



**Request for Grant Applications (RFGA)  
Fiscal Year (FY) 2020  
Grants for Projects to Replace or Repower  
Class 4-7 Local Freight Trucks and  
Class 8 Local Freight and Port Drayage Trucks**

**Solicitation No. 582-20-11652-VW**

**Priority Areas**

Under this RFGA, a person must operate local freight and port drayage trucks with at least 51% of the vehicle's annual mileage occurring in one of the Priority Areas.

**Austin Area:** Bastrop, Caldwell, Hays, Travis, and Williamson Counties

**Beaumont-Port Arthur Area:** Hardin, Jefferson, and Orange Counties

**Bell County:** Bell County

**Dallas-Fort Worth Area:** Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties

**El Paso County:** El Paso County

**Houston-Galveston-Brazoria Area:** Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties

**San Antonio Area:** Bexar, Comal, Guadalupe, and Wilson Counties

**February 6, 2020**

**Texas Commission on Environmental Quality  
Texas Volkswagen Environmental Mitigation Program (TxVEMP)  
MC-204  
P.O. Box 13087  
Austin, Texas 78711-3087  
833-215-TXVW (8989)**

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Applications will be accepted for consideration during this grant period only if received at the front desk, Rm. 1301, 1st floor of Building F on the premises of TCEQ by no later than 5:00 p.m. Central Time, January 27, 2021. Applications received in TCEQ mail room on this date are not guaranteed to be delivered to Rm. 1301 by the required deadline, so applicants are encouraged to plan their submissions accordingly. The award of the grant is dependent upon the availability of funding. The TCEQ may suspend acceptance of applications prior to the closing date if all available grants have been awarded. Any changes will be made through an addendum posted to the Electronic State Business Daily (ESBD). There will be no pre-proposal conference.

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**Texas Commission on Environmental Quality (TCEQ)  
Texas Volkswagen Environmental Mitigation Program (TxVEMP)  
Request for Grant Applications  
Fiscal Year (FY) 2020**

**Grants for Projects to Replace or Repower  
Class 4-7 Local Freight Trucks and  
Class 8 Local Freight and Port Drayage Trucks**

## **1.0 INVITATION**

The Texas Commission on Environmental Quality (TCEQ) invites applications from persons who operate trucks, including commercial trucks, used to deliver cargo and freight in areas designated as Priority Areas in this Request for Grant Applications (RFGA). Incentive funding is available to replace or repower eligible vehicles to reduce the emissions of nitrogen oxides (NO<sub>x</sub>) in designated eligible counties.

### **1.1 Purpose**

This grant program implements a portion of the Texas Volkswagen (VW) Environmental Mitigation Program (TxVEMP) established and administered by the TCEQ. Visit the TxVEMP website, <[www.TexasVWFund.org](http://www.TexasVWFund.org)>, for more information on the background and purpose of the TxVEMP.

Grants under this program are subject to: (1) Texas Water Code Section 5.124 (TCEQ's authority to award grants); (2) the Uniform Grant and Contract Management Act, Texas Government Code, Section 783.001 et seq., and the Texas Uniform Grant Management Standards (UGMS); (3) TCEQ rules and policies (pertaining to TCEQ contracts and grants); (4) the *Environmental Mitigation Trust Agreement for State Beneficiaries* (Trust Agreement) and the *Beneficiary Mitigation Plan for Texas* (RG-537) (Mitigation Plan); (5) this RFGA; and (6) other applicable Federal and State rules and statutes.

### **1.2 TxVEMP Objectives**

The objectives of the TxVEMP are to:

- reduce NO<sub>x</sub> emissions;
- reduce the potential for exposure of the public to pollutants;
- prepare for increased and sustained use of zero emission vehicles; and
- complement other incentive funding programs.

### **1.3 Program Guidance**

The Trust Agreement, Mitigation Plan, project application forms, project application instructions, maximum funding amount tables, an example contract, and a copy of this RFGA may be viewed and downloaded from the TxVEMP website at <[www.TexasVWFund.org](http://www.TexasVWFund.org)>. The materials may also be obtained by

calling TxVEMP staff at 833-215-TXVW (8989). TCEQ reserves the right to update the final terms of the posted example contract.

## 2.0 PROJECT CRITERIA

### 2.1 Eligible Applicants and Areas

General eligibility requirements are contained in the Trust Agreement and the Mitigation Plan available on the TxVEMP website at <[www.TexasVWFund.org](http://www.TexasVWFund.org)>.

Under this RFGA, any person who operates local freight and port drayage trucks with at least 51% of the vehicle's annual mileage in one of the Priority Areas, as designated below, is potentially eligible to apply for a grant.

All activities in a grant application must be operated **in one primary Priority Area**. Activities with different primary Priority Areas must be applied for under separate applications.

Eligible applicants include individuals, corporations, organizations, governments or governmental subdivisions or agencies, business trusts, partnerships, associations, or any other legal entity. This may include a corporation headquartered outside of the state of Texas, but which operates vehicles primarily in an eligible county in Texas.

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. Any questions regarding the eligibility of an entity to apply for a grant should be referred to the TxVEMP staff early in the application process.

For purposes of determining maximum funding amounts, a "government" shall mean a state or local government agency (including school district, municipality, city, county, special district, joint powers authority, or port authority owning fleets purchased with government funds), and a tribal government or native village. A federal government agency or entity is not included in this definition and will be considered a private entity for purposes of applying the percentage of cost limits included in this RFGA.

This RFGA does not apply to entities intending to serve as a third party for the funding, whereby the grant funding and/or cost savings resulting from the funding will be passed through to the owners or operators of the vehicles.

For this grant funding period, the Priority Areas and eligible counties within those areas include:

1. **Austin Area:** Bastrop, Caldwell, Hays, Travis, and Williamson Counties
2. **Beaumont-Port Arthur Area:** Hardin, Jefferson, and Orange Counties
3. **Bell County:** Bell County
4. **Dallas-Fort Worth Area:** Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties
5. **El Paso County:** El Paso County

6. **Houston-Galveston-Brazoria Area:** Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties
7. **San Antonio Area:** Bexar, Comal, Guadalupe, and Wilson Counties

A map of the Priority Areas is provided in Appendix A.

## **2.2 Eligible Activities — General Requirements**

Activities eligible for incentive funding are intended to reduce NO<sub>x</sub> emissions in the designated Priority Areas through the replacement or repower of Class 4-7 and 8 local freight trucks.

