

REQUEST FOR MAYORAL DECISION – MD1420

Title: Further Education (FE) Capital Investment Fund

Executive Summary:

The Further Education (FE) Capital Investment Fund is capital investment in Further Education estates. It will enable FE institutions to operate within suitably appropriate buildings and facilities equipped with up-to-date equipment and machinery.

Further to endorsement from the London Enterprise Panel (LEP) and approval by the Investment and Performance Board, this MD seeks the Mayor's approval for the GLA to receive and spend £55m for 2015/16 and £65m for subsequent rounds of FE Capital funding, delegation of decision making for project award and expenditure to the Executive Director - Development, Enterprise & Environment. It also seeks approval of expenditure of up to £147,000 on specialist support in undertaking due diligence of funding applications and monitoring surveyor services.

Decision:

That the Mayor approves:

1. The receipt and expenditure of £55m of FE Capital funding awarded to the London Enterprise Panel as part of Growth Deal 2 for Round 1 and 2 project allocations and £65m for subsequent rounds (subject to confirmation from the Government) and in accordance with the FE Capital prospectus.
2. Delegation to the GLA's Executive Director of Development, Enterprise and Environment to approve allocations of FE Capital funds on the advice of the London Enterprise Panel; and
3. Expenditure of up to £147,000 from the Growing Places Fund on specialist support in undertaking due diligence of FE Capital funding applications and providing monitoring surveyor services.

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:

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

Decision required – supporting report

1. Introduction and background

- 1.1 As part of the Growth Deal, the LEP has been awarded £55m in 2015/16 and an indicative £65m for 2016/17 for capital investment in further education colleges and providers. This FE Capital Investment Fund is for a programme of capital expenditure on infrastructure which will support the facilitation of delivery of further education services in London and does not amount to the funding of education services. The Investment Fund will be broken down into Rounds, Round 1 is the initial funding round currently taking place and further rounds will be numbered, for example Round 2 which will commence in Late November, early December 2014.
- 1.2 The GLA has taken a number of steps to prepare for and commence the funding programme including:
- Establishing a Further Education Capital Steering Group which will oversee the bidding processes and delivery;
 - Designing and developing a Prospectus and bidding process and holding a briefing event to inform colleges of the opportunity and process;
 - Launching the Prospectus and receiving and evaluating Expressions of Interest (Eols). 20 of the Eols will now be invited to submit a detailed application; and
 - Working on a revised Prospectus to launch a further call for Expressions of Interest.
- 1.3 The FE Capital Steering Group consists of members of the LEP and its sub-groups, a member of the Mayor's Design Advisory Group, representation from the Association of Colleges, a College Principal, a College Governor, representation from the Skills Funding Agency, London Councils and GLA teams including Finance, Regeneration, Economics and Economic and Business Policy. The Group is an advisory body providing advice to the London Enterprise Panel and the Investment and Performance Board.
- 1.4 A Prospectus prepared by the internal GLA working group was signed off by the FE Capital Steering Group in early August and was published on 20 August 2014. The Prospectus invited Expressions of Interest from FE colleges and providers to be submitted by 30 September. In total 27 Expressions of Interest were received as part of this initial round with a total funding request of £61m and total value of £189m.
- 1.5 The FE Capital Steering Group considered the results of the evaluation on 16 October and the LEP have agreed the recommendation to shortlist 20 of the Expressions of Interest. The shortlist has now been invited to submit detailed applications. A summary of the proposals and the results of the evaluation are set out in the confidential Part 2 paper for information (please note this is reserved from publication).
- 1.6 IPB requested that grant agreements include a clause to ensure that bidders work with the Mayor's RE:FIT Programme in delivering their capital works, and the detailed application stage and final grant agreements will reflect this.

