

BROADBAND INVESTMENT FUND

GUIDELINES FOR APPLICANTS

INSTRUCTIONS:

These Guidelines are an information resource for Applicants applying for funding from the Broadband Investment Fund (BIF).

The Guidelines for Applicants must be read in conjunction with the Broadband Investment Fund Criteria.

Applicants must read and ensure they understand both the Guidelines for Applicants and the Broadband Investment Fund Criteria before attempting to complete an application form to receive funding from the Broadband Investment Fund. By submitting an application, Applicants confirm that they have read and understood these documents.

The Crown does not accept any legal or other obligation to any Applicant (or Network Entity) on the basis of these Guidelines or the Broadband Investment Fund Criteria. Legal or other obligations between the Crown and a Network Entity will only arise if the Crown and a Network Entity have entered into a signed funding agreement on terms satisfactory to the Crown.

If you have any questions about this form, or the Broadband Investment Fund in general, please contact:

The BIF Programme Administrator

Phone: 0508 Broadband (0508-276-232)

Email: broadband.investment@med.govt.nz

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1. Purpose

These guidelines are intended to assist Applicants to the first BIF round in 2008/09. For further information regarding the purpose of the BIF and the application criteria, please go to: www.digitalstrategy.govt.nz.

2. Who Can Apply to the Broadband Investment Fund?

Any legal entity or group of legal entities (including network operators, local authorities and community-based organisations) may apply to access BIF funding.

Funding agreements will only be with network entities. "Network Entity" means the legal entity who is the final owner and/or controller of the network for which funding is sought. An "Applicant" means the entity who is applying for funding under this programme. An Applicant may already be a Network Entity or may apply for funding in anticipation of a network entity yet to be formed.

3. Who do I contact for further information?

Hard copies of the application forms and further information about the BIF can be obtained from:

The BIF Programme Administrator
Ministry of Economic Development
33 Bowen Street
PO Box 1473
Wellington

Phone: 0508 Broadband (0508-276-232)

Email: broadband.investment@med.govt.nz

How do I submit an application?

To be eligible for consideration for funding under the BIF, an Applicant must complete and submit the appropriate application form, depending on whether they decide to use the Two-Stage or One-Stage Process set out below, and attach the necessary supporting documents.

Completed applications with the supporting documentation attached should be sent by the applicable Closing Dates to:

The Broadband Investment Fund
Ministry of Economic Development
33 Bowen Street
PO Box 1473
Wellington

Email: broadband.investment@med.govt.nz

All applications must be submitted in both hard copy and in an electronic format (DVD, CD or emailed to broadband.investment@med.govt.nz). Each page of the application must be numbered and dated, and must clearly state the name of the Applicant.

Applicants must ensure when completing an application form that it is read in conjunction with the Broadband Investment Fund Criteria (available at www.digitalstrategy.govt.nz).

4. The Application Process

Many submitters in their responses to the BIF Consultation Document told us that Applicants should have the choice of bypassing the Expression of Interest (EOI) stage if they already have well-developed plans. Submitters also told us the timeframe for funding decisions was too long. As a result of this feedback, the Government has adjusted the BIF process to give Applicants the choice of applying through a Two-Stage (EOI and Full Application) or One-Stage (Full Application only) Process. The timeframe has been amended accordingly.

Two-Stage or One-Stage Process

Two-Stage Process

The Two-Stage Process will follow the proposed process outlined in the Consultation Document, but the timeframe has been reduced in response to submitters' feedback.

Timeframe for Two-Stage Process

26 August 2008	Final criteria released
30 September 2008	Two-Stage Process Applicants submit EOI
October 2008	Minister's decision on EOI and level of Applicant assistance funding for Two-Stage Process Applicants
February 2009	Two-Stage Process Applicants submit Full Application
May 2009	Cabinet's decision on Full Application for Two-Stage Process Applicants

One-Stage Process

One-Stage Process Applicants bypass the EOI stage and proceed directly to the Full Application stage on a short timeframe. One-Stage Process Applicants who are unsuccessful will have the opportunity to re-submit their Application in February 2009 (at the same time as the Two-Stage Process Full Applications).

Timeframe for One-Stage Process

26 August 2008	Final criteria released
30 September 2008	One-Stage Process Applicants submit Full Application
December 2008	Cabinet's decision on Full Application for One-Stage Process Applicants

Note: Applicants should read the final BIF criteria carefully before choosing between the Two-Stage and One-Stage Processes. Although an Applicant's current plans may be in line with the previous Broadband Challenge Fund criteria, the final BIF Criteria are different, and Applicants will need to spend time ensuring their application complies with the requirements of the BIF.