A vehicle eligible for replacement or repower (“eligible vehicle”) must be used to deliver cargo and freight, with a Gross Vehicle Weight Rating (GVWR) greater than 14,000 lbs. Eligible vehicles may include: courier service trucks, delivery trucks, box trucks, waste haulers, dump trucks, and concrete mixers.

An eligible vehicle must also be powered by a diesel engine and be replaced or repowered with a new all-electric, diesel, or alternative fuel (e.g., CNG, propane, hybrid) vehicle or engine. Charging infrastructure associated with a new all-electric engine and hydrogen-fueling infrastructure associated with a new hydrogen fuel cell vehicle can be included as a separate activity within the project application.

Applications will not be accepted for an activity that was included in a project previously awarded a Texas Emissions Reduction Plan (TERP) grant and that was subsequently canceled by the grant recipient after the date of issuance of this RFGA.

A project application may only include activities involving one mitigation action category, replacement vehicle fuel type, and Priority Area. Projects involving different mitigation action categories, fuel types, or Priority Areas should be applied for on separate applications. Please discuss any questions with TxVEMP staff at (833) 215-TXVW (8989) before submitting an application.

## **2.3 Eligible Activities — Replacement and Repower**

The specific eligibility criteria and project requirements for the replacement or repower of Class 4-7 local freight trucks and Class 8 local freight and port drayage trucks are listed below. For this solicitation drayage is defined as trucks hauling cargo to and from seaports, inland ports, and intermodal rail yards at least 200 days per year. The TCEQ may waive certain eligibility requirements on a finding of good cause. Waiver request procedures are explained in detail in Appendix E of this RFGA.

1. Vehicle Being Replaced or Repowered
  - a. Eligible vehicles include Class 4-7 local freight trucks and Class 8 local freight and port drayage trucks with a gross vehicle weight rating greater than 14,001 lbs.

- b. A Class 4-7 local freight trucks and Class 8 local freight and port drayage trucks must be powered by a diesel engine of a model year 1992-2009.
- c. The diesel engine must be certified by the EPA or CARB to a NO<sub>x</sub> emissions standard or family emissions limit (FEL) greater than 0.5 grams of NO<sub>x</sub> per brake horsepower-hour (g/bhp-hr).
- d. The vehicle must currently be used routinely by the applicant in its primary function and be considered capable of performing its primary function for the next five years, consistent with the TxVEMP contract's five-year Activity Life.
- e. The vehicle must currently be registered for operation in Texas and must have been continuously inspected and registered in Texas for the two years immediately preceding the application signature date.
- f. The vehicle must have been used routinely by the applicant in its primary function in its designated Priority Area for the two years immediately preceding the application signature date.
- g. The applicant must own the vehicle at the time of application and must have been listed as the owner on the title for the two years immediately preceding the application signature date. The two-year ownership requirement may be waived when the ownership of the company applying for a grant has changed, the assets of the company have been purchased by another company, or the company has changed names or incorporation status. Applicants should submit additional information with an application to explain this type of situation. In any case, the vehicle should have been owned under either the current company name or the previous company name and registered and operated in Texas for the two years immediately preceding the application signature date.
- h. Applicants must submit documentation with the application showing compliance with the ownership and registration requirements, including a copy of the vehicle title for the two years immediately preceding the application signature date.

## 2. Replacement Vehicle

- a. The engine model year may not be more than one year older than the year the application is submitted.
- b. The engine must be certified by the EPA or CARB to a NO<sub>x</sub> emissions standard or family emissions limit (FEL) of 0.2 g/bhp-hr or lower. An all-electric model will be considered to have 0.0 NO<sub>x</sub> emissions for purposes of this requirement. For a hybrid vehicle that operates on a combination of electricity and diesel or alternative fuel, the diesel or alternative fuel engine must meet these emissions certification requirements.
- c. The replacement vehicle must be of the same type, weight category, and body and axle configuration as the vehicle being replaced. The vehicle must be configured and intended for use in the same way. The TCEQ may accept, in particular cases, a vehicle of a different type, weight category, or body and axle configuration to account for the latest

technology or vehicle type. The replacement vehicle must also be intended for use in the same way, including operation in the same Priority Area, as the vehicle being replaced.

### 3. Repowered Vehicle

- a. The engine model year may not be more than one year older than the year the application is submitted.
- b. The engine must be certified by the EPA or CARB to a NO<sub>x</sub> emissions standard or family emissions limit (FEL) of 0.2 g/bhp-hr or lower. An all-electric model will be considered to have 0.0 NO<sub>x</sub> emissions for purposes of this requirement. For a hybrid vehicle that operates on a combination of electricity and diesel or alternative fuel, the diesel or alternative fuel engine must meet these emissions certification requirements.
- c. The repowered vehicle must be intended for use in the same way, including operation in the same Priority Area, as the vehicle being repowered.

## 2.4 Eligible Activities — Electric and Hydrogen Infrastructure

Electric and hydrogen infrastructure may be included in a project application for the purpose of charging or refueling grant-funded all-electric or hydrogen-fuel cell replacement and repower projects. For purposes of the application, the purchase and installation of the infrastructure will be considered a separate activity.

1. The infrastructure must be associated with charging or providing hydrogen to the replacement or repowered vehicle(s) included in the application. The number of charging and fueling units may not exceed the number of grant-funded vehicles.
2. Reasonable costs to provide for future expansion of the charging or fueling infrastructure may be included (e.g., larger conduit, larger transformer size, more extensive concrete pad, etc.), subject to acceptance by the TCEQ.
3. The infrastructure must be installed at the location or facilities where the grant-funded replacement or repowered vehicle(s) will be charged or provided hydrogen fuel.
4. The applicant is encouraged to own the infrastructure equipment purchased with grant funds for at least the five-year Activity Life. The applicant may, but is not required to, own the property where the infrastructure will be installed.
5. For any grant activity where the grant-funded infrastructure equipment will be acquired and used under a lease or lease-purchase agreement, the period of the lease agreement must extend for at least the Activity Life or, if the lease terminates before the end of the Activity Life, the lease agreement must include a binding commitment for the grant recipient to pay any remaining costs and take ownership of the equipment.
6. Reimbursement will not be authorized for pre-payment of future periodic lease or finance payments. A grant recipient will need to either (i) ensure that payments equal to the grant amount are made before the Contract's Purchase

Expiration Date; or (ii) structure the financing or lease agreement to allow for an up-front payment in return for lower periodic payments.

