



Low Emission Transport Fund Registration of Interest

Adoption of Public Charging
Infrastructure

August 2022



TE TARI TIAKI PŪNGAO
ENERGY EFFICIENCY & CONSERVATION AUTHORITY

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Key dates

ROI released:	9am, Wednesday 10 August 2022
Deadline for Questions:	4pm, Wednesday 31 August 2022
Deadline for Registrations:	12pm, Wednesday 7 September 2022
Decision to be announced:	From mid-September 2022

Section 1 Key Information

1.1 Context

This Registration of Interest (**ROI**) is the first step in a multi-step procurement process. Respondents may submit a Registration detailing their interest in, and qualifications for, providing public charging infrastructure hubs. The ROI assessment will result in a shortlist of Respondent/s, who may be invited to participate in a subsequent Request for Proposal (**RFP**) for public charging infrastructure funding under the Low Emission Transport Fund (**LETf**) for two specified locations.

The specific details of the RFP will be released after the conclusion of the ROI, but an outline of the focus and outcomes sought is provided in Section 2. It is expected that the RFP will open in September/October 2022.

Shortlisted respondents will be invited to an information session (webinar) held by EECA at the conclusion of the ROI to discuss the upcoming RFP. This session will give respondents a chance to find out more about the objectives of the RFP and to provide input.

Not submitting a registration in this ROI excludes you from applying in the subsequent linked RFP, however further funding rounds for the deployment of public charging infrastructure will open in future.

Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 6.

1.2 Our timeline

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

Steps in the ROI process	Date
ROI opens	9am, Wednesday 10 August 2022
Deadline for questions from Respondents	4pm, Wednesday 31 August 2022
Deadline for EECA to answer Respondents' questions	5pm, Friday 2 September 2022
Deadline for Registrations	12pm, Wednesday 7 September 2022
Respondents notified of outcome (indicative)	From mid-September 2022

1.3 How to contact us

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

Our Point of Contact: **Email address:** LETFund@eeca.govt.nz

1.4 Developing and submitting your Registration

This is an open competitive tender process. The ROI sets out the step-by-step process and conditions that apply. Take time to read and understand the ROI. In particular:

1. Develop a strong understanding of what we are looking for as detailed in Sections 2 and 3.
2. In structuring your Registration consider how it will be assessed. Section 3 describes our assessment and decision-making approach.
3. 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.
4. In submitting your Registration you must use the online Response Form available on the EECA website for this round.
5. Complete and sign the declaration at the end of the online Response Form.

1.5 Address for submitting your Registration

Registrations must be submitted by email to EECA using the online form provided.

If you experience issues with the form, please contact LETFund@eeca.govt.nz.

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

1.6 Our ROI Process, Terms and Conditions

The ROI is subject to the ROI Process, Terms and Conditions (shortened to ROI-Terms) described in the ROI Process, Terms and Conditions.

1.7 Registration Validity Period

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

1.8 Later changes to the ROI or ROI process

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

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

Section 2 What we are looking for

2.1 About the Fund

EECA's Low Emission Transport Fund ("LETf", or "the Fund") is available to support the demonstration and adoption of low emission transport technology, innovation and infrastructure to accelerate the decarbonisation of the New Zealand transport sector.

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

The Fund will focus on transport sector projects that move people and/or goods on roads, off-road, and in the marine and aviation sectors to:

- Demonstrate innovative solutions that will enable future adoption and deployment;
- Reduce energy related emissions in the transport sector;
- Address market and organisational barriers through co-investment and diffusion of new knowledge and learnings; and
- Share learnings and knowledge to stimulate wider replication of successful projects and solutions in the transport sector.

To best deliver the outcomes of the LETf, the Fund is divided into a portfolio of Investment Activities which will be released to the market as individual funding rounds.

2.2 Public electric vehicle charging development for New Zealand

In order to identify and meet the needs of the growing electric fleet, EECA undertook research into EV driver habits and needs and held an industry consultation¹ in October 2021. The consultation sought submissions on proposed approaches for identifying locations for fast public EV charging infrastructure and how to prioritise those locations, based on customer demand, electricity capacity on the distribution and transmission networks (and reduced network upgrade costs) and the ability to provide supporting services. Results of these studies have been fed into the development of the approach the Government intends to take in investing in public EV charging infrastructure in the short term.

As a key part of the ongoing development, EECA will prototype the development of public charging hubs sited at priority locations around New Zealand, intended to provide multiple high powered charging heads and end user services and security similar to a petrol station (food, toilets, accessible locations and so on), and a seamless user experience across sites with open payment services. This model will be used to engage the charging infrastructure eco-system, from the charging provider to the local councils, electricity distributors and Iwi and local communities.

Due to the developmental aspect of this model, EECA wishes to be involved in the conversations and negotiations with the eco-system parties, representing the longer-term view. For this reason, EECA has chosen to run the prototype funding round as a two-stage process, and we will provide an opportunity with a webinar to discuss the requirements and gather industry input for the RFP, including feedback on the proposed locations we will identify and the design of the RFP.

