



Low Emission Transport Fund Request for Proposal

Marine

Round 8, February 2023

EECA

TE TARI TIAKI PŪNGAO
ENERGY EFFICIENCY & CONSERVATION AUTHORITY

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Key dates

| | |
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| RFP released: | 9am, Wednesday 8 February 2022 |
| Deadline for Questions: | 4pm, Wednesday 1 March 2023 |
| Deadline for Proposals: | 12pm, Wednesday 8 March 2023 |
| Decision to be announced: | From early May 2023 |

Section 1 What we are looking for

1.1 About the Fund

The Low Emission Transport Fund (LETF) builds on the now-completed Low Emission Vehicles Contestable Fund, with an increase in size and scope. It will continue to be administered on behalf of the Government by EECA (the Energy Efficiency and Conservation Authority).

This Funding Round seeks project applications for Demonstration of Marine Decarbonisation.

Fuel use in the maritime sector, including coastal shipping, commercial fishing boats, and ferries and recreational vessels, is responsible for 1.5 million tonnes of carbon dioxide equivalent emissions each year, the equivalent of around 600,000 cars. That's nearly 10% of our total transport emissions.

We have identified significant energy and emissions savings potential from technologies that could be deployed across different sectors and vessel sizes, from fuel efficiency measures to electrification.

The LETF will support the demonstration of high potential and replicable solutions, and adoption of low emission transport technology, innovation and infrastructure to help accelerate the decarbonisation of the New Zealand maritime sector. The Fund will stimulate the uptake of low emission solutions, while providing additional knowledge and learnings for further replication to reduce greenhouse gas emissions from marine transport. Early action can start to accelerate wider deployment for demonstrated and critical low emission pathway solutions at a supported commercial scale.

This round, the Fund will focus on projects in the marine sector that:

- demonstrate innovative solutions that will enable future adoption and deployment;
 - reduce energy related emissions in the sector;
 - address market and organisational barriers through co-investment and diffusion of new knowledge and learnings; and
 - share learnings and knowledge to stimulate wider replication of successful projects and solutions in the sector.
- To best deliver the outcomes of the LETF, the Fund is divided into a portfolio of Investment Activities which will be released to the market as individual funding rounds.

Other funding rounds will cover public journey and destination charging infrastructure and vehicle and technology applications.

1.2 What we are looking for in this round

The Investment Activity for this funding round is to demonstrate a range of low emission technologies, infrastructure, innovations and business models in the marine transport space (limited to the specifications set out in Section 1.4).

This could include projects in the areas of marine vessels, electric outboard motors, charging infrastructure to service marine projects and associated technologies or services. Hydrogen fuel cell vessels and other technologies may be in scope if they make use of New Zealand's renewable electricity advantage and a reliable supply exists. Talk to us before applying if you have such a project.

This round's Investment Activity looks for demonstration projects in the following areas:

1. Vessels and technologies - Encourage innovation in approaches and technologies that can result in marine transport decarbonisation through for example electrification, hydrofoiling, and hybrid drives.

2. Operational emissions reduction activity - Improving emissions profile without large capital investment/vessel replacement – behaviour change and optimisation, e.g. advanced hull coatings, propeller optimisation.
3. Support services/sector development - Support the development of low emission marine technology maintenance, battery, repair, safety and other support services.
4. Public charging infrastructure - Support the development of public charging infrastructure specific for marine projects (note the benefits of other types of vehicles being able to use the infrastructure).

In addition, EECA is open to receiving requests for feasibility studies.

5. Feasibility studies for future projects - Scoping studies e.g. for shore power for large vessels (connectivity and capital investments), scoping connectivity requirements for development of an eco-system of cross-sector users able to use common charging infrastructure at a port, marina or other collaboration. If you are interested in undertaking a feasibility study, contact us at LETFund@eeeca.govt.nz anytime; these studies are not tied to a particular funding round and are available all year depending on funding availability.

Refer to Section 1.4 for exclusions.

Who can apply is detailed in Section 1.5 and minimum eligibility requirements are found in Section 3.3 below.

The Fund is intended to support delivery of low emission transport Projects ranging from large-scale Projects to small-scale and early-stage Projects, but not Projects at research and development stage.

What would we not support?

- Opportunities for projects involving biofuels, off-and on-road vehicles, public road charging infrastructure and aviation are excluded from this funding round but may be eligible in future funding rounds. If you do have such a project in mind we would be interested to hear from you.
- The Fund does not co-fund solar panels or other forms of energy generation, but Applicants may include these in their Projects.
- The Fund is not a development subsidy. If you apply as a supplier, you must have a viable product able and ready to be piloted with committed customers able to participate in your demonstration Project.

1.3 Investment Principles

Projects will need to meet the requirements detailed in Section 3, be delivered to expectations and represent strong value for money for Government investment. Projects will be considered in line with criteria that has been guided by the following Investment Principles and accompanying questions for consideration when putting together a Proposal:

1. Enable future emission reductions: Projects should demonstrate an indirect or direct contribution to the objective of transport sector decarbonisation;
2. Demonstration of innovative and replicable low emission Projects: Projects should focus on decarbonising high impact areas through supporting early adopters that demonstrate replication potential and de-risk new emerging innovations;
3. Diffusion of knowledge and learnings: Project data will create knowledge and learnings for Government and industry decision-makers, with the knowledge adopted by businesses and individuals to attract private investment and shift consumer behaviour;
4. Encouragement of sector transformation: improvement of business, community and/or

- Government capability to develop commercially competitive and innovative responses to barriers and opportunities leading to broader market development;
5. Leverage of investment: maximising leverage of co-funding opportunities, and provide a link with other Government funds;
 6. Value for money: Projects will demonstrate value for money by seeking the best possible public benefits, co-benefits and outcomes with overall benefits exceeding the overall costs.

Questions to consider in your Application

- 1) Enable future emission reductions: Projects should demonstrate an indirect or direct contribution to the objective of transport sector decarbonisation;
 - How does this Project decarbonise transport, what are the ways in which emissions are reduced? (e.g. fuel switching, adoption of technology, behaviour change or shift, avoidance of travel). Consider direct and indirect effects.
 - What is your estimate of the potential for emissions reduction? How will reduction of emissions be assessed? Which emissions will be analysed e.g. NO_x, SO_x?
 - Who else might use this Project solution – which sectors, types of organisations? Who might benefit?
 - Can you estimate the potential for emissions reduction if this Project were to be replicated in NZ to its full extent?
 - What are the potential risks in development, access and use of the technology?
- 2) Demonstration of innovative and replicable low emission Projects: Projects should focus on decarbonising high impact areas through supporting early adopters that demonstrate replication potential and de-risk new emerging innovations (*see below for guidance on innovation*);
 - Is there a significant opportunity for learnings and new knowledge in the organisation? What barriers will be overcome? Note: barriers cannot be simply financial as the Fund does not support subsidies.
 - Explain how this Project is innovative. Does the Project offer additionality above any current or past Projects and comparable market activity?
 - How innovative is the Project compared to any equivalent business-as-usual activities you would normally be undertaking in the market, or that are currently available?
 - How replicable is the Project for broader application, what conditions would be necessary to enable further take-up?
 - What are the key performance indicators that would lead you to further investment? What is the scale-up opportunity within your organisation, and what are you prepared to commit to following this Project?
 - If you are a supplier, how will you develop the solution further with customers or as a commercial opportunity with customers and the market? What is your go-to-market plan following the Project?
Note: the Fund is not a development subsidy. If you apply, you must have a viable product able and ready to be piloted with committed customers able to participate in your demonstration Project.
 - Has this Project/idea been demonstrated successfully overseas?
 - Are there wider areas of potential application that are not in the scope of this Project?

