

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Texas

Lead Agency Authorized to Act on Behalf of the Beneficiary Texas Commission on Environmental Quality (TCEQ)
(Any authorized person with delegation of such authority to direct the Trustee delivered to the Trustee pursuant to a Delegation of Authority and Certificate of Incumbency)

Action Title:	TxVEMP Projects to Replace or Repower Forklifts and Port Cargo Handling Equipment
Beneficiary's Project ID:	013050/00
Funding Request No.	<i>(sequential)</i>
Request Type: (select one or more)	<input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>Vendors and Lead Agency</u>
Funding Request & Direction (Attachment A)	<input type="checkbox"/> Attached to this Certification <input checked="" type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action <input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Forklifts and Port Cargo Handling Equipment</u>
Action Type <input type="checkbox"/> Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal):
Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1): See Attachment
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): These actions will mitigate nitrogen oxides (NOx) emissions that can impact the formation of ground-level ozone in local and regional areas. See attachment.
Estimate of Anticipated NOx Reductions (5.2.3): TCEQ estimates that projects funded under this action will mitigate approximately 187.6 tons of NOx over a four-year period.
Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1): TCEQ
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). See Attachment
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See Attachment
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). See Attachment

If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).
See Attachment

ATTACHMENTS
(CHECK BOX IF ATTACHED)

- Attachment A Funding Request and Direction.
- Attachment B Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).
- Attachment C Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).
- Attachment D Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). [Attach only if project involves vendor expenditures exceeding \$25,000.]
- Attachment E DERA Option (5.2.12). [Attach only if using DERA option.]
- Attachment F Attachment specifying amount of requested funding to be debited against each beneficiary's allocation (5.2.13). [Attach only if this is a joint application involving multiple beneficiaries.]

CERTIFICATIONS

By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary State of Texas,

and the person executing this certification has authority to make this certification on behalf of the Lead Agency and Beneficiary, pursuant to the Certification for Beneficiary Status filed with the Court.
2. Beneficiary requests and directs that the Trustee make the payments described in this application and Attachment A to this Form.
3. This application contains all information and certifications required by Paragraph 5.2 of the Trust Agreement, and the Trustee may rely on this application, Attachment A, and related certifications in making disbursements of trust funds for the aforementioned Project ID.
4. Any vendors were or will be selected in accordance with a jurisdiction's public contracting law as applicable. (5.2.5)
5. Beneficiary will maintain and make publicly available all documentation submitted in

support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED: 4/25/23



[NAME] Jon Niermann, Chairman
[TITLE]

Texas Commission on Environmental Quality

[LEAD AGENCY]

for
State of Texas

[BENEFICIARY]

[SAMPLE ATTACHMENT B - USE OF THIS FORMAT IS NOT MANDATORY]

PROJECT MANAGEMENT PLAN
PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Lead Agency Provides Notice of Availability of Mitigation Action Funds	
Project Sponsor Submits Proposal to Lead Agency	
Lead Agency Provides Written Approval of Project Sponsor's Proposal	
Lead Agency Incorporates Project Sponsor's Proposal into Mitigation Plan	
Trustee Acknowledges Receipt of Project Certification and Funding Direction	
Trustee Allocates Share of State Funds for Approved Project	
Lead Agency Directs Funding (Advance Funded Projects)	
Project Sponsor Obtains Cost Share, Notifies or Certifies to Lead Agency	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Start	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	
Project Installation(s) – Start	
Project Installation(s) – Complete	
Project Sponsor provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to Lead Agency to support direction to Trustee for Payment (Reimbursement, Direct-to-Vendor) or final accounting (Forward Funded Projects)	-
Lead Agency completes review and certifies payment direction to Trustee (Reimbursement)	
Trustee Acknowledges Receipt of Direction for Payment(s) (Advance Funded, Reimbursement)	-
Project Sponsor Certifies Project Completion	
Lead Agency Reports Project Completion	

PROJECT BUDGET

Period of Performance: _____				
Budget Category	Total Approved Budget	Share of Total Budget to be Funded by the Trust	Cost-Share, if applicable (Entity #1)	Cost-Share, if applicable (Entity #2)
1. Equipment Expenditure	\$	\$	\$	\$
2. Contractor Support <i>(Provide List of Approved Contractors as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$
3. Subrecipient Support <i>(Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$
4. Administrative ¹	\$	\$	\$	\$
Project Totals	\$	\$	\$	\$
Percentage	%	%	%	%

¹ Subject to Appendix D-2 15% administrative cap.

PROJECTED TRUST ALLOCATIONS:

	2017	2018	2019	2020	2021
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$	\$	\$	\$	\$
2. Anticipated Annual Cost Share	\$	\$	\$	\$	\$
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$	\$	\$	\$	\$
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$	\$	\$	\$	\$
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$	\$	\$	\$	\$
6. Total Funding Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$	\$	\$	\$	\$
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$	\$	\$	\$	\$
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$	\$	\$	\$	\$

Supplemental Form to Appendix D4

Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1).