The ROI and subsequent RFP will be for the development of two prototype public charging infrastructure hub sites (one in the North Island and one in the South Island), both of which offer high daily traffic and infrastructure availability. The two-step model will help to identify the best solution design with indicative costs for the development of the two prototype hub sites.

2.3 What we need

EECA is looking for registrations of interest from parties who, if successful, may be invited to apply for a second-stage RFP for two public charging infrastructure hubs. At this stage, it is expected that the RFP will

¹ <https://www.eeca.govt.nz/about/news-and-corporate/consultations/new-zealand-public-ev-charging/>

open in late September/October 2022.

The procurement process is expected to run as follows:

2.3.1 Registration of Interest (ROI) to identify interested and qualified parties (August 2022): The ROI will identify organisations that have the interest, skills and experience to develop public EV charging hubs to ensure EECA has canvassed the market adequately. The ROI documentation signals at a high level EECA's longer-term strategy for a network of charging hubs and enables EECA to anticipate potential future interest. A webinar will be held with ROI respondents at the end of the ROI process to discuss the requirements and gather input for the RFP, including industry feedback on the proposed locations we have identified. The webinar also provides opportunity to prospective Applicants to input to the design and requirements for the RFP.

2.3.2 Request for Proposals (RFP) to assess and select provider(s) for selected locations (September/October 2022): Following the ROI, an RFP will be released to identify the best solution design with indicative costs for the development of the two prototype hub sites. This will be similar to the recently-held LETF Round 4 on filling specific charging infrastructure gaps. We will specify the location (the local area or stretch of road), and what we know about the location in terms of power availability, traffic, preferred solution (at a high level) and likely costs. Applicants will come to us with their best solution and cost. EECA will be able to contribute greater than 50 percent of the project cost, and expects to be closely involved in the discussions with all the parties.

EECA has set aside sufficient funding to co-fund the two prototype sites and has tentatively allocated \$8-10 million.

2.4 What we don't want

This Investment Activity has a very limited scope, and EECA will not accept registrations for any other type of project.

2.5 Why should you register your interest?

This is an opportunity to actively contribute to the long-term development and implementation of public charging infrastructure in New Zealand.

Respondents will signal their interest and readiness to engage through this ROI, in order to secure an invitation to apply in the subsequent RFP.

Registrations are also encouraged from those who may be interested to apply to future RFPs for large-scale public charging infrastructure but may not currently be in a position to apply for the related RFP. Registering your interest helps EECA be aware of your interest and capabilities.

2.6 What is important to us?

Key outcomes

This ROI supports EECA's intent to support public charging infrastructure. Key outcomes important to EECA in this space are to:

- Support EV uptake and provide consumers with confidence in the availability of public electric vehicle charging infrastructure.
- Ensure charging infrastructure standards such as interoperability, connectivity and energy efficiency are adequately met.
- Provide the Government and industry with information and guidance to better inform planning and optimal investment.
- Encourage new entrants and competition for provision of charging infrastructure and service providers.
- Enable innovation in new technology and business models.
- Support the transition to a net zero emissions economy.

Broader outcomes

It is expected that Respondents will help meet the Government's Broader Outcomes relating to improving conditions for New Zealand workers; reducing emissions and waste through supporting the transition to a

net zero economy, and utilising their effective networks and strong relationships with suppliers and the community they operate in. Further information can be found here: [Broader outcomes | New Zealand Government Procurement and Property](#).

General Investment Principles guiding activity under the LETF

Respondent need to be mindful of the following Investment Principles that will apply to any future funding activity:

1. **Enable future emission reductions:** Projects should demonstrate an indirect or direct contribution to the objective of transport sector decarbonisation;
2. **Demonstration of innovative and replicable low emission Projects:** Projects should focus on decarbonising high impact areas through supporting early adopters that demonstrate replication potential and de-risk new emerging innovations;
3. **Diffusion of knowledge and learnings:** Project data will create knowledge and learnings for Government and industry decision-makers, with the knowledge adopted by businesses and individuals to attract private investment and shift consumer behaviour;
4. **Encouragement of sector transformation:** improvement of business, community and/or Government capability to develop commercially competitive and innovative responses to barriers and opportunities leading to broader market development;
5. **Leverage of investment:** maximising leverage of co-funding opportunities, and provide a link with other Government funds; and
6. **Value for money:** Projects will demonstrate value for money by seeking the best possible public benefits, co-benefits and outcomes with overall benefits exceeding the overall costs.

2.7 Who can apply?

This ROI 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 Boards², who meet the minimum eligibility criteria outlined in Section 3.3.

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

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

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

2.8 Advice for potential Respondents

Respondents looking for feedback as to whether their qualifications and experience would potentially fit with the scope of the ROI, or who have questions or ideas to discuss, are encouraged to email the EECA Point of Contact.

