

**Texas Commission on Environmental Quality (TCEQ)**  
**Texas Emissions Reduction Plan (TERP)**  
**Emission Reduction Incentive Grants (ERIG) Program**  
**Request for Grant Applications (RFGA)**  
**Fiscal Year 2023**

**Solicitation No. 582-23-42338-ER**

Este documento es la Solicitud de Aplicaciones de Subsidios para el Programa de Subvenciones de Incentivos para la Reducción de Emisiones (ERIG por sus siglas en Inglés). La información en este documento lo ayudará a determinar si califica para una subvención. Comuníquese al 800-919-TERP (8377) para obtener ayuda con esta información.



Key RFGA Events	Date
Request for Public Comments Period	November 8, 2022 - November 22, 2022
Program Opening Date	February 3, 2023
Application Submission Deadline	April 4, 2023
Request for Reimbursement Deadline*	April 30, 2025

\*The Request for Reimbursement Deadline is subject to the terms and conditions of a grantee's contract.

**Texas Commission on Environmental Quality (TCEQ)**  
**Air Grants Division**  
**ERIG, MC- 204**  
**P.O. Box 13087**  
**Austin, Texas 78711-3087**  
**1-800-919-TERP (8377)**  
[www.terpgrants.org](http://www.terpgrants.org)

Applications will be accepted for consideration during this grant period only if received by TCEQ via electronic mail (email) at [ERIG-Apply@tceq.texas.gov](mailto:ERIG-Apply@tceq.texas.gov) or via mail, **no later than 5:00 p.m. Central Time on the application submission deadline listed on the cover page of this RFGA**. Refer to Section 4.0 for detailed instructions for submitting an application.

The award of an ERIG grant is dependent upon the availability of funding. Any changes to this solicitation will be made through an addendum in the Electronic State Business Daily (ESBD).

There will not be a pre-proposal conference.

# Table of Contents

1.0 Purpose.....	1
2.0 Program Requirements .....	1
2.1 Eligible Applicants.....	1
2.2 Eligible Project Categories .....	1
2.3 Non-Road and Stationary Equipment Replacement Qualifications .....	2
2.4 Non-Road and Stationary Equipment Repower Qualifications.....	3
2.5 Marine Vessel Replacement and Repower Qualifications.....	3
2.6 Locomotive Replacement and Repower Qualifications .....	4
2.8 Usage for Grant-funded Equipment .....	5
2.9 Annual Usage Rates .....	6
2.10 Marketable Emissions Reductions Credits .....	6
3.0 Available Funding, Grant Amounts, and Costs .....	6
3.1 Available Funding.....	6
3.2 Determining Eligible Grant Amounts.....	7
3.3 Incremental Costs.....	7
3.4 Eligible Costs .....	8
3.5 Ineligible Costs.....	9
4.0 Grant Application and Administration .....	9
4.1 Application Process .....	9
4.2 Primary Selection Criteria.....	12
4.3 Additional Selection Criteria.....	12
4.4 Selection Process .....	13
4.5 Grant Award and Contracting.....	14
4.6 Reimbursement of Expenses.....	14
4.7 Disposition Verification by TCEQ (not applicable to refueling infrastructure projects)....	14
4.8 Annual Usage and Reporting .....	15
4.9 Performance Evaluation .....	16
Appendix A: Map of Nonattainment and Affected Counties*.....	17
Appendix B: Waivers of Requirements.....	18
Appx. B-1. Good Cause Waiver of Ownership and Use .....	18
Requirements .....	18
Appx. B-2. Good Cause Waiver for Ownership - Replacement and Disposition of Third-Party Equipment .....	18
Appx. B-3. Submitting a Waiver Request.....	18
Appx. B-4. TCEQ’s Consideration of Waivers.....	18
Appx. B-5. Approval of Waiver Requests .....	19
Appendix C: List of Equipment Types Not Eligible Under this Solicitation .....	20

# 1.0 Purpose

The ERIG program provides financial incentives to repower or replace older locomotive, marine, stationary equipment, or select non-road equipment to reduce NO<sub>x</sub> emissions in nonattainment areas and affected counties in Texas.

# 2.0 Program Requirements

All applicants and activities must meet the eligibility requirements listed in this section at the time of application submittal to be considered for a grant.

TCEQ may waive the requirements of this section on a finding of good cause. Applicants must submit waiver requests with the application to be considered. Please refer to Appendix B for instructions on completing and submitting a waiver request.

## 2.1 Eligible Applicants

- a) Eligible applicants are individuals, state and local governments, corporations, or any other legal entity.
- b) All business entities such as corporations or partnerships must have an active registration with the Texas Secretary of State by no later than the program opening date listed on the cover page of this RFGA. If awarded a contract, businesses must maintain an active registration during the contract period.
- c) Applicants must disclose any known apparent, potential, or actual conflicts of interest to TCEQ in writing at the time the application is submitted. Businesses or other entities in which a TCEQ employee, spouse, or family member of a TCEQ employee has a direct or indirect interest, financial or otherwise, may be prohibited from receiving a grant, depending upon the nature of the interest.

## 2.2 Eligible Project Categories

### 2.2.1 Replacement or Repower of Select Non-Road and Stationary Equipment

Non-road equipment categories that were included in the Rebate Grants program during 2022 are not eligible for funding under this ERIG grant round. See Appendix C for a list of these non-road equipment categories.

To be eligible for replacement or repower, the **old** non-road or stationary equipment must:

- a) have been continuously owned, leased, or otherwise commercially financed, and operated by the applicant, and used in its primary function in the routine operations of the applicant in Texas for at least the two years immediately preceding the application signature date; and
- b) be in operating condition with at least five years of useful life remaining.

**Non-road equipment** includes a piece of equipment, excluding a motor vehicle or on-road heavy-duty vehicle, that is powered by a non-road engine. To be eligible, non-road equipment must be powered by an engine rated at 25 horsepower (hp) or greater. This requirement refers to the hp of the engine being replaced only and does not apply to the replacement engine or technology.

