

GREATER LONDON AUTHORITY

REQUEST FOR DIRECTOR DECISION - DD1393

Title: Project to Maximise Business Rates Income In the London Borough of Waltham Forest

Executive Summary:

Under the business rates retention scheme introduced in April 2013 the GLA receives 20% of all business rates income – 40% of the locally retained share - collectable by the 33 London billing authorities and benefits proportionately from any real terms incremental growth in the taxbase. In 2014-15 the GLA is forecast to receive an estimated £10.8m from the London Borough of Waltham Forest under the scheme and a further £1.3 million through the separate Crossrail Business Rate Supplement.

The Borough Council has approached the GLA to seek a contribution towards a business rates income maximisation project which has been procured from a recognised contractor in this field. This work will seek to identify assessments by rateable value which have been omitted from or are undervalued in the rating list. Subject to these changes being successfully added to or amended on the rating list by the Valuation Office it is estimated the GLA could receive additional ongoing rates income from the date the rating list is amended and potentially - if the adjustments are backdated - a one off sum for prior years.

The sum payable to the contractor requires that 10% of the rateable value identified is payable to them once the amendments have been made to the rating list and a maximum cap has been set on the aggregate payments by the Borough Council of £100,000. This decision seeks approval for the GLA to contribute 40 per cent of the costs - up to £40,000 - which would deliver an increase in rateable value of at least £900,000 and estimated additional rates income annually for the GLA of up to £98,000 at 2015 prices. No sum is payable by the GLA if there is no uplift in rates income arising from the project.

Decision:

The Executive Director Resources approves up to £40,000 as a contribution towards a project by the London Borough of Waltham Forest to maximise business rates income expected during 2015-16. The costs would be charged to the Mayor's Resilience Reserve initially - and reimbursed via the additional one off business rates income accruing and any ongoing uplifts annually payable to the GLA by the London Borough. The contribution would be repayable in certain circumstances where any uplift to the rating list is not sustained.

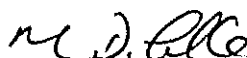
AUTHORISING DIRECTOR

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: MARTIN CLARKE

Position: EXECUTIVE DIRECTOR RESOURCES

Signature:



Date:

28.9.15

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 In 2014-15 the GLA is forecast to receive £10.8 million of income through the business rates retention scheme in respect of non domestic ratepayers in the London Borough of Waltham Forest. This is in line with the 20 per cent share of total business rates income – or 40 per cent of the locally retained share – which accrues to the GLA under the scheme. If there is net growth in the rates base each year in real terms this accrues to the GLA on the same percentage basis. The GLA also receives around £1.3m in Crossrail BRS revenues annually from the Waltham Forest Borough.
- 1.2 The London Borough of Waltham Forest has asked the Greater London to make a contribution towards a project which will seek to maximise business rates income by identifying additional hereditaments which are either not currently included on the Valuation Office's rating list or alternatively have an allocated rateable value which is understated.
- 1.3 The borough council has already procured specific software for a small one off charge and the GLA's contribution will be used to finance the rateable value finder project work undertaken with the support of the contractors. The finder's fee payable to the contractor is in proportion to the additional rateable value added to the Valuation Office's rating list which would result in additional business rates being payable on the assessments affected.
- 1.4 The aggregate sums payable by Waltham Forest to its contractor will equate to 10 per cent of the rateable value uplift made to the rating list as a result of the project work – of which 40 per cent would be payable by the GLA. The 10 per cent charge payable to the contractor would be capped at £100,000 and therefore the maximum the GLA would pay toward the project is £40,000 (i.e. 40% of this cap). It is anticipated that the GLA will make this contribution during 2015-16 but it could be later than this depending on when the related adjustments are made by the Valuation Office Agency to the non domestic rating list.
- 1.5 The maximum £40,000 contribution would be triggered by amendments to the rating list which would deliver an uplift of at least £1,000,000 in rateable value (i.e. ten times the £100,000 total cap agreed by the borough) which potentially would deliver up to an estimated £490,000 of ongoing additional income based on the 2015-16 NNDR multiplier of which just under £100,000 would accrue to the GLA in line with its 20 per cent share. Over five years therefore for a one off £40,000 investment the GLA would potentially secure additional rates income of around £500,000 i.e. a net surplus of over £460,000 or more than ten times the initial investment. If any changes to the rating list are backdated then potentially there could also be an additional one off benefit in 2015-16.
- 1.6 As the sum payable by the GLA is conditional on and proportionate to the rateable value added to the rating list there should be no net cost to it should the project not deliver additional rates income. The contract which Waltham Forest has entered into with its contractor also permits a refund of payments made on a pro rata basis by the contractor should the uplift in rating income not be sustained and/or the changes to the rating list be successfully appealed where this does not arise from a change in circumstances in the assessments affected after the project is completed. The GLA would, under the terms of its agreement with LB Waltham Forest, receive 40 per cent of any refund made by the latter's contractor.