2. Objectives and expected outcomes

- 2.1 The London Enterprise Panel's Growth Deal for London established a comprehensive request to HM Government to invest in the Further Education (FE) estate in London. It identified the following priorities and objectives for the fund to deliver:
- Renewal, rationalisation and modernisation of the FE estate

- Creation of space which is versatile, fit for purpose, transformational and tolerant to change
- Proposals that help to meet the ambitions of the Mayor's Smart London Plan or which support LEP priority areas
- Proposals focused on progression to the highest levels of vocational study
- Proposals that demonstrate collaboration with schools, other education providers and employers

3. Equality comments

- 3.1 The FE Capital Investment Fund will support FE colleges and providers to invest in improving their estate that has poor accessibility.
- 3.2 Through the FE Capital programme and the selection of project proposals and development of these, the GLA will require applicants to evaluate the potential impacts with regard to protected characteristic groups. In particular applicants are required to demonstrate inclusive design of new and refurbished FE estate funded through projects.
- 3.3 As a condition of funding agreements, projects awarded funding will be required to meet the Public Sector Equality Duty and demonstrate this through reporting of progress.

4. Other considerations

4.1 Key risks and Issues

4.1.1 Funding required to deliver preferred projects exceeds that available - in order to mitigate the risk that the FE Capital Fund is unable to fund all preferred projects, a two stage approval process has been developed. At this stage projects have been short listed and will be required to submit detailed applications to test costs, deliverability and to undertake detailed due diligence. Once this work has been completed final agreement will be sought from the FE Capital Steering Group and LEP prior to any final decision to fund.

4.1.2 Projects are not deliverable - all Expressions of Interest have been scored on the basis of initial information on deliverability and affordability. These will be further assessed at detailed application stage.

4.1.3 Proposed projects do not deliver outputs - the risk of this is low given that all bids have been assessed against this criterion. However, the robustness of the output and outcome data provided in bids will be further tested at the detailed application stage.

4.1.4 Insufficient revenue funds – there is a risk of insufficient revenue funds being available to undertake specialist due diligence of applications and provide the GLA with satisfactory assurances. Officers will continue to try to identify additional sources of funding and explore options to capitalise the GLA's costs of due diligence and specialist support which will allow them to be drawn from the FE Capital programme fund.

4.2 Links to Mayoral strategies and priorities

4.2.1 The investment supports the priorities set out in the Mayor's Economic Development Strategy to improve London's competitiveness and invest in London's future and to develop further London's strengths in innovation, by encouraging collaboration across sectors, promoting more productive links between business and academia, providing support for innovation activities, fostering entrepreneurial skills and helping access funding. It supports the Mayor's 2020 vision to

work with business to create a minimum of 250,000 apprenticeships in London by 2016 and the same again by 2020. The project supports the Mayors manifesto commitment of creating 200,000 jobs in London over the course of the Mayoral term. It supports the Smart Cities agenda by promoting the efficient use of existence infrastructure and supports the LEPs Jobs and Growth Plan for London and the Smart London Plan.

5. Financial comments

- 5.1 The London Enterprise Panel has been allocated £55 million grant funding for 2015-16 for a programme of capital investment in further education colleges and providers and an indicative £65 million for 2016-17. The formal grant determination to the GLA as accountable body for the LEP for the 2015-16 grant is expected early in 2015 and on the basis of information made available from the Government to date, all of the funding must be used for capital expenditure, but is otherwise without restriction. This means that allocations could be made to projects in the Round 1 and 2 bidding rounds in which expenditure is incurred beyond the 2015-16 financial year. The same is expected to be the case for projects to which funding is made available from the 2016-17 allocation once this is confirmed.
- 5.2 Revenue funding for staff support for the programme up to and including 2015-16 was approved in DD1270 and there is planned budgetary provision for staff support required for the monitoring and delivery of projects that continue after 2015-16. However, there is no revenue funding at present for any other additional costs, other than in 5.3 below and if these are necessary will require the identification and approval of further funding. Should any projects require revenue funding these costs would need to be funded from colleges own budgets.
- 5.3 There is headroom within the Growing Places Fund revenue budget for the £147,000 cost of the recommendation for specialist advice, the profile of which is not known at this stage. Separate expenditure decisions will be required as necessary for this advice and the Authority's Contracts and Funding Code will need to be adhered to.