Closing Dates for the 2008/09 funding round:

Expressions of Interest: 30 September 2008

Full Applications (for Applicants who choose to bypass EOI): 30 September 2008

Full Applications (for Applicants who submit EOI): February 2009 [Date to be confirmed]

5. Applicant Assistance

Guidance for Applicants

Applicants are being provided three levels of Applicant Support:

- Documentary support;
- Dedicated case managers; and
- Application Development Assistance Grants (for eligible Applicants) to assist with the development of Full Applications post-EOI approval.

Documentary Support

The instructions and information contained in the Application forms will assist Applicants with their application to the BIF.

Applicants who are electing to go through the Expression of Interest (EOI) stage should find the EOI form particularly useful in assisting with developing the 'big picture' for their initiative – whether urban or rural – without needing to go to a lower level of detail when indicating their interest.

The Full Application (FA) form has been structured to assist Applicants with the development of a solid business case for a long-term, financially-sustainable initiative.

The Application forms are grouped as follows:

- | | | |
|----|-----------------------|--|
| 1. | Rural | Expression of Interest
Full Application |
| 2. | Urban | Expression of Interest
Full Application |
| 3. | Either rural or urban | Application Development
Assistance Form |

The Checklist requires Applicants to check they have included all documents for either the EOI or Full Application Stages and sign the form as complete before sending the pack to the BIF team at Ministry of Economic Development (MED). MED will also check the receipt of all documentation and sign the receipt before sending a copy back to Applicants. This process ensures that *all* documentation sent by Applicants has been received and acknowledged as such by MED.

Documentation and relevant information is available from the Digital Strategy website (www.digitalstrategy.govt.nz). Applicants who prefer to receive hard copies of the material can request this from broadband.investment@med.govt.nz or 0508 Broadband (or 0508-276-232).

In addition to the specific information for the BIF, there are other resources which Applicants can use to develop their application. These include:

- o the Know How Guide which is for use by potential Applicants and investors in broadband technologies. It will provide guidance on how to address issues such as the technical network design and economics of broadband deployment. Applicants can use the Know How Guide to support the completion of both their EOI and Full Applications; and
- o the national broadband demand map and procurement framework (visit www.digitalstrategy.govt.nz). The demand map allows people to plot where existing infrastructure is located and to map possible demand. Note that there is a new version of the map due to be launched in August 2008. The procurement framework highlights what government agencies are taking into account when they purchase broadband services from suppliers.

Case Managers

Case Managers have been appointed by MED. Initially, the Case Managers will not be able to provide any information to Applicants about their application other than taking questions and posting generic answers onto the Digital Strategy website. Once Applicants have been informed of funding decisions, the Case Managers will be the main point of contact for fund recipients on an ongoing basis.

Application Development Assistance Grants

Both urban and rural Applicants to the BIF will have the opportunity to apply for funding to assist them as they prepare their Full Applications.

However, only those Applicants who have completed the EOI stage and who have been approved to submit a Full Application are eligible to apply for an Application Development

Assistance Grant (ADA Grant). This means that Applicants who choose to enter the One-Stage process cannot apply for an ADA Grant.

The allocation of ADA Grants will relate to the amount of funding sought. The ADA Grant policy is set out as follows:

- Applicants can apply for up to 10% of the figure they are applying for from the BIF in one round (i.e. not the total project cost) up to a maximum of \$100,000;
- Applicants will be required to justify why they need an ADA Grant, detailing:
 - their total budget for preparation of the Full Application;
 - their budget shortfall for this preparation, and the reasons why they cannot fund it themselves; and
 - what the ADA Grant will be spent on.
- only successful EOI Applicants will be able to receive any ADA funding;
- ADA Grants are allocated on the sole discretion of the Sub-Group of the Digital Strategy Steering Group; and
- ADA funding is predominantly aimed at local authorities and organisations representing community interests.

Post-ADA Grant Decision Process

Successful Applicants for an ADA Grant will be sent a letter from MED advising them of the decision, the amount of funding approved and any conditions attached to the ADA Grant approval.

Applicants will also be sent an ADA Grant funding agreement which must be signed and returned to the MED. The MED will send confirmation of receipt.

Applicants must draw down the ADA Grant within three weeks of receiving confirmation by invoicing the MED in accordance with the MED letter.