**Stationary equipment** includes equipment used in non-mobile applications that converts fuel into mechanical motion, including turbines and other internal combustion devices. Stationary equipment is used either in a fixed application or in a portable (i.e.,

transportable) application in which it will stay at a single site for at least a full year (12 consecutive months). To be eligible, stationary equipment must be powered by an engine, turbine, or other internal combustion device that is 25 hp or greater. Horsepower requirements refer to the horsepower of the engine being replaced only and does not apply to the replacement engine or technology.

### **2.2.2 Replacement or Repower of Marine Vessels**

To be eligible for replacement or repower, the **old** marine vessel must:

- a) have been continuously owned, leased, or otherwise commercially financed, and operated by the applicant, and used in its primary function in the routine operations of the applicant in Texas for at least the two years immediately preceding the application signature date;
- b) be in operating condition with at least five years of useful life remaining;
- c) currently be registered in the applicant's name for operation in Texas, where required under Texas boating regulations;
- d) have United States Coast Guard (USCG) registration of the vessel (if applicable) in the applicant's name; and
- e) contain one or more propulsion or auxiliary engines that is 25 hp or greater. Only engines that are 25 hp or greater are eligible in the consideration for and calculation of any grant award. For replacement and repower projects, the requirement refers to the horsepower of the engine being replaced and does not apply to the replacement engine or technology.

### **2.2.3 Replacement or Repower of Locomotives**

To be eligible for replacement or repower, the **old** locomotive must:

- a) have been continuously owned, leased, or otherwise commercially financed, and operated by the applicant, and used in its primary function in the routine operations of the applicant in Texas for at least the two years immediately preceding the application signature date; and
- b) be in operating condition with at least five years of useful life remaining.

## **2.3 Non-Road and Stationary Equipment Replacement Qualifications**

This category is for the replacement of eligible non-road or stationary equipment with newer models. Non-road equipment categories that were included in the Rebate Grants program during 2022 are not eligible for funding under this ERIG grant round. See Appendix C for a list of these equipment categories. To be eligible, the replacement non-road or stationary equipment must:

- a) have an engine that is certified to the EPA emissions standards for non-road engines or is otherwise authorized by applicable rule or air permit;
- b) have an engine certified or verified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ, to emit at least 25% less NO<sub>x</sub> than the engine being replaced;
- c) have an engine model year no more than three years older than the calendar year in which it was purchased; and
- d) be of the same type and intended for use in the same application or vocation as the equipment being replaced. TCEQ may accept, case-by-case, equipment of a different type to account for the latest technology used for a specific vocation.

## 2.4 Non-Road and Stationary Equipment Repower Qualifications

This category is for the replacement of an existing engine on a piece of non-road or stationary equipment with a new, rebuilt, or remanufactured engine, or one or more electric motors, drives, or fuel cells. To be eligible, the new, rebuilt, or remanufactured engine must:

- a) have an engine that is certified or verified to the EPA emissions standards for non-road engines or is otherwise authorized by applicable rule or air permit;
- b) have an engine certified or verified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ, to emit at least 25% less NO<sub>x</sub> than the engine being replaced;
- c) have an engine model year no more than three years older than the calendar year in which it was purchased; and
- d) use only components procured from the original engine manufacturer (OEM) or an authorized reseller unless otherwise approved by TCEQ on a case-by-case basis.

Retrofit or add-on emission-reduction technology systems for existing non-road engines may be considered under the repower category. The retrofit or add-on systems must be certified or verified to emit at least 25% less NO<sub>x</sub> emissions than the engine(s) prior to the retrofit or add-on. Certification means approved by the EPA, the CARB, or otherwise accepted by TCEQ.

## 2.5 Marine Vessel Replacement and Repower Qualifications

- a) Replacement projects include the replacement of marine vessels with a new or newer marine vessel. Repower projects include the replacement of an existing engine on a marine vessel with a new, rebuilt, or remanufactured engine, or one or more electric motors, drives, or fuel cells.
- b) Marine vessels eligible for grant funding include those that have at least one propulsion engine that is subject to the EPA emission standards for marine vessels. Marine vessels may have more than one propulsion or auxiliary engine. This category does not include marine vessels that are subject to the EPA recreational marine vessel standards or are otherwise used for sport purposes.
- c) The replacement marine vessel must have an engine with a manufacture year that is no more than three years older than the calendar year in which the marine vessel is purchased.
- d) The combined NO<sub>x</sub> emissions of the engines on the replacement vessel must be certified or verified by the EPA, CARB, or another entity that has been deemed acceptable by TCEQ to be at least 25% less than the combined NO<sub>x</sub> emissions of the engines on the vessel being replaced, based on the emissions standard for those engines. The baseline for comparison of emissions is the difference between the emissions standard (or in some cases, the certified emissions level) for the engine(s) on the vessel being replaced and the certified emissions level of the engine(s) installed on the vessel being purchased.
- e) The replacement vessel must be intended for the same or similar purpose as the vessel being replaced. TCEQ may accept, case-by-case, vessels of a different type to account for the latest technology used for a specific vocation.
- f) For repower projects, an engine eligible for grant funding must be certified or verified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ to emit at least 25% less NO<sub>x</sub> emissions than the engine being replaced, based on the standard for that engine. If the engine being installed is rebuilt or remanufactured, the

engine must have been certified to emit at least 25% less NO<sub>x</sub> emissions than the standard for the engine being replaced.

Rebuilt or remanufactured engines eligible for grant funding must use only components procured from the OEM or an authorized reseller unless otherwise approved by TCEQ on a case-by-case basis.

Subject to approval by TCEQ, a marine engine low-NO<sub>x</sub> rebuild kit that results in a new engine family code or test group number being assigned by the EPA and a new emissions information label being affixed to the rebuilt engine will be considered a repower and should be applied for under the repower category.

Retrofit or add-on emission-reduction technology systems for existing marine engines may be considered under the repower category. The retrofit or add-on systems must be certified or verified to emit at least 25% less NO<sub>x</sub> emissions than the engine(s) prior to the retrofit or add-on. Certification means approved by the EPA, the CARB, or otherwise accepted by TCEQ.

