MILLS & REEVE

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growing places funding

The Growing Places Fund (GPF) was first announced in November 2011, when the Government set aside a pot of £500 million to be made available for allocation by local enterprise partnerships (LEPs).

The initial allocation was supplemented with an additional £270 million in March's budget. The fund is intended for use to address infrastructure constraints, promote economic growth and the delivery of jobs and houses.

Allocations to LEPs were confirmed in February 2012 and GPF money is now being used to establish revolving, or "evergreen" funds to support local growth.

Project types

The Government envisages that the types of projects which GPF loans will support include:

- early phase site infrastructure to unlock major mixed-use development;
- provision of flood storage capacity to enable development of homes and commercial retail space
- highways capacity improvements works, to improve connectivity and reduce congestion.

Nature of Growing Places funding

GPF has a different complexion to much growth area and regional development agency funding which has gone before it. Funds are being made available as loans, and gap funding (i.e. non-repayable grants) will only feature as exceptional arrangements. Where they do occur, it can be expected that there will be clawback and perhaps also overage arrangements.

Loans to developers and land owners in the private sector will be made subject to payment of interest, at market rates and on terms for capital repayment by agreed dates.

In some instances, LEPs may wish to invest on an equity basis, side-by-side with developers, taking a share in project receipts in lieu of interest following repayment of the capital element of the loan.

Bids for projects

Over the past few months, LEPs have been calling for bids for potential projects to receive loans or equity investments of GPF funding. Each LEP has set its own criteria for assessing eligibility for receipt of GPF moneys. All look to the overriding purposes established by the Government, and then to local priorities.

A key test is that projects are "oven ready" – that is deliverable within the near future. Successful applicants will also need to show what jobs will be created or protected and the extent to which the project funded will deliver sustainable growth. Value for money and state aid compliance tests will also run through all due diligence processes.

In some areas significant amounts of the GPF allocations are proposed to be made to local authorities or other public bodies within the LEP area, to fund publicly owned infrastructure works. Many more are being made to private businesses.

Accountable bodies

LEPs have appointed lead authorities to be accountable bodies to satisfy the necessary audit and accounting requirements attached to public funds. Hence, we are seeing individual local authorities acting on behalf of LEPs in entering into loan agreements.

In most LEP areas, initial appraisals have been made following a call for project applications. Shortlists for the first round of investments have been drawn up and now due diligence is proceeding. Detailed risk assessment and analysis of project investments is taking place, together with calculations of appropriate loan interests and repayment profiles.

Next steps

Whether you are looking at GPF from the perspective of an LEP, a local authority accountable body, or as an
applicant, the next steps of documenting GPF loan agreements will be of interest.

We have identified four essential requirements:

For robust documentation to protect the loan invested

The loan agreements must be clear as to their terms and detailed in their content. It will be of utmost importance that the GPF moneys are only drawn down by applicants against strict pre-conditions and with appropriate controls, maybe in tranches, to be applied for clearly defined uses and to deliver agreed and measurable outputs.

Monitoring and reporting on a regular basis to agreed metrics will be at the heart of the loan agreements, to be addressed in a clear and transparent way i.e. with open book accounting. This should be done to allow easy onward transmission of data by the accountable body to the LEP, and then on to CLG.

Loan interest and repayment schedules will also be key elements of the agreements.

For security to be taken for to protect loan repayments

A set of standard form security documents will be in use for many LEPs. This will be refined to fit individual projects, but is likely to include any or all of a legal charge, debenture, inter-creditor/priority agreement, certificate of title to the secured asset(s) and parent company guarantee and debenture.

For legal documentation to be negotiated quickly

As one of the LEP's key objectives will be delivering growth effectively and speedily, the legal documentation needs to be processed from approved applicant heads of terms status to completed agreements in as short a time as commercially feasible. This will allow the allocated funds to be invested in to the approved projects at an early date and bring forward the economic growth to which they are directed.

In many instances to speed matters along LEPs will require standard, agreed form of documentation to be appended to the agreed heads of terms signed by the successful applicants, with an acknowledgement that they will be required to enter into this to an agreed timescale and materially in such standard, agreed form.

For state aid compliance

LEPs will have to be satisfied that all loan agreements meet state aid compliance requirements.

A commercial rate of interest will be chargeable on loans. This may be varied to reflect the specific circumstances of each loan, and set appropriately after taking into account primarily creditworthiness and collateralisation.

Individual loan rates may be variable and it will be an appropriate consideration to provide for an increased interest rate if repayment of loan capital or interest is delayed or deferred as against the agreed repayment schedule, or if events of default arise.

Equity investments will require special considerations. In general, these will be on equal terms with a private sector investor, with the LEP accepting the same risks and returns as the private sector.

How we can help

Mills & Reeve has a team of dedicated experts who have many years' experience handling loan agreements involving the public sector.

We also have considerable expertise in advising non-bank funds providing infrastructure and development finance in the current market.

Our familiarity with the terms and conditions of loan agreements and security documentation will help you through the documentation process.
Drawing upon the skills of our dedicated banking team, who work closely in conjunction with our real estate and construction teams, we can guide you through negotiations, offering a pragmatic view on any of the issues arising, in the context of specific loan transactions.

We can work with you to assist you in achieving your aims for the GPF loans being made in your LEP area.

get in touch

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