## 2.5 Disposition of Vehicle or Engine Being Replaced

The grant contract will include specific provisions for destroying the vehicles or engines being replaced and for submitting disposition verification information to the TCEQ.

1. The vehicle or engine being replaced under the grant must be rendered permanently inoperable and available for recycle (e.g., scrapped). This may include creating a 3-inch hole or larger in the engine block on both sides of the engine. For a replacement activity, scrappage must include disabling the vehicle chassis by cutting both vehicle frame rails completely in half. Subject to acceptance by the TCEQ, complete destruction of the vehicle or engine through complete crushing or a similar mechanism may also meet the requirement.
2. The disposition of the vehicle or engine must be completed prior to requesting reimbursement under TxVEMP.
3. You must provide certified evidence of proper disposition on TCEQ forms either before or with the Request for Reimbursement.

## 2.6 Eligible Costs — Replacement

1. The amount of eligible costs that may be reimbursed for each replacement activity is subject to the maximum funding amounts established by the TCEQ for that type of activity. To determine the maximum funding amount for each activity, applicants should refer to the instructions provided in Appendix B of this RFGA.
2. Final reimbursement amounts may not exceed the maximum percentage of cost limits applied to the actual invoice cost of the new vehicle. The maximum percentage of cost limits for replacement projects are provided in Appendix D of this RFGA.
3. Grantees may receive the **lesser amount** of either:
  - a. the applicable table amount under Appendix B, or
  - b. the cost percentage from Appendix D applied to the grantee's actual, eligible expenditures.
4. The eligible costs for replacement activities are provided below.
  - a. The eligible costs for a replacement project may include the capital cost of the purchase of the replacement vehicle.
  - b. Capital Cost - Invoice cost of the vehicle, including taxes, duty, protective in-transit insurance, and freight charges. The cost for an extended warranty to cover the vehicle for the five-year Activity Life may also be included.

## 2.7 Eligible Costs — Repowers

The percentage of eligible costs that may be reimbursed for each repower activity is subject to the maximum percentage of cost limits provided in Appendix D of this RFGA.

Final reimbursement amounts may not exceed the maximum funding amounts established by the TCEQ for that type of activity in Appendix B of this RFGA. To determine the eligible costs for each repower activity, applicants should follow the steps below.

- Step one: Complete and calculate the repower budget using the supplemental form provided in the project application.
- Step two: Determine the maximum percentage of eligible costs for the activity using the table provided in Appendix D of this RFGA.
- Step three: Apply the maximum percentage of eligible costs to the repower budget total.
- Step four: Determine the maximum funding amounts established by the TCEQ for the activity using the instructions provided in Appendix B of this RFGA.
- Step five: Determine the requested grant amount. The requested grant amount should be the lesser of the amounts determined in steps three and four.

The eligible costs for repower activities are provided below. The TCEQ will closely evaluate the reasonableness of these costs in approving a grant and when reviewing and approving a Request for Reimbursement. Based on this information, the TCEQ may set a grant amount that is less than the grant amount requested in the project application or Request for Reimbursement. The eligible costs for a repower project may include capital cost and supplies directly related to the project.

- Equipment and Installation
  - Invoice cost of the new engine, including taxes, duty, protective in-transit insurance, and freight charges.
  - Invoice cost of additional equipment with a per unit acquisition cost of \$5,000 or more and that is necessary for the completion of the repower project.
  - Installation costs, including the cost to remove the old engine, if needed. Installation costs may include costs to re-engineer the vehicle for the new engine to fit. Technical design, testing, and other engineering services required as part of the installation work should also be listed under this subcategory.
- Supplies and Materials – Invoice cost of equipment and materials not included as part of the engine that cost less than \$5,000 and are necessary for the repower of the vehicle.

## 2.8 Eligible Costs — Electric and Hydrogen Infrastructure

The percentage of eligible costs that may be reimbursed for each infrastructure activity is subject to the maximum percentage of cost limits provided in Appendix D of this RFGA.

Final reimbursement amounts may not exceed the maximum funding amounts established by the TCEQ for that type of activity. Applicants should call TxVEMP Staff at 833-215-TXVW (8989) to determine their maximum funding amounts. To determine the eligible costs for each infrastructure activity, applicants should follow the steps below.

- Step one: Complete and calculate the infrastructure budget using the supplemental form provided in the project application.
- Step two: Determine the maximum percentage of eligible costs for the activity using the table provided in Appendix D of this RFGA.
- Step three: Apply the maximum percentage of eligible costs to the repower budget total.
- Step four: Determine your maximum funding amount by calling TxVEMP Staff at 833-215-TXVW (8989).
- Step five: Determine the requested grant amount. The requested grant amount should be the lesser of the amounts determined in steps three and four.

The eligible costs for infrastructure activities are provided below. The TCEQ will closely evaluate the reasonableness of these costs in approving a grant and when reviewing and approving a Request for Reimbursement. Based on this information, the TCEQ may set a grant amount that is less than the grant amount requested in the project application or Request for Reimbursement.

- The eligible costs for electric infrastructure to charge an electric vehicle or provide hydrogen fuel to a fuel cell vehicle may include capital costs and supplies **directly** related to the project. On-site electrical work or work necessary to install hydrogen fueling infrastructure may be included. Electrical work or natural gas line work outside of the subject property may not be reimbursed under the grant.
- The TCEQ will withhold reimbursement for the infrastructure costs until all vehicles to be provided electricity or hydrogen from the infrastructure have been replaced or repowered and the reimbursement submitted.
  - Capital Costs - Equipment and Installation
    - Invoice cost or cash basis for the lease of the equipment, including taxes, duty, protective in-transit insurance, and freight charges.
    - Invoice cost of additional equipment with a per unit acquisition cost of \$5,000 or more and that is necessary for the completion of the project.

- Installation of the equipment and associated on-site electrical work. Technical design, testing, and other engineering services required as part of the installation work should also be listed under this subcategory. The costs for permitting required as part of the installation may also be included.
- Supplies and Materials – Invoice cost of equipment and materials not included as part of the infrastructure system itself that cost less than \$5,000 and are necessary for the installation of the equipment.
- Ineligible Costs
  - The purchase of land or an interest in land is not eligible for funding.
  - Site improvements, construction and buildings, and other costs not directly associated with the purchase and installation of the equipment may not be included. For example, paving of a parking lot may not be included, but limited repaving necessary after running new electrical conduit may be included as an installation cost.

