GREATER**LONDON**AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1553

Title: Projects seeking to maximise Business Rates and Council Tax Income in London

Executive Summary:

Under the business rates retention scheme introduced in April 2013 the GLA receives 20% of all business rates income collectable by the 33 London billing authorities and benefits proportionately from any real terms incremental growth in the taxbase.

In 2015-16 the GLA is forecast to receive £1.36 billion under the business rates retention scheme and £220 million through the Crossrail Business Rate Supplement. Business rates income funds more than 75 per cent of the GLA's gross revenue expenditure and is contributing £850m and £115m respectively towards the budgets of Transport for London and LFEPA.

This Decision seeks approval from the Mayor for the GLA to enter into contractual agreements with any or all of the 33 London billing authorities to support projects which seek to directly maximise the value of the non domestic rating list in London and thus the level of business rates income receivable by the GLA. It also asks the Mayor to delegate authority to the Executive Director, Resources to support, facilitate and agree funding projects in partnership with any or all of the 33 billing authorities which seek to maximise the value of the non domestic rating list in London. These projects will focus on identifying assessments which have been omitted from or are undervalued in the rating list. It is expected that all projects would be self financing over a period of no more than two financial years as any GLA one off contribution would be exceeded by the additional business rates income generated, which would be ongoing.

Decision:

That the Mayor:

- Approves the GLA undertaking work in partnership with the 33 London billing authorities to maximise the size of the non domestic rating list in the capital and consequently the level of rating income it receives under the business rates retention system; and
- Delegates authority to the Executive Director Resources to enter into agreements with any or all of the 33 London billing authorities to agree funding to support projects which have the direct objective of maximising business rates income on the condition that they should be self financing and result in additional rates income on an ongoing basis.

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:** 26/10/2015.

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

Decision required – supporting report

1. Introduction and background

1.1 In April 2013, the Government changed the way in which local government is funded through the introduction of the business rates retention scheme. The objective of this new regime is that local authorities should be able to retain a significant proportion of the increase in their business rates revenue to incentivise and reward them for delivering economic growth in their area. Under the arrangements local authorities keep half of any increases in revenue to invest in local services. In London this local share is apportioned between the GLA and the 33 London billing authorities on a 40 per cent to 60 per cent ratio.

1.2 In 2010 the Mayor also introduced the Crossrail business rate supplement (BRS) to finance £4.1 billion of the costs of the Crossrail project. The BRS has been used to fund directly approximately £700m of the Crossrail construction costs and is being used to fund the financing and repayment of the £3.4 billion of borrowing the GLA has taken out to finance the balance of its agreed contribution.

1.3 In 2015-16 the GLA is forecast to receive £1.36 billion under the business rates retention scheme and £220 million through the Crossrail Business Rate Supplement. Business rates income funds more than 75 per cent of the GLA's gross revenue expenditure and is contributing £850m and £115m respectively towards the budgets of Transport for London and LFEPA. These sums are expected to increase over the next five years as more funding is expected to be devolved into the rates retention system offset by a reduction in the level of government grant provided for GLA group services.

1.4 The GLA receives its business rates and BRS income directly from the 33 London billing authorities and is therefore dependent on their forecasts and collection rates for the retained rates income it receives. By necessity it must work closely with billing authorities to ensure business rates income is maximised. Indeed it is only billing authorities who have the statutory powers to formally submit proposed amendments to the rating list through the Valuation Office Agency (VOA) under the 1989 Local Government Finance Acts and subsequent legislation where errors or omissions have been identified. It is however for the VOA to make the final determination as to whether or not the rating list should be amended.

1.5 It is not uncommon for buildings and other assessments to be omitted in full or in part from the rating list due to oversights or changes in circumstance. If they are included there is also the risk that their valuation may be understated because of the impact of refits or redevelopments. Rateable values may also be incorrectly stated due to a delay in implementing Court decisions relating to rating, mergers and consolidations of properties, the implementation of national changes in rating policies by the VOA and changes of use (e.g. from industrial to retail use).