6. Legal comments

- 6.1 Sections 1-4 of this report indicate that:
 - 6.1.1 The proposals appear to fall broadly within the GLA's powers to do such things as are considered facilitative of and conducive to the promotion of social and economic development and wealth creation in Greater London in a manner which enables its co-operation with, and facilitation and co-ordination of the activities of, public bodies providing education services.
 - 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 Any grant funding to be awarded by the GLA as part of the proposals shall disbursed in a fair and transparent manner in accordance with the GLA's Contracts and Funding Code, and a grant

funding agreement should be put in place between and executed by the GLA and recipients before any commitment to the funding is made.

- 6.3 Any services or supplies required are procured by Transport for London Procurement who will determine the detail of the procurement strategy to be adopted in accordance with the GLA's Contracts and Funding Code; and appropriate contract documentation is put in place and executed by the GLA and contractors before the commencement of any such supplies or services.
- 6.4 Section 31(3) of the GLA Act 1999 provides that the GLA shall not (by virtue of its general powers under section 30) incur expenditure in providing, inter alia, any education services, in any case where the provision in question may be made by any other public body. By section 31(6), this is not, however, to be taken to prevent the GLA incurring expenditure in co-operating with, or facilitating or co-ordinating the activities of, any public body.
- 6.5 Although not absolutely clear, it would appear from what is written above, and because the only revenue expenditure proposed is in connection with the assessment of capital expenditure proposals, that the expenditure proposed is on or incidental to the acquisition or improvement of locations or facilities, which will be used for educational purposes, rather than on the provision of educational services. If that is so, then the proposed expenditure would not be in contravention of section 31(3).
- 6.6 If this were not the case, expenditure on the provision of education services would be permissible, notwithstanding section 31(3), if and to the extent that it was incurred in co-operating with, or facilitating or co-ordinating the activities of, a Further Education college or provider which is a public body. The term 'public body' is not defined in the GLA Act, and in other contexts it has been given a very wide construction, so as include any body operating in a public field or providing a service of public benefit. Accordingly, if a college or provider is not publicly owned, it may still, if it performs a public role, be a public body for these purposes. If the college is open, or the provider provides services, to the public, then it performs a public role. Co-operating with such a college or provider, or facilitating or co-ordinating its activities, would therefore not be prohibited by section 31(3).
- 6.7 Certain legal advice is subject to legal professional privilege and therefore is contained in Part 2.

7 Investment & Performance Board

- 7.1 The Investment and Performance Board of 20 November 2014 approved in principle to the decisions set out in this paper. IPB requested that grant agreements include a clause to ensure that bidders work with the Mayor's RE:FIT Programme in delivering their capital works, and this will be included in all grant agreements.

8. Planned delivery approach and next steps

- 8.1 This report seeks approval for receipt and expenditure of £55m of FE Capital funding. This includes the delivery of the programme, the bidding processes that are underway and the continuation of this approach to be adopted for the allocation of any future FE Capital funds allocated to the LEP by HM Government. Following approval of this decision and once detailed applications are received, officers will progress the appraisal and due diligence process and secure further endorsement by the FE Capital Steering Group and the London Enterprise Panel of project funding awards. A paper will be brought to IPB in March 2015 with Stage 1 and 2 papers for project proposals prior to full approval being sought by way of a Director Decision for each project (subject to the approval of delegation as set out in paragraph 8.2). This approach will be adopted for all project approvals in further funding round to commit the full £120m existing allocation and any future funding awarded to the London Enterprise Panel as part of Growth Deal 2.