## **2.6 Locomotive Replacement and Repower Qualifications**

- a) Replacement projects include maintaining the frame rails and wheels of the original locomotive. Repower projects include only the replacement of the engine and all necessary associated drivetrain components with a new, rebuilt, or remanufactured engine, or one or more electric motors, drives, or fuel cells.
- b) Locomotives include line-haul or switcher locomotives that are subject to the EPA emission standards for locomotives.
- c) The replacement locomotive must have an engine with a manufacture year that is no more than three years older than the calendar year in which the locomotive is purchased.
- d) The engine on the replacement locomotive must be certified or verified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ to emit at least 25% less NO<sub>x</sub> than the engine being replaced, based on the federal standard for that engine. The baseline for comparison is the emissions of the locomotive being replaced and the emissions of the locomotive being purchased.
- e) The replacement locomotive must be of the same locomotive type and be intended for the same or similar purpose as the locomotive being replaced. TCEQ may accept, case-by-case, locomotives of a different type to account for the latest technology used for a specific vocation.
- f) Replacement of a locomotive over 1,005 horsepower with a locomotive 1,005 or less horsepower will be considered by TCEQ, case-by-case, if it is shown that the design of the lower horsepower locomotive allows it to perform the same switcher functions that the higher horsepower locomotive was performing.
- g) For repower projects, the qualifying engine must be certified or verified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ to emit at least 25% less NO<sub>x</sub> than the engine being replaced, based on the federal standard for that engine.
- h) Subject to approval by TCEQ, a locomotive engine low-NO<sub>x</sub> rebuild kit that results in a new engine family code or test group number being assigned by the EPA and a new emissions information label being affixed to the rebuilt engine will be considered a repower and should be applied for under the repower project type.
- i) Eligible rebuilt or remanufactured engines must use only components procured from the OEM or an authorized reseller unless otherwise approved by TCEQ on a case-by-case basis.

- j) To be eligible, any additional emissions-reducing parts or technology added to an engine or fuel system must be verified or certified by the EPA, the CARB, or another entity that has been deemed acceptable by TCEQ.
- k) Repower projects may also involve the remanufacturing of a locomotive for the installation and operation of the replacement engine and the associated drive components unique to that engine.

## **2.7 Refueling Infrastructure**

Applicants purchasing a qualifying select non-road or stationary piece of equipment, marine vessel, or locomotive powered by an alternative fuel may request additional funding for on-site refueling infrastructure.

- a) Allowable alternative fuels are as follows:
  - 1) Electricity
  - 2) Hydrogen
  - 3) Compressed Natural Gas (CNG)
  - 4) Liquified Natural Gas (LNG)
  - 5) Propane (LPG)
  - 6) Methanol
- b) Applicants may only include one refueling infrastructure project site and one type of alternative fuel per application.
- c) The refueling infrastructure must provide, at a minimum, refueling capacity to the non-road or stationary equipment, marine vessel, or locomotive purchased, replaced, or repowered through this grant program.
- d) Applicants may expand existing onsite refueling infrastructure to accommodate the additional new grant-funded equipment in lieu of installing new service.
- e) Applicants are required to be the owner of the site where the refueling infrastructure equipment will be installed or be able to demonstrate the ability to install, operate and maintain the refueling infrastructure at the proposed site for the duration of the contract. If an applicant does not own the property where the refueling infrastructure equipment will be installed, the Refueling Infrastructure Project Certifications under Section 6: Program Certifications of the project application must be completed and signed by the applicant and the property owner.
- f) All grant-funded refueling infrastructure must be purchased by the applicant and not leased.

## **2.8 Usage for Grant-funded Equipment**

- a) Not less than 55% of the grant-funded equipment operation must occur in one or more of the nonattainment areas and affected counties (see Appendix A). Applicants may elect to increase this commitment in increments of 10% up to a maximum of 95% of their operation in these same areas. Higher usage commitments may increase the competitiveness of a project and will increase the maximum amount of grant funds that can be requested.
- b) For marine vessels, eligible operation must occur within eligible counties or within the coastal county lines of eligible counties which is approximately 3 leagues (10.35 miles) offshore. Marine vessels may operate in the intercoastal waterways or bays adjacent to a nonattainment area or affected county in Texas. Operation in these intercoastal



waterways or bays outside of eligible counties may be used to meet the 55% requirement but will not be considered in any emissions reduction calculations for scoring purposes.

- c) Annual operation will be considered as miles traveled, hours of engine operation, or fuel consumed. For determining the total annual operation, a single unit of measurement (e.g., miles traveled) must be used. Applicants receiving a grant should be prepared to keep and maintain records of their annual operation in the unit of measurement they choose on their application.
- d) Refueling infrastructure must be owned, operated, and maintained for the duration of its annual usage reporting requirement as defined in Section 4.8 of this RFGA.

## **2.9 Annual Usage Rates**

Standard default annual usage rates are used by TCEQ to calculate the NO<sub>x</sub> emissions reductions that are achieved by each activity, and are measured either in miles, hours, or fuel use, depending on the equipment type. Annual Usage rates are applied to each activity for the duration of the Activity Life.

- a) Standard Usage
  - The applicant should identify the Standard Usage rate established for each type of equipment in the application's technical supplement, and list it in the application.
  - The Standard Usage rate will be used for emissions reductions calculations only. The grant recipient will not be obligated to use the equipment for the exact number of annual miles, hours, or fuel use listed as the Standard Usage rate.
- b) Non-Standard Usage
  - If a Standard Usage rate is not listed in the application's technical supplement for a particular type of equipment, or if the applicant elects to apply using the historical annual usage rate (average annual use for the two years immediately preceding the application signature date), a Non-Standard Usage rate may be applied. TCEQ will consider non-standard usage on a case-by-case basis. Refer to Supplemental Form 2: Non-Standard Annual Usage Rates for more information and to apply under this option.
  - Non-Standard Usage is not available for locomotive projects, which may be applied for only using a Standard Usage rate.

