

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2608

Title: Mayor of London's Energy Efficiency Fund: pre-investment development finance

Executive Summary:

When the Mayor of London's Energy Efficiency Fund (MEEF) was established, a potential need to provide financial support to organisations to develop business cases ahead of formal applications for finance from the MEEF fund manager (Amber) was identified.

This MD seeks to formalise this, by approving the availability of up to £2m for Amber to support potential applicants. The £2m will derive from returns repaid to the GLA from the London Green Fund.

The first application for such support - £175,000 - has been received, as set out in the Part 2 form and this decision seeks approval to provide it. The £175,000 would be made available to Amber who would, in turn, make it available to the applicant.

It is proposed that any future requests for pre-investment support that fall within the £2m approved by this MD are delegated to Director Decision level.

Decision:

That the Mayor:


- approves the availability of up to £2m by way of either a grant or loan to Amber Infrastructure Limited (the fund manager for the Mayor of London's Energy Efficiency Fund (MEEF)) from London Green Fund returns to support pre-investment applications, ahead of formal application to MEEF, conditional on such London Green Fund returns being available;
- delegates authority for the approval of the award of up to £2m to Amber Infrastructure Limited, by way of either a loan or grant, to the Executive Director, Good Growth;
- approves the award of £175,000 from the £2m for an application for pre-investment support as detailed in Part 2 of this Decision Form; and
- delegates authority for any future approvals of applications for pre-investment finance support, within the £2m budget, to the Executive Director, Good Growth.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

18/3/20

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1. The Ministry of Housing, Communities and Local Government (MHCLG) is the 'Managing Authority' (MA) in England for the European Regional Development Fund (ERDF). In 2015, MHCLG MA agreed an 'Operational Programme' for England (revised in January 2019) with the European Commission (EC) for ERDF that sets out the activities and targets in exchange for the funding. The ERDF programme is delivered across England's 38 Local Enterprise Partnership (LEP) areas, each of which has a European Structural and Investment Fund (ESIF) Strategy to support local delivery. In London the LEP is known as the London Economic Action Partnership (LEAP).
- 1.2. The London ESIF Committee, which reports to the LEAP Board provides advice to the Managing Authority (and the GLA as an Intermediate Body in London) on the needs and opportunities in an area and the strategic fit of applications for funding.
- 1.3. Article 123 of EC Regulation 1303/2013 states that a Member State may designate 'Intermediate Bodies' (IB) to carry out certain tasks of the MA. MHCLG MA has devolved responsibility for managing London's share of England's ERDF programme to the GLA as an IB. The relevant arrangements between MHCLG MA and the GLA are formally recorded in a Memorandum of Understanding (MOU).

Previous Mayoral Decisions

- 1.4. In Mayoral Decision 1583 (March 2016) the Mayor:
 - approved the designation of the GLA as an IB for the 2014-20 ESIF programme and concluding of a MOU between the GLA and MHCLG; and
 - delegated authority to GLA officers to conclude funding agreements and authorise payments.

Background to the Mayor of London's Energy Efficiency Fund

- 1.5. The Mayor of London's Energy Efficiency Fund (MEEF) launched in 2018 and is just over 18 months into its five year investment timeframe (which ends in May 2023 with the option for the GLA to extend to December 2023). MEEF provides flexible and competitive finance to new or retrofit projects that can clearly demonstrate renewables credentials, with investment of up to 20 years, for:
 - building retrofit and energy efficiency measures in public, commercial and residential properties;
 - the production and distribution of low carbon heat, including combined heat and power, tri-generation and communal/district heating generation and/or networks; and
 - small scale renewable energy generation.
- 1.6. Although MEEF is not directly funded by the GLA, an aim of the fund is to achieve a balanced portfolio across both ERDF requirements and outputs, and Mayoral objectives (including the London Plan and London Environment Strategy).

Pre-investment development capital to support the business case of projects

- 1.7. The GLA's Project Implementation Units (PIUs) provide project development support to potential future beneficiaries of MEEF. These include the Retrofit Accelerator – Workplaces and Retrofit Accelerator – Homes. But when MEEF was set up, a potential additional need was identified to provide financial support to applicant organisations to develop their business cases ahead of formal applications for finance from MEEF. This MD seeks to formalise this, by approving the availability of up to £2m in principle which will be funded from returns from the London Green Fund (LGF).