- 8.2 In line with MD940 and in order for decisions on use of FE Capital funding to be taken in a timely manner, it is proposed that the Mayor delegates authorisations to spend to the GLA's Executive Director of Development, Environment and Enterprise following consultation with the Investment and Performance Board. The Executive Director's authorisation will be secured by way of a Director's Decision.
- 8.3 The FE Capital Funds provided by Government are capital only and as such there is a revenue requirement to support delivery of the programme. In principle approval is sought for the expenditure of up to £147,000 from the Growing Places Fund budget. The LEP endorsed an allocation of £300,000 from the Growing Places Fund for staffing and due diligence and specialist costs associated with delivering the programme. Approval (DD1270) is already in place for £153,000 for staff costs.
- 8.4 Specialist support required in order to undertake due diligence of detailed applications (where expertise does not exist within the GLA) and provide the LEP and the GLA with appropriate financial assurance includes:
- valuation advice where projects are dependent on sales or acquisitions; and
 - cost consultancy services to establish appropriate costing of projects and ensure value for money is achieved and ongoing monitoring surveyor services.
- 8.5 It is stressed that the £147,000 available for specialist support represents a very small amount of funding relative to the size of the programme (currently £120m but further funding allocations from HM Government are expected) and is not expected to be sufficient to meet costs of this for current or future bidding rounds. This represents a risk that requirements for the proposals progressing through bidding round 1 may not be met and it is likely that additional sources of revenue funding will need to be identified in order to provide due diligence and specialist support for bidding round 2 and any future rounds. Officers are exploring options to capitalise the GLA's costs of due diligence and specialist support which will allow them to be drawn from the FE Capital programme fund. Officers are also in discussion with TFL procurement regarding a call off contract for a Quantity surveyor (QS)/Independent monitoring surveyor (IMS) services and valuation services.
- 8.6 The detailed application form for Round 1 has been sent to Round 1 applicants, and feedback given on the Expression of interest. A guidance workshop for successful applicants invited to detailed application stage will be held on 2nd December with internal support from Economic and Business Policy, GLA Economics and Housing and Land. Officers are planning for the detailed application appraisal process and have been giving further consideration to the requirements for financial assurance and governance. Assessment of detailed applications will take place in February 2015 with selection in March 2015.
- 8.7 The total value of shortlisted Expressions of Interest is less than the available funds; therefore a second call for Expressions of Interest in the fund (Round 2) will shortly be launched. It is anticipated this will result in a re-submission of Round 1 bids that didn't get shortlisted – taking into account feedback received – and new bids from parties that were unable to complete bids for the Round 1 deadline. This will enable the LEP and the GLA to commit the full £55m allocation for 2015/16 and to demonstrate a pipeline of proposals to HM Government in order to secure the indicative allocation of £65m for 2016/17. Round 2 Expressions of interests are due in by late January for officers to evaluate.
- 8.8 As part of the request for Growth Deal 2, officers have asked for a further £80m funds for 2017/18 for ongoing investment in FE capital. Officers expect to hear whether further funds have been awarded in the new year.

8.9 In the implementation phase, all projects will be required to provide monitoring information including beyond the end of date of the capital expenditure, in order to measure the outcomes and the overall impact of the investments. Projects will also be required to undertake a self-evaluation after completion of the project and as part of the grant funding conditions will be required to undertake a longitudinal evaluation sometime after completion which should be submitted to the GLA. It will include the benefit or impact of the project, lessons learnt and dissemination of information and risk and issues

Activity	Timeline
Seek a Mayoral Decision	Late November
Commence procurement of specialist support	Late November
Publish the Round 2 Prospectus	Late November
Receive Round 2 Expressions of Interest	Late January 2015
Round 1 Detailed applications submitted	30th January 2015
FE Capital Steering Group to consider Round 1 detailed applications	February 2015
Recommendation to fund to the London Enterprise Panel	March 2015
IPB Stage 1 and Stage 2 for successful Round 1 projects	March/April 2015
Seek Director Decisions for Round 1 projects	March/April 2015
Round 1 proposals commence delivery	April 2015 onwards
Ongoing Round 2 bidding process	April 2015 onwards
Project Closure	April 2016

Background 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? NO

If YES, for what reason:

N/A

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 – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Laura Dubeck has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

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

✓

Sponsoring Director:

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor’s plans and priorities.

✓

Mayoral Adviser:

Kit Malthouse has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

CHIEF OF STAFF:

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

Signature

Date