

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2693

Title: Adult Education Budget 2019-20 Audit and Reconciliations Approach

Executive Summary:

The Mayor previously approved an audit approach (under MD2499/MD2544¹) which requires all Adult Education Budget (AEB) grant funded provision (other than local authority provision) to be audited as part of a five-year plan and for AEB procured provision to be audited over the programme's four-year term.

This Mayoral Decision form seeks approval for changes to the 2019-20 AEB audit approach which are required due to delays to the 2019-20 audit programme caused by social distancing restrictions arising from the COVID-19 pandemic. Approval is also being sought for the proposed approach to dealing with the financial reconciliations for funding errors identified during the delivery of AEB Procured audits.

Decision:

That the Mayor approves:

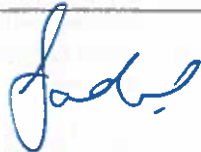
1. a change to the AEB audit approach (MD2544), allowing the first round of AEB Grant audits to be delivered as in-year 2020/21 audits; and
2. the proposed approach to financial reconciliations for errors identified during AEB Procured 2019/20 audits, to limit the value of funds recovered to those above the provider's operational delivery costs for the Academic Year.

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:

7/10/20

¹ MD2544 was reserved from publication as it contained commercially sensitive information. The audit procurement has recently completed and therefore the MD is expected to be published shortly.

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

Decision required – supporting report

1. Introduction and background

- 1.1 This Mayoral Decision (MD) sets out changes required to the implementation of the audit approach that was approved by the Mayor (under cover of MD2499 and MD2544) which requires all Adult Education Budget (AEB) Grant funded providers (other than local authorities) to be audited as part of a five-year plan and for AEB Procured providers to be audited over the programme's four-year term.
- 1.2 Due to COVID-19 social distancing restrictions, the GLA's 2019/20 AEB audit programme has been delayed, as is the case nationally. AEB Procured audits are now planned for delivery from September to October 2020, while AEB Grant audits will take place between December 2020 and April 2021.
- 1.3 This MD seeks approval for the first round of AEB Grant audits to take place as in-year 2020/21 audits. As the AEB Procured audits are scheduled to begin earlier, the GLA will aim to complete these audits before the end of October 2020 using the relevant 2019/20 data. Where it is not possible to complete an AEB Procured audit owing to further delays linked to COVID-19, the GLA will seek to complete these audits before April 2021.
- 1.4 In addition, approval is sought for a financial reconciliations process that takes into account the financial impact of the COVID-19 pandemic on providers.
- 1.5 This decision was considered by the AEB Mayoral Board on 30 September 2020, ahead of approval by the Mayor.

2 Objectives and expected outcomes

Delayed audit approach linked to COVID-19

- 2.1 The schedule of audits to be completed from summer 2020 has been delayed nationally because of the COVID-19 pandemic. In view of this, AEB Grant audits will take place between December 2020 and April 2021. Despite this delay, as GLA financial administration takes place on a financial year basis, the completion of audits by April 2021 will continue to support the work to provide assurance over AEB funds by April 2021.
- 2.2 The final opportunity for AEB providers to correct errors in their reporting for 2019/20 delivery in the Individualised Learner Record (ILR) is on 22 October 2020, as set by the Education and Skills Funding Agency (ESFA). Due to the delay to the start of the audit process, AEB Grant audits will be taking place after this deadline and the GLA would be unable to correct any errors identified from the audits if they are based on 2019/20 learner data. It is therefore proposed that AEB Grant audits are carried out on 2020/21 learner data based on the first set of returns due in early December 2020. This will allow audit reports to be issued and corrections to be made to the ILR in the normal way.
- 2.3 The AEB Procured programme is matched against the Mayor's 2019-23 ESF Programme and is therefore within scope for European Social Fund (ESF) compliance checks by the Government Internal Audit Agency (which provides the audit function of the national ESF Audit Authority). These checks can result in clawback if irregularities are identified in relation to outputs and outcomes that have been reported by providers. The delivery of 2019/20 audits, together with GLA Provider Manager sample checks, is integral to the GLA's efforts to reducing the risk of irregularities in its ESF match-funding claims. Given this requirement, officers will work with GLA contracted auditors to complete AEB procured audits before the end of October 2020.
- 2.4 There is a risk that AEB Procured audits will not be completed in time to correct all errors in the ILR by the deadline. Officers will continue to liaise with the ESFA and Mayoral Combined Authorities (MCAs) on the approach to audit and final returns via the national AEB Audit, Assurance, Fraud and Investigations network and other relevant forums.

- 2.5 The GLA has committed to working with the ESFA to avoid multiple audits for providers that the GLA has in common with the ESFA. In order to achieve this, a number of joint audits will also be taking place for GLA AEB Grant providers that have been selected for audit by the ESFA. It is proposed that the GLA AEB part of these audits are also based on 2020/21 delivery.
- 2.6 Where a provider that is delivering an AEB Procured contract and an AEB Grant agreement has been selected for audit, this will take place as a joint audit based on 2020/21 learner data in order to reduce the burden of multiple audits.

