

OFFICER DECISION RECORD

Decision Title: Local Electric Vehicle Infrastructure (LEVI) Fund – Acceptance and use of Capability (Revenue) funding

Decision reference number: FIN_2023_0001

Decision date: 14 September 2023

Background / reason for decision:

Background

The Office for Zero Emission Vehicles (OZEV) allocated the West of England Combined Authority (hereafter ‘the CA’) a total of £688,000 **capability** funding to support the CA and its constituent Unitary Authorities with the longer-term delivery of EV charging infrastructure in the West of England.

With the funding being released by OZEV in two stages, the CA submitted two funding proposals to OZEV:

1. Stage 1 (Tranche 1 Revenue Fund proforma – submitted for assessment on 10 March 2023):
 - a. The CA received £123,840 of revenue funding from OZEV in March 2023, following the submission of a proposal to use this funding to appoint a specialist Electric Vehicle (EV) charging resource.
 - b. This funding has already been received.
2. Stage 2 (Tranche 2 and 3 Revenue Fund Proforma – submitted for assessment on 26 May 2023):
 - a. This will provide an additional £564,160. The CA worked with its Unitary Authorities to develop a revenue funding proposal which is intended to provide the Unitary Authorities with the additional funding required to scale up the delivery of new charging infrastructure in their areas.
 - b. On 31 July 2023, OZEV wrote to the CA to notify it of the successful outcome of its Stage 2 capability funding submission.

There is an urgent need to secure this funding to support the West of England’s authorities with the next stages of the region’s separate application to the LEVI **Capital** Fund (currently underway, with the next Capital Fund submission deadline expected to be 17 November).

On 16 June 2023, the CA secured delegated authority to the West of England Combined Authority Strategic Director of Infrastructure in consultation with the Unitary Authority Infrastructure Directors to spend the £123k of LEVI capability funding that has been secured and any future capability and capital funding secured through LEVI where there is urgency, subject to successful funding bids.

Funding requirements

A review of the Memorandum of Understanding provided by OZEV, which by its terms is not legally enforceable, indicates that the following liabilities would be placed on the CA following its acceptance of the funding:

1. Commitment to use the funding in line with the CA's approved Capability Fund proposal (submitted late 2023).
2. Commitment to undertake quarterly reporting will be required and periodic monitoring using a prescribed template.
3. Proposals must comply with Public Sector Equality Duty under the 2010 Equality Act, including considering impacts on protected characteristic groups.
4. Proposals must comply with all applicable procurement laws when procuring goods and services in connection with the Project.
5. Proposals must comply with the UK's international obligations in relation to subsidy control, maintain appropriate records of compliance and take all reasonable steps to assist OZEV in complying with those obligations.
6. Follow relevant guidance in the course of scheme development and implementation.

Note that these obligations will also need to be reflected in any future funding agreement between the CA and its Unitary Authorities.

Risks

We have identified the following key risks associated with the acceptance of this funding grant which will need to be managed:

Risk	Mitigation
Scope changes result in the funding not being used in line with the CA's approved funding submission.	<ol style="list-style-type: none">1. Monthly reporting to be used to monitor the use of the CA's LEVI funding allocation. Should any changes in scope / use of the funds be required, these will be agreed with the funding body using the mechanism set out in the Memorandum of Understanding.2. Future Grant funding award to our Unitary Authorities to include an obligation to use the funding in line with the agreed funding submission.
Compliance with Public Sector Equality Duty under the 2010 Equality Act, including considering impacts on protected characteristic groups.	<ol style="list-style-type: none">1. Future funding award to our Unitary Authorities to place obligation on authority receiving funds to use in accordance with the authority's legal duty.
Compliance with applicable procurement laws.	<ol style="list-style-type: none">1. Future funding award to our Unitary Authorities to place obligation on authority receiving funds to use in accordance with legal duty.
Compliance with Subsidy Control legislation.	<ol style="list-style-type: none">1. Future funding award to our Unitary Authorities to place obligation on authority receiving