## **2.10 Marketable Emissions Reductions Credits**

A project that would otherwise generate marketable credits under state or federal emissions reduction credit averaging, banking, or trading programs is not eligible for funding under this program unless: a) the project includes the transfer of the reductions that would otherwise be marketable credits to the state implementation plan, or to the project owner or operator as provided by Texas Health and Safety Code (THSC) Section 386.056; and b) the reductions are permanently retired.

# **3.0 Available Funding, Grant Amounts, and Costs**

## **3.1 Available Funding**

- a) The total amount to be awarded under this grant program will depend upon the amount of revenue received in the TERP Trust Fund but is anticipated to be \$45 million.

- b) Depending on demand and the requested grant amounts of eligible applications received, TCEQ may redistribute funds to best meet the purposes of the Texas Emissions Reduction Plan. This may include, but is not limited to, moving funds to another grant program, or allocating additional funds to this grant program.

### **3.2 Determining Eligible Grant Amounts**

- a) Replacement/Repower Projects

For replacement and repower projects, grant recipients may be eligible for reimbursement of up to 80% of the eligible incremental costs associated with the purchase or lease of the replacement equipment, not to exceed an incentive amount that results in a cost per ton (CPT) of NO<sub>x</sub> reduced as specified below:

- Marine and Locomotive Projects: \$20,000 CPT
- Stationary Projects: \$35,000 CPT
- Non-Road Equipment Projects: \$35,000 CPT

Individual activities submitted in a project application may exceed the cost per ton limits so long as the cost per ton of the overall project remains at or under the established cost per ton limitations associated with each project category.

- b) Refueling Infrastructure Projects

Applicants may apply for refueling infrastructure associated with replacement or repower projects, subject to the cost per ton of NO<sub>x</sub> reduced limits as specified above. For the purposes of determining if a project including refueling infrastructure meets these limits, the requested grant amount for the refueling infrastructure will be added to any other requested grant amounts in an application with no additional NO<sub>x</sub> emissions reductions.

Applicants will receive up to 50% of the incremental cost of the refueling infrastructure project.

### **3.3 Incremental Costs**

The incremental cost of any proposed project must be reduced by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance.

- a) Replacement Projects for Non-Road Equipment

The incremental cost is the eligible cost to purchase the replacement equipment minus the scrap value of the equipment being replaced. TERP utilizes a default scrap value of \$1,000.

- b) Repower Projects for Non-Road Equipment

The incremental cost is the eligible cost to purchase and install the replacement engine and associated equipment, minus the scrap value of the old engine. TERP uses a default scrap value of \$250.

- c) Infrastructure Projects for Non-Road Equipment

The incremental cost is the eligible cost to purchase and install the refueling infrastructure and associated equipment, less any tax credits or deductions, other grants, or any other public financial assistance.

- d) Applicants for stationary projects must submit documentation with the application to show the scrap values of their project. Applicants who are selected for award for marine and locomotive projects must provide scrap value documentation with their request for reimbursement.

### 3.4 Eligible Costs

- a) Eligible costs for replacement projects include:
  - 1) cost(s) (or if leased, the capital lease cost basis) of the grant-funded equipment;
  - 2) taxes and government fees;
  - 3) protective in-transit insurance;
  - 4) delivery and shipping fees;
  - 5) factory and/or extended warranties;
  - 6) maintenance and service contracts;
  - 7) mechanic and safety inspections;
  - 8) cooperative fees;
  - 9) manufacturer or dealer processing fees not related to financing; and
  - 10) purchase and installation of a dedicated global positioning system (GPS) for tracking and monitoring the use of grant-funded equipment during the activity life.
- b) Eligible costs for repower projects include:
  - 1) cost of the new engine or upgrade, including sales tax, protective in-transit insurance, and delivery charges;
  - 2) cost(s) of additional equipment that must be installed with the new engine or upgrade;
  - 3) associated supplies directly related to the installation of the engine or system;
  - 4) the cost to remove and dispose of the old engine, if applicable;
  - 5) installation costs;
  - 6) reengineering costs, if the equipment must be modified for the new engine to fit (including technical design, testing, and other engineering services required as part of the installation); and
  - 7) other ancillary costs which include shipping costs, factory and/or extended warranties, mechanic and safety inspections, cooperative fees, and dealer or manufacturer fees.
- c) Eligible Costs for Refueling Infrastructure Projects
  - 1) **Equipment**, which includes tangible personal property having a unit acquisition cost of \$5,000 or more (including sales tax and delivery) with an estimated useful life of over one year. Equipment purchased with grant funds should be budgeted as equipment if the sum of the separate component parts (including tax and delivery) has an original value of \$5,000 or more. TCEQ will require an itemized invoice and proof of payment for reimbursement of all equipment costs.
    - Eligible equipment costs for natural gas and alternative fuel dispensing equipment include natural gas and alternative fuel storage tanks, compressors, electrical infrastructure, and other equipment at the facility directly needed to store and dispense eligible alternative fuels.
    - Eligible equipment-related costs include contractual costs and supplies and non-capital items necessary for the installation of the equipment.
  - 2) **Supplies and Materials**, which includes non-construction related costs for goods and materials having a unit acquisition cost (including sales tax and delivery) of less

than \$5,000 per unit. An itemized invoice and proof of payment will be required for reimbursement of all supplies and materials costs.

- 3) **Construction**, which includes the costs for the enhancement or building of permanent facilities. Construction costs include:
  - Planning, designing, and engineering;
  - Materials and labor;
  - Subcontracts for services in connection with the construction; and
  - Facility improvements, such as paving, foundations, and covers.
- 4) **Contractual**, which includes non-construction related costs for subcontracted or hired out professional services or tasks provided by a firm or individual who is not employed by the applicant. List each subcontractor/consultant separately.