## 2.9 Additional Requirements

Additional criteria that apply to activities funded under this program are discussed below:

1. Activities involving different vehicle or fuel types must be submitted using separate applications. Activities that include charging or hydrogen fueling infrastructure may not be included in the same application as activities that do not include the purchase of infrastructure.
2. An activity is not eligible if it is required by any state or federal law, rule, regulation, memorandum of agreement, or other legally binding document.
3. Activities funded under this program are not eligible to generate marketable credits under state or federal emissions reduction credit averaging, banking, or trading programs.
4. Any existing financial incentive that directly reduces the cost of the proposed activity, such as tax credits or deductions, other grants, or any other public financial assistance must be accounted for in the application. The grant reimbursement plus financial incentives must not exceed 100% of the total cost of the proposed activity.
5. The purchases under the grant may not have been completed prior to the opening date of the grant application period under this RFGA. Under this provision, a vehicle may not have been paid for in full and taken delivery of prior to the opening date of the RFGA. However, a vehicle may have been ordered prior to the opening date of the RFGA and the purchase secured with a down payment.
6. The TCEQ provides no assurances that a project will be awarded a grant. The TCEQ has no liability for expenses incurred by an applicant prior to the execution of a grant contract.

7. Entities selected to receive grant funding must enter into a contract with the TCEQ. All services or work carried out under a contract awarded as a result of this RFGA must be completed within the scope, time frames, and funding limitations specified in the contract.
8. Administrative costs and other internal costs to the grant recipient, including but not limited to personnel expenses, internal salaries, indirect costs, and travel are not eligible for grant funding under this RFGA. This restriction also applies to situations where the grant recipient acts as a transportation provider for delivery of the grant-funded vehicle or equipment before or after acceptance of the vehicle or equipment.
9. In cases where a grant recipient acts as both the purchaser and the vendor for equipment or services, only the direct costs to the grantee may be considered in determining the reimbursable amount. Grantees may not profit from the grant.
10. Under Section 231.006, Texas Family Code, a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% is not eligible to receive a state-funded grant or loan. This provision also applies to the funds under this program. All applicants under this RFGA must include in the application the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the application. The certifying official submitting the application must also certify in the application that the individual or business entity named in the application is not ineligible to receive the grant and acknowledges that the grant contract may be terminated, and payment may be withheld if the certification is inaccurate.
11. Applicants must submit a W-9 Form (Request for Taxpayer Identification Number and Certification Form) when submitting the application.
12. Vehicles may be acquired under a commercial financing agreement resulting in the grant recipient's purchase and ownership of the equipment (such as a capital lease or finance lease). Leases that do not meet this criterion are ineligible.

### **3.0 DESIGNATED ACTIVITY LIFE**

The Activity Life for activities submitted under this RFGA will be five years. The specific start and end dates will be established by the TCEQ once reimbursements are completed.

### **4.0 PERCENTAGE OF USE COMMITMENT**

Applicants must list a Priority Area for use of the vehicles included in the project application. Activities with different Priority Areas must be applied for under separate applications. The applicant must commit to use the grant-funded vehicle at least 51% of the vehicle's annual miles of operation in the listed Priority Area as designated in the application and contract.

## 5.0 MONITORING AND REPORTING

1. The grant recipient must agree to monitor the use of grant-funded vehicles and equipment for the designated five-year Activity Life.
2. Annual reports on the use of the grant-funded vehicles and equipment will not be required. However, the grant recipient must agree to provide information on the use of the vehicles and equipment upon request by the TCEQ. The grant recipient must also agree to provide the TCEQ and/or the State Auditor, or their representatives, access to the vehicles and equipment and to records regarding use of the vehicles and equipment.

## 6.0 FUNDING

The total amount awarded under this RGFA will depend upon the amount of funds available to the TCEQ under the Trust Agreement and the amount allocated by the TCEQ to this RFGA. The TCEQ will not be obligated to select project proposals to cover the full amount of expected or available funding.

The TCEQ will not be obligated to select applications for funding, even if received within the application deadline. Based on the number and types of applications received, the TCEQ may establish a funding limit that is less than the available funding, and projects may be offered funding for select parts of a proposal or less than the amount requested in the application. Applications may also be held until a later date.

The TCEQ may make selection for funding contingent upon agreement by the applicant with additional conditions or changes to the project pertaining to equipment, logistical considerations, expenses, and other program elements.

## 7.0 APPLICATION PROCESS

### 7.1 Required Forms

This RFGA, grant application forms, and grant application form instructions may be viewed and downloaded from the TxVEMP website at [www.TexasVWFund.org](http://www.TexasVWFund.org). The materials may also be obtained by calling TxVEMP staff at (833) 215-TXVW (8989).

### 7.2 Application Submission

To apply for funding, applicants must complete and submit a grant application. Two (2) copies of the completed forms must be submitted to:

**Regular Mail:**

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

### **Express Mail or Hand Delivery**

Texas Commission on Environmental Quality  
Air Grants Division  
Texas Volkswagen Environmental Mitigation Program (TxVEMP), MC-204  
12100 Park 35 Circle  
Austin, TX 78753

### **7.3 Deadline for Submission**

Unless the acceptance of applications is suspended by the TCEQ prior to the application deadline applications must be completed according to the application instructions and received at the front desk, Rm. 1301, 1st floor of Building F on the premises of the TCEQ no later than 5:00 p.m. Central Time, January 27, 2021. Applications received in the TCEQ mail room on this date are not guaranteed to be delivered to Rm. 1301 by the required deadline, so applicants are encouraged to plan their submission accordingly. Applicants are encouraged to submit an application as early as possible.

The TCEQ may suspend acceptance and/or processing of applications at any time during the application period with no obligation to continue processing an otherwise eligible application received within the deadline through an addendum posted to the ESD.

### **7.4 Use of Consultants**

Private consultants may be available to assist an applicant to complete and submit an application. These consultants do not represent the TCEQ, and the TCEQ neither encourages nor discourages the use of a consultant to assist with the application process. The TCEQ has no agreement with any consultant that applications submitted by a particular consultant will receive more favorable treatment than other applications.

Any fees charged by a consultant are the responsibility of the applicant or the vendor and may not be reimbursed by TCEQ under this grant, either directly or as an addition to the cost basis of the grant-funded vehicle or equipment. This includes third-party consultant costs to coordinate the work and submit reports and paperwork to the TCEQ.

