

Technology Demonstration Fund

Decarbonisation in the Covered Cropping Sector

Request for Proposals

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SECTION 1: What we are looking for?

1.1 Introduction

The Energy Efficiency and Conservation Authority (EECA) purpose is to mobilise New Zealanders to be world leaders in clean and clever energy use. A strategic focus is to motivate decision makers to accelerate the transition to productive and low emissions businesses. We do this through regulating, motivating people and co-investing in energy efficient technologies and the use of renewable sources of energy.

1.2 What we are looking for

The purpose of EECA's Technology Demonstration Fund is to encourage businesses to innovate and invest in new and underutilised technologies and processes that will deliver increased energy productivity and reduced global warming emissions. The co-investment is to reduce the risk of the early adopter, and to enable EECA to disseminate the learnings from the demonstration project for greater uptake of the technologies across New Zealand.

The investment focus for this one-off funding round is to demonstrate the potential for **decarbonisation of small to medium businesses in the covered cropping sector**. EECA has allocated up to \$1,250,000 for co-investment in approved Projects under this RFP.

EECA is seeking Proposals to deliver projects that will demonstrate diffusion of electrification and other technologies for controlling glasshouse atmospheres. Projects will need to demonstrate public benefits and replication potential.

The Fund will offer up to 40% EECA Funding towards the cost of suitable Projects, i.e., up to 40% cost of a low emissions heating/dehumidifying/cooling/CO₂ enrichment system. EECA Funding is capped at \$250,000 per Project.

For successful Proposals, a funding contract would be offered by EECA. The contract template is available on EECA's website.

Sharing results and learnings is vital to the success of the Fund.

One of the ways EECA promotes wider uptake of technology is to share results and learnings across New Zealand. It is a requirement that EECA Funding Recipients will collaborate to share their story and results across a variety of media. Case studies of the Projects will also be published on the EECA website.

1.3 Eligibility

What can be funded?

The Fund will support capital investment for technology involved in decarbonising businesses within the covered cropping sector, with specific orientation towards co-funding technology conversion or replacement within glasshouses.

Feasibility investigations need to have been completed prior to submitting the Proposal as it is important for EECA to be able to compare the efficiency and energy related carbon emissions of the existing system and a proposed new system.

As a minimum, the following must be known about the Project prior to the Proposal:

- The accurate cost of the new technology/system/upgrade.
- The process the technology/system/upgrade will cover – heating/cooling, dehumidifying, Co2 enrichment.
- The size of the covered cropping system it will control.
- The energy consumption of current technology/system.
- The geographical location of operation.
- The produce/crops type (e.g. tomatoes, cucumbers)
- The production level per year prior, and any anticipated changes.
- The load related cost of supply of electricity for new electrification technology/system/upgrade.

Factors that are important to us when considering Projects include:

- The technologies to be installed should reduce the energy intensity and/or greenhouse gas emissions of an organisation's operation.
- The project must have the potential to be applied to other businesses across the covered cropping horticulture sector.
- Funding Recipients must be willing to promote their projects and share the findings.
- The technology must be commercially available, and the project must be financially viable.
- Projects that have already started or would happen anyway cannot be funded.
- Feasibility investigations need to have been completed prior to submitting the Proposal as it is important for EECA to be able to compare the technical and economic performance, outputs and efficiency of the proposed solution, and its carbon emissions, against the existing system.

In addition, the following factors are important to us in considering Proposals:

- Clear deliverables and acceptable timelines.
- Projects will be delivered in a timely manner to meet the Fund's demonstration objectives.
- Applicant's share of funding is approved and committed to the Project.
- Any regulatory approvals required have been identified and allowed for.
- Clarity about ownership of any assets purchased through the Fund.

What will not be funded?

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

- Biomass boilers (numerous projects already funded by EECA and technology well demonstrated).
- Shade screens (technology standard practice in new glasshouses and benefits well understood).
- Any activities that would represent an ongoing financial liability for EECA, such as insurance underwriting.
- Projects that are purely focused on training or professional development.
- Projects that are purely focused on education and information provision.
- Research – being defined as original and planned investigation undertaken with the prospect of gaining new scientific or technical knowledge and understanding.
- “Business as usual” costs of an organisation such as the costs associated with existing staff.