- 1.8. By way of background, in November 2016 the GLA launched a public procurement exercise to select an organisation to set up MEEF, invest ERDF and other third-party funding. Following a comprehensive process conducted by Transport for London's procurement, Amber Infrastructure Limited ("Amber") were selected in August 2017. The original specification referred to the potential need for pre-investment finance. It stated:

"to supplement the work of the PIUs, £2m may be made available from LGF's [London Green Fund] reflows, as development capital to support the business case development of projects which are not yet investment ready. This "support" would be for those items of project preparation not currently provided by the PIUs and this funding would be provided on a primarily, if not fully, recoverable basis and would only be intended to be utilised on projects that were likely to be successful in getting financing from the Fund [MEEF]. In this respect the provision of technical support should assist and accelerate the project structuring and due diligence process. It should therefore complement, and not duplicate, the activities of the PIUs. This development capital will not be part of the Fund [but] will be made available to projects based on proposal of the Fund Manager [Amber]. Upon agreement of each proposal, the GLA will transfer the agreed amount of funding to the Fund Manager, to procure the agreed service for the project."

- 1.9. In practice, this would mean that Amber receive an application from a third party which it then assesses. Where Amber is supportive, it then notifies the GLA which in turn (and in consultation with the MEEF-LGF Monitoring Committee¹) then takes a decision whether the application should be approved for financing. Since MEEF launched, there had been no call on this potential £2m support. However, in autumn 2019 Amber submitted a first third-party application, of which it was supportive, for the GLA to consider.
- 1.10. In November 2019 the MEEF and LGF Monitoring Committee (established via MD2165) discussed and supported the principle of the availability of £2m, subject to sufficient LGF returns being available and supported the individual proposal submitted for £175k of the £2m allocation (see paragraph 1.14 below).
- 1.11. If this Mayoral Decision is approved, officers will establish the contractual process under which the finance of £2m can be provided to Amber for the purpose set out in this MD and the mechanism for part or full repayment by Amber to the GLA. It is envisaged that the repayment mechanism will be determined on a case by case basis for each applicant, and that GLA will seek to maximise the returns.

London Green Fund returns

- 1.12. London Green Fund² investments continue to generate returns. MD2165 noted that any financial returns from investments associated with ERDF will be repaid to the GLA for reuse in accordance with EU Regulations³. The returns can support similar LGF activities, or technical support projects (such as the GLA's Decentralised Energy Enabling Project and Retrofit Accelerator – Workplaces project, which are already in receipt of LGF returns), or other urban development activities.
- 1.13. There are currently insufficient LGF returns available to ringfence the £2m (because LGF investments are only part-way through repaying their loans), hence approval-in-principle being sought. If applications for pre-investment finance are submitted to Amber, and supported by the MEEF-LGF Monitoring Committee, then providing there are sufficient returns available, there will be the option to release them.

¹ MD2165 states that the role of the committee is to "supplement the contract management work through monitoring of the wider operation of the fund. This would involve activities such as reviewing project pipeline development and portfolio performance; providing guidance on policy and strategic issues; and monitoring progress in achieving investment strategy."

² The London Green Fund (LGF) is a £110m fund established to support waste management, decentralised energy and energy efficiency schemes that help meet key Mayoral environmental targets, particularly to reduce CO₂. It was launched in 2009. The funds are now invested, but the fund managers are continuing to manage the portfolio of projects until the end of each fund.

³ Repayments from the LGF are paid directly to the GLA, with those received from Foresight Environmental Fund (one of the three LGF sub-funds; invested in waste to energy facilities; managed by the Foresight Group) being shared equally with the London Waste & Recycling Board.

Application for pre-investment development support

- 1.14. This MD seeks the approval of the application to support the development of a renewables production facility. The applicant is seeking £175,000 (from the £2m allocation). As the proposal remains at the application stage and potentially subject to change, details can be found in Part 2. The MEEF-LGF Monitoring Committee supports the proposal. In practice, and subject to contract negotiations, the £175,000 would be provided by the GLA to Amber which, in turn, would provide it to the applicant on a (part or fully) repayable basis, the mechanism and rate for which has not yet been agreed. The exact structure of the finance to the applicant will depend on how the GLA structures the finance to Amber.

Delegation of future decisions

- 1.15. Should further applications for pre-investment development support be submitted to the GLA by Amber as the Fund Manager, and supported by the MEEF-LGF Monitoring Committee, it is proposed that approval is sought of the Executive Director, Good Growth (via a Director Decision) in place of a Mayoral Decision.