Reconciliations

- 2.7 Upon completion of each audit, the GLA will be provided with an audit report with a financial valuation of ineligible claims (or claims with insufficient supporting evidence) that have been submitted by each provider. In normal circumstances, this value would then be reclaimed from the provider by invoice or via adjustments to future payments.
- 2.8 In order to align with the Mayor's commitment to support the financial stability of providers through the COVID-19 pandemic, it is proposed that the operational costs of AEB Procured providers is taken into consideration during the audit reconciliation process such that only the value of errors above these costs are recovered. This approach is acceptable under ESF rules which require providers not to make a profit from the funding they receive.
- 2.9 The ESFA will be carrying out three AEB Grant audits on behalf of the GLA as part of the year one audit offer that was accepted by the Mayor through MD2499. These audits will be based on 2019/20 learner data. It is therefore proposed that the reconciliation approach set out above for AEB Procured providers is also applied to these audits.
- 2.10 For all other AEB Grant providers, it is proposed that the value of errors identified from their 2020/21 delivery is recovered in the normal way. The scheduled audits will inform the GLA financial year 2020/21 assurance and support providers with identifying best practice and lessons that can be learnt to improve compliance and data quality on the programme going forward.
- 2.11 The expected outcome of this MD is for the GLA to receive an independent audit opinion on the delivery of AEB grants and procured contracts which will provide the Mayor with a high level of assurance on the programme and provide a baseline for the development of the AEB audit approach at the end of the initial five-year cycle.

3. Equality comments

- 3.1 In carrying out any functions in respect of the AEB, the Mayor will comply with the public sector equality duty under section 149 of the Equality Act 2010. Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities – of whom the Mayor is one – must have due regard to the need to:
- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.2 Relevant protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 3.3 All AEB and ESF providers are required to have an equalities and diversity policy in place. The AEB Procured and ESF programmes both have specific targets to support groups with protected characteristics including female learners, learners from Black, Asian and ethnic minority communities, and disabled learners.

- 3.4 The reconciliation approach set out in this decision form will ensure that errors identified in the GLA's AEB learner records are corrected to give a more accurate picture of the characteristics of learners supported. It will also ensure that the GLA balances the recovery of ineligible payments for future delivery with supporting the continuity of skills and employment support providers.

4. Other considerations

- 4.1 There are no conflicts of interest to note for any of those involved in the drafting or clearance of the decision.

Risks

- 4.2 The delay to the audit programme resulting from COVID-19 has meant that the schedule of audit work for 2019/20 could not take place as planned. In view of these circumstances, there is a risk that any funding and data errors that may have arisen through the audit process are not fully identified in the 2019/20 data. However, given the exceptional nature of the 2019/20 teaching year, the Mayor issued revised funding arrangement for AEB Grant providers earlier in the year to address the delivery challenges resulting from the pandemic and provide funding stability, and as such the risk is considered to be low.
- 4.3 There is a risk that AEB Procured audits may not be completed by October 2020 and the ESFA may not offer an alternative way for corrections to be made to the ILR after the closure of the 2019-20 ILR in October 2020. GLA auditors will work with providers to correct as many errors as possible before the R14 closure deadline for AEB Procured audits and where necessary audits will be conducted at a later date.

Links to Mayoral strategies and priorities

- 4.4 The GLA's Audit and Assurance approach will help to ensure that the AEB funding for skills and employment support provision is being spent effectively to support Londoners in line with the Mayor's priorities as set out in the Skills for Londoners Strategy. The changes that will be implemented as a result of this MD will enable the GLA to adapt this approach to address the disruptions caused by the COVID-19 pandemic.

5 Financial comments

- 5.1 Approval is being sought for a change to the AEB Grant audit approach (previously approved by MD2544). Specifically, a delay in completing the first round of the AEB Grant audits due to COVID-19.
- 5.2 Approval is also being sought for the proposed approach to dealing with the financial reconciliations for funding errors identified during the delivery of these audits. It is proposed that the operational costs of AEB Procured providers is taken into consideration during the audit reconciliation process such that only the value of errors above these costs are recovered.
- 5.3 There are no direct financial implications to the GLA arising from both proposals. Any additional costs arising from the delay in the first round of AEB Grant audits, will be contained within the AEB budget delegated to the GLA by the Department for Education. Any clawback recovered against the AEB Procured providers will revert to the AEB budget.

6 Legal comments

- 6.1 Section 39A of the Greater London Authority Act 1999 permits the delegation of ministerial functions to the Mayor, subject to certain limitations and conditions. This forms the basis of the delegation to the Mayor of AEB functions from the Secretary of State for Education. A particular limitation of the delegation is that the usual power of delegation by the Mayor is not available in respect of s39A delegated functions.

6.2 In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.

7 Planned delivery approach and next steps

7.1 The next steps following consideration by the Board are summarised below:

Activity	Timeline
Delivery of AEB Procured audits	September 2020 to October 2020
Delivery of AEB Grant audits	December 2020 to April 2021

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? NO

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

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 – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Ann-Marie Soyinka has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Halima Khan has reviewed the request and is satisfied it is correct and consistent with the Mayor’s plans and priorities.

✓

Mayoral Adviser:

Jules Pipe 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 5 October 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date

D. Gane

6 October 2020

CHIEF OF STAFF:

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

Signature

Date

D. Bellamy

5 October 2020