

Interim Evaluation of the Greater London Investment Fund (GLIF/2022/05)

Clarification Questions 1 to 7

1. As a group policy and insurance matter, we cannot tender without a general limit of liability. Please can you confirm that this can be included? Our suggested wording is: "Notwithstanding any other term in this Agreement, to the fullest extent permitted by law, the total liability of each party arising under or in connection with this agreement, whether arising in contract, tort (including, but not limited to, negligence), restitution or otherwise (and including any and all liability under any indemnities), shall be limited to £1 million (one million pounds sterling). For the avoidance of doubt, the Agreement includes all tender documents related to the agreement."

Funding London's Reply:

We will amend the draft Agreement to include a limit on liability for the Consultant, which shall not exceed £500,000.

"Notwithstanding any other term in this Agreement, to the fullest extent permitted by law, the total liability of each party to the other in respect of all loss or damage arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will in no circumstances exceed:

- Consultant - £500,000 (five hundred thousand pounds sterling)
- Funding London – [£tbc (fee for Service as proposed by the selected Consultant)]

2. Our responsibility is to our client(s), and not to third parties who may read our work. Our deliverables will have a disclaimer that will make this clear. Please confirm that you will make any other party to whom you disclose our work aware of this. (In practice this will mean not distributing our work without that disclaimer included.)

Funding London's Reply:

We will certainly make any parties, to whom we disclose your work, aware of any disclaimer that you may include.

3. We assume that it is not intended for all our internal working papers, emails etc. to form part of the intellectual property being provided to you (which would be impractical as well as unreasonable), but rather that you expect to receive rights in the products of the Services (i.e. the deliverables). Could you please confirm? (We would need to amend clause 5.3 and 5.4 to make this clear.)

Funding London's Reply:

Yes, that assumption is correct. We will amend clause 5.4 of the draft Agreement to reflect this. Additionally, we will delete clause 5.3 entirely.

4. As a professional services firm, we operate in a regulated sector and need to comply with our legal and professional obligations. Please could you let us know if any of this is unacceptable for this tender:

- (A) It is an ICAEW requirement that we keep records of our work. This means that we must retain information about the project after the contract terminates. We will hold that information confidential in accordance with the contract and our professional duties. (We would need to amend clause 5.3 and 5.4 to make this clear.)

Funding London's Reply:

This is acceptable to us.

- (B) If the client assigns the contract, we will first need to perform KYC/AML/conflict checks on incoming client parties.

Funding London's Reply:

This is acceptable to us.

- (C) We may come under a legal obligation to provide confidential information to regulators or other authorities.

Funding London's Reply:

This is acceptable to us.

- (D) We act as a matter of law (not by choice) as an independent data controller in providing these services. Could we please record that: "Each party acts as a controller concerning the Services. Each party undertakes not knowingly to cause the other to breach Data Protection Legislation." and update the Data Protection Legislation definition to refer to "the United Kingdom General Data Protection Regulation, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018"?

Funding London's Reply:

This is acceptable to us. We will amend the draft agreement along the lines you have suggested.

5. In some cases conflicts of interest can be managed in accordance with our professional duties, and this is normal practice in our sector. We have appropriate procedures to identify situations where a specific legal or ethical conflict of interest may arise. Where one is identified, and we believe that implementing appropriate procedures can safeguard your interests, we will promptly notify you (subject to any obligations we may owe to third parties), explain the safeguards to be implemented and obtain your consent to their implementation. Please let us know if you have any concerns with this position.

Funding London's Reply:

We don't have any concerns with such arrangements.

6. The usual position is that clients will keep their own copies of any data sent to us. Please could you let us know if you do not intend to do this?

Funding London's Reply:

We will keep copies of any data sent to the selected Consultant.

7. Please note, including for the purposes of the confidentiality clauses, that some of our staff working on this matter are employed not by the engaging entity, but by a services company in our corporate group (with a common ultimate parent). Others are LLP members (commonly known in professional services firms as 'partners'), rather than employees. Please let us know if you have any concerns.

Funding London's Reply:

We don't have any concerns with such arrangements.