

VOLKSWAGEN MITIGATION SETTLEMENT

State Authorization: S.L. 2018-5 Section 13.11.(a)
State Appropriation: S.L. 2020-79 Section 10
State Appropriation : S.L. 2021-180 Committee Report

**North Carolina Department of Environmental Quality
Division of Air Quality (NCDAQ)**

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The auditor should **not** consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor **can** consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

Auditors may request documentation of monitoring visits by the State Agencies.

I. PROGRAM OBJECTIVES

The Volkswagen Mitigation Settlement provides funding through the Mitigation Trustee (Wilmington Trust, N.A.) for eligible mitigation projects. All states are offered an allocation of funds based on the registered number of subject model year 2009 – 2015 2.0-liter and model year 2009-2016 3.0-liter diesel engine Volkswagen vehicles. With the funds allocated to North Carolina, the Governor of North Carolina designated the Department of Environmental Quality (NCDEQ) to manage the state’s allocation of \$92 million. The Division of Air Quality (NCDAQ) set up a request for proposals to select worthy projects to reduce mobile emissions from eligible diesel engines and vehicles. Projects are selected to mitigate the excess nitrogen oxide emissions from the non-compliant Volkswagen diesel vehicles.

The program consists of three separate programs the Diesel Bus and Vehicle Program, Zero Emission Vehicle Infrastructure Program DC Fast Charging Stations and Zero Emission Vehicle Infrastructure Program Level 2 Charging Stations. The

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Diesel Bus and Vehicle Program is further divided into separate smaller programs each with a program manager:

- Clean Heavy-Duty Equipment and Vehicle Program – [Brain Phillips](#) 919-707-8426
- School Bus Replacement Program – Sheila Blanchard 919-707-8423
- Transit Bus Replacement Program – Melanie Henderson 919-707-8419.

The Zero Emission Vehicle Infrastructure Program DC Fast Charging Stations and Zero Emission Vehicle Infrastructure Program Level 2 Charging Stations are separate programs each with separate program managers:

- Zero Emission Vehicle Infrastructure Program DC Fast Charging Stations – Dave Willis 919-733-1482
- Zero Emission Vehicle Infrastructure Program Level 2 Charging Stations – Steven Rice 919-715-7220.

II. PROGRAM PROCEDURES

An informational website was set up to publicize the availability of the funding through the Volkswagen Settlement Program. E-mails are sent to appropriate groups and individuals. Outreach to technology providers was also employed to reach sectors of diesel engine users. The grant was also publicized through NCDQA webpage, VW email distribution list, news releases, and informational meetings.

Interested parties are required to complete online applications through the NCDQA's Grant Management System (GMS).

For the Diesel Bus and Vehicle Programs: NCDQA invited government agencies, private and public nonprofit organizations, public-private partnerships where the lead applicant represents a public sector, and public or private nonprofit organization to submit grant proposals.

For the Zero Emission Vehicle Infrastructure Program DC Fast Charging Stations: NCDQA invited government agencies, and businesses to submit grant proposals. The applications were accepted during a request for proposals.

For the Zero Emission Vehicle Infrastructure Program Level 2 Charging Stations: NCDQA invited government agencies, non-government agencies, businesses, workplaces, and multi-unit dwellings to submit grant proposals. The applications are accepted on a first come, first serve basis until the available funds were exhausted. [For the Level 2 State Agency program, the applications are accepted from state government agencies during a request for proposals.](#)

Application Review Process (Diesel Bus & Vehicle, Level 2 State Agency, and DC Fast Programs): An internal application review process comprised of NCDQA staff members (Program Manager and Secondary Reviewer) who reviews the applications for completeness (required RFP application documentation), eligibility, and evaluates the estimated emissions reductions for the applications. The Program Manager makes recommendations to their Program Selection Committee. The Program Selection Committees are comprised of representatives from NCDQA Central and Regional Offices to make funding recommendations to the Secretary of NCDEQ. Grant awards are approved by the NCDEQ Secretary. Funded grant recipients receive an award letter and acceptance document to sign and return to NCDQA. Agreements are created and approved through the GMS. Contracts, detailing

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program requirements are then prepared by the Department Financial Services staff and sent to the awardee for signature. Signed agreements and documents are uploaded to the GMS.

