



# State of Delaware

## Volkswagen Environmental Mitigation Trust Fund Project for Phase 5

### Request for Proposal

**Contract No. NAT26003-VWEMTFP**

*February 16, 2026*

**- Deadline to Respond -  
Thursday, April 30, 2026  
4:00 PM (Local Time)**

STATE OF DELAWARE  
Department of Natural Resources and Environmental Control

**CONTRACT NO. NAT26003-VWEMTFP**

ALL VENDORS:

The enclosed packet contains a "REQUEST FOR PROPOSAL" for Volkswagen Environmental Mitigation Trust Fund Project. The proposal consists of the following:

**Contents:**

- I. INTRODUCTION
- II. SCOPE OF WORK
- III. FORMAT FOR PROPOSAL
- IV. PROPOSAL EVALUATION PROCEDURES
- V. DEFINITIONS AND GENERAL PROVISIONS
- VI. PROPOSAL REPLY SECTION

ATTACHMENTS

Appendix A – STATEMENT OF WORK AND TECHNICAL SPECIFICATIONS

Appendix B – PROJECT PROPOSAL FORM

Appendix C – CERTIFICATE OF DESTRUCTION

Appendix D – REPORT FORM

**\*\* [Ctrl+Click on the headings above will take you directly to the section.](#)**

In order for your proposal to be considered, the Proposal Reply Section shall be executed completely and correctly and returned in a sealed envelope **clearly displaying the contract number and vendor name** by **Thursday, April 30, 2026 at 4:00 PM** (Local Time) to be considered.

**Proposals must be mailed to:**

Department of Natural Resources and Environmental Control  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904

Please review and follow the information and instructions contained in the General Provisions and this Request for Proposal (RFP). Should you need additional information, please call Susana Aranda at (302)739-9402 or email [susana.aranda@delaware.gov](mailto:susana.aranda@delaware.gov).

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**I. INTRODUCTION**

**A. PURPOSE**

The purpose of this Request for Proposal is to obtain sealed proposals for Volkswagen Environmental Mitigation Trust Fund Projects that:

- a. Reduce No<sub>x</sub> and other emissions,
- b. Are cost-effective, and
- c. Provide environmental benefits to communities disproportionately impacted by air pollution.

It is the goal of this Request for Proposal to identify a vendor(s) and execute a contract to improve and protect ambient air quality by implementing eligible mitigation projects that will achieve significant and sustained reductions in No<sub>x</sub> emissions from the Transportation sector.

**1. COMPETITIVE SEALED PROPOSAL**

It has been determined by Department of Natural Resources and Environmental Control, pursuant to **Delaware Code Title 29, Chapter 6924 (a)** that this solicitation be offered as a request for competitive sealed proposals because the use of competitive sealed bidding is not practical and/or not in the best interest of the State. The use of competitive sealed proposals is necessary to:

- Use a contract other than a fixed-price type; or
- Conduct oral or written discussions with vendors concerning technical and price aspects of their proposals; or
- Afford vendors an opportunity to revise their proposals through best and final offers; or
- Compare the different price, quality and contractual factors of the proposals submitted; or
- Award a contract in which price is not the determining factor.

**2. CONTRACT REQUIREMENTS**

This contract will be issued to project sponsors whose projects provide the most environmental and cost benefit to the State of Delaware.

**3. AGENCY USE CONTRACT**

Pursuant to 29 *Del. C.* [§ 6904](#)(e) respectively, if no state contract exists for a certain good or service, covered agencies may procure that certain good or service under another agency's contract so long as the arrangement is agreeable to all parties. Agencies, other than covered agencies, may also procure such goods or services under another agency's contract when the arrangement is agreeable to all parties.

**4. MULTIPLE SOURCE AWARD**

The Agency reserves the right to award this contract to more than one vendor pursuant to 29 *Del. C.* [§ 6926](#). The basis for such selection shall be: the communicated ability of any one or more vendors to best meet the Agency needs as defined in this RFP.

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**5. POTENTIAL CONTRACT OVERLAP**

Vendors shall be advised that the State, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently awarded, overlap previous awards. The State reserves the right to reject any or all bids in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

**6. SUPPLEMENTAL SOLICITATION**

The State reserves the right to advertise a supplemental solicitation during the term of the Agreement if deemed in the best interest of the State.

**7. CONTRACT PERIOD**

Each Vendor’s contract shall be valid for a one (1) year period from July 1, 2026 through July 31, 2027 through negotiation between the Vendor and Department of Natural Resources and Environmental Control.

The State reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.

**B. KEY RFP DATES/MILESTONES**

The following dates and milestones apply to this RFP and subsequent contract award. Vendors are advised that these dates and milestones are not absolute and may change due to unplanned events during the bid proposal and award process.

Activity	Due Date
RFP Availability to Vendors	Monday, February 16, 2026
Written Questions Due No Later Than (NLT)	Wednesday, March 18, 2026
Written Answers Due/Posted to Website NLT	Tuesday, March 31, 2026
Proposals Due NLT	Thursday, April 30, 2026 @ 4:00 pm
Public Proposal Opening	Thursday, April 30, 2026 @ 4:00 pm
Contract Award	Will occur within 90 -120 days of bid opening
Monthly Reports	Project Status updates completed every month
Project Complete	1-year from date of contract execution
Project must be invoiced NLT	July 31, 2027
Funds must be disbursed NLT	August 31, 2027
Quarterly Report	1-year from date of mitigation project completion

**C. INQUIRIES & QUESTIONS**

We welcome your interest in working with us, and we will be pleased to answer any questions you may have in formulating your response to this Request for Proposal.

All questions with regard to the interpretation of this solicitation, drawings, or specifications, or any other aspect of this RFP must be received in writing by Wednesday, March 18, 2026. All questions will be answered in writing by Tuesday, March 31, 2026, and posted on <https://bids.delaware.gov/> website. All

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questions must make specific reference to the section(s) and page numbers from this RFP where applicable. Oral explanations or instructions will not be binding.

**D. RFP DESIGNATED CONTACT**

All requests, questions, or other communications about this RFP shall be made in writing to the State of Delaware. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

**Susana Aranda**  
**Department of Natural Resources and Environmental Control**  
**Division of Air Quality**  
**100 W. Water Street, Suite 6A**  
**Dover, DE 19904**  
**susana.aranda@delaware.gov**

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services, can also be used.

**E. CONTACT WITH STATE EMPLOYEE**

Direct contact with State of Delaware employees other than the State of Delaware Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

**II. SCOPE OF WORK**

**A. OVERVIEW**

The Vendor(s) shall provide all equipment, materials and labor to supplement the State of Delaware's need for Volkswagen Environmental Mitigation Trust Fund Project for Phase 5 as described herein. The contract will require the Vendor(s) to cooperate with the ordering agency to ensure the State receives the most current state-of-the-art material and/or services.

**B. BACKGROUND**

The U.S. Justice Department and the Volkswagen Corporation and its subsidiaries (collectively VW) reached, through a series of partial consent decrees (CDs), agreements regarding the installation and use of emissions testing defeat devices in over 500,000 vehicles sold and operated in the U.S. As part of these agreements, VW is required to establish an environmental mitigation trust (Trust) to fund certain eligible mitigation actions to mitigate the excess NOx emissions caused by the offending VW vehicles.

The State of Delaware received approximately \$9.6 million from the Trust. The Department of Natural Resources and Environmental Control (DNREC); Division of Air Quality (DAQ) will administer the Volkswagen Environmental Mitigation Trust Fund Program. Delaware has historically had difficulty meeting

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National Ambient Air Quality Standards (NAAQS). The NAAQS were set by the US EPA to protect human health. The transportation sector is the largest contributor to nitrogen oxides (NOx) and carbon dioxide emissions. To improve air quality into healthy ranges and to meet Clean Air Act requirements, Delaware has had to implement a number of control programs that impacted industry, governments, and transportation planning efforts. Reducing emissions from the transportation sector is critical to achieving Delaware's air quality goals.

This Request for Proposals (RFP) announces Phase 5 of the Volkswagen Environmental Mitigation Trust Fund Program. The Department of Natural Resources and Environmental Control plans to award approximately \$2.3 million in 2027 utilizing Volkswagen Environmental Mitigation Trust funds.

**C. STATEMENT OF NEEDS**

The State of Delaware will award Volkswagen Environmental Mitigation Trust Funds for the projects that reduce NOx emissions from the transportation sector. It is a priority to fund sizeable projects designed to achieve the greatest emission reduction for the dollar (i.e., capital cost effectiveness in dollars/ton). The funds are set aside for the State of Delaware, as a Beneficiary.

**D. DETAILED REQUIREMENTS**

The technical requirements of this RFP are stated in Appendix A. Vendors must provide pricing for the items listed in the Excel Spreadsheet, Appendix B.

**III. FORMAT FOR PROPOSAL**

**A. INTRODUCTION**

This section prescribes the mandatory format for the presentation of a proposal in response to this RFP. Each Vendor must provide every component listed in the order shown in this RFP, using the format prescribed for each component. A proposal may be rejected if it is incomplete or conditional.

**B. PROPOSAL RESPONSE**

The Request for Proposal may contain pre-printed forms for use by the vendor in submitting its proposal. The forms required by this solicitation shall be considered mandatory, prevailing documents.

When preprinted forms are used, the forms shall contain basic information such as description of the item and the estimated quantities and shall have blank spaces for use by the vendor for entering information such as unit bid price, total bid price, as applicable.

The Vendor's proposal shall be written in ink or typewritten on the form provided, and any corrections or erasures MUST be initialed by vendor's representative completing the bid submission.

If items are listed with a zero quantity, Vendor shall state unit price ONLY (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal excluding zero quantity items.

Vendors' proposal must respond to each, and every requirement outlined in the RFP criteria in order to be considered responsive. Proposals must be clear and concise.

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**C. NON-CONFORMING PROPOSALS**

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the State of Delaware.

**D. CONCISE PROPOSALS**

The State of Delaware discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The State of Delaware's interest is in the quality and responsiveness of the proposal.

**E. COVER LETTER**

Each proposal will have a cover letter on the letterhead of the company or organization submitting the proposal. The cover letter must briefly summarize the Vendor's ability to provide the services specified in the RFP. The cover letter shall be signed by a representative who has the legal capacity to enter the organization into a formal contract with Department of Natural Resources and Environmental Control.

**F. TABLE OF CONTENTS**

Each proposal must include a Table of Contents with page numbers for each of the required components of the proposal.

**G. DESCRIPTION OF SERVICES AND QUALIFICATIONS**

Each proposal must contain a detailed description of how the Vendor will provide the goods and services outlined in this RFP. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the Vendor will provide that are not mentioned in this RFP.

**H. DISCOUNT**

Vendors are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated into unit bid price(s).

**I. SAMPLES OR BROCHURES**

Samples or brochures may be required by the agency for evaluation purposes. They shall be such as to permit the Agency to compare and determine if the item offered complies with the intent of the specifications.

**J. ACKNOWLEDGEMENT OF UNDERSTANDING OF TERMS**

By submitting a bid, each Vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

**K. BID BOND REQUIREMENT**

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**The Bid Bond requirement has been waived.**

**L. PERFORMANCE BOND REQUIREMENT**

**The Performance Bond requirement has been waived.**

**M. NUMBER OF COPIES WITH MAILING OF PROPOSAL**

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with one (1) paper copy and one (1) electronic copy on USB. The paper copy shall be marked "Master Copy" and will contain original signatures in all locations requiring a vendor signature. The remaining copies do not require original signatures. USB must also contain the completed Appendix B and all required attachments.

All properly sealed and marked proposals are to be sent to the State of Delaware and received no later than 4:00 PM (Local Time) on Thursday, April 30, 2026. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

**Department of Natural Resources and Environmental Control  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904**

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Any proposal received after the date and time deadline referenced above shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

The State reserves the right to award the proposed contract to multiple Vendors if the Head of the Agency determines that such an award is in the best interest of the State.

**N. PROPOSAL EXPIRATION DATE**

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through July 31, 2027. Delaware reserves the right to ask for an extension of time if needed.

**O. WITHDRAWAL OF PROPOSALS**

A Vendor may withdraw its proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

**P. PROPOSAL MODIFICATIONS**

Any changes, amendments or modifications to a submitted proposal requires that the original proposal be withdrawn, **prior** to the time set for the submission of the proposal, and a new proposal submitted **prior** to the deadline for submission of proposals.

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Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

**Q. LATE PROPOSALS**

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

**R. ADDENDA TO THE REQUEST FOR PROPOSAL (RFP)**

If it becomes necessary to revise any part of this RFP, revisions will be posted at <https://bids.delaware.gov/>. By submitting an offer to the State, vendors have acknowledged receipt, understanding and commitment to comply with all materials, revisions, and addenda related to the Request for Proposal.

**S. INCURRED EXPENSES**

The State will not be responsible for any expenses incurred by the vendor in preparing and submitting a proposal.

**T. ECONOMY OF PREPARATION**

Proposals should be prepared simply and economically, providing a straight-forward, concise description of the Vendor's offer to meet the requirements of the RFP.

**U. DISCREPANCIES AND OMISSIONS**

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the State of Delaware's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

**V. EXCEPTIONS**

Bidders may elect to take **minor exception** to the terms and conditions of this RFP by completing Attachment 3. Department of Natural Resources and Environmental Control shall evaluate each exception according to the intent of the terms and conditions contained herein, but Natural Resources and Environmental Control must reject exceptions that do not conform to State bid law and/or create inequality in the treatment of bidders. Exceptions shall be considered only if they are submitted with the bid or before the date and time of the bid opening.