2. Objectives and expected outcomes

- 2.1 The availability of finance for supporting the development of proposals for MEEF investment ultimately supports the continued creation of new low carbon infrastructure. It also supports Amber to develop its pipeline. As the finance is partly and/or fully repayable over time it means the returns can be re-invested by the GLA for similar activities.
- 2.2 MEEF is required to meet the objectives of the England ERDF Operational Programme (OP) that was agreed between MHCLG and the European Commission in 2015. The OP focusses on investment to support economic growth and job creation; and MEEF contributes to the OP's and London's objectives of moving towards a low carbon economy. MEEF provides finance to a range of projects which leads to the achievement of several environmental outcomes that will contribute to London's share of the overall OP targets. These include:
- additional capacity of renewable energy;
 - decrease of greenhouse gases;
 - decrease in primary energy consumption of public buildings; and
 - improved energy consumption of households.

3. Equality comments

- 3.1. In its application to manage MEEF and receive ERDF, Amber committed to ensuring that the principle of equality is integrated into all aspects of pipeline development, implementation, monitoring and evaluation. In addition, no applicant is treated less favourably than any other on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, sex or sexual orientation.
- 3.2. The low carbon infrastructure in which MEEF invests (such as public buildings including hospitals) ensures that the benefits are experienced by all people irrespective of being members of under-represented or disadvantaged groups, or protected characteristics. The establishment of the £2m allocation to support applicants to develop proposals ahead of potential future funding will support this.
- 3.3. MEEF is funded by ERDF, supporting the England ERDF Operational Programme (OP). The OP sets out the requirements for adherence to mandatory equalities 'cross-cutting' themes. ERDF promotes equality in accordance with European Union and national requirements. Furthermore, the GLA as a public authority must comply with the Public Sector Equality Duty set out in section 149 (1) Equality

Act 2010. This provides that, in the exercise of their functions, public authorities must have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between persons who share a relevant protected characteristic 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.

3.4. The obligation in section 149(1) is placed upon the Mayor, as decision maker. Due regard must be had at the time a decision is being considered. The duty is non-delegable and must be exercised with an open mind. This duty applies in the delivery of ERDF and means that the implementation of the England Operational Programme in London must consider the needs of all individuals and have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people. The availability of the £2m pre-investment finance is available for all eligible organisations in London, including those that may include under-represented groups or individuals with protected characteristics.

4. Other considerations

a) Key risks and issues

Issues

- 4.1 The Withdrawal Agreement signed by the UK and EU confirmed that EU-funded programmes in the UK will continue until their closure in 2023-4; and Government will continue to seek re-imbursement from the EU in respect of these programmes. This means the ERDF committed to MEEF will continue to be available, and that applications for pre-investment development support can be submitted.
- 4.2 Whilst it is noted that the total amount (if available) is £2m from the LGF, it is feasible that the £175k for the application detailed in Part 2 may be revised during the final approval process as officers work to conclude the finance offer. However, it is not expected to exceed the amount as stated on the cover page of this Mayoral Decision; if this arose then a Director Decision would be sought, subject to this Mayoral Decision approving the use of Directors' Decisions.
- 4.3 The contractual and finance mechanism for the transfer of finance to Amber has not been finalised. This is subject to internal discussion and negotiation with Amber. (i.e. loan or grant, repayable in part or full). However, it will operate on the basis of the GLA transferring the agreed amount of funding per successful application to Amber. Amber will in turn contract with the applicant organisation to provide the financial support on a (partly or fully) repayable basis. The GLA will seek to maximise its returns.

Risks

- 4.4 *Insufficient returns from the London Green Fund leads to proposals being delayed or not going ahead.* There are currently insufficient LGF returns available to ringfence the £2m (because LGF investments are only part-way through repaying their loans) as noted in paragraph 1.13 above. It does therefore mean that insufficient funds could result in some proposals not proceeding. Amber will be made aware of this in order that prospective applicants are advised accordingly. Amber will not be able to enter into contractual arrangements with applicants if there is not enough funding to cover them. Moreover, there is a healthy pipeline of MEEF investments which, on paper, means there should be minimal call on the £2m pot. The £175k proposal in this MD is the first and only to have been submitted to the GLA in the 18 months since MEEF launched.

- 4.5 *Lack of uptake for development support from the £2m pot.* Whilst the pot is capped at £2m, if there is insufficient interest then the future LGF returns which would have financed proposals will be used for alternative activity in line with paragraph 1.12.
- 4.6 *Amber submits applications for development support that cannot be funded.* Any future proposals will be presented to the MEEF and LGF Monitoring Committee. The committee will take a view on each proposal noting the availability or not of LGF returns. Should the committee be supportive of a proposal, and LGF returns are available, then a Director Decision would be sought for approval.
- 4.7 *Repayment of the pre-investment finance is not repaid or does not meet agreed repayment terms.* The GLA will enter into an agreement with Amber which sets out how the funds will be used and repaid. Amber will then issue the funds to the applicant and set out the repayment mechanism for the finance provided. The routeway for the award of funds is still to be determined (whether via repayable loan or repayable grant).