	<p>funds to consider whether there are any subsidy control issues and to use in accordance with legal duty.</p> <p>2. Grant funding award to be managed in line with the CA's organisation-wide approach to subsidy control which is being developed currently.</p> <p>In the meantime, it is reasonable for the CA to assess this funding as no subsidy as the roles to be funded as set out in Paragraph 5.7 of the MoU appear to be strategic roles of Local Authorities as opposed to roles that any economic undertaking would carry out from the same perspective (i.e. strategic planning to help roll out of Electric Vehicle charging applicable to all charging points). The grant offer to the UAs should confirm that the funding relates to strategic planning activities related to planning for and enabling the provision of EV charging points across the whole of the Combined Authority's area.</p> <p>The funds allocated by the Combined Authority under the Capability Fund should not be combined with any allocation under the Green Recovery Fund which should be kept entirely separate.</p>
<p>Options considered:</p> <p>Option 1 – As recommended, to accept and begin spend of the CA's additional £564,160 Capability Funding grant. The funding will be spent in consultation with the Unitary Authority Infrastructure Directors, with mitigations in place to manage the risks which we have identified. <i>We expect the funding conditions attached to this funding grant to be non-negotiable and will be flowed down to the UAs where appropriate.</i></p> <p>Option 2 – Do not accept the funding. This would cause substantial reputational harm, have a substantial resource impact and decrease confidence in the CA as a delivery body.</p>	
<p>Decision: To confirm the receipt of the CA's additional £564,160 LEVI Capability Funding and give authority to spend in line with the conditions of the award.</p> <p>The Memorandum of Understanding detailing the award and the conditions is attached (Appendix A).</p>	
<p>Consultation: Consultation on the content of the CA's LEVI Capability Funding bid was undertaken with Unitary Authority officers and Directors of Infrastructure on 19 May 2023.</p>	

Contents of the CA's LEVI Capability Funding application were subject to a submission to the Combined Authority Committee on 16 June 2023.

Finance:

Please provide details of the total funding arrangements in place:

Full Name of Funding Provider (s): Department for Transport

Total Funding for the Project: £688,000 total revenue funding award, with £123,840 already received and the remaining £564,160 subject to a separate Memorandum of Understanding.

Funding Start Date: FY2022/23, in line with the funding timescales set out in Appendix B.

Funding End Date: FY2024/25, in line with the funding timescales set out in Appendix B.

Is the funding revenue/capital or both: Revenue only.

Update the table below to show the Revenue and/or Capital Totals and profile over the relevant years in questions:

Revenue Amount	Profile Year 1	Year 2	Year 3	Year 4	Year 5
£688,000 <i>Including Year 1 funding already received</i>	£123,840 ¹	£282,080	£282,080		
Capital Amount	Profile Year 1	Year 2	Year 3	Year 4	Year 5
£0.					

¹ Funding already received (subject to a separate funding award, signed by Stephen Fitzgerald on 6 March 2023).

Any further relevant information:

£150k has been committed to fund a two-year secondment to support the CA's work on EV Charging delivery (EV Charging Infrastructure Officer).

Legal:

The terms of the MoU are likely to be non-negotiable and despite the fact that they are not legally binding, reputationally, the CA would not want to be seen to be in breach.

The Client Department is content with the terms of the MoU and will ensure that all appropriate obligations will be flowed down in the Grant Offer Letters issued to the Unitary Authorities.

Officer making decision: Rachel Musson

Signature:

Position: Strategic Director of Resources, West of England Combined Authority

Date:

Report / appendices / background documents:

1. Appendix A: Draft Memorandum of Understanding.

Appendix A – LEVI Capability Fund Memorandum of Understanding between the Department for Transport and the West of England Combined Authority

MEMORANDUM OF UNDERSTANDING

Between

Department for Transport

-and-

West of England Combined Authority

1. Purpose

1.1. This Memorandum of Understanding ('MoU') sets out the terms, principles and practices that will apply to the working relationship between the Department for Transport ("the Department") and West of England Combined Authority ('the Authority') (collectively 'the Parties') regarding the administration and delivery of the Local Electric Vehicle Infrastructure (LEVI) Capability Fund.

2. Background

- 2.1. On 30 March 2023, the Department confirmed funding for the Authority as part of LEVI Capability Fund.
- 2.2. The Fund has been provided to support capacity and capability in local authorities to create local EV infrastructure strategies and for the planning and delivery of local EV infrastructure.
- 2.3. This MoU covers the funding commitments from the Department and the financial expenditure, agreed milestones and use of funding, and monitoring and evaluation between the Parties.
- 2.4. The Authority entered into an MoU with the Department for FY22/23 funding. This subsequent MoU is for the FY23/24 and FY24/25 funding.

