



Energy Efficiency and  
Conservation Authority  
Te Tari Tiaki Pūngao



---

# Low Emission Vehicles Contestable Fund Request for Proposals

## Round 6: February – July 2019

---

RFP released: 9am, Thursday 21 February 2019

Deadline for Questions: 4pm, Wednesday 13 March 2019

Deadline for Proposals: 9am, Thursday 21 March 2019

# CONTENTS

---

<b>SECTION 1: This Opportunity in a Nutshell .....</b>	<b>3</b>
<b>SECTION 2: Key Information.....</b>	<b>6</b>
<b>SECTION 3: What we are looking for .....</b>	<b>8</b>
<b>SECTION 4: Our Assessment and Decision Making Approach.....</b>	<b>14</b>
<b>SECTION 5: Funding Sought .....</b>	<b>19</b>
<b>SECTION 6: Our Funding Agreement.....</b>	<b>20</b>
<b>SECTION 7: General Information .....</b>	<b>22</b>
<b>SECTION 8: RFP Process, Terms and Conditions.....</b>	<b>24</b>
<b>SECTION 9: Glossary of Terms .....</b>	<b>33</b>

# SECTION 1: This Opportunity in a Nutshell

## 1.1 Introduction

The purpose of the Low Emission Vehicles Contestable Fund (the Fund, or LEVCF) is to encourage innovation and investment that will accelerate the uptake of electric and other low-emission vehicles (LEV) in New Zealand that might not otherwise occur.

The Energy Efficiency and Conservation Authority (EECA) is seeking Proposals to deliver Projects that will lead to this outcome by contributing to at least one of the following:

- Increasing the variety and supply of LEVs available.
- Improving the availability of servicing or charging infrastructure in areas where demand is uneconomic or not fully developed.
- Increasing demand for LEVs.
- Developing innovative products or systems to take advantage of growing electric vehicle use.

The Fund will offer up to 50% co-funding towards suitable Projects that lead to the achievement of these objectives. In exceptional circumstances, approval may be given for Projects that request more than \$500,000 co-funding, and/or which request more than 50% co-funding. This is outlined in section 3.6.

For this round the Fund will provide up to \$3.5 million to co-fund Projects with private and public sector partners. It is anticipated the next round of the Fund will open in mid-2019.

## 1.2 What we are looking for

EECA is seeking Proposals for Projects that encourage and support the uptake of electric vehicles and other low emission vehicles on roads used by the public and that make use of New Zealand's renewable electricity advantage. This could include projects in the area of: electric and plug-in hybrid electric cars, vans, trucks and buses, or associated technologies or services. Hydrogen fuel cell vehicles and other technologies may be in scope if they make use of New Zealand's renewable electricity advantage.

The Fund's investment focus for Round 6 is on projects that:

- Support the development of the charging network by identifying and filling the key gaps in the network, and by supporting EV charging stations in priority locations where further facilities are needed;
- Facilitate the scale-up of LEV technology, especially in shared fleets and public transport;
- Enable the demonstration and uptake of light and heavy LEVs and associated technologies through high visibility projects in sectors of the economy where LEVs remain relatively unproven;
- Encourage electric vehicle technology innovation, particularly Vehicle-to-Grid and Smart Charging technologies potentially resulting in reductions to peak electricity demand;

- Support the development of electric vehicle maintenance, repair and other support services.

Further information and examples of the types of projects we would consider as fitting the investment focus can be found in section 3.3 of this document.

### 1.3 What we don't want

Projects involving conventional hybrid vehicles, biofuel technologies, electric bicycles (and other two and three wheelers), quadricycles, as well as the marine, rail and aviation sectors are outside the scope of the Fund.

The Fund will also not contribute to research Projects, nor will it contribute to Projects based solely around marketing, promotional or educational opportunities, because marketing and promotion is the focus of the EECA information campaign.

The Fund will not contribute to “business as usual” costs of an organisation such as the costs associated with existing staff, premises and operations.

### 1.4 What's important to us?

Factors that are important to us include:

- Good alignment with the core objectives of the Fund, such as leading towards increased supply of and demand for electric and other low emission vehicles, and associated systems and infrastructure.
- Alignment with the particular investment focus for this round.
- The capability, resources and experience of the respondent organisation to deliver on the Project.
- The Project delivering value for money in its own right as well as in comparison with other Proposals received.
- Clear and demonstrable public benefits.

