

GREATER **LONDON** AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2651

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

Executive Summary:

Mayoral Decision 2608 'Mayor of London's Energy Efficiency Fund (MEEF): pre-investment development finance' approved the availability of up to £2million from London Green Fund returns to Amber Infrastructure Limited as either a grant or loan to provide to applicants of MEEF. MD2608 also approved the delegation of authority for the approval of the award of up to £2million to Amber to the Executive Director, Good Growth.

In light of subsequent discussions on the process for awarding the finance to Amber Infrastructure Limited, an update to the delivery method originally agreed through MD2608 is required. Funding will no longer be transferred from the GLA via Amber Infrastructure Limited to applicants. GLA will now loan funds to the applicant directly. This Mayoral Decision seeks approval of this change.

Decision:

That the Mayor:

- approves the availability of up to £2million from London Green Fund returns to be loaned by the GLA to applicants on commercial terms for pre-investment applications to the Mayor's Energy Efficiency Fund, conditional on such London Green Fund returns being available;
- approves a loan on commercial terms from the GLA of £175,000 from the £2million budget from London Green Fund returns to the applicant named in Part 2 of this Decision Form; and
- delegates authority for any future approvals of applications and award of the loans to applicants for pre-investment finance support to the Mayor's Energy Efficiency Fund, within the £2million 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:

17/9/20

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 of 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).

Background to the Mayor of London's Energy Efficiency Fund

- 1.4. As noted in MD2608, in November 2016 the GLA launched a public procurement exercise to select an organisation to set up the Mayor of London's Energy Efficiency Fund (MEEF), invest ERDF and other third-party funding. Following a comprehensive process conducted by Transport for London's procurement team, Amber Infrastructure Limited ("Amber") was selected in August 2017. MEEF provides flexible and competitive finance to new or 'retrofit' projects that can clearly demonstrate renewables credentials.
- 1.5. 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 funding would be provided on a primarily, if not fully, recoverable basis. MD2608 formalised this by approving the availability of up to £2million in principle to be used for this purpose, financed from returns from the London Green Fund (LGF) - as described in MD2608.

Mayoral Decision 2608

- 1.6. MD2608 (signed 18th March 2020) approved:
 - a) the availability of up to £2m by way of either a grant or loan to Amber 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;
 - b) the delegation of authority for the approval of the award of up to £2m to Amber, by way of either a loan or grant, to the Executive Director, Good Growth;
 - c) the award of £175,000 from the £2m for an application for pre-investment support as detailed in Part 2 of the MD2608 Decision Form; and
 - d) the delegation of authority for any future approvals of applications for pre-investment finance support, within the £2m budget, to the Executive Director, Good Growth.
- 1.7. With reference to c) above, the MD approved the award of £175,000 from the GLA to Amber. Amber, in turn, would award the funds to the applicant. This was the process set out in the original procurement specification for MEEF.

Background to this new Mayoral Decision

- 1.8. The process for approval for the application is referenced in MD2608. MD2608 also noted that *“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...”*. It has since transpired that Amber are not permitted to receive the £2m as this would not be in compliance with Financial Conduct Authority rules.

New approach

- 1.9. A new approach is therefore required, and it is recommended that the GLA – not Amber – loan the pre-investment finance support funds to the third-party applicants. Should a MEEF loan later be awarded, the GLA would then recover the funds in full from the applicant on commercial terms. It is expected that the recovery would be consolidated as part of the MEEF loan. If a MEEF loan is not subsequently awarded to the applicant, the GLA would expect to recover only a proportion of the funds directly from the third-party on commercial terms which reflects the original MEEF procurement specification.
- 1.10. MD2608 approved the award of £175,000 from the GLA to Amber which, in turn, would provide it to a third party applicant. In light of the new approach described in the above paragraph, this MD seeks approval for a loan from the GLA of £175,000 from London Green Fund returns to the applicant named in Part 2 of this Decision Form, subject to agreement being reached on the terms of the loan. If this Mayoral Decision is approved, officers will continue to establish the contractual and legal process under which the finance can be provided to the applicant; including the mechanism for repayment to the GLA. This includes establishing the interest rate and loan term period and repayment structure; also any State aid implications. Once established, the proposed loan agreement will be shared with the MEEF & LGF Monitoring Committee¹ with a view to clearance by the Executive Director, Good Growth.