### 3.5 Ineligible Costs

Ineligible costs include:

- a) Insurance premiums;
- b) Finance fees and charges;
- c) Subscription fees for GPS monitoring and tracking services;
- d) Salaries and travel expenses for employees of the grantee;
- e) Expenses of any lobbyist registered in Texas;
- f) Costs associated with the preparation and submission of the grant application;
- g) Administrative costs of the grantee, including overhead and indirect costs (e.g., office supplies, rent, marketing, and advertising);
- h) Costs that do not involve an arms-length transaction, such as the use of existing inventory without a proof of purchase;
- i) Any costs paid prior to the opening of the grant round; and
- j) Food and drink.

## 4.0 Grant Application and Administration

### 4.1 Application Process

- a) The application, Guidelines, and this RFGA may be downloaded from the TCEQ web site at [www.terpgrants.org](http://www.terpgrants.org), or by contacting TERP staff via email at [TERP@tceq.texas.gov](mailto:TERP@tceq.texas.gov) or by phone at 800-919-TERP (8377).
- b) A Portable Document Format (PDF) version of the draft contract may be viewed and downloaded from the TERP website at [www.terpgrants.org](http://www.terpgrants.org). The draft contract is for reference only and contains terms and conditions that are standard provisions for grants awarded under this program. Any requested changes to the draft contract must be submitted to TCEQ in writing at the time the application is submitted. However, the applicant further understands that TCEQ will not normally change the contract language in response to individual requests from grant recipients and is under no obligation to do so. TCEQ reserves the right to modify the draft contract terms as necessary due to statutory, rule, or policy changes. Modifications will be posted to the TERP website at [www.terpgrants.org](http://www.terpgrants.org) and the ESBD.

- c) All applications for funding must be substantially complete and must be submitted by the application deadline. Submission of a grant application that is not substantially complete will be disqualified from consideration under this RFGA. A substantially complete application must include:
- 1) all pages of the application;
  - 2) all required attachments;
  - 3) applicant's contact information;
  - 4) all required signatures; and
  - 5) all the information necessary for TCEQ to score and rank the project according to the scoring criteria listed in this RFGA.
- d) TCEQ reserves the right to limit the award of more than \$10 million to a single applicant. For the purposes of this limitation, applicant includes an individual or business and all of its associated legal affiliates. At the sole discretion of TCEQ this may include reducing the requested grant amount of one or more applications from an applicant.
- e) Applicants may not submit more than 10 activities in a single application. If an applicant has more than 10 activities, additional applications may be submitted. Marine replacement projects may not include activities for more than one vessel in a single application.
- f) A project application may only include activities involving one type of emission source, project category, and Activity Life. Projects involving different emission sources, project categories, or activity lives must be applied for on separate applications.
- g) Applicants will be required to submit documentation and photographs with the application to demonstrate the eligibility of the equipment being replaced or repowered, including color photographs of the equipment and its associated engine(s).
- h) The applicant must provide proof of ownership, which may include a copy of the bill of sale, maintenance records, or in some cases a title.
- i) Where required under Texas boating regulations, a marine vessel must currently be registered in the applicant's name for operation in Texas. Any USCG documentation of the vessel must also be in the applicant's name; and
- j) Applicants with projects that include refueling infrastructure must provide documentation that includes:
- 1) a site plan with the application (including a scaled map which could be a photograph, satellite map, drawing, or similar graphic of the proposed site) that shows the planning and design of the proposed facility. The site plan must:
    - demonstrate how the locomotive, marine vessel, or equipment may access the proposed facility; and
    - provide the location of the facility within the property and include any easements, set-back requirements, and property boundaries
  - 2) a demonstration of their ability to install, operate and maintain the refueling infrastructure at the proposed site by providing documentation, such as property ownership records, lease agreements, or other legal agreements, that can show the following:
    - the ability to complete any required construction on the proposed site; and

- the ability to operate on the proposed property for a length of time equal to the Activity Life of the grant-funded equipment.
- k) Applicants must request TCEQ's preauthorization of an alternative method of disposition for the equipment, and/or engine being replaced by completing Section 10 of the application. If approved, the alternative method of disposition will be included in the special conditions of the contract; otherwise, the standard methods described in Section 4.7 of this RFGA will be required.
  - l) Private consultants may be available to assist an applicant with completing and submitting an application. TCEQ neither encourages nor discourages the use of a consultant to assist with the application process. Consultants do not represent TCEQ, and TCEQ has no agreements where applications submitted by a particular consultant will receive more favorable treatment than other applications.
  - m) The applicant must indicate in the application if the application was prepared by a third party (someone other than the applicant or an employee of an applicant). If a third party prepares the application, the third party must also sign the application and certify that the information provided in the application is true and correct and as represented to the third party by the applicant. A third party's failure to sign the application or signing it with a false statement may make the application ineligible, may make any resulting contracts voidable, and may subject the third-party preparer to criminal or civil penalties.
  - n) By signing the application, the applicant is certifying its understanding and compliance with the statements listed in Sections 5 and 6 of the application, as well as with any state statutes, regulations, policies, guidelines, and requirements as they relate to the application, acceptance, and use of funds for the project. If any of these certifications change between submittal of the application and award of a contract, the applicant must notify TCEQ within three (3) business days of becoming aware of the change. Failure to notify TCEQ of any changes to your certifications may make the application ineligible and may make any resulting contracts voidable.
  - o) Applications will be accepted for consideration during this grant period only if received by TCEQ via electronic mail at [ERIG-Apply@tceq.texas.gov](mailto:ERIG-Apply@tceq.texas.gov) or via mail at one of TCEQ's addresses no later than 5:00 p.m. Central Time on the application submission deadline listed on the cover page of this RFGA, as long as funds are available.
  - p) Applications may be submitted electronically using one of the methods listed below. It is preferable that the application and its attachments be submitted as a single PDF, but it is not required. If the attachments for an application will be submitted as separate files, each attachment must be grouped by activity and clearly labeled with the activity number at the top of each page.
    - 1) **Submitting Applications via Email.** For applications that are submitted via email to [ERIG-Apply@tceq.texas.gov](mailto:ERIG-Apply@tceq.texas.gov), please use the following naming convention for your application file in the subject line: 'FY23 ERIG and [your legal name].' Only one application may be submitted per email at a maximum total file size of 25MB.
    - 2) **Submitting Applications via TCEQ's FTPS Server.** If the application is larger than 25MB, please submit by uploading the file to TCEQ's file transfer protocol secure (FTPS) server **and selecting the share file(s) button.** Enter [ERIG-Apply@tceq.texas.gov](mailto:ERIG-Apply@tceq.texas.gov) as the email address. Detailed directions for using TCEQ's FTPS Server can be found at <https://ftps.tceq.texas.gov/help/>. **Please note: Applications uploaded to TCEQ's FTPS server without completing the share**