-
- 3) Diffusion of knowledge and learnings: Projects will create knowledge and learnings for Government and industry decision-makers, with the knowledge adopted by businesses and individuals to attract private investment and shift consumer behaviour;
- What knowledge and learnings are expected to be gained from the Project?
 - How do you plan to share knowledge and learnings and with what stakeholders/target audience (e.g. marketing, conferences, published papers, internal resource?). To what extent will data and information be made publicly available?
 - Explain how the knowledge and learnings the Project intends to gain will help achieve the objectives of the LETF.
 - How do you intend to collect and analyse the data (e.g. including what specialist resources you might use) and what help or constraints might prevent you from meeting knowledge and data reporting requirements. *Note: you will agree to sharing knowledge, reporting and data with EECA as part of the Funding Agreement, as defined in Sections 1.10 and 8.*
- 4) Encouragement of sector transformation: improvement of business, community and/or Government capability to develop commercially competitive and innovative responses to barriers and opportunities leading to broader market development;
- To what extent does the Project offer a solution that could accelerate uptake of, or public benefits from, low emission technology, innovation, infrastructure in the marine transport sector in New Zealand? What conditions would be needed to achieve this?
 - How does the Project help to reduce emissions in the sector, and how deep might this transformation be? What are the co-benefits of the Project?
 - What sector decarbonisation outcomes might the Project enable? (e.g. capability/capacity, distributional impacts, removing regulatory barriers and any others).
 - How is the Project structured; does it include live pilot customers who are committed to the Project? Ensure you provide clear timeframes and evidence of commitment, such as letters of support.
- 5) Leverage of co-funding: the number of Projects will be maximised by leveraging co-funding opportunities, and provide a link with other Government funds;
- What is the Project cost and your contribution; are other partners or co-applicants involved?
 - How much more private investment might be unlocked by the Project?
 - How soon can the Project deliver for you, and in what timeframe might it deliver benefit to the market?
- 6) Value for money: Projects will demonstrate value for money by seeking the best possible public benefits, co-benefits and outcomes with overall benefits exceeding the overall costs.
- What are the overall benefits or value of the Project activity?
 - What are the overall costs or externalities of the Project activity?
 - How will the Project lead to public benefits and how large are those benefits expected to be compared to the funding being sought from the Fund?

- How important is the Fund to supporting the delivery, scale, or speed with which these public benefits will be realised? What could be achieved without funding? *Note: co-funding is intended for Projects which would otherwise not happen.*

Demonstration should provide:

- Additionality or innovation in the business case;
- Significant replication potential;
- Technology demonstrated in a new location or environment;
- Representation of end-use in a different sub-sector;
- Potential for low-emission transport transition in the short, medium or long term;

Significant opportunity for learnings by overcoming barriers in the organisation, sectoral barriers or regulatory barriers.

Projects will be scored against how well they meet the Assessment Criteria for this round, found in Section 3.4.

Innovation

For the purposes of this Fund we consider innovation to include application of a new solution to reducing emissions in the transport sector, directly or indirectly. Innovation can be applied across a category or market of operation, and offer opportunities for further uptake of the solution and broader market development. Innovation can include helping the existing transport sector work better (e.g. providing access to low emission vehicles or technology where uncommon, increasing replicability or scalability of uptake) or innovations to processes, systems or technology (e.g. increasing public benefit, better efficiency or integration into the transport sector). These Projects can include solutions that have been demonstrated in New Zealand previously, but you must offer additionality in innovation, business case, demonstration opportunity in a new sector or use case, or address significant barriers in an organisation or sector.

1.4 Type of Projects

What can be funded?

This round is limited to Projects involving low emission e.g. electric vessels, electric motors, technologies and charging infrastructure for marine decarbonisation. Hydrogen fuel cell vessels may be eligible if the hydrogen fuel supply is produced using New Zealand's renewable energy advantage, a reliable supply exists, and the project provides new technology or capability that provides a significant learning opportunity or knowledge development for the market with high replication.

Vehicles and mobile equipment are covered in other funding rounds.

Vessels must meet the specifications relevant to their use - commercial vessel-based projects must refer to the requirements of the Maritime Transport Act and associated rules, and where guidelines are voluntary, they must meet those guidelines. Charging infrastructure must meet the relevant Worksafe and EECA Publicly Available Specifications and guidelines. Other Project components must be legally operable in NZ and meet all required safety standards.

What sort of projects are we looking for?

Examples of the types of projects envisaged are listed below (not an exhaustive list. Note that where the Fund has supported similar projects in the past, we would be looking for a genuine demonstration case, something different enough to provide new learnings):

- Replacement of petrol or diesel outboard motors with battery electric or electric jet propulsion systems, and ancillary technology or software to govern efficiency and battery use
- Introduction of a new hydrofoil battery electric passenger vessel
- Charging infrastructure for marine public use (must show demand)
- Electric passenger ferry – eligible but must show a genuine demonstration case beyond the projects already supported by Government

Which project components could be funded?

| | |
|--|---|
| Co-funding of up to 50% may be applied for | Not eligible for co-funding |
| Coastal/domestic hybrid or full battery electric vessels with incorporated propulsion system | International shipping and cargo transport, and passenger cruise vessels |
| Electric outboard motors, jet propulsion systems, and costs of conversion/replacement from petrol or diesel | Non-powered vessels, vessel body |
| Software and technology to manage power draw, demand management, battery use, and to increase energy efficiency, optimising vessel performance and routing, reducing emissions | Maritime infrastructure and design not related to the Project applied for |
| Charging infrastructure for vessels, either as part of a vessel project or standalone to support electric vessels, including battery storage as part of the solution | Operational advice and analysis |
| Connection costs and network/electrical upgrades, ducting – a contribution towards the cost of connection for the project (where it can be shown its use is exclusively for the project and no more) | Research and development projects |
| Civil works and construction – a contribution relevant to the specific project | Regulatory checks and approvals |
| Battery storage (exclusively for the project) | Building infrastructure, shelters |
| Bollards, signage, concrete plinths, road markings | Operational costs |
| Launch, branding and signage – a contribution towards the initial set up and launch | Ongoing marketing activity |

| | |
|---|--|
| Efficiency measures such as propeller design, clip-ons, foils, stabilisers – a contribution may be applied for when incorporated into a project | Solar panels, generation of hydrogen or other low emission fuels, production and distribution of marine low carbon fuels |
| Ancillary technologies running off the battery while in operation or at port – a contribution may be applied for | Major infrastructure projects other than infrastructure specified in the included column |
| On-vessel offloading/loading ancillary equipment as part of an electrification project | On-vessel fish processing machinery |
| Advanced hull coatings, such as silicon based or self-polishing coatings | Recreational vessels and systems for personal use e.g. jet skis |
| | Emissions reduction or energy efficiency technologies not part of an eligible project |
| | Trailers, deck hardware, tow vehicles, marina berths and other systems not directly part of the project |

Note:

- In any Proposal involving the lease of vessels, the party who is the lessor should be the lead applicant for that Proposal.
- Any technology or vessel proposed must be deployed and able to legally operate in New Zealand for the purpose intended by the application.
- Chargers are expected to be smart chargers.
- Ancillary equipment may qualify if applicants can demonstrate a substantial carbon displacement opportunity and the equipment is part of an application involving non-fossil fuel low emission vessels.