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

- Clear deliverables and timelines.
- Projects will be delivered in a timely manner to meet the Fund's demonstration objectives.
- Co-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.

#### **Sharing results and learnings is vital to the success of the Fund**

The Fund's purpose is to accelerate the uptake of low emission vehicles. One of the ways EECA will achieve this is to share results and learnings widely across New Zealand. The expectation is that co-funding Recipients will work with EECA to share their story and results across a variety of media as agreed.

## 1.5 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. For example:

- You need to purchase a vehicle for your business. You propose to purchase a LEV instead of an internal combustion engine vehicle. The incremental cost is the difference between the two vehicles
- You need to install charging infrastructure. The incremental cost is equal to the total cost of the activity
- Because you are buying a LEV, you need to engage a project manager to help you deliver the Project. The incremental cost is equal to the total cost of the project management activity.

Additional guidance on incremental cost can be found in section 3.8 below.

## 1.6 Why should you submit a Proposal?

New Zealand has a major opportunity to utilise its renewable electricity advantage to reduce fossil fuel use and carbon dioxide emissions in transport. The Government is committed to increasing the supply of electric vehicles on the road and has a target of 64,000 vehicles by 2021.

The LEVCF provides an opportunity for organisations to obtain co-funding for relevant projects that will aid the development of their projects and associated organisational and corporate objectives while also contributing to the Government's objectives in this area.

## 1.7 How will decisions be made?

- Applicants submit Proposals in response to this Request for Proposal (RFP).
- An Assessment Panel assesses Proposals, and makes recommendations to the EECA Board.
- The EECA Board makes funding decisions.
- EECA and Successful Applicants sign Funding Agreements for the delivery of the Projects.

## 1.8 A bit about us

The Energy Efficiency and Conservation Authority (EECA) is the government agency that works to make New Zealand a better place to live - economically, environmentally and socially - through the better use of energy. For more information, go to [www.eeca.govt.nz](http://www.eeca.govt.nz).

## SECTION 2: Key Information

### 2.1 Context

- a. This RFP is an invitation to submit a Proposal for funding from the LEVCF.
- b. Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 9.

### 2.2 Our timeline

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

Steps in the RFP process	Date
Deadline for questions from Applicants	4pm Wednesday 13 March 2019
Deadline for EECA to answer Applicants' questions	4pm Friday 14 March 2019
<b>Deadline for Proposals</b>	<b>9am Thursday 21 March 2019</b>
Assessment Panel process (including assessing and moderating proposals and any interviews of Applicants)	By Friday 12 July 2019
Panel recommendations and EECA Board process	By Tuesday 30 July 2019
Applicants notified of outcome	From Wednesday 31 July 2019

### 2.3 How to contact us

- a. All enquiries (such as questions on the scope of the Fund or assistance with filling in 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.

- b. **Our Point of Contact**

**Name:** Camilla Cochrane

**Role:** Low Emission Vehicles Contestable Fund Manager

**Email address:** [LEVFund@eeca.govt.nz](mailto:LEVFund@eeca.govt.nz)

### 2.4 Developing and submitting your Proposal

- a. This is an open competitive process. The RFP sets out the step-by-step process and conditions that apply.
- b. 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 3.

- ii. in structuring your Proposal consider how it will be assessed. Section 4 describes our assessment and decision making approach.
- c. 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.
- d. In submitting your Proposal you must use the Response Form available on the EECA website.
- e. You must also complete and sign the declaration at the end of the Response Form.
- f. The total size of your Proposal should not exceed 20MB.
- g. Your proposal must not include any zipped or executable files.
- h. Please note the word count limits as recommended in relevant sections of the response form.
- i. Check you have provided all information requested, and in the format and order asked for.
- j. Having done the work, don't be late – please ensure you get your Proposal to us by the date specified.

## 2.5 Address for submitting your Proposal

- a. **Proposals must be submitted by email to EECA** at the following address:  
[LEVFund@eeca.govt.nz](mailto:LEVFund@eeca.govt.nz).
- b. Proposals sent by post or fax, or hard copy delivered to our office, will not be accepted.