**file(s) step will not be considered as submitted. [Click here](#) for detailed instructions on how to share files via TCEQ's FTPS server.**

- q) Applications may also be submitted by mailing a physical copy to one of these addresses:

**Standard Mail:**

Texas Commission on Environmental Quality  
Air Grants Division, MC-204 (ERIG)  
P.O. Box 13087  
Austin, TX 78711-3087

**Express Mail:**

Texas Commission on Environmental Quality  
Air Grants Division, MC-204 (ERIG)  
12100 Park 35 Circle, Building F, 1st Floor, Suite 1301  
Austin, TX 78753

- r) Upon submission, all proposals become the property of the State of Texas and as such become subject to public disclosure under the Texas Public Information Act (PIA), Texas Government Code, Chapter 552.

## 4.2 Primary Selection Criteria

Substantially complete applications for eligible projects will be evaluated, scored, and ranked according to the Scoring Criteria outlined in Section 4.4 of this RFGA. TCEQ provides no assurances that a project will be awarded a grant. If an applicant purchases the new equipment prior to the execution of a contract for that equipment, they do so at their own risk.

- a) **CPT of NO<sub>x</sub> projected to be reduced (up to 50 points).** The CPT is determined by dividing the grant amount by the projected tons of reduction in NO<sub>x</sub> emissions to be achieved over the life of the project. Projects with the lowest CPT of emissions reduced, as compared to all other projects, will receive the most points.
- b) **Total projected NO<sub>x</sub> reductions (up to 50 points).** Projects with the highest projected NO<sub>x</sub> reductions (tons of NO<sub>x</sub>), as compared to all other projects, will receive the most points.

## 4.3 Additional Selection Criteria

In addition to the selection criteria explained above, and regardless of the scores and ranking assigned to a project, TCEQ may consider the following factors when reviewing applications for grant funding.

- a) TCEQ is not obligated to fund any project for any reason or may offer to fund less than the eligible grant amounts for any reason.
- b) TCEQ is not obligated to fund projects from applicants:
- with an outstanding invoice from TCEQ or who are in non-compliance with existing or prior TERP grants;
  - where the proposed projects are required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding contract;
  - under federal, state, or local enforcement action for violation of environmental laws or permit conditions; or

- with an overall compliance history classification of Unsatisfactory (greater than 55.00) on TCEQ's Compliance History Database for applicants that are subject to the rating.
- c) TCEQ may also:
- require additional conditions or changes to the project pertaining to equipment, logistical considerations, expenses, and other program elements;
  - make a determination of risks associated with the applicant and/or project and may include additional conditions to the contract to address the identified risks;
  - determine minimum acceptable scores under each scoring category or factor;
  - limit or prioritize the number of grants awarded for projects in a specific area based on the scores assigned to the projects; or
  - hold applications to be funded at a later date.
- d) If an applicant is applying for the same project under this RFGA and an RFGA under a separate TERP grant program, funding will only be awarded under the first program that awards a grant for the submitted project.
- e) Applicants must cooperate with TCEQ, the State of Texas, the State Auditor's Office, and any of their authorized representatives to allow access to all equipment, marine vessels, and locomotives being replaced and all grant-funded equipment, marine vessels, and locomotives for the purpose of on-site inspections, and/or audit. Failure to respond to or cooperate with any authorized review, inspection, or audit of the grant activities will result in the application being determined ineligible and make any resulting contracts voidable.

#### 4.4 Selection Process

Applications for eligible projects will be evaluated, scored, and ranked according to the scoring criteria provided below. Project scores and ranking will be based upon the representations made in the application at the time of application submission. Once selected for a grant, any changes made to the representations in the application that reduce the total project score will make any resulting contracts voidable.

a) **Cost per ton of NO<sub>x</sub> projected to be reduced.**

Projects with the lowest CPT of NO<sub>x</sub> reduced, as compared to all other projects, will receive the most points. The CPT of NO<sub>x</sub> reduced will be determined by using the methodology described in the ERIG Technical Supplement for the submitted project type, found in Step 3 on the [ERIG webpage](#). Applicants are not required to compute the CPT of NO<sub>x</sub> reduced for their project as it will be determined by TERP staff. For those wishing to perform their own calculations of the CPT of NO<sub>x</sub> reduced, instructions are provided in the ERIG Technical Supplements. ERIG Grant Estimators are also provided in Step 3 on the [ERIG webpage](#).

b) **Total projected NO<sub>x</sub> reductions.**

Projects with the highest projected NO<sub>x</sub> reductions (tons of NO<sub>x</sub>), as compared to all other projects, will receive the most points. Projected NO<sub>x</sub> reductions will be determined by using the methodology described in the ERIG Technical Supplement for the submitted project type, found in Step 3 on the [ERIG webpage](#). Applicants are not required to compute the total projected NO<sub>x</sub> reductions as it will be determined by TERP staff. For those wishing to perform their own calculations of the total projected NO<sub>x</sub> reductions, instructions are provided in the ERIG Technical Supplements. ERIG Grant Estimators are also provided in Step 3 on the [ERIG webpage](#).