All purchase decisions must be based on sound business practices and arms-length bargaining. It is generally considered acceptable for an applicant to accept assistance from a vendor or an agent of a vendor in preparing an application, as long as any decision by the applicant to purchase the grant-funded vehicle or equipment from that vendor is made independently and meets the other reasonableness provisions in the grant contract. This restriction is not intended to limit the ability of the vehicle or equipment provider or installer to include reasonable and necessary costs for managing the work to be performed in the price of the vehicle, equipment, or installation services. The costs for professional services, including engineering and technical work, required for completion of the activity may be included, subject to the restrictions pertaining to that type of project.

The applicant must indicate on the application if the application was prepared by a third party. In those cases, the third-party preparer must also sign the application and certify that the information provided is correct.

## 7.5 Additional Program Information

Individuals desiring further information are encouraged to call the TxVEMP staff at (833) 215-TXVW (8989).

## 7.6 Public Information

Upon submission, all proposals become the property of the State of Texas and as such become subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

## 8.0 SELECTION CRITERIA

### 8.1 Primary Criteria

- a. **First-Come, First-Served.** Applications will be date and time stamped as they are received by TxVEMP staff, not as they are received in the TCEQ mail. Subject to the additional criteria in this section, properly completed and eligible projects will be processed for approval on a first-come, first-served basis. Incomplete or ineligible applications will be returned to the applicant. Corrected or changed applications will be considered based on the date and time at which the corrected or changed versions are received and stamped by TxVEMP staff. Properly completed and eligible applications will be reviewed by TxVEMP staff and may be recommended for award.
- b. **Number of Vehicles.** An entity may only apply for and be approved for the replacement or repower of no more than 20 vehicles per Priority Area, either in one application or multiple applications, every three months. The TCEQ may extend or reduce the three months through issuing an addendum to this RFGA, if warranted to ensure funding for the greatest number and geographic range of applicants and projects.

### 8.2 Additional Criteria

In addition to the selection criteria explained above, the TCEQ may consider the additional criteria explained below when selecting applications for grant funding. The TCEQ is not obligated to select a project for funding. Awarded projects are also based on a determination of the risks and other factors associated with the applicant and/or project, including the factors outlined below:

1. The TCEQ may base funding decisions on other factors associated with best achieving the goals of the program. As part of this consideration, the TCEQ may give priority to projects in certain areas and/or for certain mitigation actions.

2. The TCEQ may assess the risks associated with a project and may classify or otherwise categorize projects according to the assessed risks separate from the general scoring and ranking, including adjusting the ranking to account for those risks.
3. The TCEQ is not obligated to fund a proposal from an applicant that has demonstrated marginal or unsatisfactory performance on previous contracts with the TCEQ and other state agencies. Not meeting contractual commitments or being invoiced by the TCEQ may be used as a basis to lower or otherwise change the priority and ranking of an application.
4. The TCEQ is not obligated to fund a proposal from an applicant or a project based on a determination of risk. Risk may include the financial condition of the applicant, the extent to which application information is verified by supporting documentation, pre-award site visit evaluation, and other risk factors as may be determined by the TCEQ. The TCEQ may also include additional controls in a grant contract to address the risks that may be involved with providing a grant to an applicant considered to be high risk.
5. The TCEQ is not obligated to fund a proposal from an applicant that is under federal, state, or local enforcement action for violation of environmental laws or permit conditions.
6. The TCEQ is not obligated to fund a proposal from an applicant with an overall compliance history classification of Unsatisfactory (55.01 or greater) on the TCEQ's Compliance History Database, for applicants that are subject to the rating.
7. In order to ensure that all allocated funds are used under this program, the TCEQ may select projects and award contracts that may ultimately exceed the amount of funding received.

## **9.0 APPLICATION REVIEW AND SELECTION PROCESS**

### **9.1 Grant Award and Contracting**

Successful applicants will be notified by phone or other means of their selection and the amount of grant funds that may be awarded. At that time, the applicant will need to confirm to the TCEQ if the applicant intends to accept the grant. A grant contract will be developed and provided to the applicant to sign and return to the TCEQ. Upon signature and execution of the contract by the TCEQ, a copy of the signed contract will be returned to the applicant, at which time the grant will be considered awarded.

### **9.2 Contract Term**

There are two important periods of time under this grant.

First, the Contract Term is the period setting the time limit for financial purposes. This is an administrative period which begins on the date the contract is signed and ends when TCEQ authorizes final reimbursement.

The second is the Activity Life which begins once reimbursement is received. It continues beyond the expiration date of the Contract Term and extends to the longest Activity Life of any activity under the TxVEMP contract.

The grant recipient must agree to these commitments for achieving emissions reductions for the life of each activity. Before signing a grant contract, grant recipients must read and agree to the commitments under the grant contract, including the deadlines for incurring expenses and requesting reimbursement and the obligations over the full Activity Life.