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**Exceptions must be submitted utilizing Attachment 3 to be considered.** Exceptions listed elsewhere in the Vendor's proposal will not be considered. Department of Natural Resources and Environmental Control maintains sole discretion to reject any vendor exceptions that are submitted.

**W. BUSINESS REFERENCES**

Provide at least three (3) business references consisting of current or previous customers of similar scope and value using Attachment 6. Include business name, mailing address, contact name and phone number, number of years doing business with, and type of work performed. Personal references cannot be considered.

**X. DOCUMENT(S) EXECUTION**

All vendors must complete and submit with its proposal the non-collusion statement that is enclosed with this Request for Proposal labeled as Attachment 2. The awarded vendor(s) will be presented with the contract form for signature and seal, if appropriate. Both of these documents shall be executed by a representative who has the legal capacity to enter the organization into a formal contract with Department of Natural Resources and Environmental Control.

The State of Delaware requires a new vendor to complete the registration process through the Delaware Supplier Portal at <http://esupplier.erp.delaware.gov>. Successful completion of this registration enables the creation of a State of Delaware supplier record. The Taxpayer ID (SSN or EIN) and Applicant (supplier) name are submitted to the Internal Revenue Service for "matching". If the Taxpayer ID and name do not match, the vendor record cannot be approved.

It is the applicant's responsibility to select the appropriate 1099 Withholding Type and Class. If incorporated, a business is not subject to 1099 reporting unless the business is providing legal or medical services.

Any questions about completing this registration or specific comments about the registration, please contact supplier maintenance by phone at 302-672-5000.

**Y. SUBCONTRACTS**

Subcontracting is permitted under this RFP and contract. However, every subcontractor shall be identified in the Proposal using Attachment 7.

**Z. CONFIDENTIALITY**

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information until a fully executed contract is received unless such disclosure is required by law or by order of a court of competent jurisdiction.

The State of Delaware and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. § 10001, et seq.](#) ("FOIA"). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once

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fully executed contracts are received, the contents of all vendor proposals are subject to FOIA's public disclosure obligations and exemptions.

The State of Delaware wishes to create a business-friendly environment and procurement process. As such, the State respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the State to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 *Del. C.* § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the State's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

**AA. ATTACHMENTS**

- Attachment 1 – No Proposal Reply Form
- Attachment 2 – Non-Collusion Statement
- Attachment 3 – Exceptions
- Attachment 4 – Company Profile and Capabilities
- Attachment 5 – Confidentiality and Proprietary Information
- Attachment 6 – Business References
- Attachment 7 – Subcontractor Information Form
- Attachment 8 – Monthly Usage Report
- Attachment 9 – Subcontracting (2<sup>nd</sup> Tier Spend) Report
- Attachment 10 – Office of Supplier Diversity Certification Application
- Attachment 11 – Bid Bond Form
- Attachment 12 – Performance Bond Form
- Attachment 13 – Proposal Reply Requirements
- Appendix A – Statement of Work and Technicals Specifications
- Appendix B – Project Proposal Form, includes instructions for all Eligible Mitigation Actions
- Appendix C – Certificate of Destruction
- Appendix D – Report Form

#### **IV. PROPOSAL EVALUATION PROCEDURES**

##### **A. GENERAL ADMINISTRATION**

###### **1. STATE'S RIGHT TO REJECT PROPOSALS**

Department of Natural Resources and Environmental Control reserves the right to reject any or all proposals in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever is determined to be the most advantageous to the State of Delaware. Vendors submitting proposals may be afforded an opportunity for discussion. Vendors may be requested to provide a best and final offer during the negotiation process. Negotiations may be conducted with responsible Vendors who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing vendors during the negotiation process.

###### **2. STATE'S RIGHT TO CANCEL SOLICITATION**

The State of Delaware reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The State of Delaware makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the State of Delaware. Vendor's participation in this process may result in the State of Delaware selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the State of Delaware to execute a contract nor to continue negotiations. The State of Delaware may terminate negotiations at any time and for any reason, or for no reason.

###### **3. FORMAL CONTRACT AND/OR PURCHASE ORDER**

No employee of the Contractor(s) is to begin any work prior to receipt of a State of Delaware Purchase Order signed by authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office. A purchase order, telephone call, email, fax, or State credit card shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions, once it is received by the Contractor(s).

###### **4. DELIVERY OF PROPOSALS**

Proposals shall be delivered in sealed envelopes and shall bear on the outside the name and address of the Vendor as well as the designation of the contract. Proposals forwarded by U.S. Mail shall be sent first class to the address stated in this RFP. Proposals forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the applicable addresses also stated in this RFP. All bids must clearly display the bid number on the envelope.

**Department of Natural Resources and Environmental Control  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904**

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All proposals will be accepted at the time and place set in the RFP. Vendor bears the risk of delays in delivery and any delivery costs for returned proposals. Proposals received after the time set for public opening will be returned unopened.

**5. PUBLIC OPENING OF PROPOSALS**

The proposals shall be publicly opened at the time and place specified by the Agency. Vendors or their authorized representatives are invited to be present.

Only the vendor's name and address will be read aloud during the bid opening process.

**6. DISQUALIFICATION OF VENDORS**

Any one or more of the following causes may be considered as sufficient for the disqualification of a vendor and the rejection of its proposal or proposals:

- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among vendors.
- c. Unsatisfactory performance record as evidenced by past experience with the State of Delaware or on a State of Delaware central contract.
- d. Any suspension or debarment of the parent company, subsidiary or individual involved with the vendor by federal, any state or any local governments within the last five (5) years.
- e. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- f. If there are any unauthorized additions, interlineations, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- g. Non-attendance of mandatory pre-bid meetings shall be cause of disqualification.

**1. AUTHORITY OF AGENCY**

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, and the determination of payment due or to become due, the decision of the Agency shall be final and binding.

**2. OR EQUAL (PRODUCTS BY NAME)**

Specifications of products by name are intended to be descriptive of quality or workmanship, finish and performance. Desirable characteristics are not intended to be restrictive. Substitutions of products for those named will be considered provided the vendor certifies that the function, characteristics, performance and endurance qualities of the material offered is equal or superior to that specified.

**B. RESPONSIVENESS AND RESPONSIBILITY OF VENDOR**

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Department of Natural Resources and Environmental Control shall award this contract to the most responsible and responsive vendor who best meets the terms and conditions of the proposal.

1. Rejection of individual proposals. -- A proposal may be rejected for 1 or more of the following reasons:
  - a. The person responding to the solicitation is determined to be nonresponsive or non-responsible;
  - b. It is unacceptable.
  - c. The proposed price is unreasonable; or
  - d. It is otherwise not advantageous to the State.
2. Vendors whose proposals are rejected as non-responsive shall be notified in writing about the rejection.
3. Responsibility of vendors. -- It shall be determined whether a vendor is responsible before awarding a contract. Factors to be considered in determining if a vendor is responsible include:
  - a. The vendor's financial, physical, personnel or other resources, including subcontracts.
  - b. The vendor's record of performance and integrity.
  - c. Any record regarding any suspension or debarment.
  - d. Whether the vendor is qualified legally to contract with the State.
  - e. Whether the vendor supplied all necessary information concerning its responsibility; and
  - f. Any other specific criteria for a particular procurement which an agency may establish.
4. If a vendor is determined to be non-responsible, the vendor shall be informed in writing.
5. The State reserves the right to waive minor irregularities or request additional information before determining the responsiveness of the Vendor. All Vendors will be afforded the same or similar opportunities, as necessary, and will be treated with equal regard before such determinations are finalized.

### **C. PROPOSAL EVALUATION COMMITTEE**

The Proposal Evaluation Committee ("Committee") is comprised of representatives of the State of Delaware.

The Committee reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 *Del. C.* § 6926. Such selection will be based on the following criteria:
  - Projects must result in quantifiable and verifiable reductions in NO<sub>x</sub> emissions in Delaware.
  - The project sponsor and project team must demonstrate the experience and capacity necessary to complete the project.
  - The project must demonstrate that it will produce results that could be readily replicated by others in Delaware and elsewhere

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- The project sponsor must be willing to destroy the existing engine/vehicle being replaced at the end of their contract and complete a “Certificate of Destruction”
- Award recipients must submit data reports to the Department of Natural Resources and Environmental Control DNREC Division of Air Quality on a quarterly basis for a period of one (1) year after project completion. Data reports may include hours of operation, gallons of fuel used, etc. Data report format and content will be mutually agreed upon by DNREC, and award recipient will be defined in the contract.
- All projects must be located and operated in the State of Delaware.
- All project proposals must have a robust calculation of the estimated amount of emission reductions using the US EPA Diesel Emission Quantifier (DEQ), which can be found at: <https://cfpub.epa.gov/quantifier/index.cfm?action=main.home>  
The applicant must demonstrate that the proposed project budget is reasonable, applicable, and eligible for funding. There will be an evaluation of the proposed budget as part of the evaluation process.

Department of Natural Resources and Environmental Control reserves the right to reject any or all bids in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

**D. REQUIREMENTS OF THE VENDOR**

The purpose of this section is to assist the Proposal Evaluation Committee to determine the ability of the organization to provide the materials and services described in the application. The proposal response should contain at a minimum the following information:

- A complete project proposal (Appendix B)
- Copies of business license and insurance certificates
- Copies of State of Delaware Title/Registration for each vehicle or piece of equipment being replaced

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**E. CRITERIA AND SCORING**

Evaluation Criteria	Percentage	Points
<p><b>Measurable, verifiable reduction in NO<sub>x</sub> emissions</b></p> <ul style="list-style-type: none"> <li>- The project will produce a net reduction in NO<sub>x</sub> emissions in the State and result in a measurable, verifiable reduction in NO<sub>x</sub> per ton of emissions using the Diesel Emission Quantifier.</li> <li>- Projects must meet eligibility requirements of the VW Mitigation Plan</li> </ul>	30	30
<p><b>Project Budget</b></p> <ul style="list-style-type: none"> <li>-The proposed budget is thorough, robust, realistic, and cost effective.</li> <li>- The applicant must show a detailed budget with all cost shares explained.</li> </ul>	15	15
<p><b>Proposed Project Location</b></p> <ul style="list-style-type: none"> <li>- The project is sited near a major highway or transportation corridor, shipping route, or near a shipping logistics center.</li> <li>- This project will address an environmental justice (EJ) area or related location that receives a disparate proportion of environmental impacts.</li> <li>- The project avoids environmentally sensitive areas or areas containing critical habitats.</li> <li>-Priority will be given to projects in non-attainment and air quality maintenance areas.</li> </ul>	15	15
<p><b>Project Timeline</b></p> <p>The proposed project must define when the project will commence and will end.</p>	15	15
<p><b>Ability to be Replicated throughout the State</b></p> <ul style="list-style-type: none"> <li>- The proposed project has the ability to be replicated throughout the state.</li> </ul>	10	10
<p><b>Collaboration with other Entities in the State</b></p> <ul style="list-style-type: none"> <li>- The project includes collaborative efforts between the applicant and project team (an anchor fleet or fleets, utility/fuel provider, vehicle dealer, or manufacturer).</li> </ul>	10	10
<p><b>Economic Development</b></p> <ul style="list-style-type: none"> <li>- The project creates and/or retains local jobs for Delawareans.</li> <li>- The project serves as an economic development engine for local Delaware based companies</li> </ul>	5	5
TOTAL SCORE	100%	100

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Procurement Evaluation Committee members will assign up to the maximum number of points listed for each of the criteria listed above. For items having quantitative answers, points will be proportionate to each proposal's response. Items with qualitative answers will receive the average of points assigned by Proposal Evaluation Committee members.

**F. BEST AND FINAL OFFERS**

Once the proposals have been evaluated and negotiations have been held with the vendor(s) determined to be likely to receive an award, the Procurement Evaluation Committee issue a request for Best and Final Offers from the vendor(s).

**G. REFERENCES**

The Committee may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, the State of Delaware may choose to visit existing installations of comparable systems, which may or may not include vendor personnel. If the vendor is involved in such site visits, the State of Delaware will pay travel costs only for State of Delaware personnel for these visits.

**H. ORAL PRESENTATIONS**

Selected vendors may be invited to make oral presentations to the Committee. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the State of Delaware are the vendor's responsibility.

**V. DEFINITIONS AND GENERAL PROVISIONS**

The attached Definitions and General Provisions apply to all contracts and are part of each Request for Proposal. The requirement to furnish a bid bond and performance bond is applicable unless waived. Should the General Provisions conflict with the Special Provisions, the Special Provisions shall prevail. Vendors or their authorized representatives are required to fully acquaint themselves as to State procurement laws and regulations prior to submitting bid.

**A. DEFINITIONS:** Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

**STATE:** The State of Delaware

**AGENCY:** State Agency as noted on cover sheet.

**BID INVITATION:** The "invitation to bid" or "Request for Proposal" is a packet of material sent to vendors and consists of General Provisions, Special Provisions, specifications, and enclosures.

**BOND:** The approved form of security furnished by the Vendors and its surety as a guaranty of good faith on the part of the Vendor to execute the work in accordance with the terms of the contract.