If for any reason an Applicant who has received ADA funding does not make a Full Application, the Applicant must repay any unspent ADA Funding and must provide full details of how any spent ADA Funding has been applied. The DSSG Sub-Group of Officials may at its sole discretion require repayment of any ADA Funding that has been spent by an Applicant who does not submit a Full Application.

Capabilities for Expert Advice

The ADA funding will assist Applicants in obtaining the expert advice they need to complete a robust Full Application. Applicants who are awarded an ADA Grant should consider the following list of capabilities when obtaining expertise:

- a) a clear understanding of broadband and its impact on economic development, along with the role of local government and broadband passive infrastructure, knowledge of the MUSH¹ environment including MUSH business models, governance issues and technical aspects. This must be underpinned by a solid understanding of open access and non-discriminatory principles, i.e. the role of neutral internet exchanges;

¹ Municipalities, Universities, Schools and Hospitals.

- b) an ability to create regional initiative solutions including development of ‘business cases’ based on community/economic/environmental objectives;
- c) demonstrable ability to develop and implement appropriate technical plans;
- d) proven expertise in the design and establishment of appropriate entities, governance and operating levels, and creation of supporting business plans. This includes the creation and implementation of monitoring and reporting templates;
- e) knowledge of the stakeholder assessment model – including investors, local councils, communities, customers, suppliers, etc. Demonstrable ability to develop and implement project management plans;
- f) demonstrable ability to develop and implement appropriate procurement plans;
- g) demonstrable ability to develop and implement an effective communications plan;
- h) demonstrable ability to develop and implement sales and marketing plans;
- i) demonstrable ability to develop and implement an operations plan;
- j) and appropriate references.

Conflicts of Interest

Consultants to Applicants should promptly disclose any potential conflicts of interest to all affected parties. For example, if a consultant is working with a number of Applicants, all Applicants who have engaged this consultant should be made aware of this.

Additionally, if a consultant is working with Applicants and has been involved in either the independent evaluation or any other MED-related BIF decision-making, the consultant must declare this to the MED and all other affected parties. In such a case, it is likely the consultant would be prohibited by MED from directly undertaking BIF-related work. The MED’s [Conflicts of Interest policy](#) is included as a resource for Applicants.

If a consultant to an Applicant fails to disclose a conflict of interest or acts contrary to a direction from the MED, MED reserves the right not to accept a Full Application for consideration from the Applicant concerned.

6. General Application Guidelines

Below is information to assist Applicants in preparing their applications. Applicants may also find it useful to refer to the [Case Studies](#).

Expression of Interest (EOI) Stage *(Two-Stage Process Applicants only)*

- o **Applicants must complete and submit a Broadband Investment Fund EOI Application Form.** Applicants must answer all of the questions in all parts of the form, except where explicitly instructed otherwise. Answers should be as accurate as possible, but informed estimates, approximations and assumptions may be made (provided they are clearly identified as such).

Full Application Stage (Two-Stage and One-Stage Process Applicants)

Applicants must demonstrate that they meet the BIF Eligibility Criteria and demonstrate how they meet the BIF Assessment Criteria.

- **Applicants must complete and submit a Broadband Investment Fund Full Application Form.** Applicants must answer all of the questions in all parts of the form, except where explicitly instructed otherwise. Answers must be accurate and final, with evidence of accuracy included in supporting documents and referenced in the application form by paragraph and page number; and
- **Applicants must provide full and final versions of the required Supporting Documents.** The documents must present a comprehensive business case of a standard that is appropriate to the level of funding being sought, and that will enable the Applicant to commence the implementation of their project promptly upon contracts being concluded with network entities and receipt of any BIF funding.

Supporting Documentation for Eligibility Criteria

Both the Urban and Rural Full Application Forms require supporting documents to be attached. They will be used in determining the eligibility of an application. Below is a description of what certain key documents (if applicable) should include:

- a) **Technical Plan and Map of the Proposed Network**
A Technical Plan should include all of the following:
 - an accurate map of the proposed network and its key features;
 - description of the network that covers the technologies to be used in the network and describes the standards, the network planning and design rules that are to be used;
 - identification of potential technical risks;
 - identification of any permits or licenses etc required for the network installation or operation;
 - forecasts of network performance and resilience;
 - description of services that will be offered across the network in the first instance; and
 - description of interconnection arrangements.
- b) **Business Plan**
A Business Plan should include all of the following:
 - description of initial business model (including components such as pricing/revenues, financial forecasts, structure and proposed legal entity);
 - identification of initial establishment resources and ongoing operational resource requirements;
 - identification of ongoing operational tasks (e.g. network maintenance, sales strategy and forecasts (including demand); planning for ongoing operations over an initial four year period; and
 - identification of expansion opportunities.