TCEQ requests \$17,428,253.44 in funds for the replacement or repower of older model diesel or spark-ignition forklifts and port cargo handling equipment with new electric models. Projects funded under this request will mitigate the potential for exposure of the public to pollutants. (Refer to Page 3, Beneficiary Mitigation Plan for Texas for additional information.)

Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2).

This category includes the replacement or repower of forklifts and port cargo handling equipment with new electric models. Eligible forklifts must have a lift capacity greater than 8,000 pounds and may include reach stackers, side loaders, and top loaders. Eligible port cargo handling equipment may include rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors. Eligible equipment must have a Tier 0, 1, or 2 diesel engine, or spark-ignition engine that is uncertified or certified to 3.0 g/bhp-hr of NO_x or greater.

Many of the facilities where this type of equipment is operated are in areas identified as Priority Areas and many of these facilities are surrounded by communities where there is the potential for the public to be exposed to a higher concentration of pollutants emitted from older diesel engines operating at the facility. These actions will reduce pollutant emissions levels in these areas and will directly address the program goals.

Describe how the Beneficiary will make documentation publicly available (5.2.7.2).

Documents will be made publicly available through the:

- Texas Volkswagen Environmental Mitigation Program (TxVEMP) website: www.TexasVWFund.org;
- TxVEMP email subscription list; and
- Texas Electronic State Business Daily website.

In addition, TCEQ will be hosting webinars to assist applicants with the application process.

Describe any cost share requirement to be placed on each NO_x source proposed to be mitigated (5.2.8).

Grants will be awarded on a first-come, first-served basis. An applicant may apply for and may be reimbursed for no more than the maximum percentage of cost limits or a predetermined table amount, whichever is less. See below for the maximum percentage of cost limits.

Government-Owned	
Replacements, Repowers - Electric	100 %
Non-Government Owned	
Replacement - Electric	75%
Repower - Electric	75%

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 TCEQ.

Describe how the Beneficiary complied with the subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).

In accordance with Section 4.2.8 of the State Trust Agreement, TCEQ provided notice via email to the U.S. Department of Interior and U.S. Department of Agriculture of the opportunity to request Volkswagen mitigation action funds. This notice included a copy of the State Trust Agreement and informed them of the opportunity to comment on Texas' draft Beneficiary Mitigation Plan.

If applicable, describe how the mitigation action will mitigate the impacts of NO_x emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).

The plan identifies seven Priority Areas that bear a disproportionate share of air pollution and particularly ozone within Texas:

- Dallas-Fort Worth Area
- Houston-Galveston-Brazoria Area
- San Antonio Area
- Austin Area
- El Paso County
- Bell County
- Beaumont-Port Arthur Area

These include the three areas of the state identified as nonattainment for the ground-level ozone National Ambient Air Quality Standards (NAAQS) and four other areas of the state that have monitored ground-level ozone concentrations close to the 2015 ground-level ozone NAAQS limit of 70 parts per billion.

Nonattainment Areas:

- Dallas-Fort Worth Area: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise
- Houston-Galveston-Brazoria Area: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller
- San Antonio Area: Bexar

Attainment Areas:

- Austin Area: Bastrop, Caldwell, Hays, Travis, and Williamson
- El Paso County
- Bell County
- Beaumont-Port Arthur Area: Hardin, Jefferson, and Orange
- San Antonio Area: Comal, Guadalupe, and Wilson

The Priority Areas contain many of the major metropolitan centers of the state as well as approximately 71% of the state population. Because of ground-level ozone formation in these areas, TCEQ has determined that 81% of the total funding

(approximately \$169.5 million) will be allocated exclusively to these areas to provide beneficial impacts on air quality.

The replacement or repower of forklifts and port cargo handling equipment that operate within communities located in these areas will help address the goals of the program, including reducing the potential exposure of residents in these communities to pollutants emitted from older forklifts and port cargo handling equipment. To be considered operating in an area, a majority (51% or more) of the annual mileage or hours of operation of the grant-funded vehicle or equipment must occur in the designated counties.