1.6 Since the introduction of rates retention at least two companies have been offering an advisory service to London billing authorities on business rates maximisation. The work undertaken by these contractors is also endorsed by both leading public sector finance professional bodies - the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Institute of Revenues Rating and Valuation (IRRV).

1.7 The GLA has already entered into funding agreements with a number of London billing authorities which depending on their cost have been approved via Mayoral or Director's decisions. Negotiations are also ongoing with a number of other authorities. Some London billing authorities are also legitimately undertaking this work in house and diverting resources to deliver these objectives – which is a matter of course for their local determination. However there is a risk that some of the remaining boroughs may not be recognising the possibility that their rating list may be understated and are not for reasons of resourcing or capacity undertaking such projects – given that they may be under an expectation they should fund the costs when only deriving 30% of any benefits. Without the GLA's support billing authorities would be required to pay 100% of the costs of rates maximisation projects but only receive 30% of the additional income which results with the remainder being apportioned between the GLA (20%) and the Secretary of State (50%). It is therefore desirable that the GLA promotes the importance of this work and demonstrates its commitment to providing funding to support business rates maximisation work in proportion to its share of any additional revenues generated.

1.8 There is now some urgency to ensuring such work is progressed. As a result of the deadline introduced in the 2014 Autumn Statement and implemented via the Non-Domestic Rating (Alteration of Lists and Appeals)(England) (Amendment) Regulations 2015 any amendments to the rating list based on proposals submitted by billing authorities must be made by the Valuation Office (VOA) by 31 March 2016 if they are to be backdated to April 2010. The equivalent deadline for appeals originating from ratepayers or their agents was 31 March 2015. The Valuation Office Agency has advised local authorities that in practice that they will require such proposals – known as billing authority reports – by 31 December if they are to have sufficient time to consider these and accordingly amend the rating list before the end of March 2016.

1.9 Any rating list amendments made from 1 April 2016 will result in gains from the date the list is amended – so there are still benefits from pursuing rates maximisation projects which result in amendments after that date. And clearly from 1 April 2017 – post the revaluation – backdating will again be permitted to that starting date for the new rating list. However billing authorities may need to take appropriate steps if the Valuation Office does not put through amendments they consider are valid by 31 March 2016 backdating deadline where these are submitted before that date. Otherwise there is a risk that up to five years of backdated income for each error on the rating list going back to April 2010 (or potentially earlier) may be lost permanently.

1.10 In order to protect its financial position the GLA is encouraging the Government to delay the 31 March 2016 deadline for backdating rating list amendments by up to 12 months to allow the Valuation Office sufficient time to properly consider any billing authority proposals submitted. This would, however, require a change to secondary legislation. Officials will pursue this matter but we cannot guarantee that the Government will be willing to change the regulations at this stage.

2. Objectives and expected outcomes

2.1 This decision asks the Mayor to approve, in principle, that the GLA should enter into agreements with London billing authorities and part finance business rates maximisation projects on condition that they are self financing and result in additional rating income being generated. Providing this funding is a legitimate request as billing authorities do not explicitly receive additional funding from central government to fund the costs of business rates maximisation and any investment they make which increases the size of the rating list benefits the GLA financially on a proportionate basis. The funding will not be used to resource the billing authorities' normal collection and enforcement work in respect of business rates which are funded by the collection allowance they are permitted to deduct from their rates income using a calculation approved by the Secretary of State.

2.2 In view of the tight timetable for billing authorities to submit amendments to the rating list given the 31 March 2016 backdating deadline, it is not practical for GLA to select via a public procurement process a single contractor to undertake this work. It is therefore proposed that the GLA encourage those boroughs without rates maximisation projects in place to enter into arrangements/negotiations with the those contractors who are undertaking work with other Boroughs to put projects in place as a matter of urgency – with GLA funding 40% of the costs in line with its share of locally retained business rates. We understand that the leading contractors undertaking these projects for local authorities have framework contract arrangements in place which would allow the procurement issues to be addressed relatively quickly.