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

1.4 Who can apply?

The Fund is open to all New Zealand-based and New Zealand-registered legal entities, other than a public service department, non-public service department, or statutory Crown entity (except Crown entity companies).

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. Proposals can include the involvement of project partners based overseas.

1.5 Co-funding

A minimum level of Applicant co-funding is required for each Proposal. This co-funding must be cash and not in-kind (such as existing assets, cost of existing staff, or the provision of already-purchased goods and services). It cannot be used to cover 'business as usual' costs such as ongoing costs of existing operations (however the cost of an external contractor hired to backfill for a staff member assigned to the Project can be included).

EECA funding, and any co-funding from other central government grants, cannot in total exceed 40% of the total cost of the Project.

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.

1.6 How will decisions be made?

- Applicants submit Proposals in response to this RFP.
- Applications will be assessed to meet minimum eligibility criteria.
- Applications will be evaluated against set funding criteria and commentary produced.
- An EECA Assessment Panel will then assess and score all eligible Proposals and, after a Panel moderation session, make funding recommendations.
- The EECA Group Manager Investment and Engagement will make final funding decisions.
- EECA and successful Applicants will sign Funding Agreements for the delivery of the Projects.

SECTION 2: Key Information

2.1 Context

This RFP is an invitation to submit a Proposal for funding from the EECA Technology Demonstration Fund to demonstrate decarbonisation of small to medium businesses in the covered cropping sector.

2.2 Our timeline

Here is our timeline for this RFP. All dates and times are in New Zealand.

Steps in the RFP process	Time and Date
Deadline for questions from Applicants	5.00 pm; 9 February 2022
Deadline for EECA to answer Applicants' questions	5.00 pm; 11 February 2022
Deadline for Proposals	12.00 pm, 16 February 2022
Assessment Panel process (including assessing proposals and any interviews of Applicants)	Completed by 21 March 2022
Panel recommendations and Group Manager decision process	Completed by 28 March 2022
Applicants notified of outcome	By 6 April 2022

2.3 How to contact us

All enquiries (such as questions on the scope of the Fund or how to complete the Response Form) must be directed to our Point of Contact by the "Deadline for questions" above. We will manage all external communications through this Point of Contact.

Our Point of Contact

Name: Dinesh Chand

Role: Technology Demonstration Fund Manager

Email address: Business@eeca.govt.nz

2.4 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:

- i. develop a strong understanding of what we are looking for as detailed in Section 1.
- ii. 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 our Point 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.

In submitting a Proposal you agree that your offer will remain open for acceptance by EECA for three calendar months from the Deadline for Proposals.

The total size of your Proposal should not exceed 20MB. Your proposal must not include any zipped or executable files.

2.5 Address for submitting your Proposal

Proposals **must be submitted by email to EECA** at the following address: Business@eeca.govt.nz.

Proposals sent by post or fax, or hard copy delivered to our office, will not be accepted.

2.6 Late changes to the RFP or RFP process

If, after publishing the RFP, we need to change anything about the RFP, or the RFP process, or want to provide Applicants with additional information we will let all Applicants know by placing a notice on the Covered Cropping Request for Proposal page of the EECA website (where you got this RFP documentation from).

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 two-stage contestable process. All eligible and complete Proposals, regardless of dollar value sought, will go through the same assessment process.

Eligible and complete Proposals will first be evaluated against the Fund criteria by the Technology Demonstration Fund Manager, who will then submit it to the EECA Panel for assessment, scoring and funding recommendations. The indicative assessment process and timetable is shown below:

Date	Action
By 12.00 pm, Wednesday 16 February 2022	Applicants submit Proposals in response to this RFP
By 5pm Wednesday 16 February 2022	Email confirmation of receipt of your application
By 5.00 pm Friday 18 February 2022	Administrative review for eligibility and completeness
By Monday 28 March 2022	Panel makes recommendations to the EECA Group Manager Investment and Engagement, who makes final funding decisions
By Wednesday 6 April 2022	Applicants notified of decisions

3.2 Assessment Panel members

The Assessment Panel comprises the Chair and at least four staff members of EECA. The Group Manager Investment and Engagement selects the Assessment Panel members.