## 2.6 Our RFP Process, Terms and Conditions

- a. 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.
- b. The RFP is subject to the RFP Process, Terms and Conditions (RFP-Terms) described in Section 8.

## 2.7 Later changes to the RFP or RFP process

- a. 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 Emissions Vehicles Contestable Fund section of the EECA website (where you got this RFP documentation from): <https://www.eeca.govt.nz/funding-and-support/low-emission-vehicles-contestable-fund/low-emission-vehicles-contestable-fund/>
- b. It is your responsibility to check for any updates prior to submitting your Proposal.

# SECTION 3: What we are looking for

## 3.1 Background

The Fund has been established to **encourage innovation and investment to promote, enable and accelerate the uptake of electric and other low emission vehicles** into New Zealand that would not otherwise occur. The Fund will contribute to the target of having 64,000 electric vehicles on New Zealand roads by 2021.

The Fund has up to **\$3.5 million** available in this round.

## 3.2 Objectives

The objectives of the Fund are to:

1. Contribute to getting New Zealand ready for mainstream uptake of electric and other low emission vehicles by:
  - a. Ensuring there is a sufficient variety of electric vehicles on the road to provide experience and familiarity, and to stimulate supply of vehicles, servicing and charging infrastructure.
  - b. Enabling New Zealanders to learn about, and experience electric vehicles.
  - c. Ensuring charging and servicing infrastructure is in place before or when it is needed.
2. Encourage business, communities and Government to develop innovative responses to barriers and opportunities around electric vehicles.
3. Make the most of New Zealand's renewable electricity advantage, and take advantage of opportunities to reduce CO<sub>2</sub> emissions and improve air quality.
4. Encourage high-tech innovation in the systems around electric vehicles.

## 3.3 Investment focus

To ensure that investment is phased over the life of the Fund in a way that matches where New Zealand's progress is at, each round will have a particular investment focus.

The Fund's investment focus for Round 6 is on projects that:

- Support the development of the charging network by identifying and filling the key gaps in the network, and by supporting EV charging stations in priority locations where further facilities are needed;
- Facilitate the scale-up of LEV technology, especially in shared fleets and public transport
- Enable the demonstration and uptake of light and heavy LEVs and associated technologies through high visibility projects in sectors of the economy where LEVs remain relatively unproven;
- Encourage electric vehicle technology innovation, particularly Vehicle-to-Grid and Smart Charging technologies potentially resulting in reductions to peak electricity demand;

- Support the development of electric vehicle maintenance, repair and other support services.

Examples of the types of projects we would consider as fitting the investment focus include:

- Regional partnerships to catalyse territorial authorities and the electricity sector to build provincial EV communities, which will result in increased EV uptake, and the development of the rural charging network;
- Charging infrastructure at tourism destinations, in smaller centres, and on secondary routes to help speed up the establishment of a nationwide recharging network;
- Assisting with infrastructure costs to enable the rollout of electric bus fleets or large light electric vehicle fleets;
- Deployment of electric trucks and electric buses in the logistics and public transport sectors;
- Vehicle-to-grid trials and smart charging technology which lead to peak electricity demand 'shaving' and corresponding benefits to EV owners;
- Addressing consumer confidence about EV servicing through industry accreditation
- Expanding EV car share projects;
- Scale-up of EV charging infrastructure in key locations.

EECA is particularly looking for projects that will help to fill charging infrastructure gaps in the main highways especially down the West Coast of the South Island as identified by NZTA, and on major tourism routes such as Arthur's Pass and Milford Sound.

The Proposals received, together with progress in the market place will inform the investment focus in subsequent rounds, taking into account the overall gaps and barriers in the market.

Applicants may wish to apply (or re-apply) in a future funding round if their Project does not meet the current investment focus or scope.

### 3.4 Eligibility

#### What can be funded?

The Fund targets the uptake of LEVs. For the purposes of the Fund, LEVs are defined as those vehicles and related technologies that use our renewable electricity advantage to significantly reduce greenhouse gas emissions. LEVs include battery electric vehicles, plug-in hybrid vehicles and hydrogen fuel cell vehicles (as long as the hydrogen is produced using New Zealand's renewable electricity advantage).