b) Links to strategies and strategic plan

- 4.8 MEEF investments contribute to London's share of the England ERDF Operational Programme targets. As part of its initial appraisal, MEEF was assessed on its alignment with the LEAP's ESIF Strategy, which supports the Mayoral economic objectives for a competitive and fairer London.
- 4.9 In supporting the ERDF Operational Programme's objectives of moving towards a low carbon economy, MEEF helps to achieve the Mayor's ambition of London becoming a zero-carbon city. This includes working closely with other Mayoral programmes such as Retrofit Accelerator – Homes, Retrofit Accelerator – Workplaces, and the Decentralised Energy Enabling Project. By providing repayable finance to help establish low carbon infrastructure and encourage further investment in energy efficiency measures, MEEF helps achieve key objectives in the London Environment Strategy (which promotes energy efficiency and reductions in CO₂), the draft new London Plan and the Mayor's Economic Development Strategy for London (which seeks to create a supportive environment for businesses and entrepreneurs).

c) Impact assessments and consultation

- 4.10 As noted above, the MEEF and LGF Monitoring Committee was consulted on the establishment of the £2m budget, and the application for £175,000.

d) Declarations of interest

- 4.11 The individuals involved in drafting and clearing this document do not have interests to declare. For the record, Stuart Scott sits on the MEEF Advisory Committee. This committee is convened quarterly by Amber to oversee the progress of MEEF against its objectives⁴. The committee is not part of the management nor investment decision-making structure of MEEF, and Stuart Scott is not additionally remunerated for this role.

5. Financial comments

- 5.1 Approval is being sought for the expenditure of up to £2m to support London organisations seeking to apply for the Mayor's Energy Efficiency Fund (MEEF).
- 5.2 Although the provided support would be in the form of finance either as a loan or grant, it will be managed separately from existing contractual agreements for MEEF. The Authority will establish a

⁴ The committee comprises Amber representatives, Stuart Scott, other GLA officers (who are not involved in the drafting or clearance of this MD) and external representatives.

new agreement in which Amber will issue the funds and set out the repayment mechanism for any finance provided.

- 5.3 The first application for this support has been received with a total value of £175,000 therefore this decision is also seeking permission to award this. If successful, £1.825m will be available for subsequent applications following approval from the delegated powers of the Good Growth Director.
- 5.4 As MEEF investments must be made by May 2023 (subject to a possible extension by the GLA to December 2023) any pre-investment development finance will need to be awarded ahead of this timescale.
- 5.5 There is a financial risk that applicants awarded pre-investment support are unsuccessful in securing MEEF funding, however this risk is reduced as Amber who manage MEEF on behalf of the Authority, will put forward potential applicants. Moreover, clauses will be built into successful applicant contracts which determine the repayment terms should this occur.
- 5.6 It is proposed the £2m support will be funded by the London Green Fund returns. Currently this has not fully materialised and so funds will only be awarded as they become available.

6. Legal comments

- 6.1 Sections 1 to 4 of this report indicate that the decisions requested of the Mayor concern the exercise of the GLA's general powers, falling within the GLA's statutory powers to do such things considered to further or which are facilitative of, conducive or incidental to the promotion of economic development and wealth creation, social development or the promotion of the improvement of the environment, all in Greater London and in formulating the proposals in respect of which a decision is sought officers have complied with the GLA's statutory duties to:
- pay due regard to the principle that there should be equality of opportunity for all people; and
 - consult with appropriate bodies.
- 6.2 In taking the decisions requested, as noted in section 3 above, the Mayor must have due regard to the Public Sector Equality Duty under section 149 of the Equality Act 2010, 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 to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.3 Officers must ensure they consult with finance and legal on the most appropriate contractual mechanism and documentation to provide the finance to Amber and that such documentation is put in place before any commitment to fund Amber is made.

7. Planned delivery approach and next steps

Activity	Timeline
Following Mayoral approval, agree the finance and contractual process for the award of £175,000 to Amber. This will then act as a model for any further requests for finance from applicants from the £2m budget.	From 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 (FoIA) 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 it has been approved or on the defer date.

Part 1 - Deferral**Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason: Until the contractual and commercial negotiations with Amber have been concluded, the release of this Decision currently might prejudice such conversations given the GLA has not decided whether to award the funding to Amber via a loan or grant.

Until what date: 31/08/20

Part 2 - Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form - Yes

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Stuart Scott has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Shirley Rodrigues has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 16 March 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Elle

Date

16.3.20

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

D. Bellamy

Date

17/3/2020