At a minimum the applicant's response must provide that the Project:

- is to be implemented in New Zealand (Projects can involve suppliers based overseas);
- is related to application of a transport specific Project in the transport sector (i.e. primary purpose is to reduce emissions for shifting people and/or goods in the transport sector);
- co-funding requested must only be for the additional part or incremental cost of the Project relative to business-as-usual;
- develops or utilises commercially available technology, fuels and infrastructure;
- is supported by a suitable feasibility study or business case outlining why the solution proposed is the best approach;
- delivery is supported by a comprehensive Project plan with acceptable milestones and achievable timelines, which meet the Fund's objectives;
- seeks and achieves the necessary regulatory approvals within an agreed period, and/or achieved voluntary guidelines where relevant;
- has suitably assessed Project costs including supplier estimates for primary components of the Project;

- the Applicant's share of funding is committed to the Project and any outstanding approvals will be attained within 30 days of being notified of Government funding approval.

What will not be funded?

For clarity, the following activities are outside the scope of the Fund:

Projects focusing on:

- Product development or supply with no viable product ready to be piloted and without customers committed to participate in your demonstration Project;
- Any type of vehicle, whether on- or off-road;
- waste minimisation;
- projects that duplicate or are already covered by existing Government funds, policy, regulation or market settings initiatives (e.g. Council buses);
- non-transport related Projects (i.e. the primary purpose is not an activity that moves people or goods in the transport sector);
- energy production and electricity generation such as wind or solar (e.g. solar panels) for electricity generation or electrolysis for hydrogen.
- pure transport system projects such as transportation/city planning, urban development, mode shift policy etc;
- liquid and gas fuel storage and distribution infrastructure such as biofuel storage or gas or liquid fuel pipelines;
- reducing agricultural emissions or embodied carbon;
- displacing one fossil fuel for another (e.g. coal to natural gas);
- research & development, and the implementation of technologies or infrastructure that are not commercially available;
- pure desktop research, academic research and pre-commercial studies;
- any activities that would represent an ongoing financial liability for EECA;
- international travel;
- projects that are purely focused on marketing, promotion, education and information provision;
- marketing activity beyond the initial launch of the Project as agreed in the contract with EECA; and
- "Business-as-usual" costs of an organisation such as the costs associated with existing staff.

If you are in any doubt, please contact us to discuss your Project. The scope is constantly being reviewed and we would be interested to see if any Project can be added to a future round of the Fund.

1.5 Who can apply?

This funding round is open to all New Zealand-based and New Zealand-registered legal entities except Public Service Departments, Non-Public Service Departments (such as the New Zealand Defence Force), and Statutory Crown Entities such as District Health Boards.¹

¹ <https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf>

For clarity, the following types of organisations are eligible to submit Proposals:

- State-owned Enterprises.
- Local Councils.
- Regional Councils.

Proposals must be for Projects delivered in New Zealand, however Proposals can include the involvement of Project partners based overseas.

1.6 Advice for potential Applicants

Proposals must be justifiable, quantified and supported by a business case. Projects that are ready-to-go and well costed will be viewed more favourably than those which include contingency costs and other estimates.

Applicants should consider their proposal in light of previously approved EECA Technology Demonstration Fund, Low Emission Vehicles Contestable Fund and Low Emission Transport Fund Projects and other Projects in the New Zealand market; Projects that are similar or the same as previous Projects will need to demonstrate a high level of innovation, advancement of the objective and public benefit to score highly.

Where Applicants are looking for feedback as to whether their Project idea would potentially fit with the Fund's scope, please email or call an EECA Point of Contact.

The expectation is that co-funding Recipients will work with EECA to share their story and results across a variety of media as agreed.

Potential applicants are strongly encouraged to talk to EECA if you have questions or ideas to discuss.

1.7 Co-funding

The Fund will provide up to approximately \$2.5 million to commit to co-funding demonstration of vessels and technology projects as defined in this RFP.

EECA will seek to optimise the level of Government co-funding to ensure impact of the LETF Fund is maximised across a suitably balanced portfolio of Projects with respect to the Fund objectives.

Applicants are required to outline a level of co-funding in each Proposal. Applicants should only request co-funding of an amount that enables the Project to be implemented or brought forward.

Investment decisions will be guided by the LETF Investment Principles, and co-funding will be considered acknowledging the following Funding Principles:

- Projects must be at least \$50,000 to be eligible (total Project cost) as this is at a level to enable a meaningful contribution to Fund objectives;
- Co-funding requests can be made up to 50% of total costs and up to \$500,000 per Project, however a higher percentage and/or dollar value may be approved. In such cases the Assessment Panel must be satisfied that:
 - The Project is likely to result in significant public benefits; and
 - The Project cannot be scaled down without significantly affecting its objectives, viability and value for money;
- Cumulative Group Projects approved (including the applicant's Group of Companies) must not exceed 20% of the funds in a given financial period), unless agreed by the EECA Board. *Note: For the purpose of the Fund, a Group is defined as individual entities consolidated at the controlling shareholder level,*

including foreign ownership. EECA will maintain a running total of approved applications for Group entities;

- Applicant co-funding must be cash and not in-kind (such as existing assets or the provision of already-purchased goods and services);
- Applications for funding must meet the minimum eligibility requirements set out in Section 3.3 below; and
- All eligible and complete Proposals, regardless of the amount of funding requested, will go through the same assessment process, and if successful, may be offered funding.

1.8 Defining the incremental cost of a Project

We are interested to know the difference between the business-as-usual cost of undertaking your Project and the cost to purchase, create or implement a low emission solution, in order to compare the value offered by your Project against other Projects. Incremental cost shows how much your choice to use low emission options is costing you over and above for example the internal combustion engine equivalent, and including the costs of infrastructure such as charging stations, specific to low emissions activity.

Calculation of the incremental cost is a requirement of the Response Form.

1.9 Process and decision-making

Contestable Rounds

There is no set maximum number of Funding Rounds for the Fund or for any specific financial year that the Fund is operational, and EECA may choose not to run further investment activity in any financial year.

How decisions will be made

- Applicants submit Proposals in response to this RFP.
- An Assessment Panel evaluates eligible Proposals against the defined criteria and makes funding recommendations to the EECA Delegated Authority (DA).
- Based on recommendations from the Assessment Panel, EECA may negotiate aspects of the Project with the Applicant before offering an Agreement.
- EECA and the successful Applicants will execute LETF Funding Agreements for the delivery of the Projects. The contact template is available with this RFP on EECA's website.
- Unsuccessful Applicants can request a debrief on the decision relevant to their application.

1.10 Reporting and knowledge sharing requirements

As a condition of co-funding, EECA will be seeking data, information and lessons learned during the Project. Applicants agree that non-commercially sensitive data and learnings may be shared across Government, including with Maritime NZ, for the purposes of incorporating project learnings into the development of safety standards and policies, and to stay abreast of market developments.

Recipients will be required to agree to knowledge, reporting and data deliverables in Schedule 3 of the Funding Agreement, which will set out what information and knowledge generated during the Project will be provided, and how, when and with whom it will be shared.

These deliverables will include:

- Project progress reporting - to monitor progress and support fund risk management.

- Project specific lessons and outcomes learnt over the duration of the Project period.
- Project data and knowledge sharing: to provide information, data, analysis and performance reporting to assess the overall effectiveness and performance of the Project outcomes. Data will be collected by EECA and can be used to support diffusion of knowledge and learnings to the market (such as publicly available case studies for replicable projects).