The Fund is limited to projects involving main-stream vehicles (and related technologies) that operate on roads used by the public, in the following vehicle classes<sup>1</sup>:

- Passenger vehicles (cars, SUVs, vans): classes MA, MB and MC.
- Omnibuses (buses): classes MD, MD1-4 and ME.
- Goods vehicles (trucks): classes NA, NB and NC.

<sup>1</sup> <http://www.nzta.govt.nz/vehicles/vehicle-types/vehicle-classes-and-standards/vehicle-classes/>

## What will not be funded?

For clarity, the following vehicles or related technologies are outside the scope of the Fund:

- Maritime, aviation and rail vehicles.
- Vehicles intended for off-road purposes such as forklifts.
- Conventional hybrid vehicles – as they do not use electricity from an external source.
- Vehicles fuelled with biofuel – as they do not use electricity from an external source.
- Two and three wheeled vehicles, such as power-assisted cycles and motorcycles.
- Quadricycles and “neighbourhood” electric vehicles.
- Specialist off-road vehicles such as diggers.

The following projects or activities are also outside the scope of the Fund:

- 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, as this is a focus of the EECA information campaign.
- Research – being defined as original and planned investigation undertaken with the prospect of gaining new scientific or technical knowledge and understanding.
- International travel.
- “Business as usual” costs of an organisation such as the costs associated with existing staff.

Note that assistance in the purchase or lease of vehicles is within the scope of the Fund. However, this must result in significant public benefits as a result.

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.

## Examples of Project ideas that are unlikely to receive funding:

1. A business proposes to buy a compact electric car instead of a conventional car, apply EV sign-writing, and trial the vehicle. The Assessment Panel is unlikely to score such a project highly as (i) the project is small and is unlikely to result in significant public benefits, and (ii) there are vehicles available in the compact class that can already achieve a lower total cost of ownership than a conventional car, and as a result there are fewer barriers to overcome for the business to purchase an EV and trial it for their purposes.
2. An applicant requests funding to assist in the development of a business case or a high level feasibility study for a project. The Assessment Panel is unlikely to score such a project highly as the LEVCF is primarily intended to support ready-to-go projects.

3. The applicant requests funding for an activity where the entity will generate private good and/or profits within a short amount of time, and without there being sufficient public benefits.

### 3.5 Who can apply?

The Fund 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.<sup>2</sup>

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.

The Fund is not open to product or vehicle manufacturers or suppliers to subsidise their service or product. A manufacturer or supplier can co-apply with a New Zealand organisation or individual but the co-funding will not be provided to the manufacturer or supplier. Co-funding is provided on receipt of an approved claim under a contract following delivery of a contractual milestone.

### 3.6 Co-funding

A minimum level of co-funding of 50% is required for each Proposal.

This minimum level of co-funding must be cash and not in-kind (such as existing assets 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).

This minimum level of co-funding may not come from other central Government grants.

In exceptional circumstances, approval may be given for Projects that request more than 50% co-funding.

In such cases the Assessment Panel will need to 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.

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.

---

<sup>2</sup> <https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf>

### 3.7 Project size and duration

The Fund is intended to support ready-to-go Projects ranging from large-scale Projects to small-scale and early-stage Projects. While there is no specified minimum value, EECA considers it unlikely that Proposals requesting less than \$10,000 will be able to make a meaningful contribution to the programme objectives.

Total EECA funding available per Project is generally limited to \$500,000. Proposals requesting funding in excess of \$500,000 may be considered in exceptional circumstances only. In such cases the Assessment Panel will need to be satisfied that:

- The Project is likely to result in significant public benefits, resulting in outstanding value for money;
- The Project cannot be scaled down without significantly affecting its objectives, viability and value for money; and
- The Applicant is committing greater than the minimum 50% co-funding.

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.

Applicants may submit Project Proposals that run across multiple years.

### 3.8 Incremental costs

The Panel needs to understand the incremental costs of your Project, 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 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.

A focus on incremental costs can give some flexibility in putting a proposal together, for example if you had already planned to replace an internal combustion engine van, and decide to choose a low emission version.

In this case, the Panel may choose to apply co-funding to the incremental cost, covering the additional van costs and the cost of the charging unit. In all cases, co-funding for incremental costs can be no more than 50% of the total Project costs.