c) **Governance & Ownership Framework for the Network Entity or Proposed Network Entity**

If the Network Entity is already in its finalised form, a Governance & Ownership Framework should include:

- a copy of the Network Entity's constitutional documents (e.g. constitution, trust deed, partnership agreement, shareholders agreement, etc);
- documented evidence of the Network Entity's incorporation or legal status (i.e. certificate of incorporation or equivalent for the entity);
- a description of the Network Entity's ownership structure (including the identities and percentage holdings of owners) and governance arrangements (including affiliations and associations);
- analysis of the suitability of the Network Entity's governance and ownership arrangements with regard to the open access requirements; and
- identification of the Network Entity's officers (e.g. directors, trustees, partners, etc).

If the Network Entity is not yet in its final legal form or has not been created, a Governance & Ownership Framework should include the following:

- a detailed description of the proposed Network Entity's ownership structure including the identities and percentage holdings of proposed ultimate owners and governance arrangements (including affiliations and associations);
- analysis of the suitability of the proposed Network Entity's governance & ownership arrangements with regard to the Open Access requirements;
- draft documents of incorporation or equivalent for the Entity;
- a timeline for finalisation of these arrangements and structures; and
- identification of proposed officers (e.g. directors, trustees, partners, etc.).

d) **Network Entity's Financial Statements (if in existence)**

A copy of the Network Entity's most recent financial statements should include:

- a Statement of Financial Position or equivalent;
- a Statement of Financial Performance or equivalent; and
- a Cash-flow Statement or equivalent.

e) **Applicant Constitutional Documents** (if applicable)

A copy of the Applicant's constitutional documents (i.e. constitution, trust deed, partnership agreement, shareholders agreement, etc) must be included if the Applicant is a different entity to the Network Entity.

f) **Applicant Evidence of Incorporation or Legal Status** (if applicable)

Documented evidence of the Applicant's incorporation (or equivalent for the entity) must be included if the Applicant is a different entity to the Network Entity.

g) **Applicant's Financial Statements** (if applicable)

Documented evidence of the Applicant's most recent financial statements must be included if the Applicant is a different entity to the Network Entity. This should include:

- a Statement of Financial Position or equivalent;
- a Statement of Financial Performance or equivalent; and
- a Cash-flow Statement or equivalent.

h) **Schedule of project partners**

A Schedule of project partners being persons who are providing support or assistance to an Applicant, should include all of the following:

- contact details of all project partners;
- ownership and affiliation details for all project partners;
- description of each project partner's involvement in the project;
- identification of each project partner's relevant expertise; and
- a copy of a signed agreement or equivalent for each project partner.

i) **Evidence of 'reasonable endeavours' to connect Key Public Users² and proposed connections (Urban Fund)**

- details of methods used to connect Key Public Users; and
- details of proposed connections.