3.3 Minimum eligibility conditions

Before a Proposal can be assessed by EECA, it must meet all of the following eligibility conditions or it will be eliminated from further consideration.

	Minimum eligibility conditions
1.	Must be an eligible entity, i.e. a New Zealand-based and registered organisation.
2.	Must be seeking funding for projects related to the of decarbonisation and energy efficiency in covered cropping horticulture.
3.	Will have all of their organisation’s internal approvals to undertake the project (subject to EECA funding) in place before EECA signs the funding agreement.
4.	Must contribute a minimum of 60% of the funding required for the project.

5.	Must be requesting a maximum co-funding amount of \$250,000.
6.	Must 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.
7.	Will commit to working in a manner that will not damage EECA's reputation.
8.	Must acknowledge (as part of its proposal) that it will act in accordance with the NZ Government Procurement's Supplier Code of Conduct .
9.	Must have completed the RFP Response Form in full.

3.4 Assessment criteria

Proposals which meet all minimum eligibility conditions will first be evaluated against the funding criteria and then assessed and scored on their merits by an Assessment Panel. All criteria are weighted equally at 20%.

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.

Criteria	Key question(s)	Weighting %
Fit with investment focus	<ul style="list-style-type: none"> To what extent does the Project deliver decarbonisation or energy efficiency in the covered cropping Sector? 	20
Meets objectives of the Technology Demonstration Fund	<ul style="list-style-type: none"> Is using commercially available electrification or renewable technologies? Is applicable to multiple businesses in the horticulture Sector? Is financially viable, having factored increasing ETS costs into its cost benefit analysis? 	20
Cost benefit	<ul style="list-style-type: none"> Is EECA's cost per tonne of lifetime carbon abatement acceptable compared to current ETS unit price, and when compared to other Proposals? 	20
Ability to deliver	<ul style="list-style-type: none"> To what extent does the Applicant have the funding, expertise, resources, relationships and commitment necessary to deliver the initiative? Has the Applicant credibly identified Project risks and barriers to success and how they will be addressed? Are network upgrades needed, and if so, has the Applicant consulted with its distribution company and obtained estimation of costs and timing? How quickly can the Project be delivered, and are Project milestones acceptable? 	20
Value for money	<ul style="list-style-type: none"> How will the Project lead to public benefits and how large are those benefits compared to the EECA Funding being sought? 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? 	20

Note: 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

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 relevance, ability, understanding, experience, skills, and resource and quality measures required to deliver the project. Response identifies factors that will offer potential added value, with evidence.	9-10
Good	Satisfies the expectations with minor additional benefits. Above average demonstration by the Applicant of the relevance, 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 relevance, 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 Project's relevance and Applicant's 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 Project's relevance and Applicant's 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 Project is relevant, and 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 may undertake the following processes and due diligence in relation to any Proposal:

- a. Reference check the Applicant organisation(s) and named personnel.
- b. Request clarification of aspects of the Proposal.

- c. Request confirmation of delivery timelines and co-funding commitments.
- d. Interview Applicants.
- e. Conduct internal and/or external due diligence checks.

Responses to EECA requests for the above information should be provided in the time specified and will be taken into account in the assessment process.

3.7 Decision-making

- a. Panel members will independently assess and score each eligible proposal and provide their scores to the Panel Chair for consolidation. The Panel will then meet to moderate the scores and rank the proposals in weighted score order.
- b. Proposals must achieve a moderated score over 50% to be considered for funding. The highest scoring projects will be considered for funding within the overall budget cap.
- c. The Assessment Panel will make recommendations for funding to the Group Manager Investment and Engagement. The Panel Report will be authored by the Panel Chair.
- d. The Group Manager Investment and Engagement is the decision-maker for Technology Demonstration funding and has the sole discretion to determine which projects (if any) will receive funding, and the value of any funding subject to delegated authority limits.
- e. The Group Manager Investment and Engagement will take into account the recommendations from the Assessment Panel, and advice on any risks, issues or concerns which arise from the recommendations.
- f. If the Group Manager Investment and Engagement declines funding, the Applicant will be informed, and all Applicants will be able to request and be provided with a debrief.
- g. If the Group Manager Investment and Engagement approves funding, an offer will be communicated to the successful Applicant.