As a condition of co-funding, EECA will be seeking data, information and lessons learned during the Project.

EECA's expectation is that co-funding Recipients will work with EECA to share their story and results across a variety of media as agreed. Registering interest in this ROI indicates acceptance of this principle.

2.9 Funding Agreement

No contract will result from this Investment Activity. Short-listed Respondents may be invited to apply in a subsequent RFP.

² <https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf>

2.10 Other tender documents

Along with this ROI document, the Response Form has been uploaded to the EECA website and both are available to Respondents. The RFP will not be released until the opening date.

Section 3 Our Assessment and Decision-Making Approach

3.1 Assessment process

The approach for short-listing Respondents is a one-stage contestable process. All eligible and complete Registrations will go through the same assessment process and will be assessed by an Assessment Panel. The indicative assessment process and timing is shown below:

Date	Action
by 12pm, Wednesday 10 August 2022	Opens - Respondents submit Registrations in response to this ROI
Within 2 working days of receipt	EECA email confirmation of receipt of your application
12pm, Wednesday 7 September 2022	Closing date
by mid-September 2022 (indicative)	Panel makes recommendations to the EECA Delegated Authority, who makes funding decisions
From mid-September 2022 (indicative)	Respondents notified of decisions. Results are embargoed until the official Government announcement.

3.2 Assessment Panel members

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

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

The proposed makeup of the Panel is as follows:

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

3.3 Minimum eligibility conditions

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

#	Minimum eligibility conditions	Meets condition
A	Be an eligible entity, i.e. New Zealand-based and New Zealand-registered legal entities except Public Service Departments, Non-Public Service Departments (such as the New Zealand Defence Force), and Statutory Crown Entities such as District Health Boards.	Yes/No
B	The Respondent can deliver subsequent Projects in New Zealand (note the Project may utilise overseas suppliers but the resulting Project delivery and outcomes must be New Zealand based).	Yes/No

C	The Registration is based on elements or technology that are legally approved for use.	Yes/No
D	The Registration must rely on commercially available and proven technologies (those that are not commercially available such as R&D are excluded), but some level of development may be acceptable where subsequent Projects involve a live pilot and result in a commercially available solution.	Yes/No
E	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
F	Be committed to providing knowledge, reporting and data deliverables as requested or required by EECA for sharing with EECA (including relevant Government Agencies) and the wider market (following confidentiality rules).	Yes/No
G	Be committed to use EECA or Gen-Less branding in any marketing or Project material with the public.	Yes/No
H	Be committed to working in a manner that will not damage EECA's reputation.	Yes/No
I	Have completed the ROI Response Form in full.	Yes/No
J	Any Registrations submitted by the Respondent must involve solutions meeting current New Zealand, regulations, guidelines and legislation, including where applicable WorkSafe guidelines, and Waka Kotahi road regulations and compliance. Projects that include EV chargers must also follow EECA's Publicly Available Specifications (PAS) Guidelines on commercial and residential charging.	Yes/No
K	If successful in the subsequent RFP, the Respondent must be able to deliver realisable data and knowledge within a reasonable timeframe appropriate to the technology or target market of any resulting Project.	Yes/No

3.4 Assessment criteria

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

Respondents may, if they wish, provide supporting evidence to back up statements made in their Registration to the various questions on the ROI Response Form. These materials will form part of the Respondent's Registration.

Criteria	Weighting
1. Competence of the Respondent	30%
2. Capability of the Respondent	30%
3. Respondent's potential solution	30%
4. Track record	10%
Total weightings	100%

Each criterion is discussed below.

1. Competence of the Respondent

EECA is looking for providers who have the **skills and knowledge** to deliver and maintain public charging infrastructure projects as specified in this ROI.

We are seeking Respondents that can demonstrate:

- the ability to be a lead Respondent - parties may be individual organisations or groups of organisations, but there must be a lead Respondent, with which EECA will contract if successful in the subsequent ROI;
- understanding and experience of specifying and interpreting technical site scoping, regulatory and other approvals, supplier quotes and timelines, and local council approvals;
- the ability to contribute to Broader Outcomes, as set out in Section 2.6 above.

2. Capability of the Respondent

We are seeking Respondents that can demonstrate the **capacity, materials and expertise** to deliver and maintain public charging infrastructure projects as specified in this ROI.

We are seeking Respondents who can demonstrate:

- the capacity to specify and deploy charging infrastructure projects by itself or in partnership with others (EECA would like to know who the partners are/would be);
- the expertise, resources, project management and project risks and barriers mitigation process capability and commitment necessary to deliver the projects;
- access to funding when required (or the process to secure it e.g. that outstanding approvals would be expected to be attained within 30 days of being notified of Government funding approval) to enable commitment in any subsequent RFP activity.

3. Respondent's potential solution

Respondents are encouraged to **outline all services they would be able to assemble for public charging infrastructure projects**, noting that LETF co-funding will not be available for services or equipment not directly related to the purchase, installation and connection of the charging infrastructure.

