

REQUEST FOR ASSISTANT DIRECTOR DECISION – ADD2136

Title: Electricity Market and Regulation: Consultancy Support

Executive Summary:

The Environment Smart Energy team requires specialist energy markets and regulation advice in regard to its existing projects and activities for financial year 2017-18. The specific areas relate to commercial support for the Licence Lite project, the regulatory aspects of "Investment Ahead of Need" in connection with electricity infrastructure and guidance in responding to relevant government consultations.

This request seeks approval to spend up to £25,000 from the GLA Environment 2017-18 budget for Licence Lite for the consultancy support.

Exemption is also sought, in accordance with the GLA Contracts and Funding Code, to procure the services of Robert Tudway due to the highly specialist nature of the services, his experience of working for the GLA on these matters and associated cost-benefits of this appointment. The final appointment will be the subject of a IR35 High Level Vetting Form for Services Contracted.

Decision:

That the Assistant Director of Environment approves:

1. allocation and expenditure of £25,000 on specialist energy market and regulation advice and project support services from Robert Tudway; and
2. a related exemption from the requirement of the GLA's Contracts and Funding Code that such services be procured competitively.

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: Patrick Feehily

Position: Assistant Director Environment

Signature:

Patrick Feehily (for Patrick Feehily)

Date:

17/7/17

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

The Licence Lite project is designed to support the development of decentralised energy in London and when operational the Licence Lite project would fall within the Energy for Londoners project, the establishment of which was approved by Mayor under cover of MD1542. The GLA's application to Ofgem for a Licence Lite licence was approved and varied subsequently by the Executive Director - Development, Enterprise & Environment under cover of DD897 and DD1416, on the basis that an MD is obtained before any commitment to supply electricity is made.

Licence Lite addresses a market failure preventing decentralised energy generators adequate access to the electricity supply market. Licence Lite will allow local generators to sell their electricity at better prices increasing their income and as a result, improve investment opportunities in decentralised energy schemes.

The expected outcomes from the Licence Lite project are:

- to fulfil the Mayor's manifesto pledge to 'buy clean energy generated across the city, using it to power GLA and TfL facilities'; and
- increase the certainty and accelerate delivery of the Mayor's Climate Change and Energy Strategy regarding:
 - stimulating and developing affordably-priced markets for locally generated electricity;
 - the contribution decentralised energy can make to reducing CO₂ emissions, particularly solar generated electricity; and
 - the increased uptake of more investment in decentralised energy systems incorporating heat networks in London, bringing forward in excess of an estimated £300 million of additional investment, with the accompanying short term construction jobs and permanent jobs in operating the energy centres and networks; and thereafter larger amounts of investment and numbers of jobs as the potential for decentralised energy in London is realised.

The GLA is in the best position to rectify the market failure. The GLA has the knowledge and expertise to implement the Licence Lite route to market and although there is strong interest in Licence Lite amongst the smaller generators, they have been held back from taking a lead both because of the complexity involved and apparent unwillingness to risk time and money on a new venture that will benefit their competitors as much as themselves. Once the first Licence Lite operation is established, Licence Lite applications can be made by others on a relatively standardised basis, using the same basic documentation and implementation procedures.

2. Objectives and Expected Outcomes

Services Required

The Environment Smart Energy team requires specialist energy markets and regulatory advice to continue its work on specific projects and associated activities for financial year 2017-18. The specific areas relate to commercial support for the Licence Lite project, the regulatory aspects of "Investment Ahead of Need" regarding electricity infrastructure, and guidance in responding to relevant government consultations.

The Economic Business Policy Unit (EBPU) team is leading the "Investment Ahead of Need" initiative, and the costs of the support work shall not exceed £5000 and will be recharged to the EBPU budget in accordance with the work carried out.

In summary, the services required to help finalise the agreements for the Licence Lite project include:

- generator power purchase agreements;

- power supply agreement with TfL;
- Third-Party Licence Supplier services; and
- granting of the junior electricity supply licence from OGEM.

The consultant will also:

- assist Peter North. Senior Manager, Programme Delivery – Sustainable Energy, to prepare the MD seeking the Mayor's authorisation to enter the necessary agreements and arrangements and to become operational in August 2017 with the first electricity be traded in October 2017; and
- be available for ad hoc advice on energy regulatory and market matters and consultations.

Exemption

Given the value of the proposed contract, GLA officers acknowledge that section 9 of the GLA's Contracts and Funding Code ("Code") requires that contracts with values between £10,000 and £150,000 are procured competitively or called off from a framework. However, section 10 of the Code provides that exemptions from that requirement may be approved where: a supplier has had previous involvement in a specific current project; or to do so involves the continuation of existing work that cannot be separated from the new project/work.

Robert Tudway was a Sustainable Energy Strategy Officer for five years as an employee of the GLA and retired in March 2017. Prior to that, he fulfilled the same role as an employee of the London Development Agency for four years and seven months. Formerly, Tudway was a partner with the law firm Nabarro leading their climate change energy practice. His work involved a combination of specialist knowledge of the regulatory and market structures for the electricity sector and as a projects lawyer.