Applicants should refer to Schedules 1 and 3 of the Proposed Funding Agreement for examples.

Recipients will work with EECA to share their story and results across a variety of media. Case studies of the Projects may also be published on the EECA website.

From time to time as required EECA may specify additional reporting requirements to support analysis of performance of an individual Project, or to aid overall assessment of Fund performance.

Section 2 Key Information

2.1 Context

This RFP is an invitation to submit a Proposal for funding from the LETF.

Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 8.

2.2 Our timeline

The table below shows our timeline for this RFP. All dates and times are in New Zealand.

| Steps in the RFP process | Date |
|--|--------------------------------|
| RFP opens | 9am, Wednesday 8 February 2023 |
| Deadline for questions from Applicants | 4pm, Wednesday 1 March 2023 |
| Deadline for EECA to answer Applicants' questions | 5pm, Friday 3 March 2023 |
| Deadline for Proposals | 12pm, Wednesday 8 March 2023 |
| Panel recommendations and EECA approval process complete | By late April 2023 |
| Applicants notified of outcome | From late April 2023 |
| Public announcement | From early May 2023 |

2.3 How to contact us

All enquiries (such as questions on the scope of the Fund or assistance with the completion of the Response Form) must be directed to our Point of Contact by the “deadline for questions” above. We will manage all external communications through the Point of Contact.

Our Point of Contact: LETFund@eeeca.govt.nz

Developing and submitting your Proposal

This is an open competitive process. The RFP sets out the step-by-step process and conditions that apply.

Take time to read and understand the RFP. In particular:

1. Develop a strong understanding of what we are looking for as detailed in Section 1.
2. In structuring your Proposal consider how it will be assessed. Section 3 describes our assessment and decision-making approach.

If anything is unclear or you have a question, email or call one of our Points of Contact for an explanation. Please do so before the Deadline for Questions.

In submitting your Proposal you must use the Response Form available on the EECA website.

You must also complete and sign the declaration at the end of the Response Form.

2.4 Address for submitting your Proposal

Proposals must be submitted via the online form on the EECA website. Proposals sent by email, post or fax, or hard copy delivered to our office will not be accepted.

2.5 Proposal Validity Period

In submitting a Proposal the Applicant agrees that it be held open by the Applicant for acceptance by EECA for at least six months from the Deadline for Proposals. This is referred to as the Proposal Validity Period.

The RFP is subject to the RFP Process, Terms and Conditions (RFP-Terms) described in Section 7.

2.6 Later changes to the RFP or RFP process

If, after publishing the RFP, we need to change anything about the RFP, or RFP process, or want to provide Applicants with additional information we will let all Applicants know by placing a notice on the Low Emission Transport Fund Section of the EECA website (where you got this RFP documentation from, www.eeca.govt.nz/LETF).

It is your responsibility to check for any updates prior to submitting your Proposal.

Section 3 Our Assessment and Decision-Making Approach

3.1 Assessment process

The approach for allocating funding is a one-stage contestable process. All eligible and complete Proposals, regardless of dollar value sought, will go through the same assessment process and will be assessed by an Assessment Panel. The indicative assessment process and timing is shown below:

| Date | Action |
|---------------------------------|---|
| by 12pm, Wednesday 8 March 2023 | Applicants submit Proposals in response to this RFP |
| by 5pm, Friday 10 March 2023 | EECA email confirmation of receipt of your application |
| by late April 2023 | Panel makes recommendations to the EECA Delegated Authority, who makes funding decisions |
| From late April 2023 | Applicants notified of decisions. Results are embargoed until the official Government announcement. |

3.2 Assessment Panel members

The Assessment Panel comprises the chair and up to three additional staff members of EECA, and at EECA's discretion may include external members as required. A quorum of at least 3 voting members will be required.

Panellists will sign a conflict of interest declaration upon appointment and will thereafter confirm that declaration and their agreement to the process for managing 'commercial in confidence' information, immediately before receiving the eligible applications in each round.

The proposed makeup of the Panel is as follows:

| Role | Voting | Member |
|---------------------------|--------|---|
| Chair of evaluation panel | ✓ | 1 EECA internal appointment |
| Business group | ✓ | 1 EECA business subject matter expert |
| Technical experts | ✓ | 1-2 EECA or external technical subject matter experts |
| Panel Administration | x | 1 EECA internal appointment |

3.3 Minimum eligibility conditions

Before a Proposal can be assessed by our Assessment Panel, the Applicant and the Project must meet all of the following eligibility conditions or it will be eliminated from further consideration.

| # | Minimum eligibility conditions | Meets condition |
|---|---|-----------------|
| A | Be an eligible entity, i.e. New Zealand-based and New Zealand-registered legal entities except Public Service Departments, Non-Public Service Departments (such as the New Zealand Defence Force), and Statutory Crown Entities such as District Health Boards. | Yes/No |

| | | |
|---|--|--------|
| B | The Project will be delivered in New Zealand (note the Project may utilise overseas suppliers but the resulting Project delivery and outcomes must be New Zealand based). | Yes/No |
| C | The Project must generate transport emission reductions, either directly or indirectly. | Yes/No |
| D | The Project must not be using elements or technology that is not legally approved for use. | Yes/No |
| E | The Project must deliver in the transport sector. | Yes/No |
| F | Be seeking funding for Projects in the areas noted in the RFP regarding eligibility. | Yes/No |
| G | The Applicant will have necessary internal/third party approvals and any budgets required to undertake the Project (subject to LETF funding) in place within one month of approval (or as agreed with EECA) in order for both Parties to execute the Funding Agreement. | Yes/No |
| H | The Project must rely on commercially available and proven technologies (those that are not commercially available such as R&D are excluded), but some level of development may be acceptable where Projects involve a live pilot and result in a commercially available solution. | Yes/No |
| I | Be committed to working safely and ensuring the health and safety of workers and others affected by the Project work, and have appropriate systems and processes to undertake the work safely. | Yes/No |
| J | Be committed to providing knowledge, reporting and data deliverables as requested or required by EECA for sharing with EECA (including relevant Government Agencies) and the wider market (following confidentiality rules). | Yes/No |
| K | Be committed to use EECA or Gen-Less branding in any marketing or Project material with the public. | Yes/No |
| L | Be committed to working in a manner that will not damage EECA's reputation. | Yes/No |
| M | Have completed the RFP Response Form in full. | Yes/No |
| N | The Project must deliver solutions meeting current New Zealand Maritime NZ marine guidelines and other relevant regulations, guidelines and legislation, including where applicable WorkSafe guidelines, and Waka Kotahi road regulations and vehicle compliance. Projects that include EV chargers must also follow EECA's Publicly Available Specifications (PAS) Guidelines on commercial and residential charging. | Yes/No |
| O | The Project must deliver realisable data and knowledge within a reasonable timeframe appropriate to the technology or target market of the Project. This is further specified in the Knowledge Sharing and Reporting Section of the RFP. | Yes/No |
| P | The Project would not go ahead without LETF co-funding, or co-funding would bring the intended launch date significantly closer. | Yes/No |

3.4 Assessment criteria

Proposals which meet all minimum eligibility conditions will be assessed on their merits by an Assessment Panel according to the following assessment criteria. All criteria are weighted according to the table below.