Attachment B to D-4: Eligible Mitigation Action Management Plan and Budget

I. Project Management Plan: Project Schedule and Milestones

Milestones	Date ¹
Application period for the replacement or repower of airport ground support equipment, forklifts, port cargo handling equipment, class 4-7 freight vehicles, class 8 freight vehicles, transit, shuttle, and school buses and direct award for projects to supply shore power for ocean-going vessels	June 2023 - August 2025
Conduct application webinars	June 2023
Review and select project applications on a first-come, first-served basis	June 2023 - October 2025
Draft and execute contracts with entities selected for award	July 2023 - October 2025
Process certification of disposition for equipment being replaced submitted by Awardee	September 2023 - October 2027
Process requests for reimbursement for the new equipment submitted by Awardee	September 2023 - October 2027
TCEQ certifies payment direction to Trustee monthly through the submission of an Attachment A	September 2023 - October 2027
TCEQ will submit semi-annual reports to the Trustee describing the process of implementing each eligible mitigation action included in the funding requests. These reports will include the status of each project and updates on payments to Awardees and agency administrative costs	June & January per AY
Upon confirmation of payment, Awardee begins commitment to operate the new equipment in the Priority Areas at least 51% of the equipment's total annual miles of operation	June 2023 - January 2027

¹ Dates are approximate and may vary depending on the volume of applications received and awarded.

II. Project Budget

Budget Category	Total Requested Budget
Project Expenditures	\$16,757,936.00
Administrative Expenditures	\$670,317.44
Total	\$17,428,253.44

III. Project Cost Share

Awardee Type	Project Type	% of Awardee Cost Share ¹
Government	Replacement and Repowers - Electric	≥ 0%
Non-Government	Replacement - Electric	≥ 25%
Non-Government	Repower - Electric	≥ 25%

¹ The percentage of the cost share to be paid by the awardee is applied to each replacement or repower activity included in a contract.

Attachment C to Appendix D-4: Detailed Plan for Reporting on Eligible Mitigation Action Implementation

1. **Purpose:** TxVEMP is preparing to open funding for projects to replace or repower airport ground support equipment, forklifts, port cargo handling equipment, class 4-7 freight vehicles, class 8 freight vehicles, transit, shuttle, and school buses and projects to supply shore power for ocean-going vessels. Projects awarded under this round of funding will fall under six separate Mitigation Action Categories - Airport Ground Support Equipment, Forklifts and Port Cargo Handling Equipment, Shore Power for Ocean-Going Vessels, Replacement or Repower of Class 4-7 Freight Vehicles, Replacement or Repower of Class 8 Vehicles, and Replacement or Repower of Transit, Shuttle, and School Buses. TCEQ plans to submit a D-4 for each category that has not previously been opened as an active solicitation period. This attachment is in reference to the Mitigation Action Category for Forklifts and Port Cargo Handling Equipment.
2. **Program Criteria**
 - a. **Eligible Applicants:** Eligible applicants under TxVEMP must operate forklifts and port cargo handling equipment at least 51% of the equipment's annual operation in one of the Priority Areas.
 - b. **Equipment being replaced or repowered must:**
 - have a Tier 0, 1, or 2 diesel engine or spark-ignition engine that is uncertified or certified to 3.0 g/bhp-hr of NO_x or greater;
 - forklifts must have a lift capacity greater than 8,000 pounds;

- be considered capable of performing its primary function for the next five years;
 - have been used routinely by the applicant in Texas for the two years immediately preceding the application signature date; and
 - have been owned by the applicant for the two years immediately preceding the application signature date.
- c. Yard trucks are considered cargo handling equipment, and this category may include replacement of an older Class 8 on-road vehicle being used as a yard truck with a purpose-built electric on-road or non-road yard truck.
- d. **Replacement Equipment:** Eligible forklifts and port cargo handling equipment may be replaced with the same equipment in all-electric form, including the charging infrastructure associated with the new all-electric motor.
- e. **Activity life and usage commitment:** The applicant must commit to using the grant-funded equipment at least 51% of the equipment's annual usage in one of the Priority Areas for the duration of the five-year activity life. Annual reports on the use of the grant-funded equipment will not be required. However, the grant recipient must agree to provide information on the use of equipment upon request by TCEQ.
- f. **Eligible grant amounts will be the lesser amount of:**
- the predetermined grant amount set by TCEQ for that type of activity; or
 - the maximum percentage of eligible costs for the actual, eligible expenditures.
3. **Application Review and Selection:** Eligible projects will be processed for approval on a first-come, first-served basis.
4. **Outreach**
- a. **Program Documents:** Program documents will be available on the TxVEMP website once the round has officially opened to the public. Documents have been drafted in accordance with accessibility standards and will be available in a fillable PDF format where applicable.
- b. **Program Notifications:** Notifications will be provided on the grant round opening status through the TxVEMP email list serve, official agency press releases, and the Electronic State Business Daily.
- c. **Application webinars:** TxVEMP staff will conduct application webinars for interested parties.
- d. **Funds availability status:** TxVEMP staff will maintain a report provided on the TxVEMP website to update interested parties on the availability of funding under this grant round.
- e. **Project Summaries:** TxVEMP staff will provide a monthly project summary report on the TxVEMP website. The report will include project descriptions, awarded grant amounts, and project emissions reductions.