

Memorandum of Understanding

Governance of the Land Development Agency

Version 13 March 2019

Memorandum of Understanding between the Land Development Agency and the Department of Housing, Planning and Local Government

1. Introduction

The Land Development Agency (LDA) was established on an interim basis under the Land Development Agency (Establishment) Order, S.I. 352 of 2018, as amended by the Land Development Agency (Amendment) Order 2018, S.I. 603 of 2018, (“the Regulations”) under the Local Government Services (Corporate Bodies) Act 1971, pending the enactment of primary legislation to underpin its work and to establish it on a commercial basis.

This Memorandum of Understanding (Memorandum) therefore presents the arrangements between the Land Development Agency (LDA) and the Department of Housing, Planning and Local Government (DHPLG) in relation to the advancement of the programme of work relating to the LDA and the Governance of the LDA by DHPLG.

It covers the period of transition between the establishment of the LDA under the Regulations and the LDA established under the primary legislation.

This Memorandum complements the LDA’s Business Plan which is currently being developed and, once approved by the LDA Board, will provide additional information on its long-term delivery programme.

This Memorandum will be replaced in due course by a Shareholder’s Expectation letter as provided for under the Code of Practice for the Governance of State Bodies.

The board of the LDA is responsible for the putting in place and operation of governance arrangements and for ensuring that the LDA is meeting its targets as required. The DHPLG is responsible for ensuring that those governance arrangements are robust and effective, and for advancing the LDA’s primary legislation and supplementary legislation relating to the LDA. The governance arrangements for the implementation process are set out in Section 5.

2. Role/ Objectives of the Land Development Agency

The LDA will act as a national centre of expertise, working with and supporting local authorities, public bodies and other interests, to harness public lands as catalysts to stimulate regeneration and wider investment and to achieve compact, sustainable growth, with a particular emphasis on complex regeneration projects and the provision of affordable housing.

The two primary objectives of the LDA are:

1. To ensure the optimal usage of State lands, coordinating their regeneration and development and opening up key sites not being optimally used, especially for delivery of new homes; and

2. To drive strategic land assembly through mechanisms that will bring together both public and private sector interests in ensuring the timely preparation and release of strategic land for development in a counter-cyclical manner. Such counter-cyclical action will be aimed at stabilising any tendency towards volatility in development land values, securing more of the increase in such values as a result of the planning and infrastructure investment processes for the common good and thereby driving increased affordability through better and more cost-competitive land availability.

The LDA has an immediate focus on managing the State's own lands to develop new homes, and regenerate under-utilised sites. In the longer-term, it will assemble strategic landbanks from a mix of public and private lands, making these available for housing in a controlled manner, which brings essential long-term stability to the Irish housing market. This will be with the objective of facilitating the delivery of 150,000 new homes over the next 20 years.

The Agency's functions as mandated by Government are set down in the 2018 Regulations, and are stated as follows:

- development and regeneration of land and property, including structures, for the purposes of the delivery of housing and the achievement of wider physical, social and economic development and regeneration;
- supporting the consolidation and replenishment of the publicly owned development land bank and expediting the most efficient use of such land;
- establishing appropriate mechanisms and collaborative structures between public and private bodies to develop key strategic sites in public ownership;
- creation of a database of public lands relevant to the functions of the Agency;
- master-planning and development appraisal services;
- securing development consents for relevant lands and development projects;
- procurement of such technical, administrative or implementation activities as may be necessary; and
- procurement of development, construction and evaluation services to deliver housing and wider urban regeneration and development projects.

3. Acquisition and development of sites by the Land Development Agency

On establishment, the LDA has been allocated an initial tranche of 8 sites – listed below - that have near term delivery potential for 3,000 new homes. It is also reviewing additional sites with a view accessing them for development. At least 40% of housing delivered on sites accessed by the LDA is intended for delivery as social and affordable homes and the balance as additional new supply to meet the high levels of demands in the wider housing sector for housing for both rental and purchase purposes.

	Initial Site List
1	Central Mental Hospital site, Dundrum
2	Hampton, Balbriggan
3	Hacketstown, Skerries
4	Devoy Barracks, Naas
5	Former Meath Hospital, Dublin City Centre
6	St. Kevin's Hospital, Cork
7	Columb Barracks, Mullingar
8	Dyke Road, Galway

The LDA is undertaking initial work in relation to these sites, with regard to feasibility, planning and other preparatory works. Construction activity is envisaged to commence on the first homes in 2019 for delivery in 2020, pending grant of planning permissions.