Application Review Process (Level 2 Rebate Program): An internal application review process comprised of NCDAQ staff members (Program Manager and Secondary Reviewer) who reviews the applications for completeness (required RFP documentation for project) and eligibility. Rebate vouchers are approved by the NCDEQ Secretary. Project agreements, detailing program requirements are then prepared by the Level 2 Program Manager. Awarded rebate voucher recipients receive a rebate award letter and agreement document to sign and return to NCDAQ. Once the agreement document is signed by the awardee and DEQ a final letter with the rebate voucher number and expiration date is sent to the awardee. Signed agreements and documents are uploaded to the GMS.

Claim Reimbursement Process: Grant recipients submit invoices for vehicles, equipment, and eligible services purchased along with a copy of receipts or other proof of purchase and photographic evidence of vehicle destruction or installation of charging infrastructure where applicable through the NCDAQ Grant Management System. Invoices and photographs are reviewed by the Program Manager to ensure the expenditures are appropriate and accurate. Once the reimbursement documentation is reviewed and approved by the program manager, the applicant will be eligible to receive 90% of the project award. A site visit by NCDAQ staff to verify project completion will be required for the applicant to receive the final 10% reimbursement for the project (Diesel Bus and Vehicle). The Zero Emission Vehicle Infrastructure DC Fast and Level 2 Program will require a site visit by NCDAQ staff prior to reimbursement approval. Internal GMS users will have the ability to generate status reports of project fund claim requests from the Grant Management System.

Grant recipients are allowed to purchase the eligible vehicles/equipment/services as listed in their grant application unless otherwise stated in the grant contract. If certain items are unavailable, equivalent replacements will generally be accepted. Recipients are evaluated quarterly to review the progress of the projects. Contract extension requests must be sent in writing to the Program Manager with justification 30-days prior to the contract expiration date. Requests for contract extensions must be approved by the Program Manager, the NCDAQ Business Officer, the NCDAQ Division Director, and the NCDEQ Purchasing Director.

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III. COMPLIANCE REQUIREMENTS

Noted below in the following matrix are the types of compliance requirements that are applicable to the federal program. These Types are determined by the NCDEQ/NCDAQ noted by “Y.”

If the Matrix indicates “Y,” the auditor must determine if a particular type of compliance requirement has a direct and material effect on the State program for the auditee.

1	2	3	4	5	6	7	8	9	10	12	13	14
Activities Allowed or Unallowed	Allowable Costs/ Cost Principles	Cash Management	Conflict of Interest	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N

1. Activities Allowed or Unallowed

Compliance Requirements

State funds can only be expended for authorized projects as prescribed in the signed contract package or agreement document.

Audit Objectives

Determine whether State funds were expended only for authorized projects.

Suggested Audit Procedures

1. Auditors should refer to an individual grant contract and /or agreement document to determine the specific activities allowed for the grantee’s project.
2. Invoices, reports, and correspondence should also be reviewed to ensure that the contract guidelines are followed.

2. Allowable Costs/Cost Principles

Compliance Requirements

Items purchased must be in accordance with the budget approved by the Secretary of NCDEQ and allowable expenditures in the Volkswagen Consent Decree. All purchases should be costs directly related to a specific objective or project. If

administrative services have been approved, specific amounts will be listed in the budget.

Audit Objectives

Ascertain whether charges made to State awards were for allowable costs.

Suggested Audit Procedures

1. Auditors should refer to an individual grant contract and/or agreement document to determine the itemized budget for the grantee's project.
2. Invoices and reimbursement approvals should be reviewed to verify that the costs are within the allowable limits.
3. Cash Management
Not Applicable. The grant recipients are paid on a reimbursement basis. NCDQAQ reviews the invoices and verifies that payments are made before the grantee is reimbursed. No testing is necessary.

4. Conflict of Interest

Compliance Requirements

All local governments are required to comply with G.S. 14-234.

