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1. PURPOSE

- 1.1 The Department for Communities and Local Government or “DCLG” (here after referred to as The Authority) wishes to commission research on section 106 planning obligations in England in a recent year.

2. BACKGROUND TO THE CONTRACTING AUTHORITY

- 2.1 The Authority is committed to supporting housing supply and building strong communities, and recognises the importance of section 106 (s106) planning obligations in making development acceptable to local communities. The Authority is also aware of concerns raised by the industry and others that planning obligations can affect site viability, as well as delaying development through lengthy negotiation processes.

3. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT

- 3.1 The last estimate of the value of planning obligations agreed through s106 was produced in 2011/12 and estimated the total value to be £3.7bn¹. This estimate needs updating since it was produced while the housing market was in a downturn and before the Community Infrastructure Levy (CIL) had been adopted by many local authorities. The Authority is also interested in understanding how the adoption of CIL has impacted the value and use of s106.
- 3.2 The changing economic and policy environment around developer contributions presents a compelling need to deepen our understanding of section 106 agreements through research.
- 3.3 There is also a need for updated evidence to feed into policy development and how to balance the goals of making development acceptable, creating a simple and transparent system and maintaining site viability. The Housing White Paper: Fixing our broken housing market² recently published by The Authority states that the Government will examine the options for reforming the system of developer contributions and make an announcement at Autumn Budget 2017.
- 3.4 The specific objectives of this research are to:
- 3.4.1 Update evidence on the current incidence and value of planning obligations;
 - 3.4.2 Understand more fully the relationship between CIL and s106; and

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314066/Section_106_Planning_Obligations_in_England_2011-12_-_Report_of_study.pdf

2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf



3.4.3 Provide a more detailed picture of the negotiation process and delays due to s106 and how this differs between smaller and larger sites, with a view to inform how the process may be streamlined.

4. DEFINITIONS

Expression or Acronym	Definition
DCLG	Means the Department for Communities and Local Government
CIL	Means Community Infrastructure Levy, a planning charge which came into force on 6th April 2010 which allows Local Authorities to raise funds to address infrastructure needs arising from the cumulative impacts of development in their area.
S106	Means section 106 planning obligations, a mechanism which makes a development acceptable in planning terms that would not otherwise be acceptable. This is usually used for site specific mitigation and affordable housing.

5. THE REQUIREMENT

5.1 There will be four main areas for research which will require specific research methods. Potential Providers should set out a clear methodological approach for each research area, explaining how their approach will satisfy our key output requirements and any additional information that might be revealed from their research methods.

5.2 This project will include a combination of primary and secondary research and engagement with local authorities, developers and other stakeholders, as required. Whilst the research should be consistent with previous studies, the Authority encourages Potential Providers to outline their own methodological approaches.

Research area 1: The value and incidence of planning obligations

5.3 This will require detailed surveys of local authorities, similar to those previously collected in existing reports. It is essential that this follows a similar structure to previous studies in order to make the data comparable

5.4 Key outputs from research area 1:

5.4.1 The total value of planning obligations in England in a recent year, split by:

5.4.1.1 type (e.g. affordable housing, transport and travel, education);

5.4.1.2 site size (residential, number of dwellings);

5.4.1.3 region;

5.4.1.4 brownfield and greenfield;

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- 5.4.1.5 development type (residential, commercial);
 - 5.4.1.6 nature of contribution (e.g. in-kind, cash, land); and
 - 5.4.1.7 authority type (using DEFRA rural-urban classifications³).
- 5.4.2 The average value of planning obligations on residential sites per dwelling, split by:
- 5.4.2.1 site size (residential, no. of dwellings);
 - 5.4.2.2 brownfield and greenfield; and
 - 5.4.2.3 region.
- 5.4.3 The average value of planning obligations as a proportion of gross development value, split by:
- 5.4.3.1 site size (residential, no. of dwellings);
 - 5.4.3.2 brownfield and greenfield (residential);
 - 5.4.3.3 region (residential); and
 - 5.4.3.4 development type (e.g. residential, commercial).
- 5.4.4 The total value of s106 agreements compared to the final value of s106 which is actually delivered, ideally broken down by site size and type of s106 so the Authority can understand which types are more likely to be negotiated away over time (e.g. affordable housing) or not delivered at all. This should be explored first through the detailed survey, but if it becomes apparent that local authorities do not hold this information, then it could be pursued through case studies.
- 5.4.5 Case study evidence to examine reasons why s106 obligations agreed at planning permission are not always the same as what is delivered in practice. This should include an understanding of the circumstances in which s106 agreements are negotiated away (e.g. change in market conditions, unexpected build/ site costs); and whether and how local authorities have secured additional contributions when markets have gone up (e.g. through built in trigger points).
- 5.4.6 Case study evidence on how planning obligations vary by site and reasons why some sites contribute less than others or do not meet affordable housing targets, including some comparison of consistency between methodologies across viability assessments.