Applicants may, if they wish, provide supporting evidence to back up statements made in their response to the various questions on the RFP Response Form. These materials will form part of the Applicant's Proposal.

| | |
|---|---------------|
| A. Fit with the Investment Activity | Weighting 20% |
| <p>How does your Project fit the Investment Activity for this round?</p> <p>Describe your Project for this RFP.</p> <p>Describe what this Project will test that could assist others to replicate this project.</p> <p>What key components or aspects do you consider vital for the success of the Project? Why are the costs appropriate, what other options were considered, what trade-offs have you considered?</p> <p>Detail Project partners and their roles/contributions to the Project.</p> | |
| B. Fit with Investment Principles | Weighting 35% |
| <p>Does your Project meet the Investment Principles for this Round for Public Charging Infrastructure.</p> <p>Please consider the additional questions listed in Section 1.3.</p> | |
| C. Ability to Deliver | Weighting 30% |
| <p>To what extent do you have the expertise, resources, relationships and commitment necessary to deliver the initiative?</p> <p>What is your track record of delivering comparable Projects?</p> <p>Have you identified Project risks and barriers to success and how they will be addressed? e.g. supply of vehicles and components.</p> <p>How quickly can the Project be delivered?</p> <p>Have you sought confirmation and/or approvals from all relevant parties to the Project, e.g. landowners, Councils?</p> <p>Have you sought the necessary regulatory approvals and/or met voluntary guidelines where relevant? EECA will require you to achieve approvals within a reasonable period (to be agreed). Regulations and guidelines may include current Maritime NZ marine guidelines and other NZ relevant regulations, guidelines and legislation, including where applicable WorkSafe guidelines, and Waka Kotahi road regulations and vehicle compliance. Projects that include EV chargers must also follow EECA's Publicly Available Specifications (PAS) Guidelines on commercial and residential charging.</p> <p>The Fund is not a development subsidy. If you apply, you must have a viable product able and ready to be piloted with committed customers able to participate in your demonstration Project.</p> | |
| D. Value for Money | Weighting 15% |

How will the Project lead to public benefits and how large are those benefits expected to be compared to the funding being sought?

How does your organisation and this Project align with NZ Government]?

How important is the Fund to supporting the delivery, scale, or speed with which these public benefits will be realised? What can still be achieved without funding?

Will the Project run over multiple years or within a shorter period? When will the Project deliver the benefits promised in the Proposal?

** Any additional considerations are detailed in the specific Investment Principles, see Section 1.3.*

In addition to public benefits, EECA understands Projects may provide private benefits (e.g. reduced costs, marketing opportunities etc.). These private benefits are the reason for the private co-funding requirement and provide the motivation for many applicants to participate. However, they cannot be used to justify public funding.

3.5 Scoring Scale

The following scoring scale will be used in assessing Proposals. Scores by individual Panel members may be modified through the moderation process conducted across the whole Assessment Panel.

| Description | Definition | Rating |
|----------------------|---|--------|
| Excellent | Exceeds the expectations. Exceptional demonstration by the Applicant of the relevant ability, understanding, experience, skills, and resource and quality measures required to deliver the Project. Response identifies factors that will offer potential added value, with supporting evidence. | 9-10 |
| Good | Satisfies the expectations with minor additional benefits. Above average demonstration by the Applicant of the relevant ability, understanding, experience, skills, resource and quality measures required to deliver the Project. Response identifies factors that will offer potential added value, with supporting evidence. | 7-8 |
| Acceptable | Satisfies the expectations. Demonstration by the Applicant of the relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with supporting evidence. | 5-6 |
| Minor reservations | Satisfies the expectations with minor reservations. Some minor reservations about the Applicant's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence. | 3-4 |
| Serious reservations | Satisfies the expectations with major reservations. Considerable reservations about the Applicant's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence. | 1-2 |
| Unacceptable | Does not meet the expectations. Does not comply and/or insufficient information provided to demonstrate that the Applicant has the ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence. | 0 |

3.6 Further analysis of Proposals

In addition to the above assessment, EECA and/or the Assessment Panel may undertake the following processes and due diligence in relation to any Proposal:

1. Reference check the Applicant organisation(s) and named personnel.
2. Request clarification of aspects of the Proposal.
3. Request confirmation of delivery timelines and co-funding commitments.
4. Interview Applicants.
5. Request business cases/and/or feasibility studies to support the Proposal.
6. Engage with other relevant Government Agencies on aspects of the Proposal.
7. Conduct internal and/or external due diligence checks.

Responses to EECA requests for the above should be timely and the findings will be taken into account in the assessment process.

3.7 Decision-making

The Assessment Panel will make recommendations for funding to the EECA Delegated Authority (“DA”).

The DA is the decision-maker for LETF funding, and has the sole discretion to determine which Projects (if any) will receive LETF funding and the value of any funding.

The DA will take into account the recommendations from the Assessment Panel, as well as advice on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The DA may also impose any additional conditions it sees fit, prior to funding being approved.

If the DA declines funding, the Applicant will be informed, and all Applicants will be able to request and be provided with a debrief. This completes the process.

If the DA decides to approve funding, it will make a contingent decision which will be communicated to the Successful Applicants. Results are embargoed until the Government makes a public announcement of the results.

Unsuccessful Applicants may reapply in future rounds, taking into consideration any feedback provided.

Section 4 Funding Sought

4.1 Funding information to be provided by Applicants

Applicants are to provide details of their funding sought as part of their Proposal. In submitting the funding request Applicants must meet the following:

1. Applicants are to use the funding schedule template provided in the Response Form.
2. The funding schedule is to show a breakdown of all costs, fees, expenses and charges associated with the full delivery of the Proposed Project over the term of the Project.
3. Where the funding sought, or part thereof, is based on fee rates, all rates are to be specified, either hourly or daily or both as required.
4. Where the Project is an extension of what would have been a business-as-usual activity all Project components and costs in excess of the business-as-usual activity must be provided.
5. The Applicant must provide assurance of internal, Board or other approvals required, and any required budgets, for the Project to proceed.
6. The Applicant must provide evidence of approvals and/or permissions from entities that will influence the outcomes of the Project, for example landowners, Councils and Regulators. Where approvals and permissions are not provided, Applicants must acknowledge potential delays or risks. In scoring Proposals, the Assessment Panel takes into account the readiness of the Project and the ability of the Applicant to deliver.
7. In preparing their Proposal, the Applicant is to consider all risks, contingencies and other circumstances relating to the delivery of the Project and include adequate provision in the Proposal and funding information to manage such risks and contingencies.
8. The Applicant must document in its Proposal all assumptions and qualifications made about the delivery of the Project, including in the funding information. Any assumption that EECA or a third party will incur any cost related to the delivery of the Project must be stated, and the cost estimated if possible.
9. Costs should be submitted in NZ\$ and be exclusive of GST.
10. Where two or more entities cooperate and develop a Proposal together, the funding schedule is to include all costs, fees, expenses and charges chargeable by all entities. Note that one entity must be assigned as the lead Applicant, and the contract will be with that lead Applicant.

Section 5 Our Funding Agreement

5.1 Proposed Funding Agreement

The Proposed Funding Agreement that EECA intends to use for the delivery of the Project is on the EECA website along with the other RFP documents.

5.2 Funding Agreement

Once a Proposal has been approved for funding, and subject to Section 7.9 of this RFP, EECA and the Successful Applicant will enter into a Funding Agreement that commits the Recipient to implement the Project.

The Funding Agreement will detail the obligations on the Recipient for the duration of the Project, which must be met in order to receive funding from the LETF.