## **10.0 GRANT ADMINISTRATION AND REIMBURSEMENT OF EXPENSES**

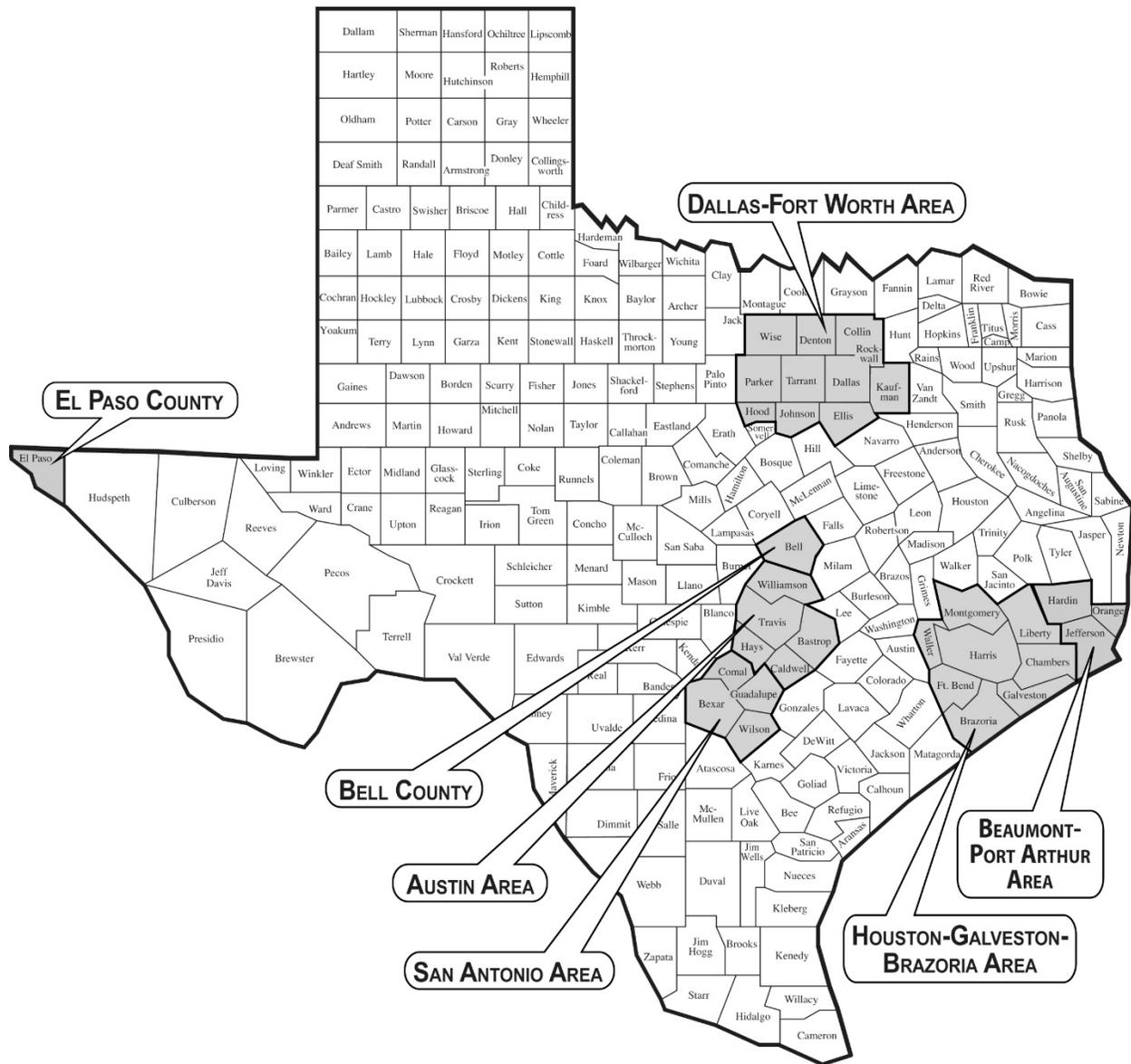
- a. Except as provided for under Section b. below, payments will be made on a reimbursement basis for eligible expenses incurred and paid by the grant recipient. A cost may not be considered incurred until the grant-funded goods and services have been received and accepted by the grant recipient. Grant recipients will be required to provide documentation to show that equipment or services have been received and the expenses have been incurred and paid by the grant recipient, before reimbursement is provided by the TCEQ.
- b. Subject to approval by the TCEQ, the grant recipient may assign the payments due from the TCEQ directly to the supplier, subcontractor, financing or leasing company, or other entity from which the goods or services were procured or financed by the grant recipient. Under this option, the goods and services to be reimbursed must have been received and accepted by the grant recipient and the grant recipient must have an obligation to pay the expense.
- c. A summary of all expenses and budget items must be submitted with the request for reimbursement. These forms will also be available on the TxVEMP website <[www.TexasVWFund.org](http://www.TexasVWFund.org)> or by calling the toll free TxVEMP number at (833) 215-TXVW (8989).
- d. The TCEQ will reimburse the grant recipient for no more than the predetermined maximum funding amounts established by the TCEQ for that type of activity (see Appendix B). This amount may be adjusted downward in accordance with the maximum percentage of cost limits (Appendix D).
- e. Before applying the percentages to the vehicle or engine costs, the costs must be reduced by the value of the vehicle or engine being scrapped. For on-road vehicle replacement projects, the TCEQ will use a default scrap value of \$1,000 in lieu of the grant recipient reporting the actual compensation received. For on-road vehicle repower projects, the TCEQ may use a default scrap value of \$250.
- f. Unless otherwise approved by the TCEQ, all project costs must have been incurred and grant funded vehicles received before the Purchase Expiration Date as explained in the contract.
- g. Reimbursement will not be authorized for pre-payment of future finance payments. A grant recipient will need to either ensure that sufficient payments will be made before the Purchase Expiration Date or structure the finance agreement to allow for an up-front down payment.

- h. Reimbursement will be disbursed via check issued by Wilmington Trust, N.A., the Trustee of the Volkswagen Settlement Trust, as directed by TCEQ. Wilmington Trust, N.A., is not liable for any losses or damages in connection with any actions it takes or does not take as Trustee or as Disburser.

## **11.0 CONSIDERATION OF APPLICATION IN FUTURE GRANT ROUNDS**

The TCEQ may, at its discretion, retain applications not selected for funding under this RFGA for consideration under a new RFGA issued for a future TxVEMP grant round. Applicants will be notified by the TCEQ if their application is retained for consideration under a future grant round and will be given the option of withdrawing their application from consideration.

## APPENDIX A: PRIORITY AREAS



This map was generated by the Air Grants Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Air Grants Division at 512-239-4900.

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## **APPENDIX B: MAXIMUM FUNDING AMOUNTS**

Instructions are provided below to determine the maximum funding amount available for a proposed replacement or repower activity. Applicants with an infrastructure activity should call TxVEMP Staff at 833-215-TXVW (8989) to determine their maximum funding amount. Tables are available at the TxVEMP website, <[www.TexasVWFund.org](http://www.TexasVWFund.org)>.

### **Step 1. Navigate to the Table for your Entity and Activity Type**

Tables are organized by entity and activity type (replacement or repower). For purposes of determining maximum funding amounts, a “government” shall mean a state or local government agency (including school district, municipality, city, county, special district, joint powers authority, or port authority owning fleets purchased with government funds), and a tribal government or native village. A federal government agency or entity is not included in this definition and will be considered a private entity for purposes of determining maximum funding amounts.

### **Step 2. Determine the Type of Vehicle**

The eligible types of vehicles are listed on the funding tables. Under this RFGA, Class 4-7 local freight trucks and Class 8 local freight and port drayage trucks are eligible for consideration.

**Eligible Local Freight Trucks** include a vehicle with a Gross Vehicle Weight Rating (GVWR) of 14,001 pounds or greater. Eligible vehicles may include:

- **Delivery Trucks**
- **Courier Services**
- **Box Trucks moving freight**
- **Dump Trucks**
- **Waste Haulers**
- **Concrete Mixers**
- **Port Drayage Trucks**

### **Step 3. Determine the Engine Year and Emission Standard of the Vehicle and Engine being replaced**

You must know the model year of your current vehicle and engine. If the original engine was replaced with a later model year engine, use the model year of the engine and not the year of the vehicle itself.