³ <https://www.gov.uk/government/collections/rural-urban-classification>



- 5.4.7 Case study evidence to gain an understanding of how much s106/CIL revenue may be 'lost' through these rights. This analysis should consider the fact that some PDR sites are additional, i.e. the homes would not have been built in absence of the PDR.

Research area 2: Investigating the relationship between s106 and CIL

- 5.5 The Authority is keen to better understand how the introduction of CIL has impacted on the value of s106 planning obligations, the total value of developer contributions and the value of developer contributions towards different types of infrastructure.
- 5.6 Previous research in this area was based on limited evidence due to the small number of local authorities that were charging CIL at the time. CIL is now more established as a policy, meaning developers and local authorities are familiar with the process so CIL is likely to be moving towards a 'steady state' of revenue and expenditure.
- 5.7 The 2011/12 study used a combination of published information and a short interview/questionnaire to five local authorities who had implemented CIL during 2012. Additionally the CIL Evaluation looked at the relationship between s106 and CIL but it also took place very soon after the adoption of CIL.
- 5.8 This study should be able to go deeper by comparing published charging schedules and local authority data on CIL revenues to the survey information that will be collected on s106 planning obligations to see how CIL has impacted s106. This will help to answer questions such as to what extent is CIL working as a replacement for s106 planning obligations for infrastructure.
- 5.9 Key outputs from research area 2:
- 5.9.1 The following broken down by CIL and non-CIL charging local authorities:
- 5.9.1.1 the average incidence and value of developer contributions;
- 5.9.1.2 the incidence and value of affordable housing in planning obligations;
- 5.9.1.3 the average value of developer contributions on residential sites, per dwelling and per £ of gross development value; and
- 5.9.1.4 the average value of affordable housing in planning obligations on residential sites per dwelling and per £ of gross development value.
- 5.9.2 Comparison of the following taking into account of the different characteristics of CIL and non-CIL local authorities:
- 5.9.2.1 the average value of planning obligations on residential sites per dwelling and per £ of gross development value; and

⁴ <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>

the average value of affordable housing in planning obligations on residential sites per dwelling and per £ of gross development value.

5.9.3 For CIL local authorities:

5.9.3.1 A breakdown of CIL revenue according to the type of development it has been collected from (e.g. residential, commercial);

5.9.3.2 CIL revenue as a proportion of gross development value split by:

- (a) site size (residential, no. of dwellings);
- (b) region (residential);
- (c) brownfield and greenfield (residential); and
- (d) development type (e.g. residential, commercial),

with appropriate consideration given to the treatment of Mayoral CIL in this analysis.

5.9.3.3 A breakdown of CIL expenditure into different categories.

5.9.4 Analysis of how developer contributions towards different types of infrastructure and affordable housing varies between CIL and non-CIL local authorities.

Research area 3: Negotiation processes and delays due to s106

5.10 The independent review of developer contributions⁴ concluded that the current system by which developers contribute to affordable housing and infrastructure funding is difficult to understand, inconsistent and uncertain in its implementation. The Authority would like to better understand the s106 negotiation process and the costs to local authorities and developers.

5.11 The Authority is also interested in learning how central government may be able to streamline the negotiation process through policy. To answer this question, this report should investigate the process and cost of s106 negotiations through surveys or case studies, explaining reasons behind delays in the process as well as the timescales generally involved.

5.12 Key outputs from research area 3:

⁵ <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>



- 5.12.1 An understanding of the process involved in agreeing s106 planning obligations including timescales and any reasons for delays, and how this varies between sites of different sizes.
- 5.12.2 The cost of s106 negotiations to Local Authorities, ideally broken down by site size.
- 5.12.3 Case study evidence on the cost of s106 negotiations to developers, particularly small and medium house builders, and the extent s106 leads to uncertainty and the impact of this.