For clarity, EECA will not co-fund ancillary services or construction such as public toilets, service stations, cafes, shops, canopies, security systems, lighting, communications, or additional vehicle access civil works and so on, although the intention to provide these (either to construct or already on a proposed site) will contribute to the score a Project may achieve in an RFP.

The Respondent's Registration must provide assurance that, if successful in the subsequent RFP, any future Projects:

- are supported by a suitable feasibility study or business case outlining why the Project proposed is the best approach;
- demonstrate the specific site selection methodology for selecting stations that are easily identified by drivers, safe and convenient to access;
- minimise inconvenience to end users and maximise utility and user experience by considering technologies used, approaches taken, and services delivered;
- adequately address any current power constraints at the site and consider future demand requirements and a plan to manage and meet changing demand;
- consider benefits and co-benefits to local communities and related businesses, for example helping to develop an eco-system and commercial opportunities around the hubs;
- are supported by a comprehensive Project plan with acceptable milestones and achievable timelines;
- have the necessary regulatory approvals, site agreements, funding approvals and ownership of the assets purchased through the Fund; and
- have suitably assessed Project costs including supplier estimates for primary components of the Project.

4. Track record

Respondents must outline their **track record on the management and implementation of charging infrastructure projects**, and demonstrate the extent to which they have proven the expertise, resources, relationships and commitment which would be necessary to deliver any future Projects.

3.5 Scoring Scale

The following scoring scale will be used in assessing Registrations. 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 Respondent of the relevant ability, understanding, experience, skills, and resource and quality measures required to deliver the Project. Registration identifies factors that will offer potential added value, with supporting evidence.	9-10
Good	Satisfies the expectations with minor additional benefits. Above average demonstration by the Respondent of the relevant ability, understanding, experience, skills, resource and quality measures required to deliver the Project. Registration identifies factors that will offer potential added value, with supporting evidence.	7-8
Acceptable	Satisfies the expectations. Demonstration by the Respondent of the relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with supporting evidence.	5-6
Minor reservations	Satisfies the expectations with minor reservations. Some minor reservations about the Respondent's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	3-4
Serious reservations	Satisfies the expectations with major reservations. Considerable reservations about the Respondent's relevant ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	1-2
Unacceptable	Does not meet the expectations. Does not comply and/or insufficient information provided to demonstrate that the Respondent has the ability, understanding, experience, skills, resources and quality measures required to deliver the Project, with little or no supporting evidence.	0

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 Respondents to participate. However, they cannot be used to justify public funding.

3.6 Scoring Scale and Assessment Model

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

The assessment model is weighted attribute. Total Project Cost and Amount of Co-Funding Requested contribute to a weighted criterion and different criteria have different weights. Registrations that meet the criteria and meet the pre-conditions may be shortlisted.

3.7 Further analysis of Registrations

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

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

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

3.8 Process and decision-making

Contestable Rounds

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

How decisions will be made

- Respondents submit Registrations in response to this ROI.
- The Assessment Panel evaluates eligible Registrations against the defined criteria and makes recommendations for short-listing to the EECA Delegated Authority (“DA”).
- Based on recommendations from the Assessment Panel, EECA may negotiate aspects of the Registration with the Respondents before confirming the short-listing.
- The DA is the decision-maker for LETF funding and decisions, and has the sole discretion to determine which Respondents are successful (if any).
- The DA will take into account the recommendations from the Assessment Panel, as well as advice on any risks, issues or concerns which arise from the recommendations of the Assessment Panel. The DA may also impose any additional conditions it sees fit, prior to short-listing being approved.
- If the DA declines short-listing, the Respondents will be informed, and all Respondents will be able to request and be provided with a debrief. This completes the process.
- If the DA decides to approve short-listing, it will make a contingent decision which will be communicated to the successful Respondents. Results are embargoed until the Government makes a public announcement of the results.
- Unsuccessful Respondents can request a debrief on their application and can reapply in future rounds, taking into consideration any feedback provided.

Section 4 General Information

4.1 Commercial-in-Confidence

All information collected and held during the ROI 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 Registrations being submitted.
- Registrations.
- Materials used to comment on and assess Registrations.

4.2 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 Respondents 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 Respondents and Recipients if it receives an OIA request.

4.3 Publication of decisions

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

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

4.4 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 Respondents consider there are any Conflicts of Interest relating to their interests and/or their Registrations and any persons at EECA, they are requested to contact EECA in writing via LETFund@eeca.govt.nz.

Respondent Conflict of Interest

Respondents 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.

Respondents 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, Respondents must disclose the situation to EECA in writing via LETFund@eeca.govt.nz.

4.5 Due diligence and financial matters

Due diligence

At any stage during the assessment process, EECA may undertake due diligence checks on Respondents 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 Registrations 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. Registrations should use this timeframe when providing financial information.