2.3 Such projects generally operate on a finder fee basis with an external contractor – if appointed – receiving a percentage of the additional rateable value identified and added by the Valuation Office to the rating list on a one off basis. If the consultant's work does not generate any additional rates revenues in respect of the assessments identified – the cost is zero to the GLA and billing authority. These projects therefore are of limited risk.

3. Equality comments

3.1 There are no direct equality implications for the GLA as any projects will be managed by the relevant London billing authority and any staff employed on the project will be recruited by them under their terms and conditions and any contract it enters into will be under the terms of its procurement code. Each authority should have regard to appropriate equality considerations in its role as a public authority under relevant legislation.

4 Other considerations

4.1 All projects are expected to be self financing with any up front costs being offset by additional non domestic rating income generated. If no net additional non domestic rating is generated through additions to the local non domestic rating list made by the Valuation Office no GLA contributions will be made. Therefore there will be no cost to the GLA if there is no demonstrable and evidenced additional net rating income generated.

4.2 In its funding agreement with each billing authority the GLA will require them to provide a schedule of the amendments made to the rating list in support of any claim for payment. The agreement will also require the billing authority to notify the GLA if it receives a reimbursement of all or part of the payment made to the contractor – and oblige it to pay over 40% of the sum repaid to the GLA in line with its share of any project costs.

5. Financial comments

5.1 This paper is financial in nature as it relates to the GLA's primary funding source for its revenue services. The GLA is likely to incur an up-front payment in relation to any projects supported but this will generally be in proportion to the additional rateable value added to the rating list. Therefore any projects are expected generally to be self financing within a financial year. Any up-front costs will be charged initially to the Mayor's Resilience Reserve which is used to manage volatility and risk in relation to council tax and business rates income. Any resulting net growth in income over and above the sums committed to fund GLA, LFEPA and TfL arising from these projects and the sums billing authorities collect in total are also credited to this reserve.

6. Legal comments

6.1 The 32 London boroughs and the Corporation of London are the billing authorities for non-domestic rates in their respective areas under the Local Government Finance Act 1988. Under section 41 of that Act it is the responsibility of the valuation officer for a billing authority to compile, and then maintain, its local non-domestic rating lists. It is noted at 2.1 above that billing authorities do not receive discrete funding from government grant to assist in maximising the size of the rating list.

6.2 It is understood that the GLA has an interest in maximising business rates income across London because it receives 20 per cent of any additional revenues collected – equating to 40% of the locally retained share. On that basis it is legitimate for GLA resources to be used to support business rates maximisation project in proportion to its local share under rates retention.

6.3 Under section 34 of the GLA Act the GLA has the power to do anything calculated to facilitate the exercise of the GLA's functions. This power is subject to the limitation that the GLA may not raise money by virtue of it, except in accordance with relevant legislation; in the present case any money to be raised is to be raised in accordance with the relevant legislation. Reasonable expenditure designed to achieve a better level of business rates income for the GLA, through improvement of the non-domestic rating list of each London billing authority, is therefore within the power of the GLA.

7. Investment & Performance Board

7.1 The Investment and Performance board considered this issue at its meeting on 17 September. It endorsed the proposals set out in this Decision. An update on progress and actual performance will be provided to the Board in 2016-17.

8. Planned delivery approach and next steps

8.1 The planned project delivery is set out below:

Activity	**Timeline**
Undertake dialogue with London boroughs and contractors to develop projects	Autumn 2015
Consider steps to protect the London wide position pre and post deadlines set out below	Autumn 2015
Deadline for billing authority amendments to be submitted to VOA if to be backdated to April 2010	31 December 2015
Deadline for amendments to be made to rating list if to be backdated to April 2010	31 March 2016

Appendices and supporting 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 <u>or</u> 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: <u>Martin Mitchell</u> 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: <u>David Gallie</u> has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.	✓
Sponsoring Director: <u>Martin Clarke</u> has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.	✓
Mayoral Adviser: <u>Sir Edward Lister</u> 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 M. J. Blla **Date** 19.10.15

CHIEF OF STAFF:
I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature Edward Li **Date** 20:10:2015