**CONTRACT:** The written agreement covering the furnishing and delivery of material or work to be performed.

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**DESIGNATED OFFICIAL:** The agent authorized to act for an Agency.

**GENERAL PROVISIONS:** General Provisions are instructions pertaining to contracts in general. They contain, in summary, requirements of laws of the State, policies of the Agency, and instructions to vendors.

**LOCAL TIME:** Eastern Standard Time/Eastern Daylight Time

**OPPORTUNITY BUY:** A special offer from a supplier that is usually associated with a limited time to respond.

**PROPOSAL:** The offer of the Vendor submitted on the approved form and setting forth the Vendor's prices for performing the work or supplying the material or equipment described in the specifications.

**RFP:** Request for Proposal.

**SPECIAL PROVISIONS:** Special Provisions are specific conditions or requirements peculiar to the contract under consideration and are supplemental to the General Provisions. Should the Special Provisions conflict with the General Provisions, the Special Provisions shall prevail.

**SURETY:** The corporate body which is bound with and for the contract, or which is liable, and which engages to be responsible for the Vendor's payments of all debts pertaining to and for its acceptable performance of the work for which he has contracted

**VENDOR:** Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

**VENDOR'S DEPOSIT:** The security designated in the proposal to be furnished by the Vendor as a guaranty of good faith to enter into a contract with the Agency if the work to be performed or the material or equipment to be furnished is awarded to it.

## **B. GENERAL PROVISIONS**

### **1. INTERPRETATION OF ESTIMATES/QUANTITIES**

- a. Unless stated otherwise, the quantities given in the RFP are to be considered to be approximate only and are given as a basis for the comparison of bids. The Agency may increase or decrease the amount of any item as may be deemed necessary or expedient, during the period of the contract. Bidders shall recognize there are no guaranteed minimum contract quantities or values associated with this solicitation.
- b. An increase or decrease in the quantity for any item is not sufficient ground for an increase or decrease in the unit price.
- c. Prior contract utilization may be viewed on the Delaware Open Data Portal <https://data.delaware.gov/>. The Government and Finance data sets provide Central Contract Line Item Spend by Fiscal Year among several additional data products. Past usage shall not be considered a guaranteed future volume.

### **2. SILENCE OF SPECIFICATIONS**

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The apparent silence of the specifications as to any detail, or the apparent omission from it of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specifications compliance will be the responsibility of the vendor.

**3. EXAMINATION OF SPECIFICATIONS AND PROVISIONS**

The Vendor shall examine carefully the proposal and the contract forms for the material contemplated. The Vendor shall investigate and satisfy itself as to the conditions to be encountered, quality and quantities of the material to be furnished, and the requirements of any Special Provisions in the RFP and the contract. The submission of a proposal shall be conclusive evidence that the Vendor has made examination of the aforementioned conditions.

**4. PRICES QUOTED**

The prices quoted are those for which the material will be furnished F.O.B. Ordering Agency and include all charges that may be imposed during the period of the contract. **All prices quoted must be in U.S. Dollars.**

All vendors that maintain a core list of products under this contract shall maintain the appropriate negotiated prices on their core list. Vendors shall routinely offer to add to the core list material that has been identified as necessary. The Vendors are expected to routinely update any changes to the core list with the appropriate discounts listed.

Any adjustments to a core list must receive prior written approval from the State before a core list can be changed by the Vendor. Changes include but are not limited to the migration of items on and off the core list as well as any price adjustments from the original agreed upon pricing.

**5. PUBLIC INSPECTION OF PROPOSALS**

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Committee or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

The State of Delaware is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record, and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated, and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure, or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each

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document is not “public record” as defined by 29 *Del. C.* § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

**6. LAWS TO BE OBSERVED**

The vendor is presumed to know and shall strictly comply with all Federal, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of the work. The Vendor shall indemnify and save harmless the State of Delaware, the Agency, and all Officers, Agency and Servants thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by itself, by its employees, or by its subcontractor (s).

**7. APPLICABLE LAW AND JURISDICTION**

This bid, any resulting contract, and any and all litigation or other disputes arising therefrom, in connection with, or related hereto shall be governed by the applicable laws, regulations and rules of evidence of the State of Delaware. Bidder submits to personal jurisdiction in the State of Delaware. Any and all litigation or other disputes arising out of, in connection with, or relating to this bid, and any resulting contract, shall be brought exclusively in a court in the State of Delaware or the United States District Court of the District of Delaware as applicable.

**8. SEVERABILITY**

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

**9. PERMITS AND LICENSES**

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the Vendor at its own expense.

**10. PATENTED DEVICES, MATERIAL AND PROCESSES**

- a. The Vendor shall provide for the use of any patented design, device, material, or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner and shall file a copy of this agreement with the Agency.
- b. The Vendor and the surety shall hold and save harmless the State of Delaware, the Agency, the Director, their Officers or Agents from any and all claims because of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.

**11. EMERGENCY TERMINATION OF CONTRACT**

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- a. Due to restrictions which may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.
- b. In the event the Vendor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

**12. TAX EXEMPTION**

- a. In accordance with the Internal Revenue Service regulations, the State of Delaware is generally exempt from federal excise tax for communications, certain fuels, sales by manufacturers and the tax on heavy trucks, trailers, and tractors. More detail is included in IRS Publication 510 Excise Taxes located at <https://www.irs.gov/pub/irs-pdf/p510.pdf>. Per IRS regulations, all exemption certificates must be specific to the vendor and the type of excise tax. If an exemption certificate is requested by a vendor, the Division of Accounting will work with the agency and vendor to complete the appropriate certificate. Such taxes shall not be included in prices quoted.
- b. Any material which is to be incorporated in the work or any equipment required for the work contemplated in the proposal may be consigned to the Agency. If the shipping papers show clearly that any such material is so consigned, the shipment will be exempt from the tax on the transportation of property under provisions of Section 3475 (b) of the Internal Revenue Code, as amended by Public Law 180 (78th Congress). All transportation charges shall be paid by the Vendor. Each Vendor shall take its exemption into account in calculating its bid for its work.

**13. INVOICING**

After the awards are made, the agencies participating in the bid may forward their purchase orders ("P.O.") to the successful Vendor(s) in accordance with State Purchasing Procedures. The State will generate a payment voucher upon receipt of an acceptable invoice from the vendor.

**14. EQUALITY OF EMPLOYMENT OPPORTUNITY ON PUBLIC WORKS**

During the performance of any contract for public works financed in whole or in part by appropriation of the State of Delaware, the contractor agrees as follows:

- a. The contractor, as set forth in Title 19 Delaware Code Chapter 7 section 711, will not discriminate against any employee or applicant for employment with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to their race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeships. The contractor agrees to post in conspicuous places, notices to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- b. During the performance of this contract, the contractor agrees as follows:

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1. The contractor, as set forth in Title 19 Delaware Code Chapter 7 section 711, will not discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take positive steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting agency setting forth this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin."
- c. The term "contractor for public works" means construction, reconstruction, demolition, alteration, and/or repair work, maintenance work, and paid for in whole or in part out of the funds of a public body except work performed under a vocational rehabilitation program. The manufacture or furnishing of materials, articles, supplies or equipment is not a public work within the meaning of this subsection unless conducted in connection with and at the site of the public work.

## 15. PRICES

Prices and/or rates shall remain firm for the initial one (1) year term of the contract, unless further negotiations are deemed necessary by the State.

The pricing policy that you choose to submit must address the following concerns:

- a. The structure must be clear, accountable and auditable.
- b. It must cover the full spectrum of services required.
- c. Costs and compensation must be consistent with the rates established or negotiated as a result of this RFP or P.O. issued based on this contract.

## 16. COOPERATIVES

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

## 17. PRICE ADJUSTMENT

The Vendor is not prohibited from offering a price reduction on its services or materiel offered under the contract. The State is not prohibited from requesting a price reduction on those services or materiel during the initial term or any subsequent options that the State may agree to exercise.

If agreement is reached to extend this contract beyond the initial one (1) year period. Department of Natural Resources and Environmental Control shall have the option of offering a determined price adjustment that shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U),

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U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

**18. SHIPPING TERMS**

FOB Destination, freight prepaid.

**19. ELECTRONIC CATALOG**

At the discretion of Department of Natural Resources and Environmental Control, the successful vendor(s) may be required to submit their items list in an electronic format designated by the State.

By example, but not limited to, the following items may be required:

- Electronic catalogs,
- Electronic catalogs converted to a CSV format with contract specific pricing,
- Items designated by commodity/classification code: United Nations Standard Products and Services Code (UNSPSC), and/or
- A unique item ID for all items in your system and/or our award.

**20. INDEPENDENT CONTRACTORS**

The parties to any contract from this solicitation shall be independent contractors to one another, and nothing herein shall be deemed to cause the agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

**21. TEMPORARY PERSONNEL ARE NOT STATE EMPLOYEES UNLESS AND UNTIL THEY ARE DIRECTLY HIRED**

Vendor agrees that any individual or group of temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the State pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the

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Vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State's intention to hire.

**22. WORK PERFORMED IN A STATE BUILDING**

Awarded Vendor(s) who have any employees carrying out any work related to the awarded contract at a State facility shall have those employees comply with any health mandate or policy issued by the State related to a pandemic or other State of Emergency issued by any State authority during the term of the awarded contract, including those that apply directly to State employees.

**23. ACA SAFE HARBOR**

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor but does not state the required amount of the fee. The State requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged, and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The State will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

**24. FUNDING OUT or NON-APPROPRIATION**

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

**25. MANDATORY INSURANCE REQUIREMENTS**

As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry the following coverage depending on the type of service or product being delivered.

- a. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
- b. Commercial General Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate.

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- c. Automotive Liability Insurance covering all automotive units used in the work (including all units leased from and/or provided by the State to Vendor pursuant to this Agreement as well as all units used by Vendor, regardless of the identity of the registered owner, used by Vendor for completing the Work required by this Agreement to include but not limited to transporting Delaware clients or staff), providing coverage on a primary non-contributory basis with limits of not less than:
1. \$1,000,000 combined single limit each accident, for bodily injury.
  2. \$250,000 for property damage to others.
  3. \$25,000 per person per accident Uninsured/Underinsured Motorists coverage.
  4. \$25,000 per person, \$300,000 per accident Personal Injury Protection (PIP) benefits as provided for in 21 *Del. C.* § 2118; and
  5. Comprehensive coverage for all leased vehicles, which shall cover the replacement cost of the vehicle in the event of collision, damage or other loss.

The successful vendor must carry at least one of the following depending on the scope of work being performed.

- a. Medical/Professional Liability - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- b. Miscellaneous Errors and Omissions - \$1,000,000 per occurrence/\$3,000,000 per aggregate
- c. Product Liability - \$1,000,000 per occurrence/\$3,000,000 aggregate

Should any of the above-described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

Before any work is done pursuant to this Agreement, the Certificate of Insurance and/or copies of the insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

Department of Natural Resources and Environmental Control  
Contract No: NAT26003 - VWEMTFP  
State of Delaware  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904

Nothing contained herein shall restrict or limit the Vendor's right to procure insurance coverage in amounts higher than those required by this Agreement. To the extent that the Vendor procures insurance coverage in amounts higher than the amounts required by this Agreement, all said additionally procured coverages will be applicable to any loss or claim and shall replace the insurance obligations contained herein.

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To the extent that Vendor has complied with the terms of this Agreement and has procured insurance coverage for all vehicles Leased and/or operated by Vendor as part of this Agreement, the State of Delaware's self-insured insurance program shall not provide any coverage whether coverage is sought as primary, co-primary, excess or umbrella insurer or coverage for any loss of any nature.

In no event shall the State of Delaware be named as an additional insured on any policy required under this agreement.

Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

## **26. STATE OF DELAWARE BUSINESS LICENSE**

Prior to receiving an award, the successful Vendor shall either furnish the Agency with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: 302-577-8778. <http://revenue.delaware.gov/services/BusServices.shtml>

Information regarding the award of this contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

## **27. INDEMNIFICATION**

### **a. General Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents, and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract.

### **b. Proprietary Rights Indemnification**

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively ""Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

1. Procure the right for the State of Delaware to continue using the Product(s);
2. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
3. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of

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the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

**28. NON-PERFORMANCE**

In the event the Vendor does not fulfill its obligations under the terms and conditions of this contract, in addition to proceeding with termination of the contract, the ordering agency may terminate any individual orders in accordance with General Provisions, Item titled as "TERMINATION OF INDIVIDUAL PURCHASE ORDERS" below and purchase equivalent product on the open market. Regarding any such open market purchase, payment for any difference in cost or expense in excess of the contract prices for reasonably equivalent products or services herein shall be the responsibility of the Vendor and shall be submitted to the State no later than 30 days following the delivery of the State's invoice detailing the open market purchase. Under no circumstances shall monies be due the Vendor in the event open market products can be obtained below contract cost. Any monies charged to the Vendor may be deducted from an open invoice.

