

**REQUEST FOR DIRECTOR DECISION – DD1429**

**Title: ELENA Decentralised Energy Programme Delivery Unit (DEPDU) Contract Extension**

**Executive Summary:**

In July 2015 the ELENA funding agreement between the GLA and the European Investment Bank's (EIB) for the provision of specialist advice to emerging Decentralised Energy (DE) projects came to an end, with the Ove Arup's Decentralised Energy Programme Delivery Unit (DEPDU) having delivered an Investment Programme of £101.2m, exceeding the investment target set by the EIB by 67%. The three-year programme started in 2011 and was later extended for a twelve-month period, until 31st July 2015, in order to meet its obligation under its grant from ELENA. At the end of the ELENA programme, a number of emerging DE projects have not yet reached their delivery phase.

The original intention was to continue to support these projects via Energy for London (EFL), a GLA programme grant funded using ERDF. However, the ERDF tender issue for grant funding application was delayed, causing the start of the EFL programme to slip to early 2016. Following on that, in June 2015, the extension of the contract between GLA and Ove Arup was extended until 31st December 2015, in order to ensure continuity of support to those emerging DE projects. At the time this extension was sought, it was not clear when the EFL project would have commenced. In September 2015 the Mayor, under cover of MD1542, approved a bid for grant funding from the ERDF to run EFL from February 2016.

This decision requests approval to further extend contract with Ove Arup's DEPDU from 31<sup>st</sup> December 2015 until 31st March 2016, and related expenditure of £85,000, to continue to provide technical assistance to those projects that have yet to reach their delivery phase and require public sector support.

This decision replicates DD1292 (approval to extend and increase ELENA DEPDU Contract until July 2015) and is linked to MD824 (approval to enter into contract with the EIB in order to receive the two grant awards), MD678 (approval to submit two grant applications - DEPDU and RE:FIT - to the EIB), DD604 (approval to enter into contract with Ove Arup to provide the DEPDU's services), MD1503 (approval for the GLA Environment Team's 2015/16 work programme and associated expenditure) and MD1542 (approval to bid for grant funding from the ERDF to run EFL).

**Decision:**

That the Executive Director approves:

- expenditure of £85,000 from the Energy for London (EFL) project budget for the extension of the GLA's existing contract with Ove Arup's DEPDU until 31st March 2016; and
- a related exemption from the requirement of the GLA's Contracts and Funding Code to seek three or more quotations for or call off the services from a framework.

**AUTHORISING DIRECTOR**

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:** Fiona Fletcher-Smith

**Position:** Executive Director of Development, Enterprise and Environment

**Signature:**

**Date:** 5/11/15



## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE**

### **Decision required – supporting report**

#### **1. Introduction and background**

With €2.9m funding support from the European Investment Bank's European (EIB) Local Energy Assistance facility (ELENA), in November 2011 the GLA appointed a team of technical, commercial and financial specialists to help others develop and bring to market Decentralised Energy (DE) projects.

This project was transferred from LDA to GLA following approval recorded under DD544 on 1<sup>st</sup> July 2011 and was aimed at bringing to market DE projects for a total investment value of over £60.5m.

The GLA had its contract with the EIB extended until 31<sup>st</sup> July 2015 in order to meet its obligation under its grant from ELENA.

By the contract end date of 31<sup>st</sup> July 2015, the ELENA funded programme has delivered an Investment Programme of £101.2m, exceeding the investment target by 67%.

The Mayor, under cover of MD678 approved a GLA bid to the European Investment Bank's ELENA fund for €5.79 million (£4.8m). The bid supports delivery of the RE:FIT and DEPDU programmes as set out in the MD. On 3<sup>rd</sup> August 2011 the GLA entered into a three-year funding agreement with the EIB.

Following a competitive tender process, the Executive Director of Development, Enterprise and Environment, under cover of DD604 dated 26<sup>th</sup> October 2011, approved the GLA's entry into a three-year contract with Ove Arup for a value of £2,689,578 for the provision of technical, commercial and financial advice in order to assist the GLA further its decentralised energy development activities.