Providing co-funding for incremental costs enables the Fund to provide support across a larger pool of Projects, and to further accelerate uptake of low emission vehicles.

Some examples are in the table below. Note the table does not cover whether the costs would be co-funded.

<b>Project component</b> Sample Projects to show incremental cost of components of your project that relate specifically to the electrification aspects of your Project	<b>Standard cost</b>	<b>Incremental cost</b>
<b>Project 1: An electric 10-tonne truck to run a long-haul route between Auckland and Tauranga</b>		
Electric truck	Standard diesel truck price	Difference in price between diesel and electric
Charging station and infrastructure work to connect it	N/A	Full cost of the charging unit
<b>Project 2: Fast chargers at tourism destinations</b>		
Charging station	N/A	Full cost of the charging unit
Civil works upgrade (if needed) to provide power and connectivity to the site		
<b>Project 3: A fast charger installed as part of a building upgrade</b>		
Charging station	N/A	Full cost of the charging unit
Infrastructure upgrade (e.g. ducting, cabling) to upgrade the building for additional power and connectivity requirements	All works excluding the EV charger connection	Additional costs associated with connecting the electric charger only

# SECTION 4: Our Assessment and Decision Making Approach

## 4.1 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.

Eligible and complete Proposals will be assessed by an Assessment Panel. The indicative assessment process and timing is shown below:

Date	Action
by 9am, Thursday 21 March 2019	Applicants submit Proposals in response to this RFP
by 5pm, Friday 22 March 2019	EECA email confirmation of receipt of your application
by Friday 19 April 2019	EECA administrative review for eligibility and completeness
by Monday 13 May 2019	Assessment Panel assesses eligible and complete Proposals, and conducts any interviews of Applicants
by Tuesday 30 July 2019	Panel makes recommendations to the EECA Board and Board makes funding decisions
from Wednesday 31 July 2019	Applicants notified of decisions

## 4.2 Assessment Panel members

The Assessment Panel comprises the chair and at least five members of the current LEVCF Assessment Panel pool:

- Elena Trout – Chair
- John Hancock
- Elizabeth Halsted
- Ken Shirley
- Roger Sutton

Depending on Assessment Panel member availability EECA reserves the right to replace an existing member or to appoint additional Panel members to the pool as necessary.

### 4.3 Minimum eligibility conditions

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

#	Minimum eligibility conditions	Meets
a.	Be an eligible entity, i.e. a New Zealand-based and registered organisation other than a public service department, non-public service department, or statutory Crown entity (except Crown entity companies).	Yes/No
b.	Be seeking funding for Projects in the areas noted in Section 3.4 regarding eligibility.	Yes/No
c.	Will have all of their organisation's internal approvals to undertake the Project (subject to LEVCF funding) in place before 27 June 2019.	Yes/No
d.	Be offering a minimum of 50% of the funding required for the Project. In exceptional circumstances only, co-funding of greater than 50% can be requested if the Project can demonstrate significant public benefits, and the Project cannot be scaled down without significantly affecting the Project's objectives, viability and value for money.	Yes/No
e.	Be requesting a maximum amount of \$500,000. In exceptional circumstances only, an amount greater than \$500,000, can be requested if the Project can demonstrate significant public benefits resulting in outstanding value for money, the Project cannot be scaled down without significantly affecting the Project's objectives, viability and value for money, and the Proposal is committing greater than the minimum 50% co-funding.	Yes/No
f.	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
g.	Be committed to working in a manner that will not damage EECA's reputation.	Yes/No
h.	Have completed the RFP Response Form in full.	Yes/No