On-road heavy-duty engines are certified by the U.S. Environmental Protection Agency (EPA) to meet federal nitrogen oxides (NO<sub>x</sub>) emission standards established by year. The 2010 EPA NO<sub>x</sub> emission rate standard for heavy-duty, compression ignition, on-road vehicles was phased-in from 2007 thru 2010. Engines produced during these years may have a range of NO<sub>x</sub> emission rates. If the EPA certified emission rate for an engine manufactured between 2007 and 2009 falls between one of the NO<sub>x</sub> emission rate values listed on the table, round up to the nearest listed value for the purposes of determining an eligible grant amount.

If an applicant intends to submit a project with infrastructure, contact TxVEMP staff to determine the eligible grant amount.

**Step 4. Determine the Emission Standard of the New Vehicle and Engine**

There are three options for the emission standard applicable to the new engine. Most new heavy-duty diesel engines will be certified to an emission standard of 0.2 g/bhp-hr of NO<sub>x</sub>. New alternative fuel engines (CNG, LNG, LPG, etc.) may be certified to either the federal standard of 0.2 g/bhp-hr of NO<sub>x</sub>, or the optional California low-NO<sub>x</sub> standard of 0.02 g/bhp-hr of NO<sub>x</sub>. For all-electric vehicles and engines, use the 0.0 g/bhp-hr of NO<sub>x</sub> option.

**Step 5. Determine the Maximum Funding Amount**

Find the appropriate line applicable to the vehicle and the new engine emission standard. Go across to the column representing the emission standard for the engine being replaced. Note the maximum funding amount listed for that activity.

## APPENDIX C: NO<sub>x</sub> EMISSION STANDARDS

### On-Road Heavy-Duty Diesel Compression-Ignition Engines

NO<sub>x</sub> Emission Standards by Model Year

Emissions Model Year	Diesel Engines Emissions Standard	
	NO <sub>x</sub> Only (g/bhp-hr)	NO <sub>x</sub> +NMHC (g/bhp-hr)
1989 and earlier	10.7	
1990	6.0	
1991-1997	5.0	
1998-2003	4.0 <sup>1</sup>	
2004 -2006	2.375	2.5
2007 - 2009	2.375 - 0.2 <sup>2</sup>	

<sup>1</sup> Under 1998 Consent Decrees, some manufacturers supplied engines compliant with the more stringent 2.375 g/bhp-hr NO<sub>x</sub> standard beginning in October 2002. For model year 2003 engines, applicants must be sure to confirm the applicable emission standard, based on the engine family code.

<sup>2</sup> For 2007-2009 model years, NO<sub>x</sub> standards were phased-in on a percent-of-sales basis: 50% in 2007-2009 and 100% in 2010. Most manufacturers certified their 2007-2009 engines to a NO<sub>x</sub> limit of about 1.2 g/bhp·hr, based on a fleet average calculation.

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**APPENDIX D: MAXIMUM PERCENTAGE OF COST LIMITS AND AVAILABLE FUNDING BY AREA**

Table 1. Maximum Percentage of Cost Limits

<b>Government-Owned</b>	
Replacement or Repower-Electric, Diesel, or Alternative Fuel	80%
<b>Non-Government-Owned</b>	
Replacement - Diesel or Alternative Fuel	25%
Repower - Diesel or Alternative Fuel	40%
Replacement or Repower - Electric	50%

Table 2. Available Funding by Area

<b>Priority Area</b>	<b>Total Allocation</b>	<b>Funding by Priority Area</b>
Dallas-Fort Worth	\$33,385,160	\$6,677,032
Houston-Galveston-Brazoria	\$31,826,279	\$6,046,993
San Antonio	\$61,585,516	\$12,317,103
Austin	\$16,297,602	\$3,259,521
El Paso	\$16,814,031	\$3,362,806
Beaumont-Port Arthur	\$7,556,869	\$1,435,805
Bell County	\$2,083,065	\$416,613
<b>Total</b>	<b>\$169,548,522</b>	<b>\$33,515,873</b>

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## **APPENDIX E: WAIVER OF CERTAIN ELIGIBILITY REQUIREMENTS**

### **PURPOSE**

The TCEQ may consider a request to waive one or more eligibility requirements based on a finding of good cause, which may include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

This appendix contains the procedures a grant applicant must use to request a waiver to one or more of the eligibility requirements.

### **BASIS FOR A DETERMINATION OF GOOD CAUSE**

As stated in the RFGA, this program is to provide grants for eligible activities to reduce emissions of NO<sub>x</sub> from older diesel engines in the Priority Areas. The eligibility requirements are established to ensure that the grant-funded projects will achieve the NO<sub>x</sub> emissions reductions.

Any decision to grant a waiver must ensure that the emissions reductions attributable to the project will still be valid.

It may be difficult for the TCEQ to determine that there is good cause to waive the core eligibility requirements, including standards for achieving a minimum level of emissions reductions, area of use requirements, Activity Life requirements, and similar requirements. Applicants would need to establish that reductions in NO<sub>x</sub> will still be achieved. A waiver to eligibility requirements that would result in reduced NO<sub>x</sub> emissions reductions or emissions reductions in areas not identified as a priority for reducing NO<sub>x</sub> emissions may not meet this requirement.

For other eligibility requirements, such as the ownership, registration, and use requirements for vehicles being replaced or repowered, it may be easier to determine good cause for a waiver. The basis for the ownership, registration, and use requirements is, in part, a way to validate that a project will result in reductions in NO<sub>x</sub> emissions and other pollutants, when compared with what would have happened if the grant were not awarded.

In order for projections of emissions reductions attributable to a project to be valid, there must be reasonable assurance that, absent the grant, the grant applicant would have continued to use the vehicle being replaced or repowered, for the same purposes and amount of use, and in the same area of use, for the period over which the emissions reductions are being considered.

A project that only assists with regular fleet turnover or to replace vehicles that have already been taken out of service or put into limited service does not meet the criteria. Similarly, without requirements on past ownership and use, there is a risk that a grant applicant could purchase an old vehicle, or otherwise transfer a vehicle from out-of-state, solely for the purpose of obtaining a grant.

