



State of Vermont School Bus Replacement Grant Application and Guidelines



Background:

The American Recovery and Reinvestment Act (ARRA) of 2009 provides funding for public health and environmental initiatives, such as grants to assist state governments with projects that reduce public exposure to diesel emissions. According to the U.S. Environmental Protection Agency (EPA), exposure to diesel exhaust, even at low levels, is a serious health hazard and can cause respiratory problems such as asthma, bronchitis, lung damage, and increased risk of lung cancer. Therefore, to reduce the exposure of children to diesel exhaust emissions from school buses, the Vermont Department of Environmental Conservation (DEC) is providing incentive funding for qualifying school districts to replace older, more heavily polluting buses with new buses equipped with more advanced pollution control technology. DEC is currently accepting applications for funding under this program (see attachment) and encourages all interested school districts to apply. *Applications must be received by DEC on or before Monday, August 3, 2009.*

Eligible Applicants:

All interested supervisory unions and school districts within the State of Vermont. Districts that lease buses or contract for student transportation services may apply on behalf of their respective leasing companies or bus contractors.

Vehicles Eligible for Replacement:

Any diesel-fueled, primary-use school bus that is currently inspected, registered, and operated in the State of Vermont and that meets the early replacement criteria described under “Additional Requirements and Limitations” (see below). For the purposes of this application, the term “school bus” refers to a heavy-duty vehicle that is painted school bus yellow, has a manufacturer's rated seating capacity of more than 15 passengers, and routinely transports children to and from an educational facility.

Selection Process:

In the event there is more interest in the program than available funding, applicants will be selected based on the following criteria: 1) age of fleet, 2) rate of fleet turnover, 3) size of fleet,

4) annual fleet mileage, 5) student population, and/or 6) flexibility in the timeframe for bus replacements. Applications received after the deadline may not be eligible for funding under this program. Each applicant will be informed as to whether or not the minimum eligibility requirements have been met. DEC staff will notify selected applicants via e-mail prior to the beginning of the project period.

Additional Requirements and Limitations:

- Grants will be awarded on a reimbursement basis for up to 50% of the cost of a replacement bus OR \$40,000, whichever is less. Funds may not be used for administrative expenses.
- Grant funds may only be used for early replacement of school buses. Emission reductions that would have occurred through normal attrition are considered to be the result of normal fleet turnover and are not eligible for funding under this program. Normal attrition is defined as a bus replacement that is scheduled to take place between now and September 30, 2010 and is part of the vehicle or fleet owner's budget plan, operating plan, standard procedures, or retirement schedule. Buses scheduled to be replaced between June 30, 2010 and September 30, 2010 will be considered on a case-by-case basis depending on the availability of funding, and the ages of the buses being replaced and retired. It is the responsibility of each participating district to verify and document that funds were used only for early replacement of buses.

Please note: Early replacement of leased buses are eligible for funding provided that replacement buses are purchased prior to June 30, 2010 and all other program requirements are met. Care must be taken to ensure compliance with the lease agreement and that the lessor is aware of and allows/approves replacement of their buses, including scrappage requirements (see below). If the fleet owner is prohibited from early bus retirement through a purchase agreement, contract, or other requirement, the issue should be taken up with the agency that is imposing the requirement. No funding will be provided by DEC for costs or penalties incurred due to early retirement.

- Grant recipients will be required to scrap one existing bus for every new bus purchased. In general, the bus being replaced must be scrapped, rendered permanently disabled or returned to the original manufacturer for remanufacturing to a cleaner emission standard. Selling the bus being replaced for salvage is an acceptable scrapping method. However, any income generated will be deducted from the awarded reimbursement funds. Disabling the bus being replaced and retaining possession is also acceptable. Other methods may be considered on a case-by-case basis with prior approval from DEC. For instance, in some cases a bus being replaced may be donated to another district on condition that an older, more heavily polluting bus from the neighboring district is scrapped. It is important to note that each participating district is responsible for scrapping buses and providing evidence of proper disposal.
- Grant recipients will be required to provide documentation for each bus being replaced showing vehicle registration and continuous certification of inspection for the 2008-2009 school year.
- A replacement bus must be of the same general type and perform the same function as the original bus.

- Replacement buses must be certified to meet 2007 or later federal emissions standards and be equipped with EPA-approved programmable auxiliary fuel operated heaters (FOHs) for the purpose of reducing school bus idling. Purchase specifications for replacement buses may be developed in consultation with DEC staff.

- All activities related to the project must be completed prior to June 30, 2010.

State of Vermont School Bus Replacement Program Terms and Conditions

Please note: All grants awarded will be subject to the following Terms and Conditions; some awards may include additional project-specific conditions.

1. Entire Agreement: This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

2. Applicable Law: This Agreement will be governed by the laws of the State of Vermont.

3. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.

4. Appropriations: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence, Liability: The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

- 7. Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence

\$1,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

- 8. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.

9. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and if this Subrecipient expends \$500,000 or more in federal assistance during its fiscal year, the Subrecipient is required to have a single audit conducted in accordance with the Single Audit Act, except when it elects to have a program specific audit.

The Subrecipient may elect to have a program specific audit if it expends funds under only one federal program and the federal program's laws, regulating or grant agreements do not require a financial statement audit of the Party.

A Subrecipient is exempt if the Party expends less than \$500,000 in total federal assistance in one year.

The Subrecipient will complete the Certification of Audit Requirement annually within 45 days after its fiscal year end. If a single audit is required, the sub-recipient will submit a copy of the audit report to the primary pass-through Party and any other pass-through Party that requests it within 9 months. If a single audit is not required, the Subrecipient will submit the Schedule of Federal Expenditures within 45 days. These forms will be mailed to the Subrecipient by the Department of Finance and Management near the end of its fiscal year. These forms are also available on the Finance & Management Web page at: <http://finance.vermont.gov/forms>

10. Records Available for Audit: The Party will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the Agreement and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this Agreement.

11. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990 that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

12. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

13. Taxes Due to the State:

a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.

c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

a. is not under any obligation to pay child support; or

b. is under such an obligation and is in good standing with respect to that obligation; or

c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

16. No Gifts or Gratuities: Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

17. Copies: All written reports prepared under this Agreement will be printed using both sides of the paper.

18. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

19. Certification Regarding Lobbying: No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to the State.

The Subrecipient shall require that the language of this certification be included in the award documents for all Grants at all tiers (including subgrants, and grants under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less that \$10,000 and not more that \$100,000 for each such failure.

- 20. OMB Circular A-133 Assurance:** Subrecipient assures State that it complies with A-133 and that it will notify State of completion of required audits and of any adverse findings, which impact this Grant.
- 21. FFATA Compliance:** Subrecipient agrees to comply with the requirements of the Federal Funding Accountability and Transparency Act (2 CFR Part 33), which requires the reporting of each transaction that obligates \$25,000 or more to a subrecipient to the USAspending.gov database within 30 days of the action.
- 22. Compliance with Cost Principles:** Grantee shall comply with the requirements set forth in OMB Circular A-87 (for State and Local Governments including schools), A-122 (for Non Profit organizations), or A-21 (for Higher Education Institutions) as appropriate for the Grantee type of organization.
- 23. Compliance with Administrative Regulations:** Grantee shall comply with the requirements of OMB Circular A-102 (State & Local Governments and Schools) or A-110 (Institutions of Higher Education, Hospitals, and Non Profit organizations) as appropriate for the Grantee's type of organization.
- 24. Supplanting:** If required, the Subrecipient will submit a Certification that funds will not be used to supplant local or other funding.
- 25. Audit of federal sub-recipient:** Under current interpretations of federal law, Subrecipient will be considered a "sub-recipient" subject to the federal single audit act. Subrecipient will comply with audit requirements contained in Circular A-128/ Circular A110 and/or other applicable circulars of the U.S. Office of Management and Budget. The cost of such an audit will be borne by the Subrecipient/is included in the payment provisions of this contract. Comment:
- 26. Availability of federal funds:** This contract is funded in whole or in part by federal funds. In the event the federal funds supporting this contract become unavailable or are reduced, the State may cancel this contract immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

General Terms & Conditions of the American Recovery & Reinvestment Act of 2009

The funds used to support this agreement, in full or in part, are provided through the federal American Recovery & Reinvestment Act (ARRA or the Act); this agreement therefore is subject to payment criteria and specific reporting requirements mandated by the Act. Quarterly reports, certified by an authorized agent of the Party and utilizing a form provided by the State of Vermont shall be submitted as required. Failure to submit timely, accurate and fully executed reports will result in a mandate to return to the State funds already disbursed under this agreement, or the withholding of current and future payments under this agreement until such time as the reporting irregularities are resolved to the State's satisfaction.

For subrecipients who report awards of federal funds to the State, said subrecipient agrees to include information of ARRA funding separately from other federal awards reported on their Statement of Expenditures of Federal Awards (SEFA).

The parties to this agreement are further bound by the Act that they shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, subrecipient, contractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving the ARRA funds used to support this agreement.

All grant recipients will be required to provide the legal name and D-U-N-S® Number¹ on file with the federal Central Contractor Registration².

1. The D-U-N-S Number is a unique nine-digit identification number assigned and maintained solely by Dun & Bradstreet (D&B). D-U-N-S Number assignment is FREE for all businesses required to register with the US Federal government (see # 1 above) for contracts or grants. Created in 1962, the Data Universal Numbering System or D-U-N-S® Number is D&B's copyrighted, proprietary means of identifying business entities. Register at: https://eupdate.dnb.com/requestoptions.asp?cm_re=HomepageB*TopNav*DUNSNumberTab
2. The Central Contractor Registration (CCR) is the primary registrant database for the U.S. Federal Government. CCR collects, validates, stores and disseminates data in support of agency acquisition missions. FREE registration is available at: <http://www.ccr.gov/Default.aspx>