## 4.4 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 equally at 25%.

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)
Contribution to the objectives of the Fund	<ul style="list-style-type: none"> <li>To what extent does the Project offer an approach that is innovative and / or will accelerate uptake of, or public benefits from, low emission vehicles in New Zealand by doing at least one of the following: <ul style="list-style-type: none"> <li>Increasing the selection and supply of LEVs available;</li> <li>Improving the availability of servicing or charging infrastructure in areas where demand is not fully developed;</li> <li>Increasing demand for low emission vehicles;</li> <li>Developing innovative products or systems to take advantage of growing electric vehicle usage.</li> </ul> </li> </ul>
Fit with investment focus	<ul style="list-style-type: none"> <li>How well does the Project fit with one or more of the investment focus criteria for Round 6?</li> </ul>
Ability to deliver	<ul style="list-style-type: none"> <li>To what extent does the Applicant have the expertise, resources, relationships and commitment necessary to deliver the initiative?</li> <li>What is the Applicant's track record of delivering comparable Projects?</li> <li>Has the Applicant credibly identified Project risks and barriers to success and how they will be addressed?</li> <li>How quickly can the Project be delivered?</li> </ul>
Value for money	<ul style="list-style-type: none"> <li>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 LEV Fund?</li> <li>How innovative is the Project compared to any equivalent business as usual activities the Applicant would normally be undertaking?</li> <li>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?</li> </ul>

In addition to public benefits, EECA understands Projects will 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.

## 4.5 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
<b>Excellent</b>	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
<b>Good</b>	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
<b>Acceptable</b>	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
<b>Minor reservations</b>	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
<b>Serious reservations</b>	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
<b>Unacceptable</b>	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

## 4.6 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:

- 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 should be timely and the findings will be taken into account in the assessment process.

## 4.7 Decision-making

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

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

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

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

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

# SECTION 5: Funding Sought

## 5.1 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:

- a. Applicants are to use the funding schedule template provided in the Response Form.
- b. 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.
- 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 (EV equivalent) 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 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.
- 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 6: Our Funding Agreement

## 6.1 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.

## 6.2 Funding Agreement

Once a Proposal has been approved for funding by the EECA Board, and subject to section 8.9 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 LEVCF.

A Recipient cannot change the project scope once it has been approved by the EECA Board. 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):

- a. Any conditions that must be met as required by EECA.
- b. The total funding package (funds supplied by the Applicant and the LEVCF).
- c. Project tasks, targets and measures (milestones).
- d. Payment terms.
- e. Reporting requirements.
- f. The duration of the Funding Agreement.

Specific information relating to Funding Agreements is detailed below.

## 6.3 Prior agreement to terms and conditions

Please note the requirement set out in Section 6 of the Response Form regarding your agreement to the standard terms and conditions in EECA's Proposed Funding Agreement, or your proposal to change those conditions.

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

## **6.4 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.

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.

## **6.5 Funding payments**

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

## **6.6 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 LEVCF. 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 LEVCF.

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 7: General Information

## 7.1 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.

## 7.2 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.

## 7.3 Publication of decisions

EECA will make public all LEVCF 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.

## 7.4 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 members of the Assessment Panel, they are advised to contact EECA in writing via [LEVFund@eeca.govt.nz](mailto:LEVFund@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 [LEVFund@eeca.govt.nz](mailto:LEVFund@eeca.govt.nz).

## **7.5 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.

## **7.6 Declaration**

As part of the LEVCF 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 8: 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, paragraph 2.7.
- Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 9.
- If you have any questions about the RFP-Terms please email our Point of Contact.

## RFP Process

### 8.1 Preparing a Proposal

- a. Applicants are to use the Response Form provided and include all information requested by EECA in relation to the RFP.
- b. By submitting a Proposal the Applicant accepts that it is bound by these RFP Terms.
- c. 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.

### 8.2 Proposal Validity Period

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

### 8.3 Applicants' Deadline for Questions

- a. 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.
- b. 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, but not later than Friday 15 March.
- c. 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.
- d. 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.

### 8.4 Submitting a Proposal

- a. Each Applicant is responsible for ensuring that its Proposal is received by EECA at the correct email address by 9am, Thursday 21 March 2019. EECA will acknowledge receipt of each Proposal.
- b. 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.
- c. EECA may invite Applicants to rectify any minor errors or omissions in their Proposals by Friday 29 March 2019 during EECA's administrative review and eligibility check process. Otherwise, any Proposal not meeting all the minimum eligibility conditions specified in Section 4.3 will be disqualified from the remainder of the process.

## Assessing Proposals

### 8.5 Assessment Panel

- a. 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.

### 8.6 Third party information

- a. 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.

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

## 8.7 Proposal clarification

- a. 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.
- b. 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.
- c. 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.