**29. FORCE MAJEURE**

Neither the Vendor nor the State shall be held liable for non-performance under the terms and conditions of this Agreement due, but not limited to:

- a. Acts of God; labor disturbances; accidents; failure of a governmental entity to issue a permit or approval required for performance when the Contractor has filed proper and timely application with the appropriate government entity; civil disorders; acts of aggression; changes in any law or regulation adopted or issued by a governmental entity after the date of this Agreement; a court order; explosions; failure of utilities; material shortages;
- b. Diseases, plagues, quarantine, epidemics or pandemics.
- c. Federal, state, or local work or travel restrictions to control, mitigate, or reduce transmission of diseases, plagues, epidemics or pandemics; or
- d. The State's need to occupy, utilize, or repurpose an active or prospective work area due to diseases, plagues, quarantine, epidemics, pandemics, work or travel restrictions, and the need to control, mitigate, or reduce transmission of diseases, plagues, epidemics or pandemics.

Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract within 2 business days of the party's knowledge of significant non-performance risk.

**30. VENDOR NON-ENTITLEMENT**

State of Delaware Vendors for Materiel and for Services shall not have legal entitlement to utilize any Central Contract held by the State of Delaware. The Vendors may not seek business from another Vendors' Central Contract for the purpose of preparing a bid or proposal to the State of Delaware. Additionally, they shall not utilize other Central Contracts to fulfill the requirements of their respective contract unless they are considered a "Covered Agency" as defined by Title 29 Chapter 69 of the State Procurement Code or otherwise permitted by law.

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This is not a prohibition from any Vendor choosing to work with another Vendor who holds a State Central Contract for private business.

### 31. OPPORTUNITY BUYS

The Director for the Department of Natural Resources and Environmental Control can waive use of a contract pursuant to 29 *Del. C.* § 6911(d). A process has been developed to permit any vendor the opportunity to submit an Opportunity Buy offer to the State for goods and/or services for consideration despite the existence of a contract. See [Opportunity Buy Flowchart](#). The Director will afford any vendor on an existing contract an opportunity to match or to beat the Opportunity Buy offer made by a non-contracted vendor prior to a waiver being granted.

### 32. REQUIRED REPORTING

One of the primary goals in administering this contract is to keep accurate records regarding its actual value/usage. This information is essential in order to update the contents of the contract and to establish proper bonding levels, if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested parties.

A complete and accurate Usage Report (Attachment 8) shall be furnished in an Excel format and submitted electronically, no later than the 15th (or next business day after the 15th day) of each month, detailing the purchasing of all items and/or services on this contract. The reports shall be completed in Excel format, using the template provided, and submitted as an attachment to [susana.aranda@delaware.gov](mailto:susana.aranda@delaware.gov), with a copy going to the contract officer identified as your point of contact. Submitted reports shall cover the full month (Report due by January 15<sup>th</sup> will cover the period of December 1 – 31.), contain accurate descriptions of the products, goods or services procured, purchasing agency information, quantities procured and prices paid. Reports are required monthly, including those with “no spend”. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including the possible cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, Vendors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals.

**AGENCIES MAY NOT REMOVE SUBCONTRACTING 2<sup>ND</sup> TIER REPORTS** – Reporting is required by Executive Order.

In accordance with [Executive Order 49](#), the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to accurately report on the participation by Diversity Suppliers which includes: minority (MBE), woman (WBE), veteran owned business (VOBE), or service-disabled veteran owned business (SDVOBE) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, veteran, or service disabled veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women’s Business Enterprise Council, VetBiz.gov). The format used for Subcontracting 2nd Tier reporting is shown as Attachment 9.

Accurate 2nd Tier reports shall be submitted to the contracting Agency’s contract manager on the 15th (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year.

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Contracts spend during the covered periods shall result in a report even if the contract has expired by the report due date.

**33. ORDERING PROCEDURE**

Successful vendors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Depending on the nature and scope of the event, each State agency or other governmental entity shall be responsible for contacting the awarded vendor directly for all required resources. All consumables delivered by the Vendor and received by a State agency or other governmental entity, become the property of that State agency or entity. Orders may be accomplished by written purchase order, telephone, email, fax or computer on-line systems.

**34. PURCHASE ORDERS**

Agencies that are part of the First State Financial (FSF) system are required to identify the contract number NAT26003 - VWEMTFP on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.

**35. BILLING**

The Vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number. The Vendor shall not charge a late fee that exceeds more than one percent (1%) per month, not to exceed twelve percent (12%) per annum.

Agencies will make every effort to achieve available discount opportunities under this contract. Vendors shall be required to report semi-annually opportunities to enhance the discounts achieved.

**36. METHOD OF PAYMENT**

- a. For each P.O. issued as part of this contract, the State will pay Vendor monthly, within thirty (30) days of receipt of the Vendor's billing, the amount which is legitimately earned by the Vendor, and supported by payroll data and an itemized accounting of reasonable reimbursable direct non-salary costs. A current progress report of the work shall accompany each billing.

Final settlement for total payment to the Vendor will be made within thirty (30) days from the date of final written State acceptance of the work and services as agreed to in the P.O.

- b. No premium time for overtime will be paid without prior written State authorization. Indirect overhead cost shall not be applied to the premium portion of the overtime.
- c. The agencies or school districts using this award will authorize and process for payment each invoice within thirty (30) days after the date of receipt of a correct invoice. The State of Delaware intends to maximize the use of the P-Card for payment for goods and services provided under contract. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally, there shall be no minimum or maximum limits on any P-Card transaction under the contract. While it is the State's intention to utilize the P-card payment method the State reserves, at its discretion, the right to pay by ACH/ACI. Should a Vendor wish to provide a financial incentive to not process payment by P-Card in their proposal, they are to prepare their proposals to clearly outline any incentives for alternative payment methods the Vendor is willing to accept.

**37. PRODUCT SUBSTITUTION**

All items or services delivered during the life of the contract shall be of the same type and manufacture as specified or accepted as part of the proposal unless specific approval is given by the Agency to do otherwise. Awarded vendors are highly encouraged to offer any like substitute product (s), either generic or brand name, at any time during the subsequent contract term, especially if an opportunity for cost savings to the state exists. In all cases, the state may require the submission of written specifications and/or product samples for evaluation prior to any approval being granted.

If a substitution is granted by the state, the Vendor must update its core list and maintain said list in a timely manner.

**38. SCHEDULE FOR PERFORMANCE OF WORK**

All work described in these specifications shall be completed with reasonable promptness. As used in this Section, the State of Delaware shall be the sole judge of the term “reasonable”. If the Vendor does not begin the work in a reasonable amount of time, they will be notified that if they fail to initiate the work promptly, the contract may be terminated, and the State will forthwith proceed to collect for nonperformance of work.

**39. VENDOR RESPONSIBILITY**

The State will enter into a contract with the successful Vendor(s). The successful Vendor(s) shall be responsible for all products and services as required by this RFP whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor’s proposal by completing Attachment 7, and are subject the approval and acceptance of Department of Natural Resources and Environmental Control.

**40. VENDOR- OWNED RENTAL EQUIPMENT AND SUPPLIES REMOVAL**

The awarded Vendor shall remove all rental equipment and supplies from the event location(s) no later than an agreed to date once all contract obligations by the Vendor have been met.

**41. ENVIRONMENTAL PROCUREMENT REQUIREMENTS**

Energy Star - If applicable, the Vendor must provide products that earn the ENERGY STAR rating and meet the ENERGY STAR specifications for energy efficiency in order to keep overall event costs to a minimum. The Vendor is encouraged to visit [www.energystar.gov](http://www.energystar.gov) for complete product specifications and updated lists of qualifying products.

Green Products – third party certification of green products accepted from Department of Natural Resources and Environmental Control w/approved green certification shall be offered wherever available in addition to or as a substitute for non-green products.

Vendors shall report all green items procured during the monthly reporting period using the Usage Report that will be provided to the awarded Vendor(s).

Environmental Procurement Policies of the State shall determine acceptable consideration and credit for environmentally preferred products and services in the performance of this award. The State Environmental Procurement Policies may be found:

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[Environmentally Preferred Purchasing Policy](#)

**42. PERSONNEL, EQUIPMENT AND SERVICES**

- a. The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
- b. All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- c. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the State. Only those subcontractors identified in Attachment 7 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 7 must be approved in writing by the State.

**43. FAIR BACKGROUND CHECK PRACTICES**

Pursuant to 29 *Del. C.* [§ 6909B](#), the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 *Del. C.* [§ 711\(g\)](#) for applicable established provisions.

**44. VENDOR BACKGROUND CHECK REQUIREMENTS**

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:  
<https://sexoffender.dsp.delaware.gov/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the

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Agency's contract.

#### **45. DRUG TESTING REQUIREMENTS FOR LARGE PUBLIC WORKS**

Pursuant to 29 Del.C. [§6908\(a\)\(6\)](#), effective as of January 1, 2016, OMB has established regulations that require Contractors and Subcontractors to implement a program of mandatory drug testing for Employees who work on Large Public Works Contracts funded all or in part with public funds. The regulations establish the mechanism, standards and requirements of a Mandatory Drug Testing Program that will be incorporated by reference into all Large Public Works Contracts awarded pursuant to 29 Del.C. [§6962](#).

Final publication of the identified regulations can be found at the following:

[4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees Working on Large Public Works Projects](#)

#### **46. MINIMUM WAGE RATES**

Work performed under this solicitation may fall under the [State of Delaware Minimum Wage Rates](#) or the Delaware Prevailing Wage rates. Prior to issuing a purchase order, the ordering agencies must obtain from the Department of Labor a determination if prevailing wage applies to the project and, if appropriate, what the applicable prevailing wage rates would be for the work to be performed. No work shall proceed without a determination by the Department of Labor. Request for prevailing wage certification can be found at: [Office of Construction Enforcement](#).

#### **47. PREVAILING WAGE**

The prevailing wage law, 29 Del.C. [§6960](#), is enforced by the Department of Labor and states that the specifications for every contract or aggregate of contracts relating to a public works project in excess of \$500,000 for new construction (including painting and decorating) or \$45,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of building or works) to which this State or any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed.

#### **48. DISPUTE RESOLUTION**

At the option of the parties, they shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided evidence that is otherwise admissible or discoverable shall not be rendered inadmissible.

If the matter is not resolved by negotiation, as outlined above, or, alternatively, the parties elect to proceed directly to mediation, then the matter will proceed to mediation as set forth below. Any disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to a mediator selected by the parties. If the matter is not resolved through mediation, it may be submitted

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for arbitration or litigation. The Agency reserves the right to proceed directly to arbitration or litigation without negotiation or mediation. Any such proceedings held pursuant to this provision shall be governed by State of Delaware law, and jurisdiction and venue shall be in the State of Delaware. Each party shall bear its own costs of mediation, arbitration, or litigation, including attorneys' fees.

**49. REMEDIES**

Except as otherwise provided in this solicitation, including but not limited to Section 48 above, all claims, counterclaims, disputes, and other matters in question between the State of Delaware and the Contractor arising out of, or relating to, this solicitation, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

**50. TERMINATION OF INDIVIDUAL ORDERS OR PURCHASE ORDERS**

The individual orders may be terminated as follows:

- a. Termination for Cause:** If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner his obligations, or if the Vendor violates any of the covenants, agreements, or stipulations of this contract, the Agency shall have the right to terminate the P.O. by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor in the performance of the P.O. shall, at the option of the Agency, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the Agency.
- b. Termination for Convenience:** The Agency may terminate the P.O. at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the department, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials which are usable to the Agency.
- c. Termination for Non-Appropriations:** In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

**51. TERMINATION OF CONTRACT**

The contract awarded as a result of this RFP may be terminated as follows by Department of Natural Resources and Environmental Control.

- a. Termination for Cause:** If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this

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contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

On receipt of the contract cancellation notice from the State, the Vendor shall have not less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not affect or prevent the contract cancellation unless the State provides a written acceptance of the vendor response. If the State does accept the Vendor's method and/or action plan to correct the identified deficiencies, the State will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the State's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the State may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

- b. Termination for Convenience:** The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State.
- c. Termination for Non-Appropriations:** In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the State requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

## 52. CHANGES

Both parties may, from time to time, require changes in the services to be provided by the Vendor under the Scope of Work. Such changes, including any increase or decrease in the amount of the Vendor's compensation, which are mutually agreed upon by and between the Agency and the Vendor shall be incorporated in written amendments to the Purchase Order or contract.

## 53. INTEREST OF VENDOR

The vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree in providing products or performing services required under this contract. The vendor further covenants, that in the performance of this contract, no person having any such interest shall be employed.

## 54. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No material produced in whole or part under this contract shall be subject to copyright in the United States or in any other country. The State shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this contract;

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provided, however, that the State agrees not to use any design or engineering plans prepared by the vendor for anything other than their intended purpose under this Contract. The Vendor shall have the right to publish any and all scientific findings. Appropriate acknowledgment and credit for the State's support shall be given in the publication.

**55. RIGHTS AND OBLIGATIONS**

The rights and obligations of each party to this agreement shall not be effective, and no party shall be bound by the terms of this agreement, unless and until a valid executed purchase order has been approved by the Secretary of Finance, and all procedures of the Department of Finance have been complied with. A separate purchase order shall be issued for every project or order.

**56. ASSIGNMENT OF ANTITRUST CLAIMS**

As consideration for the award and execution of this contract by the State, the Vendor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the State pursuant to this contract. Upon either the State's or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the State and Vendor shall meet and confer about coordination of representation in such action.

**57. TESTING AND INSPECTION**

The State of Delaware reserves the right to conduct any test or inspection it may deem necessary to ensure equipment, materials and services conform to contract requirements.

