

PART 2 – CONFIDENTIAL FACTS AND ADVICE

MD2156

Title: Admission of LB Haringey into the GIS and treasury management Shared Service

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.

This information is not for publication until the stated date, because it is commercially confidential until the conclusion of commercial negotiations with the proposed supplier of certain investment services, until the outcome of the GLA's internal review and the GLA's tender process for a FSMA 2000 authorised firm to provide certain investment activities as further described in Part 1 of the MD.

Date at which Part 2 will cease to be confidential or when confidentiality should be reviewed: July 2018 but subject to the review as described in part 1 of the MD.

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 that access can be denied on the basis that the disclosure of such information would prejudice the GLA's commercial interests and therefore, is covered by the exemption under section 43 of the Act.

Section 1 of the Act creates the general right of access, which provides that any person making a request for information to a public authority is entitled:

- to be informed in writing by the public authority whether it holds information of the description specified in the request; and
- if that is the case, to have that information communicated to him/her.

Part II of the Act contains several exemptions from disclosure for certain classes of information. 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 negotiate the contract with the proposed supplier.

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 commercial interests and the delivery of the proposed investment services; and
- GLA's delivery of this service which promotes economic development and wealth creation in Greater London.

The eligibility of these exemptions 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

Name: Rachael Dunn

Date: 10 July 2017

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

Confidential decision and/or advice:

As set out in the Part 1 report, to admit the LB Haringey and potentially other London Boroughs to the GIS the GLA requires certain investment activities to be carried out by a Financial Services and Markets Act 2000 (FSMA) authorised firm.

A single source tender has been considered and approved by TfL Procurement to allow the GLA to approve Disruptive Capital Finance LLP (DCF) or a subsidiary of DCF (to be determined) to be the FSMA 2000 authorised firm. This single source form is appended to this Part 2 form. This will be a short-term contract which will be subject to an internal review described in the Part 1 report and to be subject to an applicable tender process in compliance with the GLA's Contracts and Funding Code to be concluded by July 2018.

The reasons for the selection of DCF as the single source tender supplier are to ensure that the LB Haringey can be admitted to the GIS and can borrow funds by September 2017.

The choice of DCF (or a subsidiary of DCF), to be the FSMA 2000 authorised firm arises from the present role of the GLA's Chief Investment Officer (CIO). At present this post-holder works three days a week for DCF and two days a week for the GLA. The CIO is authorised as an 'Approved Person' by the Financial Conduct Authority (FCA) to undertake on behalf of DCF (as an FSMA 2000 authorised firm) investment management services required by the GIS and proposed wider treasury management services agreement.

GIS arrangements will only change in that relevant investment functions will formally be carried out by DCF as the FSMA 2000 approved firm, with the CIO as the FSMA Approved Person supervising GLA personnel seconded to DCF for those activities only. All relevant affected GLA staff are aware of the proposals and discussions have been held with Human Resources.

In practice, service delivery will continue via the existing Group Treasury operations team. Those officers' terms and conditions, as GLA employees, remain wholly unaffected as do the practical details of their work and place of work. Their secondment terms will however ensure they abide by DCF's compliance manual and are operating under the supervision of an Approved Person when conducting investment functions.

This arrangement is possible because of the existing relationship between relevant personnel and the assurances that the CIO can give to DCF over the robustness of GLA treasury operations.

The existing GIS agreement and each GIS participant's Treasury Management Strategy permits the appointment (by the GLA) of external consultants.

DCF is an FSMA 2000 authorised investment firm ultimately owned by the Truett Charitable Foundation, a conservation charity. The GLA's CIO is a partner of DCF.

In the event of key-man indisposition by the CIO another partner with substantial senior experience of supervising treasury activity, Stuart Davies of DCF, will provide relevant supervision of the GLA secondees to provide service until the GLA can make alternative arrangements.

DCF will be engaged under a proposed single contract with the GLA, as any other external consultant for the GLA would be. The GLA will compensate DCF for its costs in delivering relevant services and assuming liability for the relevant investment functions. However, the financial arrangements are cost recovery only, and there is no profit element for DCF from this contract. The estimated costs of the contract are £70,000 pa.

DCF will not allocate GLA or GIS monies to any counterparty or fund with whom they have a financial interest or relationship.

The GLA will seek to ensure that any public statement about this contract will need to be mutually agreed between GIS members and DCF.

A detailed operational working document has been created by the GLA and has been sent to the GIS members. This underlines that the governance and working arrangements will in practice be unaffected by this proposed contract and deals with any perceived conflicts of interest between the CIO and the GLA. The GLA is confident that these arrangements are robust, pending their review and the conclusion of the exposure of this contract to applicable tender processes in line with the GLA's Contracts and Funding Code by July 2018.

Background papers

Single source form dated 6 July, 2017.