Tax advice

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

4.6 Declaration

As part of the LETF process, Respondents 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 ROI, including its terms, conditions and criteria and the information relating to obligations under the Official Information Act.

Section 5 ROI Process, Terms and Conditions

Note to Respondents

- In managing the Fund, EECA will act fairly and reasonably in all of its dealings with interested Respondents, and to follow due process which is open and transparent.
- This section contains our ROI Process, Terms and Conditions (“ROI-Terms”) which apply to the Fund. Any subsequent changes (if any) to the ROI will be published on the EECA website.
- Words and phrases that have a special meaning are shown by the use of capitals. A glossary of terms is included in Section 6.

If you have any questions about the ROI terms, please email our Point of Contact.

Preparing and submitting a Registration

5.1 Preparing a Registration

a. Respondent obligations

The Respondent must:

- i. read the complete ROI and any additional information provided and referred to by EECA
- ii. respond using the ROI Response Form provided and include all information EECA requests
- iii. consider the risks and contingencies relating to the delivery of the ROI requirements and outline how it will manage those risks and contingencies
- iv. include any assumptions, dependencies and/or qualifications in the Registration, including anything that may limit its obligations or increase its quoted pricing or cost estimates
- v. quote prices in NZ\$, exclusive of GST
- vi. obtain independent advice before submitting a Registration (if necessary)
- vii. make sure the Registration is correct and the Registration pricing is sustainable, i.e. covers the Whole-of-Life of the Contract, not just the initial term.

b. Process acceptance

By submitting a Registration, the Respondent accepts the ROI-Terms.

c. No obligation, no penalty

Suppliers are not expected or required to submit a Registration in order to remain on any prequalified or registered supplier list.

5.2 Respondent questions

- a. The Respondent must make sure they understand the ROI.
- b. If the Respondent has any questions or needs clarification, they:
 - i. must submit questions before the Deadline for Questions (Section 1 of the ROI)

- ii. must clearly indicate any commercially sensitive information in their questions
- iii. may withdraw their questions at any time.
- c. When EECA receives questions before the Deadline for Questions:
 - i. EECA will respond on or before the Deadline for Answers.
 - ii. EECA may provide details of both the questions and the answers to other Respondents. In these circumstances EECA will summarise the questions and will not disclose the Respondent's identity.
 - iii. EECA will not publish the Respondent's commercially sensitive information. However, if EECA considers the information to be significant for all Respondents, EECA may modify the question and publish both this and the answer. In that case EECA will first give the Respondent the opportunity to withdraw the question or remove any of their own commercially sensitive information.

5.3 Submitting a Registration

- a. The Respondent must ensure EECA receives the Registration at the correct address on or before the Deadline for Registrations.
- b. After the Deadline for Registrations, EECA will acknowledge receipt of the Registration.
- c. The Respondent must ensure that all information they provide to EECA:
 - i. is true, accurate and complete
 - ii. is not misleading in any material respect
 - iii. does not contain material that infringes a third party's intellectual property rights.
- d. EECA may rely on the Registration and all information provided by the Respondent during the ROI process (e.g. correspondence and negotiations).
- e. EECA may invite Respondents to rectify any minor errors or omissions in their Registrations during EECA's administrative review and eligibility check process. Otherwise, any Registration not meeting all the minimum eligibility conditions specified in Section 3 will be disqualified from the remainder of the process.

Assessing Registrations

5.4 Assessment Panel

EECA's panel will consider the Registration. EECA may have different panel members for considering different aspects of the Registration. EECA may include independent advisors as panel members to consider some or all aspects of the Registration.

5.5 Third party information

- a. EECA may request information from a third party where EECA considers the information may be relevant to the ROI process, excluding commercially sensitive information about pricing or contract terms.
- b. If this occurs, the Respondent:

- i. authorises EECA to collect that information from the relevant third party (e.g. a referee or client), and authorises the third party to release it to EECA
- ii. agrees EECA may use that information in its assessment of the Registration
- iii. must ensure that all referees listed in the Registration agree to provide a reference.

5.6 Clarification of Registration

- a. EECA may ask the Respondent for more information or clarification on the Registration at any time during the ROI process.
- b. EECA need not ask all Respondents for the same clarification.
- c. The Respondent agrees to provide the information or clarification as soon as possible, in the format requested by EECA.
- d. If the Respondent does not provide adequate information or clarification within a reasonable time (as determined by EECA), EECA may remove the Registration from its assessment process.

5.7 Assessment and shortlisting of Registration

- a. EECA will initially evaluate the Registration based on the Respondent's submitted ROI Response Form.
- b. EECA may adjust its assessment after considering additional information or clarification, as described in Sections 5.5 and 5.6 above.
- c. If a Registration is shortlisted this does not mean that EECA has accepted an offer or made any commitment. There is no obligation for EECA to enter negotiations with, or award a Funding Agreement to, any shortlisted Respondent.
- d. After the shortlisting of Respondents based on their Registrations, any further participation by a shortlisted Respondent in any subsequent stage of the procurement process that flows out of the ROI will be subject to the shortlisted Respondent accepting.
- e. If a Respondent is not shortlisted based on its Registration, EECA may exclude it from any further participation in any subsequent stage of the procurement process that flows out of the ROI.