**58. COVENANT AGAINST CONTINGENT FEES**

The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the State shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fees.

**59. GRATUITIES**

- a. If it is found, after notice and hearing, by the State that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Vendor or any agent of the State with a view toward securing a contract, or securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performance of this contract, the State may, by written notice to the Vendor, terminate the right of the Vendor to proceed under this contract and/or may pursue such other rights and remedies provided by law or under this agreement; provided that the existence of the facts upon which the State makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this contract; and
- b. In the event this contract is terminated pursuant to subparagraph "a", the State shall be entitled (i) to pursue the same remedies against the Vendor, and (ii) to exemplary damages, as a penalty in addition to any other damages to which it may be entitled by law, in an amount which shall be not

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less than three, nor more than ten, times the costs incurred by the Vendor in providing any such gratuities to any such officer or employee. The amount of such exemplary damages shall be in the sole discretion of the State.

**60. AFFIRMATION**

The Vendor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

**61. AUDIT ACCESS TO RECORDS**

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

**62. IRS 1075 Publication (If Applicable)**

**a. Performance**

In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by officers or employees with the following requirements:

- (1) All work will be performed under the supervision of the contractor.
- (2) The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.
- (3) FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.
- (4) FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.
- (5) The contractor will certify that FTI processed during the performance of this contract will be

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completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.

(6) Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.

(7) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

(8) No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.

(9) Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.

(10) To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.

(11) In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract.

(12) For purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of the subcontractor with access to or who uses FTI.

(13) The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

**b. Criminal/Civil Sanctions**

(1) Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

(2) Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and

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to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.

(3) Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see Exhibit 4, Sanctions for Unauthorized Disclosure, and Exhibit 5, Civil Damages for Unauthorized Disclosure). The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

**c. Inspection**

The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with FTI safeguard requirements.

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**63. REMEDIES**

Except as otherwise provided in this contract, all claims, counterclaims, disputes, and other matters in question between the State and the Vendor arising out of, or relating to, this contract, or a breach of it may be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

**64. SUBCONTRACTS**

Subcontracting is permitted under this RFP and contract. However, every subcontractor shall be identified in the Proposal (Attachment 7) and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The vendor(s) shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the RFP and with all local, State and Federal Laws. The vendor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

**65. AGENCY'S RESPONSIBILITIES**

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Vendor to the Agency and render to the Vendor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Vendor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If the ordering agency cannot resolve with the Contractor in a reasonable amount of time, the matter should be escalated to the state representative managing the contract.

**66. CONTRACT DOCUMENTS**

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Department of Natural Resources and Environmental Control

The Definitions and General Provisions and any Special Instructions, Specifications, Request for Proposal, Proposal, Purchase Order, and Contract shall be a part of and constitute the entire Agreement entered into by the State of Delaware and any Vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter:

- Contract
- Request for Proposal
- Specifications or Scope of Work
- Definitions & General Provisions
- Proposal
- Purchase Order
- Special Instruction

**67. ASSIGNMENT**

This contract shall not be assigned except by express prior written consent from the Agency.

**68. NOTICE**

Any notice to the State of Delaware required under the contract shall be sent by registered mail to:

**Susana Aranda  
Department of Natural Resources and Environmental Control  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904**

**69. VENDOR EMERGENCY RESPONSE POINT OF CONTACT**

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty-four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to appropriation and other payment terms.

**70. NO PRESS RELEASES OR PUBLIC DISCLOSURE**

The State of Delaware reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the State of Delaware.

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The State will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State's seal or imply preference for the solution or goods provided.

**C. AWARD AND EXECUTION OF CONTRACT**

**1. CONSIDERATION OF PROPOSALS**

The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to seek new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the Agency or its agent, the best interest of the State will be promoted thereby.

**2. MATERIAL GUARANTY**

Before any contract is awarded, the successful Vendor may be required to furnish a complete statement of the origin, composition, and manufacture of any or all of the material to be used in the contract together with such samples as may be requested for the purpose of testing.

**3. AWARD OF CONTRACT**

Within ninety (90) days from the date of opening proposals, the contract will be awarded or the proposals rejected.

**4. EXECUTION OF CONTRACT**

The Vendor (s) to whom the award is made shall execute a formal contract within twenty (20) days after date of official notice of the award of the contract.

**5. WARRANTY**

The successful Vendor(s) shall be required to extend any policy guarantee usually offered to the general public, FEDERAL, STATE, COUNTY, or MUNICIPAL governments, on material in this contract against defective material, workmanship, and performance.

**6. THE CONTRACT(S)**

The contract(s) with the successful Vendor(s) will be executed with Department of Natural resources and Environmental Control acting for all participating governmental entities.

**7. INFORMATION REQUIREMENT**

The successful vendor's shall be required to advise and provide Department of Natural resources and Environmental Control of the gross costs associated with this contract.

## **VI. PROPOSAL REPLY SECTION**

### **NAT26003 - VWEMTFP**

#### **Volkswagen Environmental Mitigation Trust Fund Project for Phase 5**

Please fill out the attached forms fully and completely and return with your proposal in a sealed envelope clearly displaying the contract number to the State of Delaware, Department of Natural Resources and Environmental Control by Thursday, April 30, 2026 at 4:00 pm (Local Time) at which time bids will be opened.

#### **Proposals must be mailed to:**

**Department of Natural Resources and Environmental Control  
Division of Air Quality  
State Street Commons  
100 W. Water Street, Suite 6A  
Dover, DE 19904**

### **PUBLIC PROPOSAL OPENINGS**

The public proposal opening ensures the citizens of Delaware that contracts are being proposed fairly on a competitive basis and comply with Delaware procurement laws. The agency conducting the opening is required by law to publicly open the proposals at the time and place specified and the contract shall be awarded within ninety (90) days thereafter. The main purpose of the proposal opening is to reveal the name(s) of the Vendor(s), not to serve as a forum for determining the apparent low Vendors. The disclosure of additional information, including prices, shall be at the discretion of the contracting agency until such time that the responsiveness of each proposal has been determined.

After receipt of a fully executed contract(s), the Delaware public and all Vendors are invited to make an appointment with the agency in order to review pricing and other non-confidential information.

**NOTE: ONLY THE VENDOR'S NAME AND ADDRESS WILL BE READ AT THE OPENING**

### **ATTACHMENTS**

The following attachments are required to be included in the final submission package.

**NO PROPOSAL REPLY FORM**

Contract No.: **NAT26003 - VWEMTFP**  
**Project for Phase 5**

Contract Title: **Volkswagen Environmental Mitigation Trust Fund**

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

- \_\_\_\_\_ 1. We do not wish to participate in the bid process.
- \_\_\_\_\_ 2. We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are: \_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 3. We do not feel we can be competitive.
- \_\_\_\_\_ 4. We cannot submit a proposal because of the marketing or franchising policies of the manufacturing company.
- \_\_\_\_\_ 5. We do not wish to sell to the State. Our objections are: \_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 6. We do not sell the items/services on which proposals are requested.
- \_\_\_\_\_ 7. Other: \_\_\_\_\_

\_\_\_\_\_  
FIRM NAME

\_\_\_\_\_  
SIGNATURE

**PLEASE FORWARD NO PROPOSAL REPLY FORM TO THE CONTRACT OFFICER IDENTIFIED.**

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Department of Natural Resources and Environmental Control

**Attachment 2**

**CONTRACT Number: NAT26003 - VWEMTFP  
Trust Fund Project for Phase 5**

**TITLE: Volkswagen Environmental Mitigation**

**DEADLINE TO RESPOND: Thursday, April 30, 2026 at 4:00 PM (local time)**

**NON-COLLUSION STATEMENT**

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this Bid, **and further certifies that it is not a sub-contractor to another Vendor who also submitted a Bid as a primary Vendor in response to this solicitation** submitted this date to the State of Delaware, Department of Natural Resources and Environmental Control.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents, subject to any express exceptions set forth at Attachment F, the Vendor's acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

**NOTE:** Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Natural Resources and Environmental Control.

COMPANY NAME \_\_\_\_\_

COMPANY TYPE:      Corporation      Partnership      Individual      Other: \_\_\_\_\_

NAME OF AUTHORIZED REPRESENTATIVE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

FEDERAL E.I. NUMBER \_\_\_\_\_ STATE OF DELAWARE  
LICENSE NUMBER \_\_\_\_\_

Certification type(s)	Circle all that apply	
Minority Business Enterprise (MBE)	Yes	No
Woman Business Enterprise (WBE)	Yes	No
Disadvantaged Business Enterprise (DBE)	Yes	No
Veteran Owned Business Enterprise (VOBE)	Yes	No
Service Disabled Veteran Owned Business Enterprise (SDVOBE)	Yes	No

The above table is for informational and statistical use only.

PURCHASE ORDERS SHOULD BE SENT TO:  
(COMPANY NAME) \_\_\_\_\_

ADDRESS \_\_\_\_\_

CONTACT \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

**AFFIRMATION:** Within the past five (5) years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?  
YES \_\_\_\_\_ NO \_\_\_\_\_ if yes, please explain \_\_\_\_\_

**THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED**

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

City of \_\_\_\_\_ County of \_\_\_\_\_ State of \_\_\_\_\_



Contract No.: **NAT26003 - VWEMTFP**  
Contract Title: **Volkswagen Environmental Mitigation Trust Fund Project for Phase 5**

**COMPANY PROFILE & CAPABILITIES FORM**

Suppliers are required to provide a reply to each question listed below. Your replies will aid the evaluation committee as part of the overall qualitative evaluation criteria of this Request for Proposal. Your responses should contain sufficient information about your company, so evaluators have a clear understanding of your company's background and capabilities. Failure to respond to any of these questions may result in your proposal to be rejected as non-responsive.

1.	Briefly describe how your Volkswagen Environmental Mitigation Trust Fund Project benefits the State of Delaware.

2.	Briefly describe your company's organization, structure, and philosophy.

3.	Briefly describe your ability to perform your Volkswagen Environmental Mitigation Trust Fund project in the allocated time.



**BUSINESS REFERENCES**

Contract Number: **NAT26003 - VWEMTFP.**

Contract Title: **Volkswagen Environmental Mitigation Trust Fund Project for Phase 5**

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please provide a separate list the contract(s).

**Reference One**

Contact Name	
Contact Title	
Business Name	
Address	
Email	
Phone	
Current Vendor?	
Work Performed	

**Reference Two**

Contact Name	
Contact Title	
Business Name	
Address	
Email	
Phone	
Current Vendor?	
Work Performed	

**Reference Three**

Contact Name	
Contact Title	
Business Name	
Address	
Email	
Phone	
Current Vendor?	
Work Performed	

**STATE OF DELAWARE PERSONNEL MAY NOT BE USED AS REFERENCES.**

**SUBCONTRACTOR INFORMATION FORM**

Contract Number **NAT26003 - VWEMTFP**  
Contract Title: **Volkswagen Environmental Mitigation Trust Fund Project for Phase 5**

Are you proposing the use of any subcontractors in the fulfillment of the requirements as outlined in the solicitation?

--

*If yes, complete this form.*

**Responding Vendor Information**

Company Name	
DBA (if applicable)	
Company Address	

**Subcontractor Information**

Company Name	
DBA (if applicable)	
Company Address	

Diverse Vendor Self-Identification	
State Certified	
Federal Certified	

If yes, which State(s):

--

**Description of Work by Subcontractor**

--

Once completed, this form must be signed by both vendors.

Proposing Vendor

Subcontractor

Authorized Signature:

Authorized Signature:

Name:

Name:

Title:

Title:

Date:

Date:



**Use a separate form for each subcontractor**



STATE OF DELAWARE  
Department of Natural Resources and Environmental Control

Attachment 9

**SAMPLE REPORT – FOR ILLUSTRATION PURPOSES ONLY**

State of Delaware																				
Subcontracting (2nd tier) Quarterly Report																				
Prime Name:						Report Start Date:														
Contract Name/Number						Report End Date:														
Contact Name:						Today's Date:														
Contact Phone:						*Minimum Required			Requested detail											
Vend or Name *	Vend or TaxID*	Contra ct Name/ Numbe r*	Vend or Conta ct Name *	Vend or Conta ct Phon e*	Repo rt Start Date *	Repo rt End Date *	Amount Paid to Subcontrac tor*	Work Performed by Subcontra ctor UNSPSC	M/WB E Certifyi ng Agency	Veteran/Ser vice Disabled Veteran Certifying Agency	2nd tier Suppli er Name	2nd tier Suppli er Addre ss	2nd tier Suppli er Phone Numb er	2nd tier Suppli er email	Descript ion of Work Perform ed	2nd tier Suppli er Tax Id	Dat e Paid			

**Note:** Completed reports shall be saved in an Excel format, and submitted to the following email address: [osd@delaware.gov](mailto:osd@delaware.gov) . The form can be located at [Office of Supplier Diversity - Division of Small Business - State of Delaware](#), bottom of the page, 'Services and Information' section, 'Subcontractor Reporting Form'.



