

DIRECTORATE OF AUDIT, RISK AND ASSURANCE
Internal Audit Service to the GLA

**INTERIM REVIEW OF ROYAL ALBERT DOCK
PROCUREMENT**

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1. Background

- 1.1 This review has been carried out at the request of the GLA Head of Governance and Risk and is in addition to the GLA 2014/15 Audit Plan.
- 1.2 Royal Albert Dock (RAD) lies within the LB Newham and its redevelopment has been the subject of a competitive process, initiated by the London Development Agency (LDA) in May 2011 and completed by the GLA following the abolition of the LDA and transfer to GLA in April 2012. In May 2014 the procurement process closed with Advanced Business Parks (London) Investment Limited (ABP) being chosen as the preferred bidder.
- 1.3 At the outset of the review we agreed to focus on three key potential areas of the RAD procurement process providing assurance that the following risks were managed effectively;
- Ineffective procurement governance framework
 - Non-compliance with internal procedures and legislative requirements
 - Non-compliance with the requirements for transparency in the bid evaluation process and equal treatment during the bidder engagement process
- 1.4 In particular, we sought to give an assurance that:
- A defined procurement strategy was in place that supported the LDA and GLA strategic objectives.
 - RAD procurement process was compliant with the LDA's Procurement Code and Standing Orders and the GLA's Contract and Funding Code, Financial Regulations, Scheme of Delegation and EU procurement requirements.
 - Bid evaluation criteria and weightings had a clear rationale consistent with the Mayor's Development Strategy, were clearly communicated to bidders and were subject to legal review.
 - Access to LDA/GLA staff during the bidder engagement to the People's Republic of China (PRC) was for clearly defined business needs and was properly managed.

2. Audit Scope and Approach

- 2.1 The abolition of the LDA in March 2012 and subsequent staff departures meant that we were unable to interview all key officers involved in the RAD procurement process. As a consequence this review is primarily based on a 'desk top review' of the available documentation and evidence and, where possible, interviews with remaining staff.
- 2.2 We reviewed the effectiveness of the LDA's procurement governance framework in relation to the RAD development up to its abolition in March 2012. We also placed reliance on our previous review of the GLA procurement framework conducted in

September 2014, which gave an adequate assurance rating, for the post transfer period, April 2012 onwards.

- 2.3 We reviewed the RAD procurement process for compliance with LDA and GLA requirements, the transparency of the bid evaluation criteria and weightings used during the whole process and the bidder engagement process in relation to the LDA/GLA's international engagement to the PRC in September 2011. Due diligence was undertaken but has not formed part of our review.

3. Audit Assurance

Substantial

There was a sound framework of control to mitigate the key risks reviewed, which contributed to the achievement of key objectives of the RAD Procurement Process.

In particular;

- A defined and appropriately approved procurement strategy for the RAD was in place that supported the LDA and GLA strategic objectives.
- The procurement process followed was in line with the strategic approach and the LDA's Procurement Code and Standing Orders and the GLA's Contract and Funding Code, Financial Regulations, Scheme of Delegation and EU procurement requirements.
- Bid evaluation criteria and weightings were clearly defined and approved. They had a clear rationale consistent with the Mayor's Development Strategy, were clearly communicated to bidders and were subject to legal review.
- Access to LDA/GLA staff during the international engagement to the People's Republic of China (PRC) was supported by a clearly defined business need, senior management approval and specific legal advice that was acted on.

4. LDA Procurement Framework and RAD Procurement Strategy

- 4.1 For the period up to the transfer to the GLA in April 2012, the LDA had comprehensive Standing Orders in place which were up to date, having been amended in May 2011 and approved by the LDA Board.
- 4.2 We reviewed the Standing Orders and found that they cover all expected areas of business and clearly set out the roles and responsibilities of officers through committee and board terms of reference and the Scheme of Delegation.
- 4.3 Included in the Standing Orders were detailed financial regulations and Standing Order 4 and Appendix 10 sets out the LDA's Procurement Code, defining the scope, responsibilities and expected standards of conduct. In addition a Procurement Code Framework was in place which defined the requirements of each phase of the commissioning/procurement life cycle.
- 4.4 In July 2011 LDA Investment Programme Board (IPB) reviewed the various procurement routes available for the development of RAD, namely Land Sale, Joint Venture and Development Agreement, contained within the business case. This also demonstrated the strategic fit with the Mayor's Economic Development Strategy. After review of the detailed analysis and option appraisal presented in the business case, the IPB chose the preferred option - the Development Agreement route and the Procurement Strategy for RAD drawn up which was approved by the LDA Board.
- 4.5 The Procurement Strategy agreed specified a Competitive Dialogue process which allowed for bidders to develop alternative proposals in response to the LDA's outline requirements as set out in the 'Memorandum of Information for Pre-Qualification Questionnaire'. Only when proposals are developed to a sufficient detail are tenderers invited to submit competitive bids. The process was supported by an external property and legal consultant team.