3. Funding allocation

3.1. The Department agrees to provide funding up to £564,160 across FY23/24 and FY24/25. The allocation for each year is set out in the following table:

Financial Year	Total
23/24	£282,080
24/25	£282,080
Total	£564,160

4. Objectives of the Grant

4.1. The LEVI Capability Fund has been provided to achieve the following objectives:

- i. To increase the capacity and effectiveness of local authorities to produce and deliver on a chargepoint strategy for their areas.
- ii. To ensure local authorities are equipped to access and deliver value for money for public capital funding, and maximise private sector funding - delivering business models and technologies that meet the changing needs of local residents.
- iii. To help establish a lasting legacy of capacity and effectiveness within local authorities across England, to ensure local charging needs are considered and met in the context of the 2030 phase out of petrol and diesel cars and vans, and wider net-zero needs.

5. Use of Grant

- 5.1. The Fund is available to Tier 1 local authorities in England only.
- 5.2. As a Combined Authority you should be expected to work with your constituent authorities, as this has been reflected in the amount you have been awarded.
- 5.3. It is recommended that authorities seek opportunities for regional collaboration with other local authorities and bodies such as Sub-national Transport Bodies.
- 5.4. The Fund is being issued in three annual instalments for FY22/23 to FY24/25. The allocation amounts for eligible Authorities are published on gov.uk.
- 5.5. The Authority should use the funding allocated for the purposes outlined in the proposal approved by the Department.
- 5.6. The Department recognises that the Authority may have adapted their proposal submitted for FY22/23 to reflect the future years of funding. However, the Authority should be aware that this MoU covers the period of FY23/24 and FY24/25.
- 5.7. Authorities should utilise the funding for the following purposes:
 - i. Salary and overheads of staff working to support the planning and delivery of local EV charging.
 - a. This could include a specific dedicated full-time role(s) or where the resource is spread across the duties of different roles.
 - b. The recruitment of roles to ensure additional staff are available to undertake preparatory work.
 - c. The training of new and existing staff could be funded to boost their capabilities on EV infrastructure planning and delivery.
 - d. The Department will provide job specification templates to aid local authorities in recruiting for the right skills and will provide training to local authorities to help upskill successful candidates who require specialist knowledge.
 - e. The LEVI Support Body (a consortium of the Energy Saving Trust, CENEX and PA Consulting) will provide training and workshops for local authorities to support the required skillsets.
 - ii. Project planning for strategy and delivery workstreams
 - a. To support development of an EV infrastructure strategy.
 - iii. Internal and external engagement and coordination
 - a. This could include stakeholder engagement and public consultation activities. To develop best practice, we recommend engagement with neighbouring and adjacent local authorities.
 - iv. Funding external consultants for discrete pieces of work
 - a. The Department encourages the use of the Fund to support the Authority to develop their longer-term in-house capabilities. Use of consultants may only be funded in exceptional circumstances, and will be considered on a case-by-case basis.

- b. The expectation is that in these instances the Authority already has sufficient internal resource, and can justify how the use of an external consultant would result in a step change in chargepoint rollout.
 - c. If the Authority requires the work of consultants we would expect some element of knowledge transfer as part of the consultancy process.
 - v. Commissioning other work to build the evidence base for priority locations for EV infrastructure deployment
 - a. In cases where the Authority is satisfied with their internal resource, they can provide evidence that the funding should be used on wider capability to support EV infrastructure in their area. This should be indicated on the proposal and approved by the Department prior to any activity commencing.
- 5.8. The Authority is expected to deliver on the activities which it has outlined in its returned proposals and in the agreed timescales.
- 5.9. Authorities are responsible for managing their own carbon footprint and should be mindful of their carbon impact as a result of following EV strategies and resource being used to install EV infrastructure projects. Guidance is available from the Energy Saving Trust and the Carbon Trust.

6. Outcomes from Grant

- 6.1. We anticipate the following activities to be enabled through the Grant:
 - i. Producing a chargepoint strategy, and chargepoint delivery plan
 - ii. Reporting on chargepoint delivery, and demonstrating an appropriate increase
 - iii. Engaging with the LEVI capital scheme
 - iv. Establishing internal and external governance networks (e.g. with internal teams, but also across other LAs, communities, businesses and DNOs)
 - v. Engaging with the chargepoint market, and maximising private sector funding
 - vi. Putting in place a monitoring/reporting framework to be shared with OZEV.