On 24<sup>th</sup> July 2014 the EIB extended the funding agreement for further twelve-months to allow projects time to meet the requirements of that agreement.

As a consequence, the GLA extended its contract with Ove Arup until the 31<sup>st</sup> July 2015 and, with that regard, a Single Source Justification was signed by TfL Procurement in October 2014.

The contract extension between GLA and Ove Arup was approved on 21<sup>st</sup> November 2014 under cover of DD1292 and it was accompanied by an increase of its value by £69,000, from £2,689,578 to £2,758,578, to ensure the GLA has the necessary support services available until the end of the EIB ELENA funding agreement.

The above increase was fully funded by the GLA from the Energy for London (EFL) budget in FY 2014/15.

In June 2015, TfL procurement approved a further extension of the contract between GLA and Ove Arup until 31<sup>st</sup> December 2015. This extension was sought in order to continue to support those DE projects which have not yet reached their delivery phase and it was not accompanied by any increase of the contract value but involved a re-profiling of the cash-flow forecast beyond the original end date of 31<sup>st</sup> July 2015. At the time this extension was sought, it was not clear when the EFL project would have commenced.

Energy for London (EFL), a 3.5 years/£3.5m programme that will provide public sector intervention to help other realise larger-scale DE projects, was designed to succeed the DEPDU programme.

EFL will be 50% grant funded by the European Regional Development Fund (ERDF), with the remaining 50% funded by the GLA. The GLA contribution of £1.75m is subject to a successful application to the ERDF for grant funding. The application process is currently underway and will be completed in early 2016.

On 20<sup>th</sup> May 2015, MD1503 approved a budget for EFL of £100,000 for the Financial Year 2015/16.

The original intention was to continue to support these projects via Energy for London (EFL), a GLA programme grant funded by the ERDF. However, the ERDF tender issue for grant funding application was delayed, causing the start of the EFL programme to slip to early 2016.

The original intention was for EFL to come into operation following the completion of the EIB ELENA funding agreement. However, the ERDF tender issue for grant funding application was delayed, causing the start of the EFL programme to slip to early 2016, as approved by The Mayor under cover of MD1542 dated 24<sup>th</sup> September 2015.

Following on that, the GLA wishes to continue to provide technical assistance via Ove Arup to those DE projects that have yet to reach their delivery phase and require public sector support. In order to ensure continuity of DEPDU service provision, it is proposed that the GLA further extend its contract with Ove Arup until 31<sup>st</sup> March 2016 by when it is anticipated that the EFL programme becomes operational (maximum value £85,000).

Section 4.1 of the GLA's Contracts and Funding Code ("Code") requires, where the expected value of a contract for services is between £10,000 and £150,000, an advertised tender exercise to be conducted or such services to be called off from an accessible framework. Section 5 provides however, that an exemption from this requirement maybe approved where a provider has had previous involvement in a specific current project or continuation of existing work which cannot be separated from the new project/work.

Here:

- Ove Arup have provided the services since their appointment on 13<sup>th</sup> November 2011 following a competitive tender process for the provision of technical, commercial and financial advice in order to assist the GLA further its DE development activities;
- the GLA's agreement with the EIB required the GLA to achieve a leverage factor of at least 25 which is the ratio between the total investment costs in DE projects and the total cost of the project development service provided by the ELENA Facility. The equivalent investment target was £60.5m;
- the GLA and Ove Arup have developed together strong internal processes and methods to rank, cost, implement and monitor all supported projects in order to prioritise those that have the highest likelihood of deliverability and therefore minimise the risk of the GLA not meeting its contractual obligation with the EIB;
- to date, Ove Arup have been efficiently delivering the GLA's DE programme, bringing to market £101.2m worth of projects, exceeding the investment target by 67%; and
- from the contract end date of 31<sup>st</sup> December 2015 to the expected start date of the Energy for London (EFL) Programme (early 2016), the following eight DE projects with a cumulative value of over £55m continue to require DEPDU support to advance their stage of delivery:

<b>Project</b>	<b>Estimated CAPEX</b>	<b>Ove Arup's DEPDU current task</b>	<b>Investment category</b>
Ladderswood	£1,430,000	Review of the Adoption agreement between LVHN Ltd and Enfield following issue of OJEU notice	Near to market
Metropolitan Clapham Park Homes	£9,300,000	Feasibility study to determine viability of heat network in the Clapham Park regeneration area	Near to market
Sutton Hackbridge	£5,600,000	Technical advice around the Sutton Decentralised Energy Network and its interconnection with sources of waste energy in the vicinity	Near to market
Richmond Kew Gardens	£2,750,000	Pre Tender Estimate for a heat network within Kew Gardens	Strong prospect
Lighthouse Heat Pump	n/a	Heat network preliminary design between Greenwich Power Station and surrounding buildings	Strong prospect
Silvertown Tunnel	n/a	Appraisal of heat network routing associated to a new road tunnel to link the Greenwich peninsula to the Silvertown area	Strong prospect
Croydon	£4,100,000	Energy Demand Assessment of Croydon Town Centre	Strong prospect
Old Oak Common	£32,500,000	Pre-feasibility study to determine heat network options in the Old Oak Common regeneration area	Strong prospect
<b>TOTAL</b>	<b>£55,680,000</b>	-	-

This submission includes a Single Source Justification which seeks to extend the GLA's existing contract with Ove Arup for the provision of technical, commercial and financial advice in order to assist the GLA's decentralised energy development activities:

- from its original end date 31<sup>st</sup> December 2015 to a revised end date 31<sup>st</sup> March 2016, and
- from its current value of £2,758,578 to a revised new value of £2,843,578 (equivalent to an increase of £85,000).

Therefore, the director's approval of an exemption from section 4.1 of the Code is sought.

## 2. Objectives and expected outcomes

The current contract with Ove Arup's DEPDU expires on 31<sup>st</sup> December 2015 with a remaining budget of approximately £20k that is allocated existing projects whose programmes have slipped beyond the EIB agreement end date of 31<sup>st</sup> July 2015. Support to projects from DEPDU and related development cash flow from the GLA is currently projected out to the above date.

The GLA now wishes to further extend its contract with Ove Arup DEPDU until 31<sup>st</sup> March 2016, and related expenditure of up to £85,000, to ensure continuity of specialist advice to the above listed 8 DE projects - three of which near to market - which would otherwise remain unsupported until the EFL programme becomes operational.

It's been estimated that to ensure continuity of support from Ove Arup's DEPDU until 31<sup>st</sup> March 2016, £85,000 out of the £100,000 approved for EFL under cover of MD1503 for the Financial Year 2015/16 would need to be vired from the EFL project budget to ELENA DEPDU project budget. The

remaining £15,000 would be the TfL Procurement fee for managing the Efl consultancy framework procurement.

### **3. Equality comments**

Decentralised energy is included in the Mayor's framework for Equal Life Chances (June 2014) under Environment Objective 1.2.

The extension of the contract with Ove Arup and the vired budget will allow more decentralised energy projects come to market for delivery and will contribute towards the objective to ensure that those groups, such as older people, young families, and those and that are vulnerable, are better able to afford domestic energy and the outcome of Increased numbers of disadvantaged or vulnerable Londoners paying less for their energy.

### **4. Other considerations**

#### **4.1 Links to strategies and Strategic Plan**

The Climate Change Mitigation and Energy Strategy is a Strategic Plan focused on meeting the Mayor's objectives for London. The Mayor is legally required to produce this Strategy. The DE programme is one of the major programmes supporting delivery of the Mayor's energy strategy. The Strategic Plan Delivery Form reference numbers that relate to this proposal are: 46SP10/11 (Climate Change Mitigation and Energy Strategy) and 39SP10/11 (LDA Climate Change Programmes).

#### **4.2 Impact assessments and Consultation**

The programmes have been consulted on as part of the public consultation of the Climate Change Mitigation and Energy Strategy in October 2010.

#### **4.3 Risk**

The GLA has delivered an Investment Programme of £101.2m, exceeding the investment target set by the EIB by 67%. However, the EIB has yet to approve the GLA final claim on those projects supported and delivered from September 2014. In the unlikely event such claim will be rejected by the EIB, the GLA will be at risk of being unable to review its final claim submission as well as to provide any additional support that projects would need in order to become acceptable to the EIB, with the consequent risk for the GLA to having to repay in part or full the ELENA funding to the EIB.

In addition, the pipeline of DE projects that have yet to reach their delivery phase contains eight projects with a cumulative value of over £55m which are either near to market or strong prospects. Without the continuous DEPDU service provision until 31<sup>st</sup> March 2016, the GLA will be unable to continue to support the above emerging projects and therefore lose momentum for their development and delivery. This would have a potential long term detrimental effect on the implementation and final outcomes from the projects, which would also lead to a reputational risk for the GLA.

### **5. Financial comments**

5.1 The proposed contract extension with Arup's DEPDU until 31st March 2016 totals £85,000 and will be funded from the Energy for London (Efl) project budget (approved via MD1503). The proposed contract extension of £85,000 will increase the total cost of the contract to £2,843,578.

## 6. Legal comments

6.1 The foregoing sections of this report indicate that:

6.1.1 the decisions requested of the Director fall within the powers of the Authority, to do anything which maybe considered to be facilitative of or conducive or incidental to the promotion of the improvement of the environment and economic development and wealth creation in Greater London; and

6.1.2 in formulating the proposals in respect of which a decision is sought officers have complied with the Authority'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 4.1 of the Authority's Contracts and Funding Code ("Code") requires that an advertised tender process be conducted for services with values of that proposed or that they be called off from an accessible framework. However, section 5 of the Code provides that exemptions from that requirement may be approved where a provider has had previous involvement in a specific current project or continuation of existing work which cannot be separated from the new project/work. Officers have indicated, at section 1 of this report, that this is the case here. Therefore, if the Director is satisfied with the content of this report she may approve the exemption.

6.3 Officers must ensure that the contract is varied in accordance with the provisions in that contract for the same and that such variation is documented and executed by the Authority and provider before the expiry of the current contract term.

## 7. Planned delivery approach and next steps

Activity	Timeline
Extension of contract [for externally delivered projects]*	Anytime before 31 <sup>st</sup> December 2015
Announcement [if applicable]	n/a
Delivery Start Date [for project proposals]**	1 <sup>st</sup> January 2016
Final evaluation start and finish (self):***	31 <sup>st</sup> March 2016 – 31 <sup>th</sup> May 2015
Delivery End Date [for project proposals]****	31 <sup>st</sup> March 2016
Project Closure: [for project proposals]	31 <sup>st</sup> March 2016

\*GLA and TfL Procurement approve extension and increase of the current contract with Ove Arup until 31<sup>st</sup> March 2016

\*\*Start date of extended contract with Ove Arup

\*\*\*31<sup>st</sup> March 2016 end of extended contract with Ove Arup – beginning of self-evaluation, which can take an estimated 2 months

\*\*\*\*31<sup>st</sup> March 2016 end of extended contract with Ove Arup

## **Appendices and supporting papers:**

- DD1292: approval to extend and increase ELENA DEPDU Contract;
- MD678: approval to submit two grant applications (DEPDU and RE:FIT) to the EIB;
- MD824: approval to enter into contract with the EIB in order to receive the two grant awards;
- DD604: approval to enter into contract with Ove Arup to provide the DEPDU's services;
- MD1503: Environment team Work Programme 2015/16;
- MD1542: approval to bid for grant funding from the ERDF to run Efl;
- Transaction award to Ove Arup;
- Variation of Contract with Ove Arup (June 2015);
- Single Source Justification signed by TfL Procurement where it is recommended that the GLA extends its existing contract with Ove Arup until 31<sup>st</sup> July 2015 (October 2014);
- Single Source Justification which seeks to extend the GLA's existing contract with Ove Arup until 31<sup>st</sup> March 2016 (October 2015).

**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? NO**

If YES, for what reason:

Until what date: (a date is required if deferring)

**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 – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Roberto Gagliardi La Gala has drafted this report in accordance with GLA procedures and confirms that:

✓

**Assistant Director/Head of Service:**

Patrick Feehily has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

**Financial and Legal advice:**

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature M. J. Allen

Date 5.11.15