### The Office of Supplier Diversity (OSD)

Supplier Diversity Certification Application Portal can be found here:  
[Office of Supplier Diversity Certification Application Portal](#)

For more information, please send an email to OSD:  
[osd@delaware.gov](mailto:osd@delaware.gov) or call 302-577-8477

[Subscribe](#) to the OSD Mailing List

Carvel State Building  
820 N. French Street, 10<sup>th</sup> Floor  
Wilmington, DE 19801

Telephone: 302-577-8477 / Fax: 302-736-7915

Email: [osd@delaware.gov](mailto:osd@delaware.gov)

Web site: <https://business.delaware.gov/osd/>

\*Submission of a completed Office of Supplier Diversity (OSD) application is optional and does not influence the outcome of any award decision.



**BOND HAS BEEN WAIVED**

**PERFORMANCE BOND**

Bond Number: \_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, that we, \_\_\_\_\_, as principal ("**Principal**"), and \_\_\_\_\_, a \_\_\_\_\_ corporation, legally authorized to do business in the State of Delaware, as surety ("**Surety**"), are held and firmly bound unto the \_\_\_\_\_ ("**Owner**") (*insert State agency name*), in the amount of \_\_\_\_\_ (\$\_\_\_\_\_), to be paid to **Owner**, for which payment well and truly to be made, we do bind ourselves, our and each and every of our heirs, executors, administrations, successors and assigns, jointly and severally, for and in the whole, firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH, that if **Principal**, who has been awarded by **Owner** that certain contract known as Contract No. \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Contract"), which Contract is incorporated herein by reference, shall well and truly provide and furnish all materials, appliances and tools and perform all the work required under and pursuant to the terms and conditions of the Contract and the Contract Documents (as defined in the Contract) or any changes or modifications thereto made as therein provided, shall make good and reimburse **Owner** sufficient funds to pay the costs of completing the Contract that **Owner** may sustain by reason of any failure or default on the part of **Principal**, and shall also indemnify and save harmless **Owner** from all costs, damages and expenses arising out of or by reason of the performance of the Contract and for as long as provided by the Contract; then this obligation shall be void, otherwise to be and remain in full force and effect.

**Surety**, for value received, hereby stipulates and agrees, if requested to do so by **Owner**, to fully perform and complete the work to be performed under the Contract pursuant to the terms, conditions and covenants thereof, if for any cause **Principal** fails or neglects to so fully perform and complete such work.

**Surety**, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of **Surety** and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition or change in or to the Contract or the work to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of any work to be performed or any monies due or to become due thereunder; and **Surety** hereby waives notice of any and all such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to **Surety** as though done or omitted to be done by or in relation to **Principal**.

**Surety** hereby stipulates and agrees that no modifications, omissions, or additions in or to the terms of the Contract shall in any way whatsoever affect the obligation of **Surety** and its bond.

Any proceeding, legal or equitable, under this Bond may be brought in any court of competent jurisdiction in the State of Delaware. Notices to **Surety** or Contractor may be mailed or delivered to them at their respective addresses shown below.

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Department of Natural Resources and Environmental Control

IN WITNESS WHEREOF, **Principal** and **Surety** have hereunto set their hand and seals, and such of them as are corporations have caused their corporate seal to be hereto affixed and these presents to be signed by their duly authorized officers, the day and year first above written.

**PRINCIPAL**

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Company Address

**SURETY**

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

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Department of Natural Resources and Environmental Control

Attachment 12

Bid Bond

BOND HAS BEEN WAIVED

KNOW ALL MEN BY THESE PRESENTS That \_\_\_\_\_ of \_\_\_\_\_ of the County of \_\_\_\_\_ and State of \_\_\_\_\_ principal, and \_\_\_\_\_ of \_\_\_\_\_ of the County of \_\_\_\_\_ and the State of \_\_\_\_\_ as surety, legally authorized to do business in the State of Delaware, are held and firmly bound unto the State of Delaware in the sum of \_\_\_\_\_ Dollars or \_\_\_\_\_ per cent (not to exceed \_\_\_\_\_ Dollars) of amount bid on Contract No. \_\_\_\_\_ to be paid to said State of Delaware for the use and benefit of the \_\_\_\_\_ of said State, for which payment well

(hereinafter referred to as Agency)

and truly to be made, we do bind ourselves, our and each of our heirs, executors, administrators, and successors, jointly and severally for and in the whole, firmly by these presents.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH That if the above bounden principal \_\_\_\_\_ who has submitted to said Agency of the State of Delaware, a certain proposal to enter into a certain contract to be known as Contract No. \_\_\_\_\_, for the furnishing of certain products and/or services within the said State of Delaware shall be awarded said Contract No. \_\_\_\_\_, and if said \_\_\_\_\_ shall well and truly enter into and execute said Contract No. \_\_\_\_\_ and furnish therewith such surety bond as may be required by the terms of said contract and approved by said Agency, said contract and said bond to be entered into within twenty days after the date of official notice of the award thereof in accordance with the terms of said proposal, then this obligation to be void or else to be and remain in full force and virtue.

Sealed with \_\_\_\_\_ seal and dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord two thousand and \_\_\_\_\_ (20\_\_\_\_).

SEALED AND DELIVERED IN THE

Presence Of \_\_\_\_\_

\_\_\_\_\_  
Name of Bidder (Principal) (Seal)

Witness

\_\_\_\_\_ BY

\_\_\_\_\_ (Seal)

Corporate Seal

\_\_\_\_\_  
Title

\_\_\_\_\_ BY

\_\_\_\_\_  
Name of Surety (Seal)

\_\_\_\_\_ (Seal)

\_\_\_\_\_  
Title

**PROPOSAL REPLY REQUIREMENTS**

The response should contain the following minimum information:

1. A brief Cover Letter including an Applicant's experience, if any, providing similar services.
2. Vendor shall provide a detailed description of services to be provided and shall respond to the Scope of Work identified. Failure to adequately describe the extent of their abilities may affect how the state evaluates and scores the vendor proposal.

Include catalogs or links, if that is what is asked for.

**Vendors are encouraged to review the Evaluation criteria to see how the proposals will be scored and verify that the response has sufficient documentation to support each scoring criteria identified.**

3. One (1) complete, signed and notarized copy of the Non-Collusion Agreement (Attachment 2). **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK** – Form must be included.
4. One (1) completed RFP Exception Form (Attachment 3) – please check box if no information – Form must be included.
5. One (1) completed Profile and Capabilities Form (Attachment 4)
6. One (1) completed Confidentiality Form (Attachment 5) – please check if no information is deemed confidential – Form must be included.
7. One (1) completed Business Reference Form (Attachment 6) – please provide references other than State of Delaware contacts – Form must be included.
8. One (1) complete and signed copy of the Subcontractor Information Form (Attachment 7) for each subcontractor – only provide if applicable.
9. One (1) complete OSD Application (see link on Attachment 10) – optional, only provide if applicable

The items listed above provide the basis for evaluating each vendor's proposal. **Failure to provide all appropriate information may deem the submitting vendor as "non-responsive" and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

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**PROPOSAL REPLY REQUIREMENTS (CONT'D)**

Vendors shall compile all documentation noted above, and all other documents as required in the Scope of Work, Appendix A, and shall provide in the following format(s):

1. **[1]** paper copy of the vendor proposal paperwork.
2. **[1]** electronic copy of the vendor proposal saved to USB memory stick. Any copies of electronic price files shall be included on the same electronic media but shall be saved separately from.

## **Appendix A – STATEMENT OF WORK AND TECHNICAL SPECIFICATIONS**

### 1. Introduction

The U.S. Justice Department and the Volkswagen (VW) Corporation and its subsidiaries (collectively VW) reached, through a series of partial consent decrees (CDs), agreements regarding the installation and use of emissions testing defeat devices in over 500,000 vehicles sold and operated in the U.S. As part of these agreements, VW was required to establish an environmental mitigation trust (Trust) to fund certain eligible mitigation actions to mitigate the excess NO<sub>x</sub> emissions caused by the offending VW vehicles.

The State of Delaware anticipates awarding the remaining \$2.3 million for the replacement of eligible Vehicles and Equipment, as outlined in the Volkswagen Environmental Mitigation Plan. The Department of Natural Resources and Environmental Control (DNREC); Division of Air Quality (AQ) will oversee the administration of the Volkswagen Environmental Mitigation Trust Fund Program. Delaware has historically faced challenges in meeting the National Ambient Air Quality Standards (NAAQS), which are established by the US. Environmental Protection Agency (EPA) to protect human health. The transportation sector is the largest contributor to nitrogen oxide (NO<sub>x</sub>) and carbon dioxide (CO<sub>2</sub>) emissions. To improve air quality to healthy levels and comply with the requirements of the Clean Air Act (CAA), Delaware has implemented various control programs affecting industry, government operations and transportation planning efforts. Reducing emissions from the transportation sector is essential to achieving the state's air quality goals.

### 2. Program Overview

The Division of Air Quality invites public and private fleets, as well as other stakeholders and private businesses, to submit project proposals to utilize the remaining environmental mitigation funds. DNREC is particularly interested in projects that:

- a. Reduce NO<sub>x</sub> and other emissions.
- b. Are cost-effective
- c. Provide environmental benefits to communities disproportionately affected by air pollution.

Examples of eligible projects include upgrading aging diesel-powered vehicles, such as repowering or replacing certain school, shuttle, transit, and freight trucks with newer, cleaner diesel engines or alternative fuels, such as natural gas or electrification. For more specific information on vehicle or equipment eligibility, please see section 6. Eligible Mitigation Actions.

Projects that are most likely to yield cost-effective and substantial air quality benefits are those that replace a combination of the following:

- Larger engines
- Older or less-controlled engines
- Off-road engines
- Engines that operate extensively throughout the year and/or remain in service for many years
- Engines that function near people, particularly in communities disproportionately affected by air pollution

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All project sponsors are required to complete a Volkswagen Mitigation Plan Project Proposal Form (Appendix B) and comply with its requirements. DNREC will award funds on a reimbursement basis. Government awardees must sign a Memorandum of Understanding (MOU), while non-government awardees must sign a funding agreement.

3. Definitions

**Airport Ground Support Equipment** - Vehicles and equipment used at an airport to service aircraft between flights.

**Alternate Fueled** - An engine, or a vehicle or piece of equipment that uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., compressed natural gas, propane, diesel-electric Hybrid).

**Certified Remanufacture System or Verified Engine Upgrade** - Engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

**Class 4-7 Local Freight Trucks (Medium Trucks)** - Trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 pounds (lbs.).

**Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)** - Vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs. used for transporting people.

**Class 8 Local Freight and Port Drayage Trucks (Eligible Large Trucks)** - Trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs. used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

**Drayage Trucks** - Trucks hauling cargo to and from ports and intermodal rail yards.

**Eligible Mitigation Actions**- Eligible Mitigation Actions are projects that are eligible for funding under this RFP announcement. See Section 6 “Eligible Mitigation Actions” for additional information.

**Forklift-non-Road** equipment used to lift and move materials short distances; generally, includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

**Freight Switcher** - A locomotive that moves rail cars around a rail yard as compared to line-haul engines that move freight long distances.

**Generator Set** – A switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

**Government** - A State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village.

**Gross Vehicle Weight Rating (GVWR)** - The maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo. Class 1: < 6000 lbs.; Class 2: 6001-10,000 lbs.; Class 3: 10,001-14,000 lbs.; Class 4: 14,001-16,000 lbs.; Class 5: 16,001-19,500 lbs.; Class 6: 19,501-26,000 lbs.; Class7: 26,001-33,000 lbs.; and Class 8: > 33,001 lbs.

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**Ineligible Mitigation Action Expenses** - Ineligible costs are those costs that do not qualify for funding under this RFP announcement. See Section 8 “Ineligible Mitigation Action Expenses” for additional information.

**Port Cargo Handling Equipment** - The rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

**Project Sponsor** - The project sponsor is the lead point of contact on the proposed project. The project sponsor will receive all the correspondence and work with the DNREC Division of Air Quality on the deployment of the proposed project.

**Repower** – To replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

**School Bus** – A Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

**Tier 0, 1, 2, 3, 4** – Refers to corresponding EPA engine emission classifications for non-road, locomotive and marine engines.

**Total Project Costs**- Total project costs, including eligible and ineligible costs, associated with the entire project.

**Tugs** – Dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

#### 4. Project Eligibility

The following requirements **MUST** be met to be eligible to participate in this funding opportunity.

- a. Projects must result in quantifiable and verifiable reductions in NO<sub>x</sub> emissions in Delaware.
- b. The project sponsor and project team must demonstrate the experience and capacity necessary to complete the project.
- c. The project must demonstrate that it will produce results that could be readily replicated by others in Delaware and elsewhere.
- d. The project sponsor must be willing to destroy the existing engine/vehicle being replaced at the end of their contract and complete a “Certificate of Destruction.” The form will be provided to the project sponsor prior to the destruction of their vehicle or equipment.

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- e. Award recipients must submit data reports to the DNREC Division of Air Quality on a quarterly basis for a period of one (1) year after project completion. Data reports may include hours of operation, gallons of fuel used, etc. Data report format and content will be mutually agreed upon by DNREC and award recipient and will be defined in the MOU or funding agreement for Quarterly Report. This form will be provided to the project sponsor prior to the completion of the project.
- f. All projects must be located and operated in the State of Delaware.
- g. All project proposals must have a robust calculation of the estimated amount of emission reductions using the US EPA Diesel Emission Quantifier (DEQ), which would be provided to the project sponsors in order to complete the project proposal form.
- h. The project sponsor must demonstrate that the proposed project budget is reasonable, applicable, and eligible for funding. There will be an evaluation of the proposed budget as part of the evaluation process.