- 1.7 Waltham Forest is making a legitimate request for GLA support as billing authorities do not explicitly receive additional funding central government to fund the costs of business rates maximisation and any investment they make which increases the size of the rating list benefits the GLA financially on a proportionate basis. The funding will not be used to resource the borough council's normal collection and enforcement work in respect of business rates which is met through its cost of collection allowance granted to it as a billing authority by the Secretary of State.
- 1.8 Any additional rateable value added to the rating list in the 2015-16 financial year in year would be transferred to the GLA in cash terms through the collection fund surplus or deficit forecast prepared in January 2016. This would be payable through an adjustment to the 2016-17 instalments made under the rates retention scheme. Similar arrangements would apply should any in year adjustments be made in 2016-17 or subsequent years. This will include any backdated sums due for prior years in addition to any extra sum collectable in year if applicable. The aggregate additional rateable value identified and secured will then form part of the baseline rating list in future years and any benefit will accrue to the GLA in line with its 20 per cent share on an ongoing basis – or whatever percentage share may apply in future years.
- 2. Objectives and expected outcomes**
- 2.1 Waltham Forest has contracted a recognised rating expert to review its rating list in order to identify hereditaments which have been omitted from the local rating list or were incorrectly valued through its tailored software and project management tools.
- 2.2 The Council has already procured the licence for the interrogation software required for a small one off fee which is required to undertake the project. The project tools within the software bring together a wide range of commercial property data into a flexible and sophisticated case management system and provide key calculation and estimation of potential increases in yield.
- 2.3 The project interrogation tool used by the contractor will seek to identify assessments either omitted from the non domestic rating list entirely or undervalued.
- 2.4 Under the terms of the agreement between Waltham Forest and its contractor the latter would receive 10% of the additional rateable value identified as a one off payment after it is confirmed that these assessments/amendments have been adjusted on the Valuation List subject to a maximum annual cap of £100,000. This maximum £100,000 payment would be triggered by a £1,000,000 (or higher) uplift in rateable value based on the 10 per cent fee. If the assessments added or amendments made to existing valuations were subsequently reduced or removed following a successful rating appeal the payment to the contractor would be recoverable on a pro rata basis. This repayment would not apply where any subsequent amendments to the rating list are made as a result of a change in circumstance relating to the assessments concerned.
- 2.5 In light of the shared benefits Waltham Forest has requested that the GLA contribute 40% of the cost of the one off payment to the contractor i.e. its share of the 50% local retention share under the business rates retention scheme. If the consultant's work does not generate any additional rates revenues in respect of the assessments identified – the cost is in effect zero to the GLA. Any contribution payable will vary depending on the additional rateable value identified by the project and added to the rating list by the Valuation Office.

2.6 In summary therefore

- The contractors will identify additional rateable value which could be added to the rating list in Waltham Forest – for which they would receive a total payment equating to 10% of the rateable value identified and secured subject to a maximum payment of £100,000. Of this the GLA would contribute up to £40,000 (i.e. 40%) if the VOA amended the list to reflect these assessments. If the sums added to the rating list were subsequently lower the GLA payment would be reduced accordingly on a pro rata basis;
- Based on the maximum one off £40,000 contribution estimated additional rates income of up to £98,000 per annum is expected to be generated for the GLA based on its 20 per cent share – assuming a minimum increase in rateable value of £1,000,000. Additional backdated sums for prior years may also be payable. Allowing for inflation in the NNDR multiplier of around £500,000 additional income would be expected to be secured over five years for the GLA in line with its 20% share for its £40,000 contribution. Additional backdated sums for prior years may also be payable;
- Potentially additional Crossrail BRS income could also be generated annually of up to £20,000 – if the assessments affected have rateable values above the qualifying threshold of £55,000.

3. Equality comments

- 3.1 There are no direct equality implications for the GLA as the project will be managed by the London Borough of Waltham Forest and any staff employed on the project will be recruited by it under its terms and conditions and any contract it enters into will be under the terms of its procurement code. The Council should have regard to appropriate equality considerations in its role as a public authority under relevant legislation.

4 Other considerations

- 4.1 The project will be self financing with any up front costs being offset by additional non domestic rating income generated – due to the fact that the GLA receives 40% of any rateable value growth but is only required to make a one off contribution to the contractor via LB Waltham Forest equivalent to 4% of any rateable uplift made to the rating list. If no net additional non domestic rating is generated through additions or uplifts to the local rating list made by the Valuation Office no payment will be made. Any sums paid to LB Waltham Forest are recoverable on a pro rata basis in certain circumstances where the reversal of any rating list amendment does not arise due to a change of circumstance. This is on the basis, as the GLA has been advised, that LB Waltham Forest's agreement with its contractor includes a recovery mechanism in such circumstances.
- 4.2 There is a marginal risk that the Council's contractor ceases operations and/or goes into administration or liquidation and therefore is unable to refund any project sums overpaid – resulting in the possibility that the GLA will also be unable to recover these sums. The contractor is a large rating agent and commercial property specialist and therefore this is considered unlikely. However it is also considered unlikely that the residual retained business rates income (after any refunds due to ratepayers were the additions/amendments to be partially reversed) will be lower than the GLA's £40,000 maximum contribution. It is also possible of course that if the occupiers of the properties added to or amended on the rating list become eligible for rates relief the increase in rates income could be lower than forecast. Overall however these risks are considered marginal compared to the potential gains and in any case the GLA would expect its one off contribution to repaid in full after four months of the related uplift in the non domestic rating list.

