

2023 CDOT Settlement Capital Application Guidance

What Funds are Available?

Settlement capital projects are funded through **Settlement Program** funds.

Settlement Program Overview. An automobile manufacturer has agreed to settle allegations that it violated the federal Clean Air Act by selling vehicles that emit more air pollution than the Clean Air Act allows, and by falsifying federal emission tests to hide the excess pollution. Because the affected vehicles exceed emission limits for pollutants that harms public health and forms ozone or smog, the manufacturer has agreed to place funds in a national trust fund, referred to hereinafter as the Trust funds, that can be used for a variety of purchases intended to mitigate those harmful pollutants.

Individual states, including Colorado, have been awarded a portion of Trust funds. CDOT DTR expects to receive, over a period of about five years, approximately \$30.8 million (roughly 43% of the State's total allocation). In the first year of the Settlement Program, eligibility for CNG and propane vehicles was included, however in February 2019 Governor Polis issued Executive Order B 2019-002 directing the state agencies managing the Trust funds to direct all remaining dollars to zero-emission vehicle replacements (i.e. electric, hydrogen, or CNG fueled by Renewable Natural Gas) rather than other alternative fuel types. In Colorado, for improved efficiency, funding will flow through existing programs. DTR will use Trust funds for replacement of diesel-fuel buses with zero-emission buses in its Settlement Transit Bus Replacement Program (Settlement Program). Funds will be awarded statewide without any geographic targets or quotas, though CDOT will attempt to achieve equitable geographic distribution over the course of the program.

Who is Eligible to Apply?

Eligible applicants include local public agencies, private non-profit entities, and tribal governments, but only for the replacement of pre-2009 Class 4-8 diesel transit vehicles.

What Types of Projects are Eligible?

Settlement Program funds are intended for the direct replacement of pre-2009 transit vehicles that are diesel-fueled and Class 4 to Class 8 (over 14,000 pounds). The funds can be used for the purchase of zero-emission rolling stock. Settlement Program funds cannot be used for the replacement of existing alternative fuel rolling stock, since that would not produce a significant air quality improvement, and cannot be used to purchase hybrid vehicles, though zero-emission vehicles may be awarded to **replace** existing hybrid diesel vehicles.

In the current round of the Settlement Program, only battery electric, hydrogen fuel cell, and CNG buses fueled by renewable natural gas (RNG) are eligible to replace a diesel-fueled bus. If an applicant is seeking funds for a CNG vehicle, they must provide proof that the CNG bus requested will be fueled using at least 90% RNG. This verification may take the form of an RNG purchasing agreement or some other mutually-determined documentation considered acceptable by CDOT DTR.

Other eligibility criteria include:

- Only engine model year 2009 or older Class 4-8 diesel or hybrid diesel transit vehicles may be replaced.
- Public, private, for-profit and non-profit fleets are eligible so long as they meet all applicable eligibility requirements.
- Following acceptance of the acquisition vehicle, one qualifying vehicle must be scrapped (i.e., the vehicle's frame rails must be cut completely in half and a 3-inch hole must be cut in the engine block). CDOT must be given the opportunity to witness the scrapping procedure and provided acceptable evidence of such, as more fully described in the [CDOT DTR Settlement Program Scrapping Guide For Subrecipients](#).
- Qualifying vehicles must be drivable and must have been registered, insured, and operated in Colorado for the previous two years (to ensure that the program achieves real emission reductions and to prevent abuse). CDOT may request evidence of the vehicle's maintenance records as proof of this.
- The Settlement Program is limited to new vehicle replacements and cannot be used to fund engine repowers of used vehicles or for non-OEM conversion kits. Conversions of new vehicles by qualified vehicle modifiers are allowable.
- If Settlement Program funds are awarded for a new electric bus, charging equipment associated with that bus may also receive Settlement funds, in an amount not to exceed \$100,000, with no local match required. The funds can be used for the charging equipment as well as reasonable costs associated with installing that equipment, such as underground utility work, building modifications to accommodate the equipment, etc.
- Settlement Program funds cannot fund CNG or hydrogen fueling infrastructure.

Is a Local Match Required?

The **Settlement Program** fund does not require a local match and can provide an additional incentive by serving as a portion of the local match required for State and Federal awards.

What is the Typical Award Amount?

CDOT will use Settlement Program funds for up to 110% of the **incremental** cost of a zero-emission vehicle. For example, for the purchase of a 40-foot bus, Settlement Program funds can only be used for 110% of the cost difference with the normal cost of a diesel-fueled 40-foot bus (the equivalent vehicle). However, applicants for Settlement Program funds can request federal or state funds in their application to cover the cost equivalent of a diesel-fueled vehicle—though CDOT is not guaranteeing the award of such funds.

How are Applications Awarded?

DTR will use a combination of existing funds and Settlement Program funds to incentivize the purchase of zero-emission rolling stock. DTR will fund 110% of the incremental cost of new zero-emission rolling stock and **may** also fund 80% of the cost of an equivalent diesel-fueled vehicle with CDOT-administered federal or state funds. By providing 110% of the incremental cost, CDOT is essentially reducing the local match amount that would have been required for the equivalent diesel-fueled vehicle award. However, as pointed out above, CDOT cannot guarantee that it will award both Settlement and the equivalent diesel-fueled vehicle funding. There are three basic funding scenarios, as outlined below, that could occur with this mix of federal/state and Settlement Program funds:

- A. An applicant requests and receives both Settlement Program funding for the zero-emission vehicle(s) and federal or state funding for the equivalent vehicle amounts.
- B. An applicant requests and receives Settlement Program funding for the zero-emission vehicle(s) but does not receive federal or state funding for the equivalent vehicle(s) requested--or which may not have been requested in the first place.
- C. An applicant requests both Settlement Program funding for the zero-emission vehicle(s) and federal or state funding for the equivalent vehicle amounts but is only awarded federal or state funding for the equivalent vehicle amount. In such a case, the applicant can either decline the award, proceed with purchasing a diesel-fueled vehicle, or use other funding to pay for the incremental cost of a zero-emission vehicle.

When are the Applications Open?

Settlement Funds.

Applications open on 7/5/2022 and close on 9/2/2022.

How Do I Apply?

One **Settlement** application will be released to each current DTR subrecipient through COTRAMS. If an applicant plans to submit requests for multiple qualifying replacement vehicles, the applicant is to submit separate applications, one for each qualifying vehicle to be considered. **In order to submit multiple applications, you will need to request an additional application(s) from Emily Barden at emily.barden@state.co.us.**

What is the Schedule?

Applications open	7/5/2022
Applications close	9/2/2022
Review, scoring and selection	October 2022
Award discussion and approval	November 2022
Budgeting and programming	December 2022
Statement of Work creation	January 2023
Shopping cart	February 2023
Subaward agreements completed	March 2023
Subaward agreements executed	April 2023

Who Should I Contact for Questions?

Settlement program & application questions:

Michael King, michael.king@state.co.us

Assistant Director of Electrification and Energy

To request additional applications:

Emily Barden, emily.barden@state.co.us

Transit Programming Intern