5.8 Respondent debrief

- a. At the end of the ROI process, EECA will offer to debrief the Respondent. This debrief may be by letter, email, phone or a meeting.
- b. The Respondent has 10 Business Days from the date of EECA's offer to accept a debrief.
- c. EECA will provide the debrief within 30 Business Days from either the date of the Respondent's acceptance of a debrief.
- d. The debrief will:
 - i. explain why the Registration was or was not shortlisted
 - ii. explain how the Registration performed against the pre-conditions (if applicable) and the assessment criteria
 - iii. indicate the Registration's relative strengths and weaknesses
 - iv. explain, in general terms, the relative advantages of the shortlisted Registration(s), without necessarily identifying the relevant Respondents

- v. seek to address any concerns or questions from the Respondent
- vi. seek feedback from the Respondent on the ROI and ROI process.

5.9 Notification of outcome

During the 30 Business Days after the Contract has been signed, EECA:

- a. will let all unsuccessful Respondents know the name of the Successful Respondents, if any
- b. may make public the name of the Successful Respondents (if any) and any unsuccessful Respondents
- c. will publish a list of successful Respondents on the EECA website, where applicable.

5.10 Issues and complaints

- a. The Respondent may, in good faith, raise with EECA any issue or complaint about the ROI or ROI process at any time.
- b. When this occurs:
 - i. EECA will consider and respond promptly and impartially to the Respondent's issue or complaint
 - ii. both the Respondent and EECA must do their best to resolve the issue or complaint
 - iii. EECA must not allow the issue or complaint to prejudice the Respondent's participation in the ROI process, or limit or affect the Respondent's future procurement opportunities.

Standard ROI conditions

5.11 EECA's Point of Contact

- a. The Respondent must direct all ROI enquiries to EECA's Point of Contact in Section 1 of the ROI.
- b. The Respondent must not approach any other employee or other representative of EECA, directly or indirectly, for information on any aspect of the ROI.
- c. Only the Point of Contact, or a person authorised by EECA, may communicate with the Respondent on any aspect of the ROI. EECA will not be bound by any statement made by any other person.
- d. EECA may change its Point of Contact at any time. EECA will notify the Respondent of any change by email or posting a notification on the EECA website.
- e. If the Respondent has an existing contract with EECA, the Respondent must not use its business-as-usual communications to contact EECA regarding the ROI.

5.12 Conflict of Interest

- a. The Respondent must complete the Conflict of Interest declaration in the ROI Response Form. If a joint Registration is being submitted, each party must complete the Conflict of Interest declaration separately.
- b. If a Conflict of Interest arises during the ROI process, the Respondent must inform EECA immediately.
- c. EECA may exclude a Respondent from the ROI process if a material Conflict of Interest arises.

5.13 Ethics

- a. The Respondent must not attempt to influence, reward or benefit any representative of EECA, nor offer any form of personal inducement, in relation to the ROI or the ROI process.
- b. The Respondent must comply with the Supplier Code of Conduct issued by the Procurement Functional Leader, and any other relevant codes of conduct listed in the ROI.
- c. EECA may exclude the Respondent from the ROI process for a breach of paragraphs 5.11b, 5.11e, 5.13a or 5.13b.
- d. To maintain a fair and ethical ROI process, EECA may require additional declarations or other evidence from the Respondent, or any other person, at any time.

5.14 Anti-collusion and bid rigging

- a. By submitting the Registration the Respondent warrants that:
 - i. the Registration has not been prepared in collusion with a Competitor
 - ii. it will not engage in deceptive or improper conduct during the ROI process.
- b. EECA may exclude the Respondent from the ROI process if a breach of these warranties occurs.
- c. EECA reserves the right to report suspected collusion or anti-competitive behaviour to the appropriate authority, and to give that authority all relevant information, including the Registration.

5.15 Confidential Information

- a. Without limiting any other confidentiality agreement between them, EECA and the Respondent will both take reasonable steps to protect the other party's Confidential Information.
- b. Except as permitted by the other provisions of this Section 5.15, neither party will disclose the other party's Confidential Information to a third party without that other party's prior written consent.
- c. Each party may each disclose the other party's Confidential Information to anyone who is directly involved in the ROI process on that party's behalf, but only for the purpose of participating in the ROI. This could include (but is not limited to) officers, employees, consultants, contractors, professional advisors, Assessment Panel members, partners, principals or directors. Where this occurs, the disclosing party must take reasonable steps to ensure the third party does not disclose the information to anyone else, and does not use the information for any purpose other than participating in the ROI process.
- d. The Respondent acknowledges that EECA's confidentiality obligations are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 2020, parliamentary and constitutional convention, and any other obligations imposed by law. Where EECA receives an OIA request that relates to a Respondent's Confidential Information, EECA will endeavour to consult with the Respondent and may ask the Respondent to explain why the information is considered by the Respondent to be confidential or commercially sensitive.
- e. The Respondent may disclose EECA's Confidential Information to the extent strictly necessary to comply with law or the rules of any stock exchange on which the securities of the Respondent or any related entity are currently listed. Unless prohibited by law, the Respondent must consult with EECA before making such a disclosure.
- f. EECA will not be in breach of its obligations if it discloses Confidential Information to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour.