SECTION 4: Funding Sought

4.1 Funding information to be provided by Applicants

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

- a. Applicants are to use the Response Form provided on the EECA website:
https://www.eeca.govt.nz/assets/EECA-Resources/Co-funding/3d1cff7ea4/EECA_covered-cropping-RFP_response-form.docx
- b. The Response Form is to show a breakdown of costs, fees, expenses, and charges associated with the full delivery of the proposed Project over the term of the Project.
- c. 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.
- d. 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.

- e. In preparing its 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.
- f. 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.
- g. Costs should be submitted in NZ\$ and be exclusive of GST.
- h. 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.

SECTION 5: General Information

5.1 Commercial-in-Confidence

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

- The identity of entities engaging with EECA and related parties at any stage prior to their successful funding application decision being communicated to the Applicant.
- Information provided to prior to Proposals being submitted.
- Proposals.
- Materials used to comment on and assess Proposals.

5.2 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 relevant, EECA will consult with the relevant Applicants and Recipients if it receives an OIA request.

5.3 Publication of decisions

EECA will make public all 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.

5.4 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.

5.5 Declaration

As part of the Fund 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 6: RFP Process, Terms and Conditions

6.1 Note to Applicants

- i. In managing the Fund, EECA will endeavour to act fairly and reasonably in all of its dealings with Applicants, and to follow due process which is open and transparent.
- ii. This section contains our RFP Process, Terms and Conditions (“RFP-Terms”) which apply to the Fund.
- iii. Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 7.
- iv. If you have any questions about the RFP-Terms please email our Point of Contact.

6.2 Preparing a Proposal

Applicants are to use the Response Form provided and include all information requested by EECA in relation to the RFP.

By submitting a Proposal the Applicant accepts that it is bound by these RFP Terms.

Each Applicant will:

- i. examine the RFP and any documents referenced in the RFP and any other information provided by EECA;
- ii. consider all risks, contingencies and other circumstances relating to the delivery of its proposed Project and include adequate provision in its Proposal to manage such risks and contingencies;
- iii. 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;
- iv. ensure that pricing information is quoted in NZ\$ exclusive of GST;
- v. if appropriate, obtain independent advice before submitting a Proposal;
- vi. satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed pricing and the sustainability of the pricing.

6.3 Proposal Validity Period

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

6.4 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.

If EECA considers a request to be of sufficient importance to all Applicants it may publish details of the question and answer. 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.

6.5 Submitting a Proposal

Each Applicant is responsible for ensuring that its Proposal is received by EECA at the email address stated in Section 2.5 by **12.00 pm Wednesday 16 February 2022**. 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:

- i. is true, accurate and complete, and not misleading in any material respect; and
- ii. 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 during EECA's administrative review and eligibility check process. Otherwise, any Proposal not meeting all the minimum eligibility conditions will be disqualified from the remainder of the process.

Assessing Proposals

6.6 Assessment Panel

EECA will convene an Assessment Panel comprising members chosen for their relevant expertise and experience.

6.7 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.

6.8 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.

6.9 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 requested.

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:

- i. the results from reference checks and any other due diligence;
- ii. any matter that materially impacts on EECA's trust and confidence in the Applicant;
- iii. 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 Group Manager Investment and Engagement who has the sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. The EECA Group Manager Investment and Engagement 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.

If the Group Manager Investment and Engagement declines funding, the Applicants will be informed and may be offered a debrief, then the process is complete.

If the funding is approved, the Group Manager Investment and Engagement will make a contingent decision which will be communicated to the Successful Applicants.

6.10 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.

6.11 Applicants 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:

- i. provide the reasons why the Proposal was or was not successful;
- ii. explain how the Proposal performed against the minimum eligibility conditions and the assessment criteria;
- iii. indicate the Proposal's relative strengths and weaknesses;
- iv. explain, in general terms, the relative advantage/s of the successful Proposal/s;

- v. seek to address any concerns or questions from the Applicant;
- vi. seek feedback from the Applicant on the RFP and the RFP process.