During his ten-year association with the GLA, he acquired extensive know-how and experience of dealing with energy and infrastructure issues in the context of the GLA and the Government. He led the development of the Licence Lite project having prepared the suite of commercial agreements in conjunction with the external consultancy support. He managed the licence application to Ofgem.

Tudway was instrumental in formulating the delivery options for the "Investment Ahead of Need" electricity infrastructure project that came from the Mayoral initiative addressing developers' concerns that the cost and timing of new electricity infrastructure was holding-up development in London.

Costs

Tudway will provide services on a consultancy call-off basis until the end of financial year 2017/18 to a maximum value of £25,000.

The proposal is based on a charge rate £53 per hour for 472 hours over one year. This is equivalent to approximately 64 days per year or 1.5 days per week given a 40-week working year and is inclusive of travel within London.

The costs are the equivalent of his former GLA Grade 10 position and is therefore considered to provide value for money.

3. Equality comments

The appointment of an individual for consultancy advice has no direct equality issues. Their help in successfully delivering the project would contribute towards affordable sustainable energy outcomes benefiting the fuel poor.

4. Other considerations

1. Tudway's appointment will be the subject of IR35 High Level Vetting to ensure employment law issues do not apply. In this regard, he will not manage GLA officers and will be managed by the GLA by reference to his contract, the call-off specifications and associated contract milestones and deliverables.
2. Key risks and issues are set out below:

| | Risk description (cause, 'risk event', potential impacts) | Probability (1-5) | Impact (1-5) | RAG | Mitigation/Risk response (state if the response is done or pending) | GLA Owner |
|---|--|------------------------------|-------------------------|------------|--|----------------------|
| 2 | Consultant fails to perform | 1 | 4 | G | Previous performance very good – risk unlikely to materialise. The consultant will be required to agree GLA terms to afford GLA sufficient protection against lack of performance. | PKN |

3. The links to Mayoral strategies and priorities

The Licence Lite project has been designed to support the development of decentralised energy in London by allowing local generators to sell their electricity at better market prices. The project delivers the Mayoral manifesto commitment to 'buy clean energy generated across the city, using it to power GLA and TfL facilities'. The project will contribute towards the Mayor's commitment for London to be a zero-carbon city by 2050 forms part of the new London Environment Strategy proposal to *Help implement large scale decentralised and low carbon energy projects, including stimulating demand from the GLA group.*

"Investment Ahead of Need" supports the Mayor's economic development strategy in that it removes the barrier a lack of infrastructure could create that would hold-back the progress of new development and investment in London.

4. Financial comments

Assistant Director's approval is being sought for expenditure of up to £25,000 to appoint a consultant specialising in the energy market and to provide regulatory support for the Licence Lite Project. The cost will be funded from Licence Lite Markets & Regulation 2017-2018 income Budget as per MD1542.

6. Legal Comments

6.1 The above sections of this report indicate that:

- 6.1.1 the decisions requested of the Assistant Director concern the exercise of the GLA's general powers, falling within its statutory powers to do such things considered facilitative of or conducive to and incidental to the discharge of the GLA's principal purposes; and

6.1.2 in formulating the proposals in respect of which a decision is sought officers have complied with the GLA's related statutory duties to:

- (a) pay due regard to the principle that there should be equality of opportunity for all people;
- (b) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
- (c) consult with appropriate bodies.

6.2 Section 10 of the GLA's Contracts and Funding Code ("Code") requires that contracts with values between £10,000 and £150,000 are procured competitively or called off from a framework. However, section 10 of the Code provides that exemptions from that requirement maybe approved where: a supplier has had previous involvement in a specific current project; or to do so involves the continuation of existing work that cannot be separated from the new project/work. GLA officers have stated, at section 2 of this report that such circumstances exist in this case. Therefore, if satisfied with the content of this report, the Assistant Director may approve the exemption and award of contract.

6.3 Should the Assistant Director approve the recommendations of this report officers must ensure that appropriate contract documentation is put in place between and executed by the GLA and the proposed service provider before commencement of the services in question.

6.4 In taking the decisions requested, the Assistant Director must also have due regard to the Public Sector Equality Duty; 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 foster good relations between persons who share a relevant protected characteristic and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Assistant Director should have particular regard to section 3 (above) of this report.

7. Planned delivery approach and next steps

The energy regulatory and market consultant will be procured under a single source justification.

| Activity | Timeline |
|------------------------|-----------------------------|
| IR35 vetting completed | 19 th July 2017 |
| Services contracted | 21 st July 2017 |
| Services completed | 31 st March 2018 |

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? YES/NO**

If YES, for what reason:

The main project the consultant will be supporting is the subject of a specific policy proposal in the new London Environment Strategy (LES). This ADD should not be made public prior to the publication of the LES consultation.

Until what date: (a date is required if deferring) After the publication of the LES consultation.

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 – YES/NO

ORIGINATING OFFICER DECLARATION:**Drafting officer:**

Peter North has drafted this report in accordance with GLA procedures and confirms that the Finance and –if relevant- Legal teams have commented on this proposal as required, and this decision reflects their comments.

Corporate Investment Board:

The Corporate Investment Board reviewed this proposal on 17 July 2017.

HEAD OF FINANCE AND GOVERNANCE:

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

Signature:



Date:

17.07.17