5. Project Sponsor Eligibility

All project sponsors must have a physical presence in the State of Delaware. The project sponsor for each project must be either a Delaware-based Government (county/municipal/state agency, academic institution, or be under contract with an academic institution), or be a non-government, private entity or business operating in the State of Delaware.

6. Eligible Mitigation Actions

Eligible Mitigation Actions are those projects that are eligible for funding under this Request for Proposal. These projects are limited to actual and necessary costs incurred for the purchase of the following mitigation actions:

- a. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks) – Includes vehicles with engine model year 2009-1992, repowered with any new diesel or alternate fueled engine or all-electric engine, or replaced with any new diesel or alternate fueled or all-electric vehicle, with the engine model year in which the eligible large trucks mitigation action occurs or newer.
- b. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses) – Includes vehicles with engine model year 2009 – 1992, repowered with any new diesel or alternate fueled or all-electric engine, or replaced with any new diesel, alternate fueled, or all-electric vehicle, with the engine model year in which the eligible bus mitigation action occurs or newer.
- c. Freight Switchers – Includes Pre-Tier 4 locomotives that operate 1000 or more hours per year repowered with any new diesel or alternate fueled or all-electric freight switcher certified to meet applicable EPA emissions standards.
- d. Ferries/Tugs – Includes unregulated, Tier 1 or Tier 2 marine engines on ferries or tugs repowered with Tier 3, Tier 4, alternate fueled, or all-electric engine, or upgraded with an EPA certified remanufacture system or an EPA verified engine upgrade.
- e. Ocean Going Vessels (OGV) Shore power – Includes marine shore power systems or components of such systems that enable a compatible vessel's main and auxiliary engines to remain off while

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the vessel is at berth. Components eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Subject marine shore power systems comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 high voltage shore connection systems or the IEC/PAS 80005-3:2014 low voltage shore connection systems) and are supplied with power sourced from the local utility grid.

- f. Class 4-7 Local Freight Trucks (Medium Trucks) – Includes vehicles with engine model year 1992-2009 repowered with a new diesel, alternate fueled, or all-electric engine, or replaced with any new diesel, alternate fueled, or all-electric vehicle, with the engine model year in which the eligible medium trucks mitigation action occurs or one engine model year prior.
- g. Airport Ground Support Equipment – Includes Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and uncertified or certified to 3 g/bhp-hr. or higher emissions spark ignition engine powered airport ground support equipment repowered with an all-electric engine, or replaced with the same airport ground support equipment in an all-electric form; and
- h. Forklifts and Port Cargo Handling Equipment - Forklifts with greater than 8000 pounds (lbs.) of lift capacity and port cargo handling equipment repowered with an all-electric engine or replaced with the same equipment in an all-electric form.

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7. Cost Share

Project Eligibility Categories	Requirement	VW Cost Share	Project Sponsors Cost Share
Class 8 & Class 4-7 (Eligible Large Trucks) *	Engine replacement with new diesel or alternate fueled engine	40%	60%
Class 8 & Class 4-7 (Eligible Large Trucks) *	Engine replacement with new all-electric engine	60%	40%
Class 8 & Class 4-7 (Eligible Large Trucks) *	Vehicle replacement with new diesel or alternate fueled vehicle	25% (50% for Drayage)	75% (50% for Drayage)
Class 8 & Class 4-7 (Eligible Large Trucks) *	Vehicle Replacement with all-electric vehicle	45%	55%
Class 4-8 (Eligible Buses) **	Engine replacement with new diesel or alternate fueled engine	40%	60%
Class 4-8 (Eligible Buses) **	Engine replacement with new all-electric engine	60%	40%
Class 4-8 (Eligible Buses) **	Vehicle replacement with new diesel or alternate fueled vehicle	25%	75%
Class 4-8 (Eligible Buses) **	Vehicle Replacement with all-electric vehicle	45%	55%
Freight Switchers (Pre-Tier 4)	Engine replacement with new diesel or alternate fueled engine or generator sets that are EPA certified	40%	60%
Freight Switchers (Pre-Tier 4)	Engine replacement with new all-electric engine	60%	40%
Freight Switchers (Pre-Tier 4)	Locomotive replacement with new diesel or alternate fueled freight switcher that is EPA certified	25%	75%
Freight Switchers (Pre-Tier 4)	Locomotive replacement with new all-electric freight switcher	45%	55%
Ferries/Tugs (Pre-Tier 3)	Engine replacement with new Tier 3 or 4 diesel or alternate fueled engine	40%	60%
Ferries/Tugs (Pre-Tier 3)	Engine replacement with new all-electric engine	60%	40%
Ferries/Tugs (Pre-Tier 3)	Certified Remanufacture System or Verified Engine Upgrade	40%	60%
Ocean Going Vessels	Costs associated with shore-side system	25%	75%
Airport Ground Support Equipment (Pre-Tier 3)	Engine replacement with new all-electric engine	60%	40%
Forklifts and Port Cargo Handling Equipment (800+ lbs. capacity)	Equipment replacement with new all-electric equipment	45%	55%

\*Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks) & Class 4-7 Local Freight Trucks (Eligible Medium Trucks) (Model Year 1992 –2009).

\*\* Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses) (Model Year 2009 and older)

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8. Ineligible Mitigation Action Expenditures

Ineligible Mitigation Action Expenditures are those costs that do **not** qualify for funding under Phase 5 (\$2.3 million) of Delaware's VW Mitigation Plan. The costs include, but are not limited to, the following:

- Labor,
- Administration,
- Fringe Benefits,
- Printing and Supplies,
- Office Equipment,
- Acquisition of real estate property,
- Travel,
- Acquisition of permits,
- Landscaping,
- Energy efficiency projects, or
- Outreach and Education

Operation and maintenance costs of new or existing infrastructure and/or equipment are also not eligible for funding.

9. Award Notification

The following VW Funding award conditions are listed:

- All funding awardees will be required to sign a Memorandum of Understanding (MOU) or a Funding Agreement.
- All awards will be made via Delaware Department of Natural Resource and Environmental Control Contract (DNREC) with associated conditions.
- All awards for this program are granted by reimbursement only. No funds can be spent by an award recipient until a signed purchase order is issued. Funding Award payments will be reimbursed based on actual costs incurred. All receipts are due at the completion of the project for reimbursement. All reimbursements are contingent on the completeness and correctness of the information submitted, as well as complete documentation of the costs incurred (all receipts for equipment will be required). The content and schedule for the payment will be determined in the MOU or Funding Agreement.
- All award recipients must comply with scrappage requirements. A "Certificate of Destruction" must be completed for each vehicle or engine replaced. Additionally, supporting photographs verifying the destruction of the vehicle or engine must be submitted.
- All award recipients will be required to submit quarterly project progress reports for a period of one (1) year after the completion of a project. Generally, progress reports must describe the project implementation success and actual emission reductions resulting from project completion, difficulties encountered during the reporting period, and successes encountered during the reporting period.

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- Contracts must be fully executed within 90 - 120 days of award notification or risk forfeiture of the funding award. The Division of Air Quality may, at its discretion, extend the time of execution.

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**Project Proposal Scoring Matrix**

<b>Project Award Criteria</b>	<b>Score Possible</b>
<p><b>Measurable, verifiable reduction in NO<sub>x</sub> emissions</b></p> <ul style="list-style-type: none"> <li>- The project will produce a net reduction in NO<sub>x</sub> emissions in the State and result in a measurable, verifiable reduction in NO<sub>x</sub> per ton of emissions using the Diesel Emission Quantifier.</li> <li>- Projects must meet eligibility requirements of the VW Mitigation Plan</li> </ul>	Up to 30 points
<p><b>Project Budget</b></p> <ul style="list-style-type: none"> <li>- The proposed budget is thorough, robust, realistic, and cost effective.</li> <li>- The project sponsor must show a detailed budget with all cost shares explained.</li> </ul>	Up to 15 points
<p><b>Proposed Project Location</b></p> <ul style="list-style-type: none"> <li>- The project is sited near a major highway or transportation corridor, shipping route, or near a shipping logistics center.</li> <li>- This project will address an environmental justice (EJ) area or related location that receives a disparate proportion of environmental impacts.</li> <li>- The project avoids environmentally sensitive areas or areas containing critical habitats.</li> <li>- Priority will be given to projects in non-attainment and air quality maintenance areas.</li> </ul>	Up to 15 points
<p><b>Project Timeline</b></p> <p>The proposed project must define when the project will commence and will end.</p>	Up to 15 points
<p><b>Ability to be Replicated throughout the State</b></p> <ul style="list-style-type: none"> <li>- The proposed project has the ability to be replicated throughout the state.</li> </ul>	Up to 15 points
<p><b>Collaboration with other Entities in the State</b></p> <ul style="list-style-type: none"> <li>- The project includes collaborative efforts between the project sponsor and project team (an anchor fleet or fleets, utility/fuel provider, vehicle dealer, or manufacturer).</li> </ul>	Up to 10 points
<p><b>Economic Development</b></p> <ul style="list-style-type: none"> <li>- The project creates and/or retains local jobs for Delawareans.</li> <li>- The project serves as an economic development engine for local Delaware based companies.</li> </ul>	Up to 5 points
<p><b>Total Points</b></p>	<b>100 Maximum</b>

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**Certification**

*The Project Sponsor certifies that they have been authorized by the Equipment Owner to submit this Project Proposal. The Equipment Owner agrees to comply with all requirements of Delaware's Volkswagen Environmental Mitigation Plan and that the information provided is true, accurate, and complete.*

Project Sponsor's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Equipment Owner's Signature: \_\_\_\_\_  
(If different from Project Sponsor)

Date: \_\_\_\_\_

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Appendix C  
Delaware Volkswagen Mitigation Trust  
Certificate of Vehicle/Engine Destruction

Grantee Name: \_\_\_\_\_ Grant No.: \_\_\_\_\_

Subgrantee Name: \_\_\_\_\_

Vehicle Owner Name: \_\_\_\_\_

Vehicle Owner Address: \_\_\_\_\_

**Old Vehicle/Chassis Information**

Make:		Vehicle ID Number:	
Model:		Odometer Reading:	miles
Year:			

**Old Engine Information**

Make:		Horsepower:
Model:		ID or Serial No.:
Year:		

Name of Dismantler: \_\_\_\_\_

Address of Dismantler: \_\_\_\_\_

Date Vehicle Accepted by Dismantler: \_\_\_\_\_

Signature of Dismantler: \_\_\_\_\_

**Authorized Representative:**

Date vehicle/engine disabled: \_\_\_\_\_

**Statement:** I certify that within 90 days of replacement, the old engine and chassis (where applicable) have been permanently disabled. Disabling the engine consists of cutting or punching a three inch by three inch (3" x 3") hole in the engine block. Disabling the chassis consists of cutting completely through the frame/frame rails on each side of the vehicle/equipment at a point located between the front and rear axles. If other, pre-approved scrappage methods were used, details and documentation are attached. Photos of the disabled engine/chassis that are required pursuant to the Terms and Conditions of the award agreement are attached to this Certificate of Vehicle/Engine Destruction.

Authorized Name: \_\_\_\_\_  
Print Name

Authorized Signature: \_\_\_\_\_  
Date

Note: Documentation must include JPEG images of the following, with corresponding file names:

- |                            |                            |                                |                      |
|----------------------------|----------------------------|--------------------------------|----------------------|
| 1) Side profile of vehicle | 3) Engine label            | 5) Engine block, prior to hole | 7) Others, as needed |
| 2) VIN                     | 4) Chasis rail cut in half | 6) Engine block, after hole    |                      |





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Fleet Description Data Fields: Please refer to the following data field dictionary for support in completing tab 9 (Fleet Description).	
CURRENT VEHICLE AND ENGINE UPGRADE INFORMATION	
Basic Fleet Information	
Group Name	Enter the group name of the fleet.
Fleet Owner	Enter the first and last name of the individual or organization that owns the fleet.
Publicly or Privately Owned?	If the vehicles are part of a public fleet or benefit the public (i.e. a private school bus company contracted by a public school; drayage vehicles that serve a port; private construction equipment contracted to a public works project, etc.) enter "Publicly", otherwise enter "Privately".
Place of Performance	Enter the next four fields for each vehicle's place(s) of performance.
- State(s):	Enter the two letter postal code for the state in which the vehicle(s) will operate.
- County(s):	Enter the county in which the vehicle(s) will operate.
- City(s):	Enter the city in which the vehicle(s) will operate.
- Zip Code(s):	Enter the zip code which the vehicle(s) will operate.
- % of Time operated in each Zip Code (Total to Equal 100%)	Enter the percent of time the vehicle group operates in each zip code, if there is more than one. For example, 80% of time in 85310 and 20% of time in 85308.
Equipment Type	Enter the vehicle type from the dropdown, OnRoad Vehicle, NonRoad Equipment, Locomotive, or Marine.
Target Fleet	Select the target fleet from the dropdown menu.
Class	Select from the dropdown menu the Vehicle/Equipment Class for onroad vehicles, as appropriate.
Vehicle or Engine Group Sector:	Using the drop down, enter the sector associated with the vehicle or engine group.
Vocation	Select the vocation type from the dropdown menu.
Current Vehicle Information	
Vehicle Identification Number(s):	Enter the Serial number or VIN number for each engine or vehicle
Vehicle Make	Enter the manufacturer of the existing vehicle
Vehicle Model	Enter the model of the existing vehicle
Baseline Vehicle Model Year:	Enter the model year of the existing vehicle.
Current Engine Information	
Engine Serial Number(s) :	Enter the engine Serial # for each vehicle or engine to be scrapped/replaced.
Engine Make:	Enter the manufacturer of the existing Engine.
Engine Model:	Enter the model of the existing Engine.
Engine Model Year:	Enter the model year of this engine set.
Engine Tier (nonroad, locomotive, and marine only):	For REPOWERS AND UPGRADES ONLY, Select from the dropdown menu the Current Tier Level.
Tier 4 Standards (Tier 4 only):	For tier 4 only engines, please use the drop down to indicate interim for final.
Engine After-Treatment Technology	Enter the appropriate drop down for collection on emission control technologies for the current engine.
Engine Horsepower:	Enter the average horsepower of the engine/equipment.
Engine Cylinder Displacement (liters/cylinder; marine only):	Enter the engine displacement per cylinder in liters.
Engine Number of Cylinders (# of cylinders per engine):	Enter the number of cylinders per engine.
Engine Total Displacement (liters per engine; marine only)	Enter the engine displacement per cylinder in liters.
Engine Family Name (if unregulated, then NA):	Enter the Engine Family name of the existing Engine. NOTE: unregulated engines will not have an Engine Family Name. Engine Optional for Idle Reduction, Aerodynamic Technology, Low Rolling Resistance Tires, and Fuels projects.
Baseline Engine Fuel Type:	Select the type of fuel that is currently being used (prior to any clean diesel activity change).
Total # of Propulsion Engines (per vessel; marine only):	Enter the total number of propulsion engines on the vessel.
Total # of Auxiliary Engines (per vessel; marine only):	Enter the total number of auxiliary engines on the vessel.
Current Annual Vehicle Data	
Annual Amount of Fuel Used (gallons/year per engine):	Enter the amount of fuel used in gallons/year.