All non-profits are required to comply with Chapter 443, Section 7.5, 1997 Session Laws.

Audit Objectives

Determine whether applicable local government recipient complied with G.S. 14-234.

Determine whether applicable non-profits recipient complied with Chapter 443, Section 7.5, 1997 Session Laws.

Not applicable for rebate voucher recipients.

Suggested Audit Procedures

Verify applicable local government recipient compliance with G.S. 14-234.

Verify applicable non-profits recipient compliance with Chapter 443, Section 7.5, 1997 Session Laws.

Review applicant's conflict of interest policy uploaded as an attachment in the GMS for the application agreement (Attachment E-Conflict of Interest).

5. Eligibility

Compliance Requirements

The specific requirements for eligibility are found in the Request for Proposals for each program. These documents specify the criteria for determining applicants, vehicles, equipment, and locations that can participate in the program. Final eligibility is determined from the project description in the application and ultimately with the selection of the application for funding. Compliance is thoroughly checked by the NCDEQ/NCDAQ during the reimbursement process and through on-site follow-up inspections.

Audit Objectives

Determine whether:

1. Required eligibility determinations were made (including obtaining any required documentation/verifications) and that individual applicants were determined to be eligible.
 - a. Required documentation/verifications are detailed on the specific program webpage and/or Program Request for Proposals.
2. Payments were made for equipment/vehicles or charging infrastructure provided to eligible applicants only.
3. Payments were made in accordance with the program's fiscal requirements.

Suggested Audit Procedures

1. Review to determine if an eligibility determination system is in place.
2. Using a random sample, perform test to determine if eligibility criteria are being followed.
 - a. Specific applicants were eligible in accordance with the requirements of the program.
 - b. Payments were in compliance with the requirements of the program.
6. Equipment and Real Property Management

Compliance Requirements

Diesel Bus & Vehicle Programs: If a vehicle or piece of equipment is bought as a part of a project, grant recipient must document the destruction of the replaced vehicle or piece of equipment through photographic evidence prior to reimbursement and document the purchase of the new vehicle or piece of equipment.

Zero Emission Vehicle Infrastructure Programs: If Light Duty Zero Emission Vehicle Supply Equipment is brought as part of a project, grant recipient must document the installation of the installed charging infrastructure through photographic evidence prior to reimbursement.

Funds shall not be made available or used to purchase or rent real estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Light Duty Zero Emission Vehicle Supply Equipment).

Audit Objectives

Ensure the ownership and the existence of the vehicle or piece of equipment purportedly purchased under the grant contract took place as specified by the contract. Ensure that the vehicle or piece of equipment that has been replaced has been destroyed per the requirements agreed to in the contract.

Suggested Audit Procedures

Physically inspect the vehicle or piece of equipment purchased by funds. Review asset inventory of recipient to ensure purchased vehicle or piece of equipment is

owned and properly titled and that destroyed vehicle or piece of equipment is no longer a part of the inventory.

7. Matching, Level of Effort, Earmarking

Compliance Requirements

The amount of matching funds promised by recipients can be found in the application and contract.

Audit Objectives

Determine whether the minimum amount or percentage of contributions or matching funds was provided.

Suggested Audit Procedures

Auditors should verify that matching funds were indeed provided.

Level of Effort – Not Applicable

Earmarking – Not Applicable

8. Period of Performance of State Funds

Compliance Requirements

The “time period of agreement,” which gives the length of time the grant contract is valid, is found on the agreement information page of the contract. No contract may exceed three years. The recipient may submit a time extension at least thirty days prior to the original contract ending date. If three years or the ending date is reached prior to the completion of the project, normal NCDEQ Financial Services contracting procedures should be followed for a contract extension or new contract for the project. Reimbursements may only be submitted for purchases falling on dates covered by a contract.

The “time period of agreement,” which gives the length of time the rebate voucher is valid is found on rebate award notification. No rebate voucher may exceed 180 days from approval of the rebate voucher. Expired unused vouchers will be made available to unfunded eligible rebate applications in the order the applications are received. Reimbursements may only be submitted for purchases occurring after the rebate voucher approval date.