The TCEQ's determination of whether there is good cause to grant a waiver will be based on an evaluation of the factors explained above. Grant applicants are required in a request for a waiver to explain how there is good cause to grant a waiver and justification for determining that, with the waiver, that the emissions reductions attributable to the project will still be valid.

## **STANDARD SITUATIONS**

All waiver requests will be considered on a case-by-case basis, with no assurance that a waiver will be granted. However, there are several standard situations where a determination of good cause may be easier to make. Some of these situations for replacement or repower projects are outlined below.

- a. The two-year ownership or lease requirement might be waived when the ownership of the company applying for a grant has changed, the assets of the company have been purchased by another company, or the company has changed names or incorporation status. In any case, the vehicle should have been owned or the vehicle leased under either the current company name or the previous company name and registered and operated in Texas for the preceding two years.
- b. Regardless of the past ownership or lease, the grant applicant must currently have authority to destroy a vehicle being replaced. For vehicles, this normally will require that the grant applicant be listed as the owner on the current title.
- c. For uses other than seasonal use, short lapses in vehicle registration and/or use of two months or less over a one-year period might constitute good cause as long as the ownership or lease holder of the vehicle did not change. The reasons provided in the waiver request for the lapse in registration and/or use should clearly show that the vehicle would continue to be used by the grant applicant and that the lapse in registration or use was not a permanent situation.
- d. For vehicles used in seasonal work, good cause might be considered for lapses in registration and/or use during the non-seasonal period. Under this situation, lapses in registration or use for longer than six months over a one-year period would be more difficult to justify. An explanation of the type of use and the normal season(s) for that use will need to be provided.
- e. Other situations, including longer lapses in ownership, registration, or use, may also be considered, case-by-case. The burden is on the grant applicant to fully explain why a waiver should be granted and to justify that there is good cause to grant the waiver request.

## **INSTRUCTIONS FOR COMPLETING AND SUBMITTING A WAIVER REQUEST**

Requests for a waiver must be submitted in writing, with an original signature of the authorizing official of the grant applicant.

Grant applicants should follow the example format provided in Attachment 1 to this appendix to prepare the written waiver request(s). As shown on the example format, the request should include a cover letter signed by the authorizing official and attesting to the accuracy of the information provided. Required waiver information should be completed for each vehicle included in the request and enclosed with the cover letter.

One waiver request may be used for multiple vehicles that will be included on a single grant application. However, in order to ensure that waiver requests and approvals can be associated with a particular application, separate waiver requests should be submitted for vehicles that will be included in separate applications.

The waiver request must be included with the application documents. The TCEQ may determine an application incomplete if the waiver request is not received either before the application or with the application materials.

Waiver requests not submitted with an application should be sent to:

**Regular Mail:**

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

**Express Mail or Hand Delivery:**

Texas Commission on Environmental Quality  
Air Grants Division  
Texas Volkswagen Environmental Mitigation Program (TxVEMP), MC-204  
12100 Park 35 Circle  
Austin, TX 78753

**WAIVER REQUEST REVIEW AND APPROVAL/DISAPPROVAL PROCEDURES**

- a. Waiver requests submitted with an application will be considered along with the application. If possible, grant applicants will be notified of the decision on the waiver request prior to the grant selection process.
- b. If a waiver request is approved, the conditions under which the waivers were granted may be included in the Contract. By signing the contract, the grant applicant will be attesting to the validity of the conditions under which the waiver was granted.
- c. A grant applicant that is not satisfied with a decision of the TCEQ to disapprove a waiver request may file an appeal of that decision with the TCEQ. An appeal must be submitted by mail, fax, or scanned document through electronic mail to the Division Director, Air Grants Division, within ten calendar days after the grant applicant received, or should have received, official notification by the TCEQ that a waiver request was denied. If denial is sent by mail, the grant applicant is deemed to have received the denial within three business days after the mailing date. If denial is sent electronically, the grant applicant is deemed to have received the denial on the date sent.

The TCEQ has the discretion to allow an appeal filed after ten calendar days if the protestant shows good cause for the late filing or if the protestant raises an issue significant to the general policies or procedures of the waiver request process.

An appeal must be in writing and identified as an appeal of the TCEQ's decision on the specific waiver request in question, and must contain the following:

- 1) a description to verify that the protestant is the grant applicant that submitted the waiver request;
- 2) the issue(s) being disputed and the requested remedy;
- 3) the applicant's argument supporting the appeal, including a statement of relevant facts and applicable law or requirement, specifying the statutes, rules, grant requirements or other legal authority alleged to not have been followed and why good cause should be determined to grant the waiver request; and
- 4) the applicant's affirmation that facts set forth in the appeal are true.

Upon receipt of an appeal conforming to these requirements, the TCEQ may, at its discretion, hold the grant selection and award decisions, pending resolution of any appeals. A decision on whether to delay the grant selection and award process may be based on the impact of that decision on the ability of the program to successfully award the available funds in required time frames, as well as other factors associated with the needs of the program.

An application that does not otherwise meet the conditions and requirements for approval of a grant, regardless of the decision on a waiver request, will not be reconsidered just because an appeal is received regarding the waiver request decision.

The Executive Director of the TCEQ or an authorized designee will review the appeal and make a decision. The Executive Director or designee may solicit additional information from the protestant and other appropriate parties and may offer the protestant the opportunity to meet to discuss the waiver request and appeal.

The decision of the Executive Director or authorized designee on the appeal and the waiver request, as communicated in writing or other appropriate means, may be final.

## **ATTACHMENT TO APPENDIX E**

### **Format for Waiver Requests**

Cover Letter – The cover letter should be signed by the Authorized Official and include the underlying instructions below.

Legal Name of Grant Applicant

Project Representative Name

Address

Contact E-Mail

Contact Phone Number

### **Vehicle Information**

Vehicle Description

Vehicle Identification Number (VIN)

Make/Model/Year (as applicable)

### **Documentation**

List the requirement(s) for which the waiver(s) is/are requested.

For each requirement, explain in detail how the project does not meet the requirement(s) and why.

Provide a detailed explanation of why there is good cause to grant the waiver. Refer to the instructions for examples of situations where good cause may be determined.

For vehicles used in seasonal work, provide a detailed explanation of the type of work performed, the normal season for use of the vehicle, and why the vehicle is only registered and used over that seasonal period.

Attach documentation to support the waiver request, such as title documents, lease and sales agreements, registration receipts, ownership agreements, etc.

As explained in the instructions, the justification provided for granting the waiver must clearly demonstrate that the emissions reductions attributable to the project will still be valid.