A Recipient cannot change the Project scope once it has been approved. Once the Project commences, minor changes to milestone dates can be approved with EECA's agreement and managed through a Funding Agreement variation.

All Funding Agreements will comprise EECA's standard terms and conditions (see Proposed Funding Agreement), and details of the individual Project being funded. These details may include (but are not limited to):

1. Any conditions that must be met as required by EECA.
2. The total funding package (funds supplied by the Applicant and the LETF).
3. Project tasks, targets and measures (milestones).
4. Payment terms.
5. Reporting requirements.
6. The duration and term of the Funding Agreement.

Specific information relating to Funding Agreements is detailed below.

5.3 Prior agreement to terms and conditions

Applicants are to review and understand the terms and conditions set out in the Proposed Funding Agreement. Applicants need to indicate in their Proposals any standard terms and conditions that they wish to discuss and negotiate further if their Proposal is successful.

This is especially important if you intend to transfer ownership of any of the assets purchased/created during the Project.

5.4 Deadline for signing

EECA's expectation is that all Successful Applicants will sign their Funding Agreements within 30 days of being offered the funding. The funding offer will lapse after that period.

5.5 Funding payments

Funding will be paid for the completion of agreed milestones using claims from the Recipient and buyer-created invoices issued by EECA.

5.6 Monitoring – Reporting, record-keeping and auditing

EECA will monitor the implementation of the Project by the Recipient and the application of the funds provided from the LETF. EECA may do so with the assistance of any other person that EECA chooses to use for this purpose at its discretion. Any such assistance will be funded by EECA.

Among other things, a Recipient will be required to provide regular progress reports to EECA. The Funding Agreement may also require specific additional reporting in order to receive funds from the LETF.

Recipients should also be aware that EECA may audit their records relevant to the Funding Agreement at any time, as per the standard terms and conditions of the Funding Agreement.

Section 6 General Information

6.1 Commercial-in-Confidence

All information collected and held during the RFP process will be held in the strictest confidence.

This information will include:

- The identity of entities engaging with EECA and related parties at any stage prior to a Funding Agreement being signed.
- Information provided to or by EECA and the Assessment Panel prior to Proposals being submitted.
- Proposals.
- Materials used to comment on and assess Proposals.

6.2 Official Information Act

EECA is bound by the Official Information Act 1982 (OIA) and subject to other public law obligations. Accordingly, while the information provided by Applicants is intended to be held in the strictest confidence, the information that EECA holds can be requested by third parties and EECA must provide information as required to do so by law.

The OIA does enable EECA to withhold information under certain conditions. Where possible, EECA will consult with the relevant Applicants and Recipients if it receives an OIA request.

6.3 Publication of decisions

EECA will make public all LETF funding, including who the Recipients are, the amounts of funding provided, and a brief description of each Project.

This will be done following either the approval of funding or the signing of a Funding Agreement. The content and method of publication will be agreed with each Recipient, but will typically include a media announcement.

6.4 Conflicts of interest

Conflict of Interest with respect to the Assessment Panel

The Assessment Panel operates a robust Conflict of Interest policy under which conflicts (real or perceived) are declared and managed. If Applicants consider there are any Conflicts of Interest relating to their interests and/or their Proposals and any persons at EECA, they are requested to contact EECA in writing via LETFund@eeca.govt.nz.

Applicant Conflict of Interest

Applicants must ensure that, where relevant, fair and appropriate procurement processes are used in order to ensure value for money and to manage Conflicts of Interest.

Applicants must disclose any Conflict of Interest (real or perceived) to EECA, as and when it arises, for the duration of the Funding Agreement. If in doubt, Applicants must disclose the situation to EECA in writing via LETFund@eeca.govt.nz.

6.5 Due diligence and financial matters

Due diligence

At any stage during the assessment process, EECA may undertake due diligence checks on Applicants as needed to meet Government requirements. Signing and submitting the Response Form is considered consent to these checks taking place.

GST

All amounts included in Proposals should be GST exclusive. The funding figures cited in any documents are GST exclusive.

Financial Year

The Crown's financial year runs from 1 July to 30 June. Proposals should use this timeframe when providing financial information.

Tax advice

EECA does not provide tax advice. If needed, Applicants should seek advice from tax specialists about how any funding granted may affect their tax positions.

6.6 Declaration

As part of the LETF process, Applicants will be required to sign and submit declarations (part of the Response Form) to confirm that the information they provide is accurate and to acknowledge that they have read and understood this RFP, including its terms, conditions and criteria and the information relating to obligations under the Official Information Act.

Section 7 RFP Process, Terms and Conditions

Note to Applicants

- In managing the Fund, EECA will endeavour to act fairly and reasonably in all of its dealings with interested Applicants, and to follow due process which is open and transparent.
- This section contains our RFP Process, Terms and Conditions (“RFP-Terms”) which apply to the Fund. Check to see if any changes have been made for this RFP, as outlined in Section 2.6.
- Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 8.

If you have any questions about the RFP-Terms please email our Point of Contact.

1. RFP Process

7.1 Preparing a Proposal

1. Applicants are to use the Response Form provided and include all information requested by EECA in relation to the RFP.
2. By submitting a Proposal the Applicant accepts that it is bound by these RFP Terms.
3. Each Applicant will:
 - a. examine the RFP and any documents referenced in the RFP and any other information provided by EECA;
 - b. consider all risks, contingencies and other circumstances relating to the delivery of its Project and include adequate provision in its Proposal to manage such risks and contingencies;
 - c. document in its Proposal all assumptions and qualifications made about the delivery of the Proposed Project, including any assumption that EECA or a third party will deliver any aspect of the Proposed Project or incur any cost related to the delivery of the Proposed Project;
 - d. ensure that pricing information is quoted in NZ\$ exclusive of GST;
 - e. if appropriate, obtain independent advice before submitting a Proposal;
 - f. satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing, and expected delivery dates.

7.2 Proposal Validity Period

Proposals are to remain valid and open for acceptance by EECA for the Proposal Validity Period.

7.3 Applicants’ Deadline for Questions

Each Applicant should satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP, Applicants should seek clarification before the Deadline for Questions.

All requests for clarification must be made by email to EECA’s Point of Contact. EECA will endeavour to respond to requests in a timely manner, according to the schedule in Section 2.2.

If EECA considers a request to be of sufficient importance to all Applicants it may provide details of the question and answer to other potential Applicants. In doing so EECA may summarise the question and will not disclose the Applicant's identity. The question and answer will be posted on the EECA website. An Applicant may withdraw a request at any time.

In submitting a request for clarification an Applicant is to indicate, in its request, any information that is commercially sensitive. EECA will not publish such commercially sensitive information. However, EECA may modify a request to eliminate such commercially sensitive information, and publish this and the answer where EECA considers it of general significance to all Applicants. In this case, however, the Applicant will be given an opportunity to withdraw the request or remove the commercially sensitive information.

7.4 Submitting a Proposal

Each Applicant is responsible for ensuring that its Proposal is received by EECA at the correct email address according to Section 2.3. EECA will acknowledge receipt of each Proposal.

EECA intends to rely on the Applicant's Proposal and all information provided by the Applicant (e.g. correspondence and negotiations). In submitting a Proposal and communicating with EECA each Applicant should check that all information it provides to EECA:

- is true, accurate and complete, and not misleading in any material respect; and
- does not contain Intellectual Property that will breach a third party's rights.