6.12 Notification of outcome

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

6.13 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

6.14 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 or contract for services with EECA then business as usual communications, for the purpose of managing delivery of that agreement or contract, 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.

6.15 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.

6.16 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.

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.

6.17 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.

6.18 Confidential Information

EECA and the Applicant will each take reasonable steps to protect Confidential Information 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.

EECA and the Applicant may each 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, but only for the purpose of participating in the RFP.

Applicants acknowledge that EECA is subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, 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.

6.19 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 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.

6.20 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.

6.21 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.

6.22 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:

- i. the Applicant's declaration in its Proposal;
- ii. the Proposal Validity Period;
- iii. the Applicant's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with EECA;
- iv. the Assessment approach to be used by EECA to assess Proposals as set out in Section 3 and in the RFP-Terms;
- v. the standard RFP conditions set out in paragraphs 6.14 to 6.27;
- vi. any other matters expressly described as binding obligations in Section 1.

Each exception in paragraph 6.22 is subject only to EECA's reserved rights in paragraph 6.24.

Except for the legal obligations set out in paragraph 6.22 no legal relationship is formed between EECA and any Applicant unless and until a Funding Agreement is entered into between those parties.

6.23 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:

- i. the Applicant has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP;
- ii. the Proposal contains a material error, omission or inaccuracy;
- iii. the Applicant is in bankruptcy, receivership or liquidation;
- iv. the Applicant has made a false declaration;
- v. there is a serious performance issue in a historic or current funding agreement or contract held by the Applicant;
- vi. the Applicant has been convicted of a serious crime or offence;
- vii. there is professional misconduct or an act or omission on the part of the Applicant which adversely reflects on the integrity of the Applicant;

- viii. the Applicant has failed to pay taxes, duties or other levies;
- ix. the Applicant represents a threat to national security or the confidentiality of sensitive government information;
- x. the Applicant is a person or organisation designated as a terrorist by New Zealand Police.

6.24 EECA's additional rights

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

- i. amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP;
- ii. 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:

- i. accept a late Proposal if it is EECA's fault that it is received late;
- ii. 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;
- iii. in exceptional circumstances, answer a question submitted after the Deadline for Questions;
- iv. accept or reject any Proposal, or part of a Proposal;
- v. accept or reject any non-compliant, non-conforming or alternative Proposal;
- vi. decide not to enter into a Funding Agreement with any Successful Applicant;
- vii. liaise or negotiate with any Applicant without disclosing this to any other Applicant;
- viii. 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;
- ix. amend the Proposed Funding Agreement at any time, including during negotiations with an Applicant;
- x. waive irregularities or requirements in or during the RFP process where it considers it appropriate and reasonable to do so;
- xi. 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:

- i. 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;
- ii. selecting two or more Applicants to deliver a Project as a joint venture or consortium.

6.25 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.

6.26 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.

6.27 Precedence

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

- i. Section 1;
- ii. Section 6 (RFP-Terms);
- iii. all other Sections of this RFP document;
- iv. 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 7: 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 Fund.
Assessment Panel (the Panel)	An advisory panel, comprising persons with relevant experience. The Panel assesses Proposals for the Fund investment, and makes recommendations to the EECA Group Manager Investment and Engagement on which Proposals should receive 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 EECA 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.
Funding Agreement	The written agreement entered into by EECA and each Successful Applicant for the delivery of the Project(s).
Deadline for Proposals	The deadline that Proposals are to be submitted by the Applicant.
GST	The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.
Intellectual Property	All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.

Non-Public Service Departments	As defined by the State Services Commission, see https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.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	Description of the Project, developed by an Applicant and submitted in the Response Form to EECA to be considered for funding.
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 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 proposed Funding Agreement terms and conditions published on the EECA website as part of this RFP.
Public Service Departments	As defined by the State Services Commission, see https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.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 in relation to this RFP 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://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf
Successful Applicant	An Applicant whose Proposal is determined by the EECA Group Manager Investment and Engagement to conditionally receive funding.