Supporting Documentation for Assessment Criteria

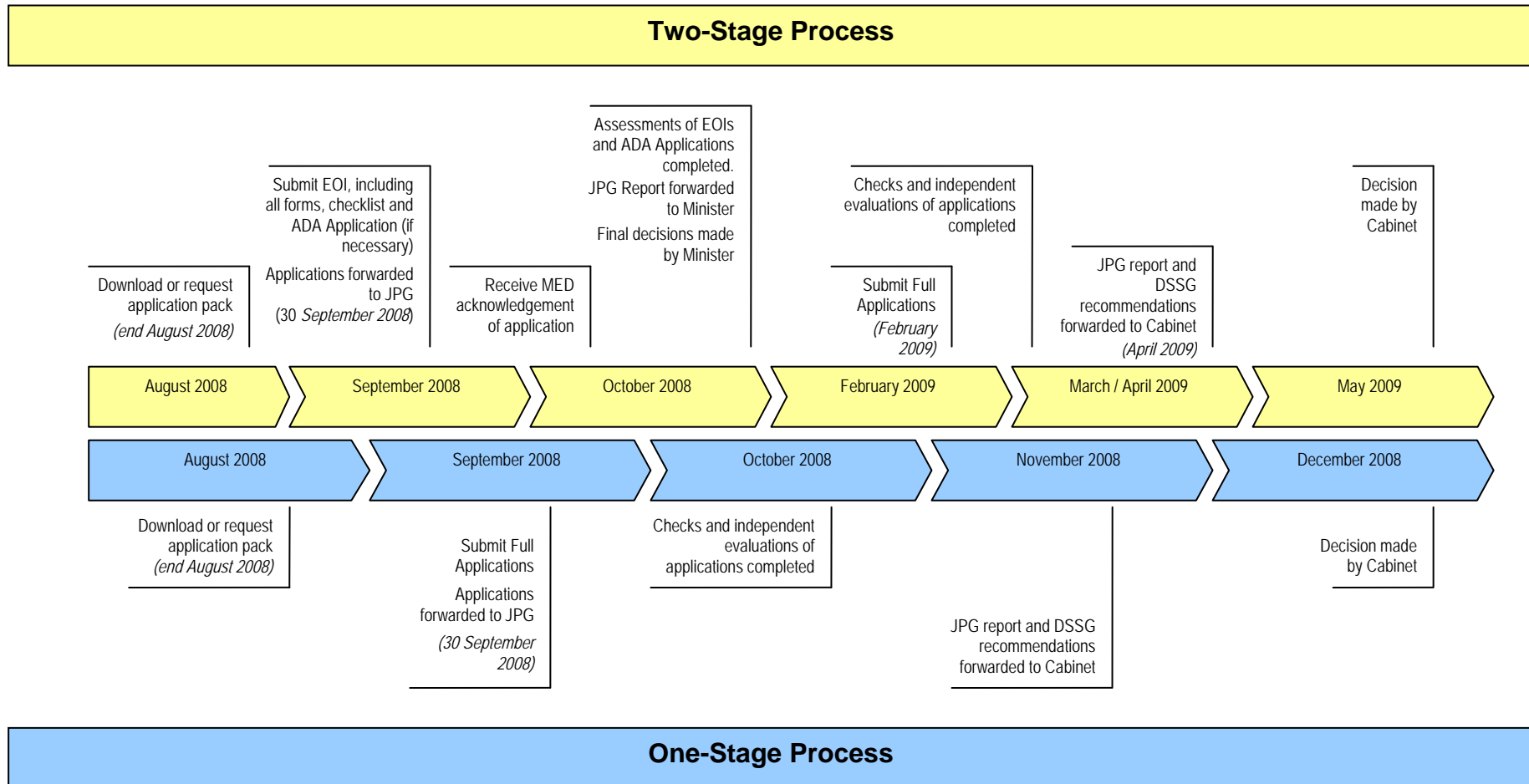
It is the responsibility of each Applicant to make its own decision on the nature of the supporting documentation that they will need to provide to demonstrate the merits of their application under the relevant Assessment Criteria. Applicants should take into account the relative weightings that have been allocated to assessment criteria when considering the supporting documentation that should be submitted. As part of the application, Applicants are strongly recommended to submit a robust and long-term business plan that reflects the value of their project, the capability and commitment of the Applicant, and potential strategies for future investment.

² As defined in the BIF Urban Criteria, "Key Public Users" include, but is not limited to, health organisations, tertiary institutions, schools and municipal entities.

7. Decision-making process and principles

Diagram illustrating the decision-making process:

BIF Process Snapshot



Key Players in the Decision-Making Process:

The key players in the decision-making process are:

- Broadband Investment Fund Programme Manager
 - is the Ministry spokesperson for all media and other enquiries; and
 - manages all of the processes relating to the BIF.
- Broadband Investment Fund Case Managers
 - assess EOIs and report to DSSG Sub-Group;
 - assess Applicant Development Assistance (ADA) funding applications and report to DSSG Sub-Group;
 - ensure the Independent Evaluators receive all Full Application information;
 - manage enquiries from Applicants; and
 - monitor contracts.
- Broadband Investment Fund Programme Administrator
 - handles general enquiries from Applicants regarding process and criteria;
 - provides generic guidance regarding sources of further information;
 - receives and records applications; and
 - documents progress of applications.
- Independent Evaluators
 - assess Full Applications against the criteria, rank and weight them accordingly and report on each to the DSSG officials Sub-Group.
- Sub-Group of the Digital Strategy Steering Group (DSSG)
 - makes recommendations on EOIs to the Minister for Communications and Information Technology, based on case managers' initial assessment;
 - makes decisions on ADA funding applications; and
 - makes recommendations on Full Applications to Cabinet, based on Independent Evaluators' assessment.
- Joint Procurement Group (JPG)
 - the JPG is a state sector representative group established to facilitate demand aggregation for broadband services by state sector agencies, education and health entities;
 - contact details of Applicants at both the EOI and Full Application stages will be passed to the JPG, and the JPG will contact Applicants to assist with efforts to identify and service local education, health and State Sector demand;
 - the JPG will have the opportunity to provide written comment to the DSSG Sub-Group on Full Applications, detailing the extent to which the Applicant, with due consideration to interoperability and sector specific standards, is proposing to connect key users in a region; and
 - the JPG will work with successful BIF Applicants to assess the need for transitional assistance to support the uptake of advanced broadband services by key state sector users.