EECA may invite Applicants to rectify any minor errors or omissions in their Proposals according to the schedule in Section 2.2 during EECA's administrative review and eligibility check process. Otherwise, any Proposal not meeting all the minimum eligibility conditions specified in Section 3.3 will be disqualified from the remainder of the process.

Assessing Proposals

7.5 Assessment Panel

EECA will convene an Assessment Panel comprising members chosen for their relevant expertise and experience. In addition, EECA may invite independent advisors to assist in the assessment of any Proposal, or any aspect of any Proposal.

7.6 Third party information

Each Applicant authorises EECA to collect additional information from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of its assessment of the Applicant's Proposal.

Each Applicant is to ensure that all referees listed in support of its Proposal (if provided) agree to provide a reference.

To facilitate discussions between EECA and third parties each Applicant waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.

7.7 Proposal clarification

EECA, or the Assessment Panel, may at any time request from any Applicant clarification of its Proposal as well as additional information about any aspect of its Proposal. EECA is not required to request the same clarification or information from each Applicant.

The Applicant must provide the clarification or additional information in the format requested. Applicants will endeavour to respond to requests in a timely manner. The Assessment Panel may take such clarification or additional information into account in assessing the Proposal.

Where an Applicant fails to respond adequately or within a reasonable time to a request for clarification or additional information, the Assessment Panel may cease assessing the Applicant's Proposal and EECA may eliminate the Proposal from the RFP process.

7.8 Assessment and decision-making

The Assessment Panel will base its assessment on the Proposals submitted in response to the RFP. The Assessment Panel may adjust its assessment of a Proposal following consideration of any clarification or additional information as described in Sections 7.6 and 7.7.

In deciding which Applicants to recommend funding for, the Assessment Panel will take into account the results of the assessment. The Assessment Panel may also take into account any of the following additional information:

- the results from reference checks and any other due diligence;
- any matter that materially impacts on EECA's trust and confidence in the Applicant;
- any other relevant information that EECA may have in its possession.

The Assessment Panel will make recommendations for funding of selected Projects to the EECA delegated Authority (DA). The DA has the sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. The DA will take into account the recommendations from the Assessment Panel, as well as advice on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The DA may also impose any additional conditions it sees fit, prior to funding being approved.

If the DA declines funding, the Applicants will be informed and may be offered a debrief, then the process is complete.

If the DA decides to approve funding, they will make a contingent decision which will be communicated to the Successful Applicants.

7.9 Negotiations

EECA will invite a Successful Applicant to enter into negotiations with a view to entering into a Funding Agreement. Where the outcome is unsatisfactory or unreasonably stalled EECA may discontinue the negotiations.

Each Applicant agrees that any legally binding Funding Agreement entered into between the Successful Applicant and EECA will be essentially in the form set out in the Proposed Funding Agreement, which is part of the RFP documentation.

7.10 Applicant's debrief

All Applicants will be able to request and be provided with a debrief. Each Applicant will have 30 Business Days, from the date of when they were notified of the outcome of their Proposal, to request a debrief. When an Applicant requests a debrief, EECA will provide the debrief within 30 Business Days of the date of the request.

The debrief may be provided by letter, email, phone or at a meeting. The debrief will:

- provide the reasons why the Proposal was or was not successful;
- explain how the Proposal performed against the minimum eligibility conditions and the assessment criteria;
- indicate the Proposal's relative strengths and weaknesses;
- explain, in general terms, the relative advantage/s of the successful Proposal/s;
- seek to address any concerns or questions from the Applicant;
- seek feedback from the Applicant on the RFP and the RFP process.

7.11 Notification of outcome

At any point, but no later than 30 Business Days after the DA has made decisions on which Proposals will be offered funding, EECA will inform all unsuccessful Applicants of the outcome regarding their Proposal.

7.12 Issues and complaints

An Applicant may, in good faith, raise with EECA any issue or complaint about the RFP, or the RFP process at any time.

EECA will consider and respond promptly and impartially to the Applicant's issue or complaint.

Both EECA and the Applicant agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFP.

The fact that an Applicant has raised an issue or complaint will not be used by EECA to unfairly prejudice the Applicant's ongoing participation in the RFP process, or in any future funding rounds.

Standard RFP conditions

7.13 EECA's Point of Contact

All enquiries regarding the RFP must be directed by email to EECA's Point of Contact. Applicants must not directly or indirectly approach any representative of EECA, or any other person, to solicit information concerning any aspect of the RFP.

Only the Point of Contact, and any authorised person of EECA, are authorised to communicate with Applicants regarding any aspect of the RFP. EECA will not be bound by any statement made by any other person.

EECA may change the Point of Contact at any time. EECA will notify any such change by posting a notice on its website.

Where an Applicant has an existing Funding Agreement with EECA then business-as-usual communications, for the purpose of managing delivery of that Funding Agreement, will continue using the usual contacts. Applicants must not use business-as-usual contacts to lobby EECA, solicit information or discuss aspects of the RFP.

7.14 Conflict of Interest

Each Applicant must complete the Conflict of Interest declaration in the Response Form and must immediately inform EECA should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Applicant being disqualified from participating further in the RFP.

7.15 Ethics

Applicants must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of EECA or the Assessment Panel in relation to the RFP.

An Applicant who attempts to do anything prohibited by Sections 7.15 and 7.16 may be disqualified from participating further in the RFP process.

EECA reserves the right to require additional declarations, or other evidence from an Applicant, or any other person, throughout the RFP process to ensure probity of the RFP process.

7.16 Anti-collusion and bid rigging

Applicants must not engage in collusive, deceptive or improper conduct in the preparation of their Proposals or other submissions or in any discussions or negotiations with EECA. Such behaviour will result in the Applicant being disqualified from participating further in the RFP process.

EECA reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Applicants to the appropriate authority and to give that authority all relevant information including any relevant Proposal.

7.17 Confidential Information

EECA and the Applicant will each take reasonable steps to protect Confidential Information and, subject to Section 7.17 and without limiting any confidentiality undertaking agreed between them, will not disclose Confidential Information to a third party without the other's prior written consent.

The Applicant acknowledges that EECA may disclose Confidential Information to any person who is directly involved in the RFP process on its behalf, such as officers, employees, consultants, contractors, professional advisors, Assessment Panel members, partners, principals or directors, for the purpose of measuring the effectiveness of the Fund.

Applicants acknowledge that EECA's obligations under Section 7.17 are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 2020, parliamentary and constitutional convention and any other obligations imposed by law. EECA will not be in breach of its obligations if Confidential Information is disclosed by EECA to the appropriate authority because of suspected collusive behaviour. Where EECA receives an OIA request that relates to an Applicant's Confidential Information EECA will consult with the Applicant and may ask the Applicant to explain why the information is considered by the Applicant to be confidential or commercially sensitive.

7.18 Confidentiality of RFP information

For the duration of the RFP, to the date of the announcement of the Successful Applicant(s), or the end of the RFP process, the Applicant agrees to keep the RFP strictly confidential and not make any public statement to any third party in relation to any aspect of the RFP, the RFP process or the award of any Funding Agreement without EECA's prior written consent.

An Applicant may disclose RFP information but only for the purpose of participating in the RFP. The Applicant must take reasonable steps to ensure that such recipients do not disclose Confidential Information to any other person or use Confidential Information for any purpose other than responding to the RFP.

7.19 Costs of participating in the RFP process

Each Applicant will meet its own costs associated with the preparation and presentation of its Proposal and any negotiations.

