



The Volkswagen Settlement and Your Business

Due to the recent partial Volkswagen (VW) settlements, a total of \$4.925 billion is being made available in two funds. The Mitigation Trust Fund will have \$2.925 billion and fund diesel vehicle replacement and repowering. The Zero Emission Vehicle (ZEV) fund will have \$2 billion and is available for electric and fuel cell vehicle deployment.

The process for applying for funding is different for each of these programs and still under development. Those interested in applying for funds are encouraged to get involved as described below.

How to Get Involved

For the Mitigation Trust Fund:

- Each state will receive between \$7.5 million and \$381 million. An allocation chart showing the funding each state will receive will be available soon and NSTA will make it available to members upon release.
- Using a list of eligible projects (specified in the agreement), States will be setting up a process over the next few months on how to spend the funds.
- Under the terms of the settlement agreements, eligible project include replacing or repowering diesel school buses and private contractors under contract to local school districts are eligible on the same terms as public school districts for up to 100 percent of the cost of repowering or replacing older (pre - 2010MY) school buses.
- Funds can also be used for the voluntary non-federal match for any eligible DERA funded project.
- The process will be run through a trustee who has yet to be named and state agencies that have, in most states, yet to be designated. It will take at least a few months for those agencies to be identified and possibly several months for everything to become operational.
- State programs can set their own priorities for funding as long as they stay within the eligibility criteria established under the settlement with VW.
- Those interested are encouraged to reach out to the Governor's offices in the states in which you operate to make sure you are informed of the State's process.
- We recommend that companies engage in the State process to ensure the funding is open to contractors and you are aware of which state agency will be designated as the state beneficiary.
- Track your state's progress by checking with your Governor's office, your state's Attorney General, the U.S. Environmental Protection Agency (EPA), NSTA and other sources of useful information on progress toward setting up state programs.
- Email NSTA at info@yellowbuses.org to inform us of the best website or avenue in your state for this funding process. NSTA will be dedicating a page on our website to the states and their funds to assist contractors operating in multiple states.
- Follow the process to determine application criteria and deadlines.
- Apply for funds once available.

For the ZEV Fund:

- This separate funding source provides \$2 billion to advance ZEV deployment.
- Funds can be used for refueling infrastructure and other costs associated with the demonstration and deployment of electric or fuel cell vehicles.

- The process will be run by VW with oversight by U.S. EPA and the California Air Resource Board (CARB) with \$800 million of the funding going to the State of California and \$1.2 billion split among the remaining states and territories.
- VW is required to submit a ZEV investment plan for California to CARB and a plan for the rest of the country to U.S. EPA.
- Those companies that want to take advantage of this program will first need to engage with VW and then with U.S. EPA and CARB.
- Follow the process to determine application criteria and deadlines.
- Apply for funds once available.

Settlement Background

The partial settlements (note there are two settlements with the first entered into on June 2016 providing \$14.7 billion in total for violations involving VW 2.0 liter engines and the second entered into in December providing an additional \$225 million for violations involving their 3.0 liter engines) of the Federal and state claims against Volkswagen for tampering with their emission control devices, presents a tremendous opportunity to fund school bus replacement and retrofit projects. Under the approved settlement agreements, VW will provide almost \$15 billion to make amends for installing “defeat devices” in their vehicles to get around Clean Air Act emissions standards. The funding being provided includes just over \$10 billion to repair or replace the affected VW vehicles, a \$2.925 billion Mitigation Trust Fund (MTF) to fund diesel vehicle replacement and repowering and \$2 billion for Zero Emission Vehicle (electric and fuel cell) promotion (ZEV).

It is important to note that the settlements provide more generous funding for certain types of technologies than others and generally favors public sector fleets over private fleets. Nonetheless, the criterion approved by the court includes language which allows access to funding for private school bus contractors on the same terms granted to public entities. This was part of the original settlement proposal and is the result of years of effort by NSTA to ensure fairness in funding for private entities. Under the settlements, private companies under contract to public school systems are eligible for funding on the same basis as public entities, (i.e. to receive up to 100 percent of the cost of a new school bus). It is possible that some states may try to modify funding priorities within the eligibility criteria and favor publically owned and operated fleets over private fleets. Therefore, it is important that companies monitor activity in their state to ensure eligibility is not adversely affected.

The plan, however, is not without controversy. The House Energy & Commerce Committee’s Subcommittee on Oversight and Investigations conducted a hearing on the settlement on December 6, 2016 and Members of the panel were somewhat critical about the complexity of the plan and the degree to which VW should direct funding to ZEV electric vehicle programs which could benefit their future corporate marketing plans. Although the plans are fairly far along, there is always the possibility that the Trump Administration or Congress may seek to alter the plan going forward.

The program being implemented pursuant to the VW settlements is similar in many respects to the Diesel Emissions Reduction Act (DERA) program authorized in 2005 which NSTA and its members have supported and participated in to help fund diesel vehicle replacements and retrofits. The VW program is not the same and Congress and the Administration will continue to debate the need to continue DERA in the years ahead. Currently, DERA is funded at \$50 million per year, but Congress will revisit this funding in the spring and will be debating a possible increase to \$100 million for the fiscal year as proposed by the House. NSTA supports continuation of the DERA program at the highest level funding possible to provide both grants and school bus rebates administered by EPA for diesel vehicle replacements and retrofits.