The LDA will also develop a strong pipeline of additional publicly owned sites. In this regard, Departments were requested, in respect of lands owned directly and by agencies under their aegis, to identify additional lands over and above the initial tranche of eight sites published when the Agency was launched. The LDA will undertake an in-depth analysis of the information that has been provided in response to this request, with a view to building a longer-term pipeline of sites.

Development of LDA managed lands will make a substantial contribution to the achievement of wider Government targets for housing delivery in general and social housing specifically, as set out in Rebuilding Ireland, enhancing supply, aiding the moderation in increases in housing costs and enabling new sources of affordable housing supply, including for cost rental accommodation.

4. Funding of the Land Development Agency

The Department will provide funding of €20.049 million in 2019 to meet the ongoing operational and administrative costs related to interim arrangements for the new Agency, pending the enactment of primary legislation, expected in the latter part of 2019. The primary legislation will trigger the permanent capitalisation of the LDA.

Description	Amount (€)
Pay	€1,451,000
Non Pay	€2,098,000
Capital	€16,500,000
Total	€20,049,000

The LDA will comply with the requirements of the Public Spending Code and relevant Department of Public Expenditure (D/PER) circulars, including Circular 13/2014 on Management and Accountability for Grants from Exchequer Funds.

The LDA will have responsibility for the procurement of all services in line with the Public Spending Code. It will draw up a Corporate Procurement Plan. This will cover external services such as legal advice, accountancy, HR, communications and general maintenance. This Plan is in accordance with the Public Procurement Guidelines.

The LDA is obliged to maintain a contracts database/listing for all contracts/payments in excess of €25,000 with monitoring systems in place to flag non-competitive procurement, which should be reported in the Chairman's report to the Minister (Section 8.16 of the Code of Practice).

The current funding will be allocated on a pre-funded basis, with funding provided on a quarterly basis.

4.1 Temporary arrangements for payment of invoices

Currently, the LDA does not have a financial management system in place to enable them to pay invoices. A bank account is being set up and a financial management system will be procured. Until these arrangements are in place, the Department will make payments on behalf of the LDA, on a temporary basis. This arrangement is based on the clear understanding that:

- the LDA has responsibility for ensuring that the necessary controls and procedures are in place so that all expenditure is in compliance with public procurement policy and the Public Spending Code;
- the invoices from service providers are addressed to the LDA;

- the LDA verifies that all invoices have been reviewed and are approved for payment and submits them to the Department in a reasonable time so that they can be processed in line with Prompt Payments Act;
- all payments made on behalf of the LDA will be from the Department's bank account and will be accompanied by a remittance advice from the Department. The recoupment of this expenditure will be by way of deduction from the LDA allocated budgets;
- all Public Service Withholding Tax (PSWT) and other Revenue deductions relating to LDA payments will be processed under the Departments Revenue details;
- any purchase of fixed assets during these interim arrangements will be paid by the Department but it will be the responsibility of the LDA to include them on their Asset Register and apply the necessary financial depreciation and track the assets; and
- The financial reporting, audit and other queries (FOI etc.) of all the expenditure under this temporary arrangement is the responsibility of the LDA. The Department can provide detailed expenditure reports, on request, to the LDA to facilitate these requirements.

4.2 Pay

The LDA can recruit its own staff, other than the appointment of the Chief Executive, which in line with the Establishment S.I., is a Ministerial appointment. It is expected that up to 10-12 additional staff will be recruited over the course of 2019.

The LDA will prepare a workforce plan, which will be agreed by its Board and provided to the Department in support of the governance of the 2019 funding from the Vote. During this establishment phase, the LDA shall provide prior notice to the Department of proposed recruitment campaigns.

The following schedule outlines pay expenses as currently envisaged, however this may change as the LDA evolves.

Description	Amount (€)
Board Fees	€63,000
Staffing Costs	€1,388,000
Total	€1,451,000

4.3 Non-Pay

Funds for non-pay will be used to cover a wide range of services including accommodation costs and IT services such as marketing and web hosting.

Funding is also provided for professional fees and services, such as legal, procurement, financial, audit, tax and corporate services, related to the establishment of the Agency.

The following schedule outlines non-pay expenses as currently envisaged, however this may change as the LDA evolves.