5. Financial comments

- 5.1 In 2014-15 the GLA is forecast to receive an estimated £10.8m from the London Borough of Waltham Forest under the business rates retention scheme and a further £1.3 million through the Crossrail Business Rate Supplement.
- 5.2 The Council collects non domestic rates and Crossrail Business Rate supplement revenues on behalf of the GLA in respect of its relevant share (20% and 100% respectively) but does not receive discrete additional funding to support work which maximises the size of the rating list – and therefore the level of rating income. Its funding – via the respective cost of collection allowances – is purely for its billing and enforcement duties. It is therefore reasonable for the GLA to be asked to contribute towards efforts to maximise the size of the rating list and address undervaluations of particular assessments relative to their correct market rateable value.
- 5.3 The GLA has been asked therefore to contribute towards 40% of the costs of a proposed rates maximisation project in line with its locally retained share. Its contribution is conditional on the omitted/undervalued hereditaments being amended on the rating list by the Valuation Office Agency. The sums paid would be recoverable in certain cases if the revised/amended valuations were subsequently removed from or reversed on the rating list following a successful appeal. Waltham Forest would recover any sums due from the contractor and repay 40% of this to the GLA. No repayment would apply where the amendment arose due to a change of circumstance in respect of the hereditament(s) affected following the original change to the rating list.
- 5.4 It is estimated that any additional revenues generated in year would be transferred to the GLA in cash terms through the estimated collection fund surplus/deficit adjustment made to instalments in the following year. The ongoing impact would result in an uplift in annual rates income baseline thereafter.

6. Legal comments

- 6.1 The London Borough of Waltham Forest is the billing authority for non-domestic rates in its area under the Local Government Finance Act 1988. Under section 41 of that Act it is the responsibility of the valuation officer for a billing authority to compile, and then maintain, its local non-domestic rating lists. It is understood that the Borough does not receive discrete funding from government grant to assist in maximising the size of the rating list.
- 6.2 The GLA has an interest in maximising business rates income in the borough as it receives 20 per cent of any additional revenues collected – equating to 40% of the locally retained share. It is therefore legitimate for GLA resources to be used to support this project, in what is understood to be the reasonable expectation that it will generate additional revenues significantly in excess of the amount contributed.
- 6.3 Under section 34 of the GLA Act the GLA has the power to do anything calculated to facilitate the exercise of the GLA's functions. Taking steps to increase revenue is so calculated. This power is subject to the limitation that the GLA may not raise money by virtue of it, except in accordance with relevant legislation; in the present case any money to be raised is to be raised in accordance with the relevant legislation. Reasonable expenditure designed to achieve a better level of business rates income for the GLA, through improvement of the non-domestic rating list of a Borough, is therefore within the power of the GLA.
- 6.4 Any formal arrangements or agreements with the London Borough should be approved by the Commercial law team.

7. Planned delivery approach and next steps

7.1 The planned project delivery is set out below:

Activity	Timeline
Procurement of contract	Summer 2015
Confirmation of assessments omitted from or undervalued in rating list	By March 2016 as target date but this could be extended.
Negotiations to add assessments to rating list with Valuation Office	By March 2016 as target date but this could be extended.
Payment made by LB Waltham Forest to contractor and by GLA to LB Waltham Forest based on its 40 per cent share	Expected by March 2016 but could be later – no payment is triggered until rating list uplift/amendments are made
Amendments made by Valuation Office to non domestic rating list – resulting in adjustments to ratepayer bills	Expected by March 2016 but could be later
Earliest date by which revenues would start to be received by GLA as a result of uplift in cash terms to 2016-17 instalments through the estimated collection fund surplus/deficit for LB Waltham Forest in respect of 2015-16 calculated in January 2016	1 April 2016
2015-16 collection fund outturn and NNDR3 outturn returns for LB Waltham Forest reflecting audited uplift which would be incorporated in the GLA's accounts on a pro rata basis (2016-17 equivalent in brackets).	30 September 2016 (30 September 2017 for 2016-17 outturn)
Latest date by which GLA could recover its pro rata share of the project contribution – if the amendments/additions to the rating list were reversed in full or in part providing this did not arise due to a change of circumstance in respect of the assessments affected.	31 March 2020

Appendices and supporting papers:

None

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? NO

If YES, for what reason:

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

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:

Martin Mitchell, GLA Group Finance Manager has drafted this report in accordance with GLA procedures and confirms that:

✓

Assistant Director/Head of Service:

David Gallie, Assistant Director Finance 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 which originates from Finance, 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

M. J. Blö

Date

28.9.15