5. Compliance With LDA/GLA Procurement Process

- 5.1 We obtained from GLA Housing and Land Directorate a detailed timeline for the RAD procurement process and reviewed the supporting documentation.
- 5.2 We found that for each stage or Gateway of the procurement process there was evidence of;
 - Senior management, Investment Programme Board (IPB)/Housing Investment Group (HIG) review and approval
 - Legal and financial review of key documents
 - LDA Board and Mayoral Approval
 - Timely communication with potential and actual bidders

- 5.3 The process complied with EU requirements, with OJEU notices published, along with the required supporting documents, such as the Pre-Qualification Questionnaire (PQQ) and a Memorandum of Information at PQQ stage and formal invitations to Continue in Dialogue at Outline and Detailed solutions stage and at final tender stage.
- 5.4 We reviewed supporting evidence for the Panel Assessments at PQQ, Outline Solution, and Detailed Solution and Final Tender stage and found that assessments were carried out and documented by approved officers. Scores were reviewed and moderated by senior LDA/GLA staff to ensure consistency in line with approved procedures. This part of the process was adequately documented and evidence retained.
- 5.5 The competitive dialogue process was followed initially under the LDA and subsequently by the GLA following the transfer of functions in 2012 in line with the agreed strategic approach.

6. Bid Evaluation Criteria and Weightings

- 6.1 The bid evaluation criteria and weightings were clearly defined for the Outline Stage (ISOS) at the outset of the procurement process with key elements including; Vision and content, financial return and delivery and contract terms each of which were supported with detailed sub criteria. Criteria was approved by the LDA Board and Housing Investment Group and communicated to all potential bidders at the appropriate stage.
- 6.2 In May 2012, following the transfer to the GLA, the Outline Solution stage was completed with three bidders, ABP, Muse and Wrenbridge, passing through to the Invitation To Continue Dialogue (ITCD) stage. As part of this Detailed Stage (ITCD) changes to the bid evaluation criteria weightings were proposed and accepted by HIG. The main change made was in the “Financial Return and Delivery Programme” weighting which represented 30% of the overall scores available. Weightings for “Early Delivery”, one of three sub criteria, within “Financial Return and Delivery Programme” increased from 10% to 15%. The Early Development criteria became a pass/fail test for the evaluation as greater emphasis was placed on the GLA requirement for early delivery.
- 6.3 The Mayoral decision MD1007 in June 2012 noted the evaluation panel’s recommendations to select the three bidders and noted the next part of the process which would lead to the Final Tender Stage. The evaluation criteria were included in the supporting documentation for the decision.
- 6.4 The three remaining bidders were informed of the evaluation criteria, which included the changes, for this stage of the process via the ITCD ‘Information For Bidders’ pack to ensure fairness and transparency in the process.

- 6.5 Wrenbridge subsequently failed to achieve the minimum score required for “Early Delivery” at this stage of the process and were eliminated, and Muse withdrew from the process citing its inability to secure occupiers to support a second stage submission. ABP met the documented ITCD criteria achieving the highest score. They were then approved as the preferred bidder by the Mayor per published MD 1208.

7. Bidder Engagement in the PRC

- 7.1 The market response at the Expression of Interest stage in May 2011 included interest from three PRC developers, including ABP. The LDA considered that the PRC potential bidders’ lack of experience and knowledge of UK land investment/development and unfamiliarity with UK procurement processes put them at a disadvantage to UK potential bidders. An international engagement to PRC was, therefore, proposed to put PRC developers on an equal footing with UK potential bidders. A business case for the business engagement in PRC was reviewed and accepted by the LDA Chief Executive in July 2011.
- 7.2 The international engagement to PRC took place in September 2011 with a team comprising the LDA Director of Land and Development, the GLA Assistant Director for Government and Internal Relations, the GLA Advisor on Budgets and Performance and a procurement consultant from Driver Jonas Deloitte.
- 7.3 We reviewed the documentation retained relating to the international engagement and found;
- A business case outlining the purpose of the international engagement and including costs for foreign travel, was signed off by the Chief Executive of the LDA.
 - The budget for GLA and LDA attendees was approved by the Head of Paid Service for the GLA and the Chief Finance Officer for the LDA.
 - Potential risks to the fairness of the RAD procurement process were identified by LDA legal, and mitigating actions were proposed and accepted by the LDA Board.
 - Risk mitigations were summarised in a “Note of Conduct” which was accepted by the LDA and issued to attendees.
- 7.4 The comprehensive “Note of Conduct” produced by the LDA legal team advised on governance issues and made it clear that adherence to the Principles of Public Life was a pre-requisite. The following key requirements were also clearly defined:
- Equal treatments to be ensured via the use of a LDA Legal reviewed script for all developer meetings.
 - Notes to be taken for all meetings including questions and answers, to be submitted to LDA Legal on return to the UK.
 - Provide notes of meetings to the legal team.
 - Maintain diary of all meetings and their duration
 - Offer meetings to other bidders

KEY FINDINGS

- 7.5 Our review of the notes of meetings retained by the GLA Legal team indicate that the script for developer meetings was followed and that detailed minutes were taken for all meetings and submitted to LDA Legal as required.
- 7.6 In response to the legal advice previously obtained a London “Bidders Day” also took place in September 2011 which was attended by 16 mostly UK based companies.

AUDIT ASSURANCE RATINGT – DEFINITIONS

Overall Rating	Criteria	Impact
Substantial	There is a sound framework of control operating effectively to mitigate key risks, which is contributing to the achievement of business objectives.	There is particularly effective management of key risks contributing to the achievement of business objectives.
Adequate	The control framework is adequate and controls to mitigate key risks are generally operating effectively, although a number of controls need to improve to ensure business objectives are met.	Key risks are being managed effectively, however, a number of controls need to be improved to ensure business objectives are met.
Limited	The control framework is not operating effectively to mitigate key risks. A number of key controls are absent or are not being applied to meet business objectives.	Some improvement is required to address key risks before business objectives can be met.
No Assurance	A control framework is not in place to mitigate key risks. The business area is open to abuse, significant error or loss and/or misappropriation.	Significant improvement is required to address key risks before business objectives can be achieved.