Research area 4: Monitoring and transparency of developer contributions

- 5.13 The Authority wants communities to see the benefits of development in their area. Therefore, the Authority wishes to understand how local authorities monitor the revenue from s106 and CIL and ensure in-kind contributions are delivered. The Authority is also interested in knowing how information on developer contributions and, including how CIL is spent is communicated to the public.
- 5.14 Key outputs from research area 4:
 - 5.14.1 Survey evidence or case studies of local authorities to reveal how CIL and s106 developer contributions are monitored and reported; and
 - 5.14.2 Survey evidence or case studies of how this information is communicated and made accessible to the public.

Fit with existing evidence base and previous studies

- 5.15 The Authority expects this Contract to draw on methods used in previous studies to make the research comparable, whilst also bringing in updated approaches to tackle new and emerging research questions and being ambitious in extending the work that has already been completed. Relevant previous studies include:
 - 5.15.1 University of Sheffield studies on the value of planning obligations from 2005/06 and 2007/08.⁵
 - 5.15.2 Reading University and 3 Dragons study on the value of planning obligations from 2011/12.⁶
 - 5.15.3 The report of the CIL review group (October 2016)⁷.

⁶<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/obligationsupdatestudy.pdf>

<http://www.cchpr.landecon.cam.ac.uk/Projects/Start-Year/2009/Valuing-Planning-Obligations-in-England-2007-08/Incidence-Value-Delivery-Planning-Obligations-England-2007-08/Full-Report>

⁷https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/314066/Section_106_Planning_Obligations_in_England_2011-12_-_Report_of_study.pdf



6. KEY MILESTONES

- 6.1 The outputs of this research should be proposed by Potential Providers. Suggested outputs include:
- 6.1.1 Short update or progress reports at regular intervals;
 - 6.1.2 An interim report containing intermediate outputs;
 - 6.1.3 Draft final report;
 - 6.1.4 A final report;
 - 6.1.5 A presentation to communicate key messages to a stakeholder engagement group; and
 - 6.1.6 Data generated from the survey.
- 6.2 The main required output for publishing is the final report; Potential Providers will be responsible for drafting all reports in the Authority's house style⁸ (details will be provided).
- 6.3 The Authority requires the draft final report to be completed by 11th September 2017 but it needs intermediate outputs containing estimates by the end of July 2017:
- 6.3.1 The total value of planning obligations in England in a recent year, split by:
 - 6.3.1.1 type (e.g. affordable housing, transport and travel, education);
 - 6.3.1.2 site size (residential, no. of dwellings);
 - 6.3.1.3 region;
 - 6.3.1.4 brownfield and greenfield;
 - 6.3.1.5 development type (residential, commercial); and
 - 6.3.1.6 nature of contribution (e.g. in-kind, cash, land).
 - 6.3.2 The average value of planning obligations on residential sites per dwelling, split by:
 - 6.3.2.1 site size (residential, no. of dwellings);

⁸ <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>

⁹A recent example is the following report:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560499/Troubled_Families_Evaluation_Synthesis_Report.pdf



- 6.3.2.2 brownfield and greenfield; and
- 6.3.2.3 region.
- 6.3.3 The average value of planning obligations as a proportion of gross development value, split by:
 - 6.3.3.1 site size (residential, no. of dwellings);
 - 6.3.3.2 brownfield and greenfield (residential);
 - 6.3.3.3 region (residential); and
 - 6.3.3.4 development type (e.g. residential, commercial).
- 6.3.4 For CIL local authorities:
 - 6.3.4.1 A breakdown of CIL revenue according to the type of development it has been collected from (e.g. residential, commercial);
 - 6.3.4.2 CIL revenue as a proportion of gross development value split by:
 - (a) region (residential).

with appropriate consideration given to the treatment of Mayoral CIL in this analysis.
 - 6.3.4.3 A breakdown of CIL expenditure into different categories.
- 6.4 The quantitative outputs of this research should be prioritised and reported to the Authority as soon as possible, whilst still allowing enough time to generate a suitable sample size. Qualitative evidence such as case studies can be delivered on a longer timeline.
- 6.5 The Authority recognises that these timescales may be challenging but they reflect the need for the outputs to be available in time to influence policy development. The Authority invites Potential Providers to propose alternative timescales if it is possible to deliver the outputs more quickly or if the proposed timescales are undeliverable.
- 6.6 Potential Providers should clearly set out plans for how the work will be completed in a timely manner.
- 6.7 The Potential Provider should note the following project milestones that the Authority will measure the quality of delivery against:

Milestone	Description	Timeframe
1	Interim report containing intermediate outputs	31 st July 2017