## **4.5 Grant Award and Contracting**

Applicants selected to receive grant funding will be required to sign a contract with TCEQ. The approved activities outlined in the application will be represented in the contract's Scope of Work. Grant recipients commit to taking all actions necessary to ensure the successful completion and subsequent operation of the new equipment and/or refueling infrastructure (referred to in the contract as Grant Equipment) within the contract's time frames and funding limitations.

## **4.6 Reimbursement of Expenses**

- a) Payments will be made on a reimbursement basis for eligible costs paid in full by the grantee minus the scrappage value and any incentives, as referenced in Section 3.3.
- b) Grantees will be required to provide documentation in accordance with the contract to show that grant-funded equipment has been received and costs have been paid in full before reimbursement will be provided by TCEQ unless otherwise approved.
- c) All costs must be paid in full by the grantee, grant-funded equipment received, and final requests for reimbursement submitted to TCEQ by the request for reimbursement deadline listed in the contract. Grantees experiencing project delays may submit a written extension request to TCEQ via electronic mail at [terp\\_revise@tceq.texas.gov](mailto:terp_revise@tceq.texas.gov). Unless otherwise approved by TCEQ, an extension request must be submitted no later than 60 days prior to the request for reimbursement deadline. TCEQ's decision to grant or deny an extension request will be provided in writing to the grantee and will depend on the availability of grant funds.
- d) If the grantee finances the grant equipment, the reimbursement will be assigned to the company that provided the financing. To be paid directly, the grantee must show that the grantee paid eligible expenses that are equal to, or greater than, the reimbursement amount with cash on hand (non-borrowed funds).
- e) If the grant equipment is leased, the lease must have a term sufficient to extend to the end of the Activity Life or a binding commitment to purchase at the end of the term. For lease purchase arrangements, an option to buy at the end of a lease term without a binding commitment is not sufficient.

## **4.7 Disposition Verification by TCEQ (not applicable to refueling infrastructure projects)**

If selected for a grant, the old equipment and engines being replaced must be destroyed and rendered permanently inoperable within 90 days of the reimbursement payment issued by TCEQ (commonly referred to as disposition) by:

- a) completely crushing the equipment and engine; or
- b) cutting a 3-inch or larger hole on both sides of the engine block and cutting both frame rails in half; or
- c) for repower projects only, cutting a 3-inch or larger hole on both sides of the engine block.

TCEQ may consider alternative methods of rendering the equipment or engines permanently inoperable in lieu of the standard method of destruction. See the Alternative Disposition section of the application.

If approved, the alternative disposition method will be included in the special conditions of the Contract and the grant recipient must commit to implementing those provisions. If the alternative method is not approved, the general disposition requirements outlined in (a) through (c) above, must be followed.

Failure to comply with these requirements and those included in the contract with TCEQ, including providing TCEQ with disposition verification within 90 days of the reimbursement payment being issued by TCEQ, may invoke the contract's remedies, including termination of the contract and the return of grant funds.

