, this should be circulated with the Part 1 form.

Confidential advice:

A recent programme level review of delivery highlighted a number of challenges that regularly impact project progress. Some, e.g. the release of funding on an annual basis by Government, are structural and not within our power to change. Others, e.g. flexibility to help address valid cost rises, are currently almost impossible due to our own approvals and procedures. This challenge is within our gift to resolve as set out below.

Experience suggests that following a cost increase as a result of tendering, a number of approved projects will fall away, while further projects will be delivered with a reduced scope, and that both of these scenarios will lead to an 'underspend' relative to the original approval for the overall Good Growth Fund funding envelope. The establishment of a reserve projects list was initiated to manage this issue on previous funds and it is proposed the same happens on the Good Growth Fund. Part 1 of the DD sets out that reserve projects will have first call on any funding made available by projects falling away and/or delivering a reduced scope. Making use of this funding in this way will ensure that overall GGF remains within the authorised overall funding envelope.

Reflecting findings of our programme level review we propose an additional measure be taken to enable more effective delivery on the Good Growth Fund. We are seeking approval for the retention of funding made available by projects falling away and/or delivering a reduced scope, beyond the combined value of reserve projects. It is proposed that this funding be allocated to existing Good Growth Fund projects that require small amounts of additional funding to deliver. Projects will be required to demonstrate that cost increases (up to a maximum of 10% of the individual project value) are valid and are in fact a barrier to successful delivery. Application of the 10% limit to individual project value uplift is within existing corporate guidance and avoids prejudicing the basis of original funding decisions. We are also seeking approval that authority to allocate this funding be delegated to the Executive Director of Development, Enterprise and Environment, in consultation with the Deputy Mayor for Planning, Regeneration and Skills in his role as Chair of the LEAP Investment Committee. Such approvals will be in line with a set of criteria to be established by the Executive Director of Resources in consultation with the Deputy Mayor for Planning, Regeneration and Skills in his role as Chair of the LEAP Investment Committee, to ensure a common approach is taken for any projects requiring such assistance. This would expedite decision making on modest sums of GLA funding and avoid unnecessarily delaying or losing otherwise sound projects from the Good Growth Fund. Overall programme spend would remain within the approved funding envelope for the Good Growth Fund.

Confidential decision:

That the Executive Director of Development, Enterprise & Environment approves the retention of funding made available by existing Good Growth Fund projects falling away and/or delivering a reduced scope (beyond the combined value of reserve projects), such funding to be allocated to existing Good Growth Fund projects that require small amounts of additional funding to deliver. Such decisions will be made by the Executive Director of Development, Enterprise and Environment, in consultation with the Deputy Mayor for Planning, Regeneration and Skills (Chair of the LEAP Investment Committee.)