7.20 Ownership of documents

The RFP and its contents remain the property of EECA. All Intellectual Property rights in the RFP remain the property of EECA or its licensors. EECA may request the immediate return or destruction of any or all RFP documents and any copies. Applicants must comply with any such request in a timely manner.

All documents forming the Proposal will, when delivered to EECA, become the property of EECA. Proposals will not be returned to Applicants at the end of the RFP process.

Ownership of Intellectual Property rights in the Proposal remain the property of the Applicant or its licensors. However, the Applicant grants to EECA a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process.

7.21 No binding legal relations

Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between EECA and any Applicant, except in respect of:

- the Applicant's declaration in its Proposal;
- the Proposal Validity Period;
- the Applicant's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with EECA;
- the Assessment approach to be used by EECA to assess Proposals as set out in Section 3 and in the RFP-Terms (as varied by Section 2.6, if applicable);
- the standard RFP conditions set out in Sections 7.13 to 7.26;
- any other matters expressly described as binding obligations in Section 1.

Each exception in Section 7.21 is subject only to EECA's reserved rights in Section 7.23.

Except for the legal obligations set out in Section 7.21 no legal relationship is formed between EECA and any Applicant unless and until a Funding Agreement is entered into between those parties.

7.22 Elimination

EECA may exclude an Applicant from participating in the RFP if EECA has evidence of any of the following, and is considered by EECA to be material to the RFP:

- the Applicant has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP;
- the Proposal contains a material error, omission or inaccuracy;
- the Applicant is in bankruptcy, receivership or liquidation;
- the Applicant has made a false declaration;
- there is a serious performance issue in a historic or current Funding Agreement delivered by the Applicant;
- the Applicant has been convicted of a serious crime or offence;
- there is professional misconduct or an act or omission on the part of the Applicant which adversely reflects on the integrity of the Applicant;
- the Applicant has failed to pay taxes, duties or other levies;
- the Applicant represents a threat to national security or the confidentiality of sensitive Government information;
- the Applicant is a person or organisation designated as a terrorist by New Zealand Police.

7.23 EECA's additional rights

Despite any other provision in the RFP EECA may, on giving due notice to Applicants:

- amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP;
- make any material change to the RFP on the condition that Applicants are given a reasonable time within which to respond to the change.

Despite any other provision in the RFP EECA may:

- accept a late Proposal if it is EECA's fault that it is received late;
- in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Applicants. EECA will not accept a late Proposal if it considers that there is risk of collusion on the part of an Applicant;
- in exceptional circumstances, answer a question submitted after the Deadline for Questions;
- accept or reject any Proposal, or part of a Proposal;
- accept or reject any non-compliant, non-conforming or alternative Proposal;
- decide not to enter into a Funding Agreement with any Successful Applicant;
- liaise or negotiate with any Applicant without disclosing this to any other Applicant;
- provide or withhold from any Applicant information in relation to any question arising in relation to the RFP. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to an Applicant, is inappropriate to supply at the time of the request or cannot be released for legal reasons;
- amend the Proposed Funding Agreement at any time, including during negotiations with an Applicant;
- waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so;

-
- decline to consider an Applicant's Proposal, if in EECA's opinion, awarding the funding to the Applicant may affect New Zealand's ability to comply with its international obligations including (and not limited to) treaties and international law.

EECA may request that an Applicant agrees to EECA:

- selecting any individual element/s of the Project that is offered in a Proposal and capable of being delivered separately, unless the Proposal specifically states that the Proposal, or elements of the Proposal, are to be taken collectively;
- selecting two or more Applicants to deliver a Project as a joint venture or consortium.

7.24 New Zealand law

The laws of New Zealand shall govern the RFP and each Applicant agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process.

7.25 Disclaimer

EECA will not be liable in contract, tort, equity, or in any other way whatsoever for any direct or indirect damage, loss or cost incurred by any Applicant or any other person in respect of the RFP process.

Nothing contained or implied in the RFP, or RFP process, or any other communication by EECA to any Applicant shall be construed as legal, financial or other advice. EECA has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.

To the extent that liability cannot be excluded, the maximum aggregate liability of EECA, its agents and advisors is \$1.

7.26 Precedence

Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:

- Section 2.6;
- Section 7 (RFP-Terms);
- all other sections of this RFP document;
- any additional information or document provided by EECA to Applicants through EECA's Point of Contact.

If there is any conflict or inconsistency between information or documents having the same level of precedence, the later information or document will prevail.

Section 8 Glossary of Terms

| Term | Description |
|------------------------------|--|
| Applicant | The eligible legal entity (or group of entities), which has submitted or is in the process of submitting a Proposal to the LETF for one or more Projects. |
| Assessment Panel (the Panel) | An advisory panel, comprising persons with relevant experience. The Panel assesses Proposals for LETF investment, and makes recommendations to the EECA Delegated Authority on which Proposals should receive LETF funding. |
| Business Day | Any week day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day. |
| Confidential Information | Information that: <ul style="list-style-type: none"> (a) is by its nature confidential; (b) is marked by either EECA or an Applicant as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', classified' and/or 'restricted'; (c) is provided by EECA, an Applicant, or a third party in confidence; (d) EECA or an Applicant knows, or ought to know, is confidential. Confidential information does not cover information that is in the public domain through no fault of either EECA or an Applicant. |
| Conflict of Interest | A Conflict of Interest arises if an Applicant's personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to the Buyer under the RFP. It means that the Applicant's independence, objectivity or impartiality can be called into question. A Conflict of Interest may be: <ul style="list-style-type: none"> (a) actual: where the conflict currently exists; (b) potential: where the conflict is about to happen or could happen, or; (c) perceived: where other people may reasonably think that a person is compromised. |
| Deadline for Proposals | The deadline that Proposals are to be submitted by the Applicant. |
| Delegated Authority | The party within EECA's approval hierarchy with sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. |
| Funding Agreement | The written agreement entered into by EECA and each Successful Applicant for the delivery of the Project(s). |
| GST | The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985. |

| Term | Description |
|--------------------------------|---|
| Intellectual Property | All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law. |
| ICE | Internal combustion engine. |
| LEV | Low Emission Vehicle. |
| Non-Public Service Departments | As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf |
| Point of Contact | EECA and each Applicant are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. EECA's Point of Contact is identified in Section 2.3. The Applicant's Point of Contact is identified in its Proposal. |
| Proposal | The response a Respondent submits in reply to the RFP. It comprises the Response Form, the Respondent's bid, financial and pricing information and all other information submitted by a Respondent. |
| Project | A description of a Project which the Proposal has been submitted for. This encompasses all activities, steps, tasks or elements for which an Applicant is seeking LETF funding. |
| Proposal Validity Period | The period of time when a Proposal is held open by the Applicant for acceptance by EECA. |
| Proposed Funding Agreement | The Funding Agreement terms and conditions proposed by EECA for the delivery of the Project as described or referred to in Section 5. |
| Public Service Departments | As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf |
| Recipient | The Successful Applicant that enters into a Funding Agreement with EECA. |
| RFP | Means the Request for Proposals; The RFP comprises this RFP document, the Response Form, the Proposed Funding Agreement and any other information provided through EECA's Point of Contact or the EECA website. |
| Response Form | The form and declaration prescribed by EECA and used by the Applicant to respond to the RFP. |
| Statutory Crown Entities | As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf |
| Successful Applicant | An Applicant whose Proposal is determined by the EECA Delegated Authority to conditionally receive funding. |