5.16 Costs of participating in the ROI process

Except as otherwise stated in the ROI, the Respondent must meet their own costs associated with the preparation, presentation and negotiation of the Registration.

5.17 Ownership of documents

- a. The ROI and its contents remain the property of EECA. All Intellectual Property rights in the ROI remain the property of EECA or its licensors.
- b. EECA may request the immediate return or destruction of any ROI documents and any copies, in which case the Respondent must comply in a timely manner.
- c. All documents forming part of the Registration will, once they are delivered to EECA, become the property of EECA. The Registration will not be returned to the Respondent.
- d. Intellectual Property rights in the Registration remain the property of the Respondent or its licensors.
- e. The Respondent grants to EECA a licence to retain, use, copy and disclose information contained in the Registration for any purpose related to the ROI process, including keeping appropriate records.

5.18 Limited rights and obligations

- a. Except as stated otherwise in this Section 5.18, nothing in the ROI, these ROI Terms or the ROI process creates a contract or any other legal relationship between EECA and Respondent, unless and until they enter into a Funding Agreement.
- b. The following are binding on the Respondent:
 - i. The Respondent's signed declaration (contained in the ROI Response Form).
 - ii. The Respondent's obligations under paragraphs 5.3c and 5.3d. Nothing in this Section 5.18 takes away from any rights or remedies EECA may have in relation to the Respondent's statements, representations or warranties in the Registration or in correspondence or negotiations with EECA.
 - iii. The standard ROI conditions in Sections 5.11 to 5.23.
- c. Section 5.15 and 5.17 are binding on EECA.
- d. All terms and other obligations that are binding on EECA are subject to EECA's additional rights in Section 5.20.

5.19 Exclusion from the ROI process

- a. EECA may exclude the Respondent from the ROI process if the Respondent:
 - i. has not provided requested information in the correct format
 - ii. has breached the ROI-Terms and EECA considers the impact of the breach is more than trivial (this applies whether or not the provision in question is itself legally binding on the Recipient)
 - iii. included a material error, omission or inaccuracy in the Registration
 - iv. is in bankruptcy, receivership or liquidation
 - v. has made a false declaration
 - vi. has a conviction for a serious crime or offence
 - vii. has failed to pay taxes, duties or other levies
 - viii. represents a threat to national security or to confidentiality of government information, and/or

- ix. is a person or organisation designated as a terrorist by New Zealand Police.
- b. EECA may exclude the Respondent from the ROI process if:
 - i. there was a serious performance issue in a previous, or current, contract delivered by the Respondent
 - ii. EECA considers the integrity of the Respondent is in doubt due to the Respondent's professional misconduct or an act or omission contrary to the Supplier Code of Conduct, and/or
 - iii. EECA becomes aware of any other matter that materially diminishes EECA's trust in the Respondent.

5.20 EECA's additional rights

- a. Changes to the ROI
 - i. EECA may amend, suspend, cancel or re-issue the ROI, or any part of it, so long as it notifies the Respondent.
 - ii. EECA may change material aspects of the ROI, such as the timeline, Requirements or Assessment Approach, provided it gives the Respondent time to respond to update its Registration in relation to the changes.
- b. Timeline
 - i. EECA may accept a late Registration if it is EECA's fault it is late, or if EECA considers there is no material prejudice to other Respondents in accepting a late Registration.
 - ii. EECA may answer a question submitted after the Deadline for Questions, and notify all Respondents about the submission of the question and the answer.
- c. The Registration
 - i. EECA may accept or reject any Registration, or part of a Registration. This includes any non-compliant, non-conforming or alternative Registration.
 - ii. EECA may decide not to accept the lowest price conforming Registration, unless stated otherwise in the Assessment Approach.
- d. ROI Process
 - i. EECA may liaise or negotiate with any Respondent without informing, or doing the same, with any other Respondent.
 - ii. EECA may provide Respondents with information arising from questions about the ROI.
 - iii. EECA may withhold information arising from questions about the ROI. This may be the case if the information is unnecessary, is commercially sensitive, is inappropriate to supply at the time of the request or cannot be released for legal reasons.
 - iv. EECA may waive requirements or irregularities around the ROI process if EECA considers it appropriate or reasonable to do so.
 - v. EECA may decide not to shortlist any Respondent.
- e. Consortia and unbundling

EECA may make its selection conditional on the Respondent agreeing to:

- i. EECA selecting the Respondent to deliver the Requirements as a joint venture or consortium with another Respondent selected by EECA, and/or
- ii. EECA selecting individual elements of the Registration that can be delivered separately, unless the Registration specifically states that the Registration, or the relevant elements, must be taken collectively.