Future applications for pre-investment finance

- 1.11. To date there have been no other applications for pre-investment finance support. However, should there be, this Mayoral Decision seeks approval that the up to £2million is available to the GLA (not to Amber as approved in MD2608) from London Green Fund returns. The availability of the returns will inevitably be dependent on other priorities or demands for their use. Amber remains entitled to identify applications which can utilise the £2m and bring these to the attention of the GLA. This is line with the original procurement specification referenced in MD2608.
- 1.12. MD2608 also approved the delegation of authority for the approval of the award of up to £2m to Amber to the Executive Director, Good Growth. This delegation is no longer required as the funds are not being transferred to Amber. MD2608 has already approved that the Mayor delegates authority to the Executive Director of Good Growth to award any future pre-investment funds.

2. Objectives and expected outcomes

- 2.1. In line with MD2608, the award of London Green Fund returns by the GLA supports the development of proposals for future MEEF investment which, in turn, supports the continued creation of new low carbon infrastructure. As the finance is fully repayable if applicants receive MEEF finance (and partially if they do not) it means the returns can later be re-invested by the GLA for similar activities. Specifically, this MD allows for the transfer of funds from the GLA to the third-party applicant.
- 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

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.”

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. The low carbon infrastructure in which MEEF invests ensures that the benefits are experienced by all people irrespective of being members of under-represented or disadvantaged groups, or protected characteristics.
- 3.2. 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.
- 3.3. 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 £2million 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 loan agreement for the transfer of finance from the GLA to the applicant has not been finalised, nor the mechanism for repayment. This will be finalised if this Mayoral Decision is approved, and will be subject to discussion internally, with Amber and the third-party applicant.

Risks

- 4.2. The procedural change sought via this MD will mean that the GLA is responsible for managing and monitoring the loan agreement with the third party. The agreement could give rise to issues that are currently unforeseen (such as delays in activity or repayment). GLA officers will seek to agree terms with the applicant and, once it is live, monitor the contract to ensure any issues are appropriately addressed.

b) Links to Mayoral strategies and priorities

- 4.3. 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.
- 4.4. 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). In light of COVID-19 it also contributes towards a green recovery in London.

c) Declarations of interest

- 4.5. 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 objectives². 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 GLA to award finance of £175,000 to an applicant seeking to apply for the Mayor's Energy Efficiency Fund (MEEF) alongside the delegation of authority for any future approvals up to a total value of £2m to the Executive Director, Good Growth (MD2608).
- 5.2. The provided support would be in the form of finance as a loan or grant, and it will be managed separately from existing contractual agreements for MEEF. The Authority will establish a new agreement in which it will issue the funds and set out the repayment mechanism for the finance provided.
- 5.3. 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 conduct appropriate due diligence in line with the Anti-Money Laundering Policy and seek investment approval in-principle before putting forward applicants. Moreover, clauses will be built into successful applicant contracts which determine the repayment terms should this occur.
- 5.4. The requested £175,000 will be funded by returns that have been repaid to the Authority from the London Green Fund (LGF). Any future awards from this source would only be granted where sufficient funds have been received and are available.

² 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.

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 the applicants and that such documentation is put in place before any commitment to fund any applicants are 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. This will then act as a model for any further requests for finance from applicants.	From September 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 and the third party applicant have been concluded. The release of this decision currently might prejudice such conversations.

Until what date: 31/12/20

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 14 September 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

D. Gove

Date

17 September 2020

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

14 September 2020