Audit Objectives

Determine whether funds were obligated within the period of availability and obligations were liquidated within the required time period.

Suggested Audit Procedures

Auditors should compare dates of purchases with the time period of agreement or extension period on the contract, contract extension, or Level 2 agreement document.

9. Procurement and Suspension and Debarment

Procurement:

Compliance Requirements

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Project award recipients must follow State procurement guidelines as found in G. S. 143, Article 3.

Audit Objectives

Determine whether procurements were made in compliance with applicable laws, regulations, statutes, or other provisions.

Suspension and Debarment

The Program Manager verifies that applicants are neither suspended nor debarred by the State of North Carolina.

Audit Objectives

Not Applicable

10. Program Income

Not Applicable

11. Reserved

12. Reporting

Compliance Requirements

a. Quarterly Reporting Requirement

All project award recipients will be required to submit quarterly reports on the status of their project to NCDEQ until the final project report is submitted. Quarterly reports will be submitted to NCDEQ within 14 days after the end of each quarter. Reporting quarters end March 31, June 30, September 30, and December 31. Failure to submit required reports will result in NCDEQ suspending the acceptance of any new applications from the applicant. A template for the semiannual report will be provided on the website, <https://deq.nc.gov/vw-settlement/forms>.

b. Annual Electric Vehicle Charging Infrastructure Usage Reporting Requirement

All electric vehicle charging infrastructure funding recipients (DC Fast and Level 2 Programs) are required to submit electric vehicle supply equipment (EVSE) usage data to NCDEQ for the previous 12 months on January 30th of each consecutive year for a five-year period after installation of the charging station(s). Annual reports will be submitted to NCDEQ by January 30th each year for five years. Acceptance of new applications from the recipient will be suspended if reporting requirements are not met. Once the funding recipient corrects the failure to submit reports the suspensions will be lifted.

The usage data submitted to NCDEQ will identify the previous 12 months of EVSE utilization data. The annual reports must include but is not limited to the following information for each EVSE:

- Location information: site name, EVSE ID number, address, city, zip, county,
- Number of charging events,

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- Energy Consumed (average per session and annual total),
- Percent time with EV connected and
- Percent downtime (time when station is unavailable due to routine maintenance or repair).

The EV Utilization Annual Report template is available on the NC VW Settlement webpage, <https://deq.nc.gov/vw-settlement/forms>. The report submittal shall be in either CSV or XLS format. These reports must be uploaded as an attachment in the NCDAQ Grants Management System for your application. NCDEQ will notify voucher recipients of changes to the annual report template submittal process 90 days prior to the required submittal. Alternatively, the vendor for an awardee can provide NCDEQ access to their reporting portal to obtain utilization data for the site.

c. Final Report Requirements

A final project report will include a narrative summary of the project or activity, project results (outputs and outcomes) including final emissions benefit calculations, and the successes and lessons learned for the entire project. For projects involving vehicle/engine/equipment replacement or repower the recipient must provide in the final report:

- a. Evidence of appropriate vehicle/engine/equipment scrappage. Complete and include NC DAQ Form 001 Certificate of Destruction with required photographic evidence of vehicle(s) destruction.
- b. Photographic evidence of new vehicle/engine/equipment purchased. Complete and include NC DAQ Form 003 Certificate of Purchase with required photographic evidence of new vehicle(s).

A template for the final project report will be made available by NCDEQ on our webpage, <https://deq.nc.gov/vw-settlement/forms>.

Payments to nonprofits and use of State funds by non-State entities, refer to G.S. 143C-6-21 and G.S. 143C-6-22, respectively. State grant funds; administration; oversight and reporting requirements are found in G.S. 143C.6.23. Reporting requirements for local governments are found in G.S. 159-34.

Audit Objectives

Determine whether required reports for awards include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with program requirements. For rebates, check for completeness of the application and necessary documents.

Suggested Audit Procedures

Trace the amounts reported to accounting records for amount distributed. For rebates, check for the completeness of the application and supporting documents.

13. Sub-recipient Monitoring

Not Applicable

14. Special Tests and Provisions

Not Applicable