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Annual Usage Hours (hours per year per engine; includes idling hours; nonroad, locomotive, and marine only)	Enter the average number of hours the equipment is used per year.
Annual Miles Traveled (miles per vehicle; on-highway only):	Enter the average number of vehicle miles traveled per year per vehicle.
Annual Idling Hours (hours per engine; on-highway only):	Enter the average number of hours the vehicle idles per year.
Annual Hoteling Hours (hours per year per engine; class 8 long-haul combination only):	Enter the average number of hoteling hours per year, per engine.
Remaining Life of Baseline Engine/Vehicle (years per engine; total # of years of engine life remaining at time of upgrade action):	Enter the remaining life of baseline engine/vehicle in years at the time of the upgrade action
<b>NEW VEHICLE AND ENGINE UPGRADE INFORMATION</b>	
<b>Upgrade Information</b>	
Year of Upgrade Action:	Enter the year in which the upgrade will take place (i.e., if in 2010, you're replacing a 1995 bus with a 2007 bus, the upgrade year is 2010.)
Upgrade Type:	Enter the type of upgrade that will take place from the dropdown menu.
Upgrade Specific:	Using the drop down, enter the specific type of upgrade that will take place during the project.
Class (onroad vehicles):	Using the drop down list provided, select the appropriate vehicle class (for onroad vehicles only).
VIN for New Vehicle(s):	Please enter the vehicle identification numbers for the new vehicle(s) being replaced.
Total Cost per Unit (equipment cost plus labor):	Automated cell that will sum the upgrade equipment cost (row 55) and labor cost (row 56).
Upgrade Equipment Cost only per unit:	Enter the cost of the technology or equipment cost per unit.
Upgrade Labor Cost only per unit:	Enter the cost of installing or labor cost of the technology per unit.
Total Federal Funds Expended per Unit (\$ Total Cost per Unit):	Enter the federal funds expended in dollars per unit.
Federal Cost Share Expended per Unit (% Total Cost per Unit):	Automated cell that will calculate the federal cost share based upon the federal funds expended entered in row 57.
<b>New Engine Information</b>	
New Engine Model Year:	For REPLACEMENTS AND REPOWERS ONLY, Enter the model year of the new vehicle/engine.
New Engine Tier (nonroad, locomotive, and marine only):	For REPLACEMENTS, REPOWERS AND UPGRADES ONLY, Select from the dropdown menu the new Tier Level.
Tier 4 Standards (Tier 4 only):	For tier 4 only engines, please use the drop down to indicate interim for final.
New Engine After-Treatment Technology (Tier 4 nonroad only):	Enter the appropriate drop down for collection on emission control technologies for the new engine.
New Engine Horsepower:	Enter the new horsepower of the engine or equipment.
New Engine Duty Cycle (line-haul locomotive only):	Please enter the new engine duty cycle - for line-haul locomotive ONLY.
New Engine Cylinder Displacement (liters per cylinder per engine; marine only)	Enter the new engine displacement per cylinder in liters.
New Engine Total Displacement (liters per engine; marine only)	Select from the dropdown menu the displacement per cylinder in liters.
New Engine Number of Cylinders (per engine; marine only):	Enter the number of cylinders in the new engine.
New Engine Family Name:	For REPLACEMENTS AND REPOWERS ONLY, Enter the Engine Family Name of the new engine.
New Engine Fuel Type:	Select the type of fuel that is for the new engine or vehicle.
<b>New Annual Vehicle Data</b>	
Annual Idling Hours Reduced (hours per vehicle; on-highway only):	For IDLE REDUCTION STRATEGIES ONLY, Enter the average number of idling hours reduced for the engine.
Annual Hoteling Hours Reduced (hours per vehicle; class 8 long-haul combination only):	Enter the average number of hoteling hours per year, per engine.
New Annual Fuel Volume (estimated gallons/year per engine):	Please enter the new annual fuel volume, in gallons. New Annual Fuel Volume should be from new engine efficiency, not changes in use.
<b>10. INFRASTRUCTURE</b>	
<b>EVSE Equipment Information</b>	
Type of Charger	Enter the type of charger, either Level 2 (AC charging up to 19.2 kW) or DC Fast Charging.

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If Level 2, is it ENERGY STAR certified	Confirm and select yes if applicable. Please see <a href="https://www.energystar.gov/">https://www.energystar.gov/</a>
EVSE Manufacturer	Enter the manufacturer of the charging equipment
EVSE Model	Enter the model name of the charging equipment.
EVSE Manufacture Year	Enter the year the charging equipment was manufactured.
Is the EVSE BABA Compliant?	Select an option. EVSE manufactured on or after July 1, 2024 must be meet BABA requirements.
EVSE Maximum Output Power (kW)	Enter the maximum power output of the charging equipment, measured in kilowatts.
Number of Plugs on EVSE	Enter the number of plugs installed on each unit of the charging equipment.
Is the EVSE Capable of Bidirectional Charging?	Select yes or no into the cell to specify whether the charging equipment is capable of bidirectional charging.
Will the Bus and EVSE be Used for V2G?	Select yes or no into the cell to specify whether the buses and charging equipment will be used for vehicle-to-grid (V2G) services.
EVSE Number of Units	Enter the quantity of charging equipment unit
EVSE Equipment Cost only Per Unit:	Enter the cost of the charging equipment per unit.
Total Federal Funds Expended Per EVSE Unit	Enter the total Federal funds expend for charging equipment per unit.
Total Federal Funds Expended for EVSE	No action - autopopulated
Date of EVSE Installation (mm/dd/yyyy)	Enter the date on which the EVSE is permanently affixed.
<b>Location of EV Infrastructure</b>	
State	Select the two letter postal code for the state in which the charging equipment will be located.
County	Enter the county in which the charging equipment will be located.
City	Enter the city in which the charging equipment will be located.
Zip Code	Enter the zip code in which the charging equipment will be located.
Street Address	Enter the street address in which the charging equipment will be located.
Who owns the charger?	Enter the name of the school district or organization that owns the charging equipment.
Does the EVSE serve multiple school districts within this application?	Select yes or no
Name of the School District(s) the EVSE will serve (use a colon between school districts)	Enter the name of the school district in which the EVSE will serve. If it will serve multiple school districts, list all and separate with a colon (e.g., Hampton School District: Edgewood School District).
NCES ID of School District that the EVSE will serve (use a colon between school districts)	Enter the name of the National Center for Education Statistics (NCES) ID associated with the school district in which the EVSE will serve. If it will serve multiple school districts, list all NCES IDs and separate with a colon (e.g., 1234567: 7654321).
<b>Infrastructure Installation Information</b>	
Total Funds Expended Installation Cost	Enter the total installation costs for the charging equipment for the EV infrastructure group column.
Total Federal Funds Expended Installation Cost	Enter the total Federal funds expended for installation costs for the charging equipment for the EV infrastructure group column.
Does the Infrastructure Equipment Cost Include Installation?	Please enter yes or no into the cell to specify whether the indicated cost of the charging equipment above includes any installation expenses.
Description of Installation Work	Enter a description of the work performed to install the charging equipment, such as design and engineering, trenching, wiring and electrical upgrades, labor, and permitting.
Installation Work Performed By	Enter the name(s) of the organization(s) that performed the installation work described above.
Installation was conducted by an individual who meets the	Select electrician category
Is waiver being used to fulfill BABA compliance for the Infrastructure	If a waiver is being used to meet BABA compliance requirements, select the waiver type
Total Federal Funds Expended Equipment and Installation	Automated cell that will calculate the total Federal Funds expended for the charging equipment and installation for an EV Infrastructure Group.
<b>Shore Power Equipment Information and Demand Overview</b>	
Type of Shore Power Connection	Select the type of shore power connection, either high-voltage (HVSC) or low-voltage (LVSC).
Total Voltage Service Provided	Select the total voltage provided from the dropdown menu, if listed.

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Total Voltage Service Provided, if Not Listed	Enter the total voltage service provided if the amount is not listed in the dropdown menu.
Manufacturer	Enter the manufacturer of the shore power system.
Model	Enter the model name of the shore power system.
Manufacture Year	Enter the year the shore power system was manufactured.
Typical Engine Tier of Vessels Using Shore Power	Select the typical engine tier of vessels using the shore power system.
Fuel Type of Vessels Using Shore Power	Select the fuel type of vessels using the shore power system.
Number of Annual Vessel Calls to Berth where Shore Power Installed	Enter the number of annual vessel calls per berth where the shore power system is installed.
Number of Vessel Berths that can be served by Shore Power Pedestal	Enter the number of vessel berths that can be served by the shore power system.
Maximum Output Power (kW)	Enter the maximum power output of the shore power system, measured in kilowatts.
Estimated Annual Total Energy Provided in MW-h	Enter the estimated total annual energy output of the shore power system in megawatt-hours.
Number of Plugs per Shore Power Pedestal	Enter the number of available plugs per shore power pedestal installed.
Number of Shore Power Pedestals	Enter the total number of shore power pedestals installed.
<b>Location of Shore Power Infrastructure</b>	
State (select from dropdown)	Select the state where the shore power system is installed.
County (select from dropdown)	Select the county where the shore power system is installed.
City	Enter the name of the city where the shore power system is installed.
Zip Code	Enter the zip code of the location where the shore power system is installed.
Port Facility where Shore Power Installed	Enter the name of the port facility where the shore power system is installed.
Who owns the Shore Power Infrastructure?	Enter the name of the organization that owns the shore power system.
<b>Installation Details</b>	
Total Funds Expended Installation Cost for Shore Power Group	Enter the total cost for installation of the shore power system.
Total Federal Funds Expended Installation Cost for Shore Power Group	Enter the total amount of federal funds expended for installation of the shore power system.
Does the Infrastructure Equipment Cost Include Installation?	Select whether or not the equipment cost includes installation of the shore power system.
Description of Installation Work, including all equipment installed	Describe the work done during installation, including all equipment that became part of the installed shore power system.
Installation Work Performed By	List the name of the company (or companies) performing the installation of the shore power system.
Date Equipment Installed	Enter the date (or date range) the shore power system was installed.
Date Equipment Fully Operational	Enter the date by which the shore power system became fully operational.
Is waiver being used to fulfill BABA compliance for this infrastructure?	Select from the dropdown menu how BABA requirements are being met for the shore power project.
Are the Shore Power Equipment, Housing, and all Accessories BABA Compliant?	Select from the dropdown menu which parts of the shore power project are BABA compliant.
If No, Partly Compliant, or Unsure, explain	For the previous column, explain which parts are not compliant or enter N/A.
<b>Shore Power Cost Summary</b>	
Equipment Cost only Per Shore Power Pedestal:	Enter the equipment cost for each shore power pedestal.
Total Federal Funds Expended Per Shore Power Pedestal	Enter the federal funds expended for the equipment in each shore power pedestal.
Total Federal Funds Expended for All Shore Power Equipment (total # of pedestals x Federal Funds Expended/pedestal)	No action - autopopulated
Federal Cost Share Expended For Shore Power Equipment	No action - autopopulated
Federal Cost Share for Shore Power Installation	No action - autopopulated
<b>Optional Participation in Future Transportation Research</b>	
EPA or its partners may contact me about participating in research opportunities to provide shore power data that could inform future transportation work. (Yes/No)	Select from the dropdown menu if EPA or its partners may contact you regarding shore power research.
If Yes, Primary Point of contact (Name and email)	If you selected "Yes" for the previous column, please enter your name and e-mail.