Please refer to <http://www.moh.govt.nz/moh.nsf/indexmh/soi0811-intentions-c> for further information as to the Minister of Health's Statement of Intent with regard to broadband aggregation.

- Minister for Communications and Information Technology
 - the Minister makes decisions on EOI applications, based on the recommendations of the DSSG Sub-Group.
- Cabinet
 - Cabinet makes decisions on Full Applications, based on the recommendations of the DSSG Sub-Group.

Description of Decision-Making Process

MED will manage the BIF application processes. The Minister for Communications and Information Technology will make decisions on Expressions of Interest and Cabinet will decide Full Applications.³

These decision-makers will make their assessments using information provided in the application, supporting documentation, the relative merits of any other application, and any other information the decision-maker in its sole discretion considers relevant.

Without limitation, the decision-makers may procure and consider information, analysis, and advice relevant to an application including:

- analysis of the information provided in the application;
- background and credit checks of any person or entity associated with the application;
- analysis of the financial position of any person or entity associated with the application; and
- analysis on the suitability of project partner's expertise and resources.

The decision-makers may, in their sole discretion:

- approve funding in whole or in part or impose any condition which must be met prior to the approval of funding; and
- decline funding.

The decision-makers will not be obliged to approve funding to any Applicant, fund any application for a particular amount, or to enter into dialogue about why any application was accepted or declined.

The decision-makers may decide not to approve funding even if an application meets each of the Assessment Criteria.

The decision-makers may approve funding for a lesser amount than that sought by the Applicant.

Reasons for decisions both at the EOI stage and at the Full Application stage will be provided.

Final approval of any funding is subject to approval of arrangements (including governance structures) and the execution of agreements between the Crown and the Network Entity in a form acceptable to the Crown, and the satisfaction of any conditions imposed by the decision-makers, within a reasonable period following funding approval.

³ Details of the One-Stage and Two-Stage processes are set out earlier and not repeated

Applicants are responsible for meeting all of their costs associated with their application and the application process except as funded through an ADA Grant.

8. Post Decision-Making Process

Once Cabinet has made its final decisions on the Full Applications, MED will advise each Applicant if their application has been successful or not.

MED will advise each Applicant by formal letter. If the application has not been approved by Cabinet, then the letter will state the reason why the application has been declined. If the application has been approved with or without conditions, then the letter will state this, and will advise that MED will commence preparation of the funding agreement, with preference that the funding agreement be signed by both parties within 30 days of informing the Applicant of the decision. Once the funding agreement is signed, then funding can be drawn down by the Network Entity based on the achievement of milestones in the contract.

Requirements for Successful Applicants

Recipients of funding will be invited to share their knowledge and expertise with other communities by working with the BIF Programme Administrator in the development of best practice material. All successful Applicants will be required to keep adequate records in order to participate in mid-term and final evaluations of the BIF.

9. Limitation of Legal Liability

These Guidelines do not have any legal effect.

The Crown does not accept any legal or other obligation to any Applicant, Network Entity or other person that takes any step or incurs any cost or liability on the basis of these Guidelines, the Applications Forms, the Case Studies, the Criteria or any of the other documentary support.

A legal obligation will only arise between the Crown and a Network Entity if the Crown and that Network Entity have signed a funding agreement, as referred to in these Guidelines, on terms satisfactory to the Crown.

The Crown will not be liable for any direct or indirect damage, loss or cost (including legal costs) to any Applicant, Network Entity or other person in relation to this document, the BIF application process generally or arising in particular, in relation to the costs associated with the preparation of an application.

No Assurance of Funding

Nothing in these Guidelines should be construed as a representation or assurance that a particular Applicant will receive funding.

These Guidelines may be amended or revoked, at any time and from time to time and without prior notice. Amendment or revocation will not affect the validity of any grant paid before such amendment or revocation comes into force and effect.

Termination

The Crown reserves the right to terminate the BIF funding process at any time and without any notice to Applicants, network entities or other affected persons.

Funding agreements that have been entered into by the Crown prior to termination will not be affected by it and will remain in full force and effect.