5.21 New Zealand law

The laws of New Zealand govern the ROI. Each Respondent agrees New Zealand courts have non-exclusive jurisdiction to rule in any dispute concerning the ROI or the ROI process. The Respondent agrees that it cannot bring any claim in relation to the ROI except in a New Zealand court.

5.22 Disclaimer

- a. Nothing contained or implied in the ROI, or ROI process, or any other communication by EECA to the Respondent is to be construed as legal, financial or other advice.
- b. EECA will endeavour to provide accurate information in any communication, but the Respondent accepts this information is not independently verified and may not be up-to-date.
- c. EECA will not be liable in contract, tort, equity, or in any other way for any direct or indirect damage, loss or cost incurred by the Respondent or any other person in respect of the ROI process, whether as a result of EECA exercising its rights under Section 5.20, EECA's negligence or breach of these ROI Terms, EECA failing to select the Respondent as the Successful Respondent, or any other cause.
- d. To the extent that liability cannot be excluded, the maximum aggregate liability of EECA, its agents and advisors in connection with the ROI process, to all Respondents combined, is NZ\$1.
- e. The limitations and exclusions in paragraphs c and d above do not apply to any liability EECA may have for breach of confidentiality or infringement of the Respondent's intellectual property rights.

5.23 Precedence

- a. Any conflict or inconsistency in the ROI shall be resolved by giving precedence in the following descending order:
 - i. Section 1 of the ROI
 - ii. these ROI-Terms
 - iii. all other Sections of the ROI document
 - iv. any additional information or document provided by EECA to Respondents 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 more recent information or document will prevail.

Section 6 Glossary of Terms

Term	Description
Respondent	The eligible legal entity (or group of entities), which has submitted or is in the process of submitting a Registration to the LETF for one or more Projects.
Assessment Panel (the Panel)	An advisory panel, comprising persons with relevant experience. The Panel assesses Registrations for LETF investment, and makes recommendations to the EECA Delegated Authority on which Registrations should receive LETF funding.
Business Day	Any week-day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day.
Confidential Information	Information that: <ul style="list-style-type: none"> (a) is by its nature confidential; (b) is marked by either EECA or a Respondent as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', 'classified' and/or 'restricted'; (c) is provided by EECA, a Respondent, or a third party in confidence; (d) EECA or a Respondent 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 a Respondent.
Conflict of Interest	A Conflict of Interest arises if a Respondent's personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to EECA under the ROI. It means that the Respondents' independence, objectivity or impartiality can be called into question. A Conflict of Interest may be: <ul style="list-style-type: none"> (a) actual: where the conflict currently exists; (b) potential: where the conflict is about to happen or could happen, or; (c) perceived: where other people may reasonably think that a person is compromised.
Deadline for Registrations	The deadline that Registrations are to be submitted by the Respondent.
Delegated Authority	The party within EECA's approval hierarchy with sole discretion to determine which Projects (if any) will receive funding from the Fund, and the value of any funding.
Funding Agreement	Any written agreement through an RFP entered into by EECA and a Successful Respondent for the delivery of the Project(s).

GST

The goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.

Term	Description
Intellectual Property	All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.
Non-Public Service Departments	As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf
Point of Contact	EECA and each Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications during the ROI process. EECA's Point of Contact is identified in Section 1.3. The Respondent's Point of Contact is identified in its Registration.
Registration	The response a Respondent submits in reply to the ROI. It comprises the Response Form, the Respondent's bid, financial and pricing information and all other information submitted by a Respondent.
Project	A description of a Project which the Registration has been submitted for. This encompasses all activities, steps, tasks or elements for which a Respondent is seeking LETF funding.
Registration Validity Period	The period of time when a Registration is held open by the Respondent for acceptance by EECA.
Public Service Departments	As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf
ROI	Means the Registration of Interest; The ROI comprises this ROI document, the Response Form and any other information provided through EECA's Point of Contact or the EECA website.
RFP	Means the Request for Registrations; The RFP comprises the RFP document, the Response Form, the Proposed Funding Agreement and any other information provided through EECA's Point of Contact or the EECA website.
ROI Response Form	The form and declaration prescribed by EECA and used by the Respondent to respond to the ROI.
Statutory Crown Entities	As defined by the State Services Commission, see https://ssc.govt.nz/assets/A-Guide-to-New-Zealands-State-Sector-Agencies.pdf
Successful Respondent	A Respondent whose Registration is determined by the EECA Delegated Authority to be shortlisted for application to the subsequent RFP.