## 8.8 Assessment and decision-making

- a. 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 paragraphs 8.6 and 8.7.
- b. 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.
- c. The Assessment Panel will make recommendations for funding of selected Projects to the EECA Board. The Board has the sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding. The Board will take into account the recommendations from the Assessment Panel, as well as advice of the EECA Chief Executive on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The Board may also impose any additional conditions it sees fit, prior to funding being approved.
- d. If the Board declines funding, the Applicants will be informed and may be offered a debrief, then the process is complete.
- e. If the Board decides to approve funding, they will make a contingent decision which will be communicated to the Successful Applicants.

## 8.9 Negotiations

- a. 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.

- b. 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.

### **8.10 Applicant's debrief**

- a. 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.
- b. 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.

### **8.11 Notification of outcome**

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

### **8.12 Issues and complaints**

- a. An Applicant may, in good faith, raise with EECA any issue or complaint about the RFP, or the RFP process at any time.
- b. EECA will consider and respond promptly and impartially to the Applicant's issue or complaint.
- c. 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.
- d. 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**

### **8.13 EECA's Point of Contact**

- a. 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.

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

## 8.14 Conflict of Interest

- a. 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.

## 8.15 Ethics

- a. 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.
- b. An Applicant who attempts to do anything prohibited by paragraphs 8.13 a; 8.13.d and 8.15.a may be disqualified from participating further in the RFP process.
- c. 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.

## 8.16 Anti-collusion and bid rigging

- a. 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.
- b. 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.

## 8.17 Confidential Information

- a. EECA and the Applicant will each take reasonable steps to protect Confidential Information and, subject to paragraph 8.17.c 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.
- b. 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.

- c. Applicants acknowledge that EECA's obligations under paragraph 8.17.a are 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.

## 8.18 Confidentiality of RFP information

- a. 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.
- b. An Applicant may disclose RFP information to any person described in paragraph 8.17.b 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.

## 8.19 Costs of participating in the RFP process

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

## 8.20 Ownership of documents

- a. 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.
- b. 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.
- c. 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.

## 8.21 No binding legal relations

- a. 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 4 and in the RFP-Terms (as varied by Section 2, paragraph 2.7, if applicable);

- v. the standard RFP conditions set out in paragraphs 8.13 to 8.26;
  - vi. any other matters expressly described as binding obligations in Section 2.
- b. Each exception in paragraph 8.21.a is subject only to EECA's reserved rights in paragraph 8.23.
  - c. Except for the legal obligations set out in paragraph 8.21.a no legal relationship is formed between EECA and any Applicant unless and until a Funding Agreement is entered into between those parties.

## 8.22 Elimination

- a. 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 delivered 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.

## 8.23 EECA's additional rights

- a. 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.
- b. 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.
- c. 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.

## 8.24 New Zealand law

- a. 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.

## 8.25 Disclaimer

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

## 8.26 Precedence

- a. Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:
  - i. Section 2, paragraph 2.7;
  - 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.

- b. 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 9: 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 LEVCF for one or more Projects.
Assessment Panel (the Panel)	An advisory panel, comprising persons with relevant experience. The Panel assesses Proposals for LEVCF investment, and makes recommendations to the Board of EECA on which Proposals should receive LEVCF 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: <ol style="list-style-type: none"> <li>is by its nature confidential;</li> <li>is marked by either EECA or an Applicant as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', 'classified' and/or 'restricted';</li> <li>is provided by EECA, an Applicant, or a third party in confidence;</li> <li>EECA or an Applicant knows, or ought to know, is confidential.</li> </ol> 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: <ol style="list-style-type: none"> <li>actual: where the conflict currently exists;</li> <li>potential: where the conflict is about to happen or could happen, or;</li> <li>perceived: where other people may reasonably think that a person is compromised.</li> </ol>
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 <a href="https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf">https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf</a>
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, paragraph 2.3. The Applicant's Point of Contact is identified in its Proposal.
Proposal	Description of the Project, developed by an Applicant and submitted to EECA to be considered for LEVCF 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 LEVCF 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 6.
Public Service Departments	As defined by the State Services Commission, see <a href="https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf">https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf</a>
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 <a href="https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf">https://www.ssc.govt.nz/sites/all/files/guide-to-central-Government-agencies-1-june16.pdf</a>
Successful Applicant	An Applicant whose Proposal is determined by the EECA Board to conditionally receive funding.