2	Draft Final report	11 th September 2017
2	Final report	29 th September 2017

7. AUTHORITY'S RESPONSIBILITIES

- 7.1 The project will be managed by Housing and Planning Analysis Division with support from the Planning Infrastructure Division.
- 7.2 To ensure that the project meets the interests of key stakeholders within Government, the Authority will set up a steering group for the project chaired by the Authority with representatives from key Government Departments. This group will meet bi-monthly and the Supplier will be required to attend. The group should be kept up to date on methodology, any difficulties in data collection and emerging findings, this should ensure that the research quality is high and closely tailored to policy needs. In addition, the Supplier may be asked to present their research progress to an external stakeholder engagement group which focuses on wider developer contribution policy.
- 7.3 The research findings of this project will be published in the final report. In addition, the Authority will hold the data generated from the survey to be used for internal analysis and to be made available on request.

8. QUALITY

- 8.1 Tenders should provide a quality plan for the project including practices and procedures for protecting personal data and assuring quality in the project overall. The plan should identify appropriate stages for reviewing the programme of work with the Authority.
- 8.2 Along with this, Tenders should provide a risk register which should indicate the likelihood and impact of each risk (using red, amber and green classifications). The risk register should also include suggested mitigations and contingencies for each risk.
- 8.3 The final outputs of the project may undergo a peer review process to ensure their quality. Potential Providers are invited to submit costs for providing a peer review process as part of their quality assurance.

9. PRICE

- 9.1 Tenders should outline their costs for the entire project, including a breakdown of staff and non-staff costs. All travel and other expenses should be included in this cost for all stages of research, analysis and presentations. Costs should be provided exclusive of VAT and Tenders should state whether VAT will be charged.
- 9.2 Tenders should indicate the total cost of the project, broken down by each of the main outputs.

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9.3 Prices are to be submitted via the e-Sourcing Suite using Appendix E – Pricing Schedule inclusive of expenses but excluding VAT.

10. STAFF

10.1 Staff information should be provided by the Potential Provider. This should outline all personnel contributing to the project, as well as their grade, daily rate, their role in the project and the number of days input they will give.

10.2 It is important that Potential Providers demonstrate that the team they have assembled for the project will be able to produce the required outputs to a high standard and within the required timescales and budget.

10.3 It is essential that the Supplier puts in place robust project management arrangements, which should be described in detail and be clearly linked to the quality plan. The Authority's project manager will be the main point of contact for the Supplier, and the Authority will expect regular contact as the Authority should be closely involved in all stages of the project.

10.4 The Authority encourage joint tenders which can demonstrate a broad range of experience.

11. SERVICE LEVELS AND PERFORMANCE

11.1 The Authority will measure the quality of the Supplier's delivery by:

11.1.1

KPI/SLA	Service Area	KPI/SLA description	Target
1	Communication	Fortnightly progress update by email against agreed work programme milestones	100%
2	Submission of interim report	Interim report to be submitted by 31 July 2017 and accepted and approved by the Authority.	100%
3	Submission of Draft final report	Draft final report to be submitted by 11 September 2017 and accepted and approved by the Authority.	100%
4	Submission of Final report	Final report to be submitted by 29 September 2017 and accepted and approved by the Authority.	100%

12. INTELLECTUAL PROPERTY RIGHTS (IPR)

12.1 The Authority will retain IPR for all the reports and data produced as per terms and conditions of this Contract, outlined at Appendix C.



13. PAYMENT

- 13.1 Payments will be made at key milestones of the project which should be proposed by Potential Providers. The Authority will agree these milestones with the Supplier and set out invoicing arrangements linked to the milestones. The final instalment will not be paid until after the final report and data has been received and agreed.
- 13.2 Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.
- 13.3 Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.
- 13.4 Invoices should be sent to:

Department for Communities and Local Government
Invoice Processing team.
Finance Shared Services Division
High Trees
Hillfield Road,
Hemel Hempstead,
Herts.
HP2 4XN

Tel:0303 444 2300

Email - CLGInvoices@communities.gsi.gov.uk

14. ADDITIONAL INFORMATION

- 14.1 Due to article 14 on research and development services, this project does not need to be commissioned through the full OJEU process. This is because the benefits of the research will not accrue exclusively to the Authority, for its use in the conduct of its own affairs.
- 14.2 Reasons why the Authority do not regard that the benefits of this research will accrue exclusively to the Authority are as follows:
- 14.2.1 The Authority will publish the research on its website so it can be accessed by anyone externally; and
- 14.2.2 The research will be of interest to organisations and individuals outside of the Authority. This includes other government departments such as DfT and HMT; academics, local authorities and the development industry.

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