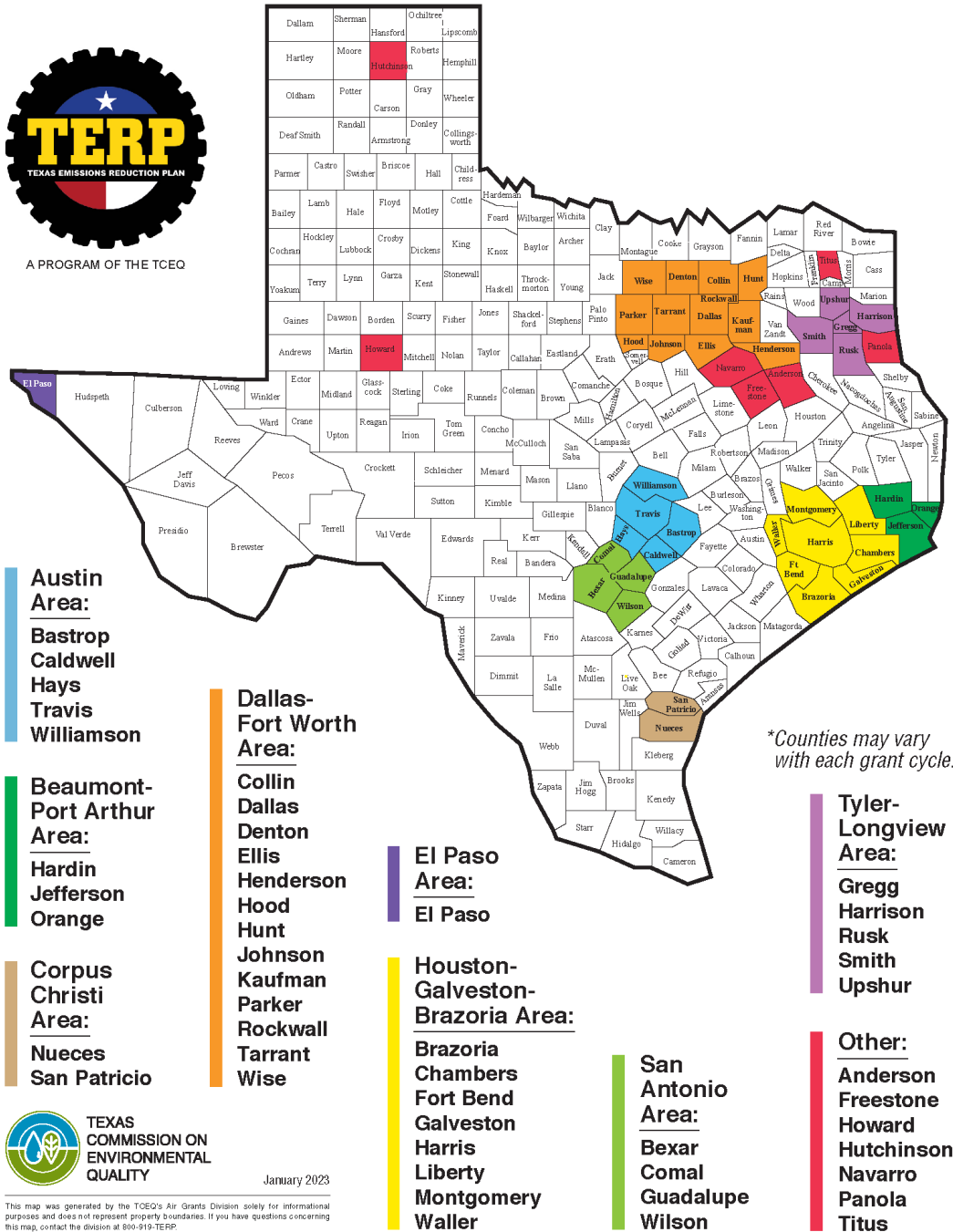
#### **4.8 Annual Usage and Reporting**

- a) The time period used to determine the required emissions reductions for each activity is referred to as the Activity Life. The Activity Life will start on the date TCEQ approves disposition (or the date of reimbursement if disposition is not applicable) of an activity. When disposition is approved, TCEQ will notify the grantee to start keeping records beginning on the specified Activity Life start date. The Activity Life will extend for a minimum of 5 years to a maximum of 7 years for non-road or stationary projects, including any associated infrastructure. For marine or locomotive projects, the Activity Life will extend for a minimum of 5 years to a maximum of 10 years, including any associated infrastructure.
- b) For the duration of the Activity Life, a grantee must:
  - 1) own or lease to purchase, the grant-funded equipment (refueling infrastructure must be purchased and not leased);
  - 2) operate the grant-funded equipment in Texas, with at least 55% of the equipment's total annual operation occurring in the eligible areas (refer to Appendix A);
  - 3) maintain usage and location records for the grant-funded equipment and, after the Activity Life, for two successive 12-month periods;
  - 4) maintain the grant-funded equipment in proper operating condition;
  - 5) obtain sufficient commercial insurance for each grant-funded equipment to protect against loss, damage, or liability (proof of self-insurance will be sufficient for governmental entities);
  - 6) request approval for any changes, including, but not limited to:
    - the termination of use,
    - the change in use,
    - the intentional destruction of grant-funded equipment, or
    - the sale of grant-funded equipment. Any sale of the grant-funded equipment during the contract period will be subject to approval and consent to assignment by TCEQ in accordance with the contract terms; and
  - 7) provide written notice to TCEQ via email at [TERP-Monitoring@tceq.texas.gov](mailto:TERP-Monitoring@tceq.texas.gov) within 30 calendar days of the accidental destruction or repossession of grant-funded equipment.
- c) During the Activity Life, grantees will submit annual usage reports provided by TCEQ. The usage reports are used to ensure compliance with the annual usage requirements identified in the contract Scope of Work and to identify any issues preventing performance.
- d) Failure to meet the requirements of Section 4.8 may invoke the contract's remedies, including termination of the contract and the return of all or a pro-rata share of the grant funds.

#### **4.9 Performance Evaluation**

TCEQ will notify the grantee in writing upon the end of performance of the Activity Life or more frequently, as deemed necessary.

# Appendix A: Map of Nonattainment and Affected Counties\*



**\*Note:** Marine vessels must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of Texas.

## **Appendix B: Waivers of Requirements**

This appendix explains what TCEQ will consider when reviewing a waiver request under Section 2.0 and what an applicant must submit to request a waiver of one or more of the ownership and use requirements.

### **Appx. B-1. Good Cause Waiver of Ownership and Use**

#### **Requirements**

Section 2.2 requires that equipment replaced under the ERIG program must have been owned, leased, or commercially financed, and operated by the applicant in Texas for at least the two years immediately preceding the application signature date. Under Texas Health and Safety Code (THSC), §386.104(j), TCEQ may consider a request to waive one or more of these requirements based on a finding of good cause, which may include short lapses of operation due to economic conditions, seasonal work, or other circumstances. The burden is on the applicant to demonstrate why there is good cause to grant the waiver request.

### **Appx. B-2. Good Cause Waiver for Ownership - Replacement and Disposition of Third-Party Equipment**

Applicants who can demonstrate good cause may submit a waiver request to purchase diesel equipment from another entity (third-party) for the purpose of replacing and disposing of that equipment under the ERIG program.

Applicants applying to replace and dispose of third-party equipment must:

- a) demonstrate that a replacement activity will result in the projected NO<sub>x</sub> emissions reductions;
- b) demonstrate that, absent the grant, the equipment being replaced would have continued to be operated in Texas for the duration of the contract period;
- c) provide the requested information for the equipment in Section 7 of the application;
- d) attach to the application the documentation required in Section 4.1(g) of this RFGA for the third-party equipment; and
- e) certify on Supplemental Form 1: Program Waiver Request that the third-party equipment meets the requirements of Section 2.2 of this RFGA and will be replaced in accordance with Sections 2.3, 2.4, 2.5, and 2.6 of this RFGA.

Applicants that do not currently own the third-party equipment must establish permission from the owner on Supplemental Form 1: Program Waiver Request to include the equipment in the application. If awarded a grant, a grantee must demonstrate ownership of the third-party equipment before being reimbursed by TCEQ.

### **Appx. B-3. Submitting a Waiver Request**

Waiver requests must be submitted with the application for which it is intended. See Section 4.1 of this RFGA for application submission instructions.

### **Appx. B-4. TCEQ's Consideration of Waivers**

All waiver requests will be considered by TCEQ on a case-by-case basis, with no assurance that a waiver will be granted.

### **Appx. B-5. Approval of Waiver Requests**

If a grant is awarded and a waiver request is approved, the conditions under which the waiver was granted may be included in the grant contract.

By signing the contract, the applicant attests to the validity of the conditions under which the waiver was granted.

## **Appendix C: List of Equipment Types Not Eligible Under this Solicitation**

Agricultural Tractors

Airport Equipment - Pushback Tractors

Combines

Crawler Tractors

Excavators

Forklifts

Graders

Non-Road Terminal Tractors

Rollers

Rough Terrain Forklifts

Rubber Tire Loaders

Skid Steer Loaders

Tractor Backhoe Loaders