Description	Amount (€)
Professional Fees + Services	€1,787,000
Accommodation Costs	€132,000
ICT Services	€179,000
Total	€2,098,000

4.4 Capital

A capital allocation of €16.5 million is provided on an interim basis pending finalisation of future capitalisation that will be underpinned in primary legislation. The capital funding will be drawn down by the LDA as required, on foot of approval by the LDA Board.

Capital funding will be used primarily for enabling feasibility appraisal, master planning, infrastructure, and in some cases the acquisition, development and/or provision of enabling infrastructure on sites. Services include the procuring of site surveyors, project managers and architects. This funding will be drawn down as required throughout 2019.

5. Governance

The board of the LDA is responsible for the putting in place and operation of governance arrangements. The DHPLG is responsible for ensuring that those governance arrangements are robust and effective. Governance structures will be in line with the Code of Practice for the Governance of State Bodies 2016.

As the LDA is currently in an interim phase, pending the enactment of primary legislation, there will be regular meetings between the DHPLG and the LDA to ensure that there is sufficient progress on key deliverables regarding the LDA work programme and the enactment of the legislation. The Agency will meet with the Department monthly, or more frequently if required by the Department, to provide an update on development and achievement of targets as set out in this Agreement.

It is intended that, when the LDA is established under primary legislation, the LDA will come within the NewERA (portfolio), i.e. the State owned enterprises for which NewERA provides financial and commercial advice to Ministers in relation to their functions with respect to shareholdings in the company. In the interim, it is the intention that the Minister will request NewERA to provide financial advisory services during this establishment phase. This will include advising on an appropriate Ministerial consenting framework for various activities of the LDA, taking account of the requirements of the Code of Practice for the Governance of State bodies.

6. Resources of the Land Development Agency

6.1 Staffing of the Land Development Agency

In line with the 2018 Regulations, the LDA may appoint such and so many persons to be employees as required. DHPLG may also provide staff, on a secondment basis as it sees fit, to the LDA.

The LDA will retain experienced staff with extensive skills and experience in project management, finance, planning, development, law and procurement and will provide professional services to master-plan key sites/areas for development in key urban areas, in partnership with local authorities and other state bodies.

It is expected that the LDA will recruit additional staffing of up to 10-12 persons this year, in line with the expansion of its development lands portfolio. The expectation is that the Agency will have some 25 staff when fully operational. The LDA is required to implement any relevant Government policy, as expressed from time to time, with regard to the recruitment and remuneration of all its staff.

At present, there are 3 staff members in the LDA who are on secondment from the NTMA. In line with a Memorandum of Understanding between the Department and the NTMA, their salaries are paid by the NTMA. The MOU is due to expire on 31 March 2019 and the Department is engaging with the NTMA with regard to these secondment arrangements.

Under 7(1) of the Regulations, the Minister for Housing, Planning and Local Government may appoint a person to be Chief Executive and under 7(2) the Chief Executive shall hold the office for a period of time and with such terms and conditions as the Minister, with the consent of the Minister for Public Expenditure and Reform may determine. The Minister for Housing, Planning and Local Government has appointed an interim Chief Executive for the LDA. The Department will work with the LDA regarding the recruitment of a permanent Chief Executive. The filling of this position on a permanent basis will be subject to open competition and advertisement.

6.2 Board of the Land Development Agency

An interim Board has been appointed in accordance with Section 6 of the Establishment Order.

On enactment of the primary legislation, a permanent board and Chairperson for the LDA will be appointed in accordance with the Guidelines on the Appointment to State Boards.

7. Conclusion

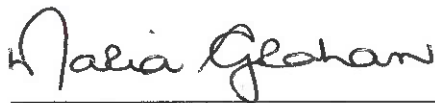
The foregoing points represent the understanding reached between the Land Development Agency and DHPLG in relation to the delivery of the Land Development Agency's objectives.

It reflects a mutual commitment to run the Land Development Agency efficiently in order to act as a national centre of expertise, working with and supporting local authorities, public bodies and other interests, to harness public lands as catalysts to stimulate regeneration and wider

investment and to achieve compact, sustainable growth, with a particular emphasis on complex regeneration projects and the provision of affordable housing.

The understanding is that the Land Development Agency shall be bound by the commitments reflected in this Memorandum of Understanding until such a time as the primary legislation to establish the LDA is enacted.

Signed



Maria Graham
Assistant Secretary
On behalf of Department of Housing, Planning
and Local Government

Date: 1 April 2019



John Coleman
Interim CEO
On behalf of the Land Development Agency

Date: 26/03/2019