7. Financial Arrangements

- 7.1. The agreed funds will be issued to the Authority as non-ringfenced grant payments under Section 31 of the Local Government Act 2003, for resource expenditure.
- 7.2. The Authority accepts responsibility for meeting any costs over and above the Department's contribution set out in Clause 3.1, including potential cost overruns and the underwriting of any funding contributions expected from third parties.
- 7.3. The Authority will be asked to provide the Department with a full breakdown of how the funding was used or has otherwise been allocated for future use.
- 7.4. Following the payment made in FY22/23, an annual payment will be made in FY23/24 following a refreshed proposal for FY23/24 and FY24/25.
- 7.5. FY24/25 grant payments will be made in summer 2024. The Department may withhold this payment should satisfactory progress not be made against objectives and planned utilisation of resource, as agreed through the proposal submitted in May 2023.
- 7.6. The Department recognises that deviation from agreed plans may occur, but requests that the Authority notifies and agrees changes with the Department ahead of time to ensure FY24/25 payments can occur promptly. Deviating from

the agreed plans without notifying the Department could mean FY24/25 grant payments are withheld.

8. Monitoring and Evaluation

- 8.1. The Department will provide the Authority with Monitoring and Evaluation Guidance.
- 8.2. The Authority will provide reports to the Department, in such a format that the Department will provide, demonstrating that outputs and outcomes are being met, in line with the approved proposal. This will be asked for annually in advance of the next tranche of funding the following financial year. This may include sharing of the following information:
 - i. Current funding that has been spent
 - ii. Planned expenditures
 - iii. Updates on key project milestones and risks
 - iv. Stakeholder engagement
- 8.3. The Department may contact the Authority to collect information to support the Department's understanding on the effective use of the grant. This will be evaluated by the Department and reported back to Ministers to inform the allocation of any future capability funding.
- 8.4. The Department will ask for quarterly reporting and will provide an evaluation template for the Authority to monitor their progress against.
- 8.5. The Department will also ask for a more detailed annual evaluation to monitor progress ahead of the Authority receiving their next allocation of funding.
- 8.6. The Department will provide support to the Authority to ensure there is confidence in what monitoring and evaluation is required.
- 8.7. The Department reserves the right to publish relevant data and use it to inform public statements.

9. Adherence to national guidance

- 9.1. The Authority is expected to follow relevant national guidance in the course of scheme development and implementation.
- 9.2. This also includes the Government's Infrastructure Strategy (published in March 2022) which provides the vision, roles and responsibilities for different types of local authorities.

10. Changes to approved project/programme

- 10.1. The Authority should comply with the terms of the proposal as approved in accordance with this MoU.
- 10.2. The Department is aware that the Authority may want to change their proposal that was submitted for FY22/23. Changes should have been conveyed through the new proposal form for FY23/24 and FY24/25 which was submitted by 26 May 2023.
- 10.3. Following the Department's approval of the proposal, if the Authority recognises that there may be a deviation from these terms then the Department should be alerted, in addition to the outputs and outcomes illustrated in the monitoring and evaluation.

11. Compliance

- 11.1. The Authority will have the responsibility to comply with all applicable procurement laws when procuring goods and services in connection with the Project and the Department shall not be liable for the Authority's failure to comply with its obligations under any applicable procurement laws.
- 11.2. The Authority should ensure that its use of the funding complies with the UK's international obligations in relation to subsidy control and compliance with requirements under the Subsidy Control Act 2022.
- 11.3. The Authority should maintain appropriate records of compliance with the relevant subsidy control regime and will take all reasonable steps to assist the Department to comply with the same and respond to any proceedings or investigation(s) into the use of the funding by any relevant court or tribunal of relevant jurisdiction or regulatory body.
- 11.4. The Secretary of State may require repayment of any of the grant already paid, together with interest from the date of payment, if the Secretary of State is required to do so as a result of a decision of a court, tribunal or independent body or authority of competent jurisdiction.
- 11.5. The Authority should ensure they comply with the Public Sector Equality Duty under the 2010 Equality Act. This includes considering impacts of the project on protected characteristic groups during the scheme design process and in the monitoring and evaluation stage.

12. Compliance with the MoU

- 12.1. The Parties to this MoU are responsible for ensuring that they have the necessary systems and appropriate resources in place within their respective organisations to comply fully with the requirements of this MoU.

13. Legal Enforcement

- 13.1. This MoU is not legally enforceable. It describes the understanding between both parties for the use of funding specified in Clause 3 of this agreement.

Signed on Behalf of the Authority:

Name:

Signed on Behalf of the Department (Deputy Director)

Name: