

## Proposal on ECHA's future building

47<sup>th</sup> meeting of the Management Board 28-29 September 2017

### Proposal

The Management Board is invited to:

- endorse the proposal for ECHA's future building, and
- authorise the Chair to submit the notification of this building project, and attached Annexes, to the budgetary authority (European Parliament and Council) for its approval.

### Background

The existing lease agreement on ECHA's office building at Annankatu 18, Helsinki, Finland expires on 31 December 2019 and ECHA shall inform the landlord of its intentions with respect to the renewal of the lease, or otherwise, by 31 December 2017. Therefore, the decision on ECHA's future building should be made in 2017. The contract for the future building (lease agreement or purchase) falls within the definition of a building contract, as defined in the EU Financial Regulation, and there is a defined procedure to be adhered to in relation to the establishment of the new building contract. In 2015, ECHA established a dedicated internal project team to ensure timely execution of the deliverables related to this project. Since June 2016, the Management Board Advisory Group on ECHA's future building project has been kept involved in the detailed work undertaken with respect to this building project, with quarterly updates provided by the Advisory Group to the Management Board.

The REACH Regulation requires that the Management Board shall, without delay, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of its budget, in particular any projects relating to property, such as the lease or purchase of buildings, and shall inform the Commission thereof. ECHA's Financial Regulation further specifies that the Agency shall present the building project, including its detailed estimated costs and its financing, and a list of draft contracts intended to be used, and shall request the approval of the European Parliament and the Council before contracts are concluded. The European Parliament and the Council shall, as a rule, deliberate upon the project within four weeks. The building project shall be deemed approved at the expiry of this period, unless the European Parliament or the Council take a decision contrary to the proposal. In the latter case, the Agency shall withdraw its proposal and may submit a new one.

From a planning perspective, ECHA's Management Board endorsed the following seven key planning parameters at its meeting of March 2016<sup>1</sup>;

- ECHA's future office building to be located in the centre of Helsinki, with easy accessibility by public transport (particularly from Helsinki Vantaa airport and the European School Helsinki).
- The staffing level planning figure for the future office building to be 650 personnel, in line with ECHA's authorised establishment posts<sup>2</sup>, incorporating 465 TAs (with the balance comprising space requirements for Contract Agents, Seconded National Experts, trainees,

<sup>1</sup> MB/07/2016

<sup>2</sup> as articulated in the Commission communication COM(2013)519

operational interims, intra-muros consultants and security/catering personnel).

- The required building surface area of the future office building to be based on the policies and guidelines issued by the Commission<sup>3</sup>.
- The future office building to be comprised of office accommodation and a Conference Centre<sup>4</sup>.
- ECHA to seek to reduce building-related costs<sup>5</sup>.
- ECHA to seek to increase the environmental performance of the building by adopting best practice environmental specifications<sup>6</sup>.
- The option to purchase ECHA's future office building to be considered, if economically advantageous and the necessary associated financial guarantees could be obtained.

## Rationale

The process undertaken followed the applicable public procurement rules and took place with the involvement of staff and the Management Board Advisory Group. Regular updates were provided to the Management Board in the course of the process.

### Public procurement process

In July 2015, ECHA launched an initial market survey (preliminary prospection) with a letter addressed to approx. 100 local real estate companies, informing the market of ECHA's upcoming building needs. In 2016, ECHA notified the European Parliament in relation to this project, as legally required. In June 2016, ECHA published a prospection of the local real estate market in the Official Journal of the European Union (OJ Notice) to identify interested candidates. Following this prospection, in December 2016, an invitation to tender was sent to eligible candidates to submit a proposal under a negotiated procedure, based on the Rules of Application of the Financial Regulation.

As a result of the initial market survey, nine (9) companies expressed their interest (certain companies proposed multiple properties). As a result of the prospection of the local market via the OJ Notice, eight (8) candidates submitted a proposal, with a total of fourteen (14) properties. For the negotiated procedure, seven (7) eligible candidates were invited and four (4) submitted a proposal, comprising five (5) properties. As a result of the subsequent negotiations, two (2) candidates were placed on the merit list, including the offer of the current landlord which would have required a relocation of ECHA staff for a period of two years (during necessary major refurbishment works), and the first-ranked candidate was proposed to the Authorising Officer for the award of a lease contract, subject to the approval of the budgetary authority.

During the public procurement process, ECHA's internal Evaluation Committee was supported by three internal technical groups (on ICT, Security/Facilities and AV/Conference Services), an internal working group on financial aspects and, throughout the process, was advised by ECHA's external real estate consultants, Jones Lang LaSalle. In addition, the decision of the Evaluation Committee was validated by ECHA's internal Project Board (Steering Group) and, finally, ECHA's Management Board Advisory Group endorsed the decision. It should be noted that ECHA continues to be in informal consultation with relevant stakeholders and, consequently, will inform the Management Board of any changes to the respective draft documents.

<sup>3</sup> ECHA to seek to reduce its present occupancy metric of approx. 23 m<sup>2</sup>/person office space area.

<sup>4</sup> Conference Centre surface area of approx. 4500 m<sup>2</sup>.

<sup>5</sup> As annual rental of building and associated costs ('Chapter 20' costs) account for a substantial plan of ECHA's total expenditure costs

<sup>6</sup> From example, BREEAM or LEED standard

### Compliance with key planning parameters

As stated above, ECHA's Management Board agreed seven key planning parameters for this project in March 2016<sup>7</sup>. A comparison of the selected proposal in relation to these parameters is presented below:

<b>Key planning parameter</b>	<b>Proposed building</b>
<b>Location – central Helsinki</b>	The proposed building is located in the western side of the Helsinki central business district which is accessible by public transport. This area will be subject to further development in the future and the City of Helsinki authorities plan to extend tram connections of the area. A neighbouring commercial parking facility is planned for completion by 01 July 2021.
<b>Staff planning figure - 650</b>	The proposed office building contains work stations for 644 personnel.
<b>Building surface area based on European Commission guidelines</b>	The total surface area of the proposed building is 18 071 square metres, compared to 24 809 square metres for the present building. This compares favourably with the European Commission guidelines <sup>8</sup> .
<b>Comprised of office accommodation and Conference Centre</b>	The proposed building comprises office accommodation and an adjacent Conference Centre.
<b>Seek to reduce building-related costs</b>	It is estimated that ECHA's total annual rental costs for the proposed building will reduce from €8.9m to €7.3m (present value).
<b>Seek to increase building's environmental performance</b>	The proposed office accommodation, and adjacent Conference Centre, will comply with the Leadership in Energy and Environmental Design (LEED) certification standards, resulting in the increased environmental performance of the building.
<b>Consideration of purchase option</b>	A purchase option for the proposed building was considered by the Evaluation Committee and was found not to be most economically advantageous.

<sup>7</sup> MB/07/2016

<sup>8</sup> Housing Conditions Manual for Commission DGs and Services (Part One) dated 09 February 2009

## **Execution of the proposal**

Following the approval of the budgetary authority, ECHA intends to sign the lease agreement before 31 December 2017, while the commencement date of the lease is planned for 01 January 2020. It is proposed that the move to the future building would take place in December 2019, or on another handover date mutually agreed between ECHA and the landlord.

## **Staff engagement/consultation**

In 2015, ECHA established a dedicated internal project team to ensure timely execution of the deliverables related to this project. Since then, ECHA's staff has been involved in every aspect of the project. The project team undertook a workplace consultancy project (supported by an external specialised workspace consultancy), involving extensive consultation with staff, resulting in the development of a 'workplace concept' to support ECHA's future working environment. In addition, ECHA's Staff Committee was invited to nominate a member to the project's Evaluation Committee and this staff member has been participating on the Evaluation Committee since 2016. It is also planned that ECHA's staff will be kept fully updated and involved during the project implementation phase.

## **Tax-related matters**

It should be noted that ECHA has been in discussions with the Finnish government with respect to the treatment of tax - Value Added Tax (VAT) and other taxes - on the costs associated with its future building, in the context of Protocol No 7 on the privileges and immunities of the European Union and the Seat Agreement between the Finnish government and ECHA. ECHA would have preferred to have had closure on this matter prior to the commencement of the procurement procedure, thereby facilitating an evaluation of the offers in a VAT-exclusive scenario. However, as this was not possible within the specific time-frame, the proposals were evaluated on the basis of a VAT-inclusive scenario. The Finnish government and ECHA have now agreed an exceptional arrangement that permits ECHA to obtain a refund of the VAT applicable on the construction costs of its future building. The financial impact of this arrangement is more favourable to ECHA in the context of the selected proposal and, in effect, it reinforces the decision of the Evaluation Committee.

ECHA remains in discussions with the Finnish government with respect to its liability in relation to the annual property tax.

## **Alternative options**

There are no alternative options to this project as ECHA is required to obtain the approval of the budgetary authority for a lease contract for its proposed new headquarters in light of the expiry of the existing lease agreement on its current building on 31 December 2019. In the event that the budgetary authority should decide not to grant approval to the proposal, or that an issue arises in relation to the selected proposal, ECHA would without delay elaborate proposals to the Management Board to address the issue(s) raised.

## **Drawbacks**

There are two drawbacks/risks that should be noted. There is a risk of delay in the project delivery and, consequently, the overall project timetable. The successful candidate has, however, confirmed delivery of the project in accordance with ECHA's requirements and a specific risk assessment has been provided which indicates the likelihood and the mitigating measures of the risks identified. In addition, a specific provision relating to applicable penalties in the event of a delay in the project have been included in the building contract. It is also planned that ECHA will continue to be supported in the project implementation phase by Jones Lang LaSalle, the professional real estate consultancy that supported the Agency during the procurement phase. Finally, ECHA has secured an option with its current landlord that permits the extension of the current lease for a maximum period of one year from the end of the current rental period (that is until 31 December 2020) to mitigate potential risks.

There is also a risk in relation to the decision (expected in November 2017) of the European Council with respect to the relocation of the European Medicines Agency (EMA). In the event that Helsinki is selected as the new headquarters of EMA, the budgetary authority may wish to investigate potential synergies/efficiencies in co-locating EMA and ECHA in Helsinki. This could result in a delay in this decision on ECHA's future building. The fact that ECHA has secured an extension option on the current lease for an additional one (1) year mitigates this risk.

### Next steps - indicative timetable

The following indicative timetable sets out the next steps, or phases, of this project;

<b>Steps/Phases</b>	<b>Indicative Timetable</b>
ECHA requests approval of the budgetary authority before building contracts are concluded.	Q4 2017
Implementation Phase (subject to the approval of the budgetary authority)	2018/2019
Relocation to future building (subject to the approval of the budgetary authority)	January 2020

### Attachments:

Annex 1a-b: Draft letters of notification to the budgetary authority

Annex 2: Draft Building Questionnaire (according to the model developed by the European Parliament)

Annex 3: Draft lease agreement with annexes

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