



DEPARTMENT OF ADMINISTRATIVE SERVICES  
*Milwaukee County*

---

INFORMATIONAL REPORT

---

TO: Supervisor Theodore Lipscomb, Sr., Chairman, County Board of Supervisors  
FROM: Teig Whaley-Smith, Director, Department of Administrative Services  
RE: Wisconsin Volkswagen Settlement Mitigation Trust Fund Program  
DATE: February 9, 2017

---

**I. SUMMARY**

For most future years, including the next two years, the County expects to spend \$13 million on the transit bus replacement program within the capital budget. Currently there is an approximately 80% match from the federal government, but that amount is expected to decrease to 20% or lower in future years. The County's match for these purchases historically have been 100% bonded. The State of Wisconsin expects to receive \$63.5 million of Mitigation Trust Funds from the national settlement with Volkswagen (VW) Corporation. Of this \$63.5 million, \$6.5 million would be given to Milwaukee County as a grant, and \$19.5 Million will functionally be a zero percent loan. The total level of savings for the County over the next 15 years results in a net present value of \$8.9 million.

**II. BACKGROUND**

In October of 2016 Volkswagen (VW) Corporation and its subsidiaries settled with the United States Department of Justice over a scandal involving diesel emissions testing defeat devices being used in several model years of their vehicles (subject vehicles) with 2.0 and 3.0 liter diesel engines sold in the United States. As a result of the settlement the defendants are required to fulfill the following three actions:

- 1) VW must remove from the roads or modify at least 85% of the subject vehicles registered as of September 17, 2015 nationwide by June 30, 2019. To fulfill this requirement VW must offer every owner and lessee of a subject vehicle a buyback or lease termination or an approved emissions modification.

- 2) VW agreed to make \$2 billion of investments over ten years in projects that support the increased use of zero emission vehicles (ZEV). Such projects include the development, construction, and maintenance of ZEV-related infrastructure. Of the \$2 billion, \$1.2 billion shall be directed toward national ZEV investments and \$800 million shall be used for ZEV investments in California.
- 3) VW will establish a Mitigation Trust with the purpose of funding emissions reductions projects for the various beneficiaries. Monies will pay for projects selected by the states from a defined set of eligible projects that reduce nitrogen oxide (NOx) emissions in the transportation sector. Eligible mitigation projects are intended to reduce NOx from heavy-duty diesel sources near population centers, which will be implemented over a 10-year period.<sup>1</sup>

Requirement #3 specifically states that VW will deposit \$2.7 billion into a Mitigation Trust sometime in the first half of 2017. The Court will then go through the process of appointing a Trustee to oversee the Mitigation Trust. In accordance with Appendix D-1 of the Partial Settlement and Consent Decree (PSCD), the State of Wisconsin (State) is identified as a Beneficiary of the Mitigation Trust and eligible to receive \$63.5 million in funds.<sup>2</sup>

Appendix D-1 of the PSCD outlines the process by which the State submits certification to the Trustee along with a Beneficiary Mitigation Plan (BMP), which details the known steps the State will take to reduce emissions using the funds. Once the required certification and BMP are reviewed and approved by the Trustee of the Mitigation Trust, the State is able to draw down funds.<sup>3</sup>

In order to draw down funds, the State must then submit an Eligible Mitigation Action (EMA) proposal to the Trust. The EMA provides detailed information about specific uses of the Trust funds, what the project will be, timeline, cost estimates, and how the EMA will impact emissions within the State. Appendix D-1 of the PSCD provides information relating to potential vendors for specific EMAs, including private companies and localities.

Uses of funds for Eligible Mitigation Actions are:

- Class 8 local freight trucks and port drayage trucks;
- Class 4-8 school buses, shuttle buses or transit buses;
- Class 4-7 local freight trucks; ☐ Pre-Tier 4 diesel switcher locomotives;
- Repower or upgrade of eligible diesel-powered ferries and tugs;
- Shorepower equipment for oceangoing vessels;
- Repower or replacement of eligible diesel-powered airport ground support equipment;
- Repower or replacement of eligible forklifts and port cargo handling equipment;

---

<sup>1</sup> Partial Consent Decree Program of the Department of Justice, U.S. District Court, Northern District of California, San Francisco Division, MDL No. 2672 CRB (JSC). Pg. 13. Accessed online at:

<https://www.epa.gov/sites/production/files/2016-10/documents/amended201partial-cd.pdf>

(Hereinafter referred to as “Partial Consent Decree”)

<sup>2</sup> Ibid. Pg 208.

<sup>3</sup> Ibid. Pg 194.

- Light duty zero emission vehicle supply equipment (electric charging or hydrogen dispensing);
- Matching funds for state allocation of funding under the Diesel Emission Reduction Act (DERA).<sup>4</sup>

The State Department of Administration has partnered with the Department of Administrative Services (DAS) and Department of Transportation (MCDOT) in order to develop an agreement to submit an EMA proposal to the Mitigation Trust involving Milwaukee County (County). The proposed EMA with the County would focus on replacing eligible vehicles powered by diesel engines in accordance with the requirements of Appendix D-2 of the PSCD. Specifically, the subject of the proposed EMA with the County focuses on Appendix D-2 (2): Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses).

Appendix D-2(2) outlines the required criteria of Transit Buses for replacement:

- 1) Buses must be engine model year 2009 or older unless the State already requires programmatic updates to the buses model year 1992-2009, in which case eligible buses can include 2010-2012 engine model years.
- 2) Eligible buses must be scrapped after replacement.
- 3) Eligible buses can be modified with new diesel or Alternate Fueled or All-Electric engines, or may be replaced with new diesel or Alternate Fueled or All-Electric vehicles with an engine model year in which the EMA occurs or one engine model year prior.
- 4) Mitigation Trust Fund monies may be used for up to 100% of costs for engine modification and/or Replacement of Government-owned eligible buses.<sup>5</sup>

### **III. UPDATE**

Discussions between DAS and MCDOT along with the State Department of Administration have led to the development of a compliant EMA that the State can submit to the Mitigation Trust to be funded. The EMA includes the State providing \$26 million to the County for replacement of eligible transit buses.

MCDOT has determined that 96 transit buses currently in MCTS service are eligible for the EMA program based on the criteria described in Section I and on page 2 of Appendix D-2 of the PSCD. Of the 114 eligible buses, all are within two years of their expected life, and therefore are currently ready to be replaced through the County's ongoing bus replacement program. At a cost of nearly \$480,000 per transit bus, the \$26 million would allow the County to replace 56 or more buses depending on the federal match. Buses would be replaced with clean diesel engines in the current model year or one model year prior as stipulated in the PSCD.

---

<sup>4</sup> Partial Consent Decree. Pg 212.

<sup>5</sup> Ibid. Pg 211.

Through the proposed 2018-2019 State Budget, the State would provide the \$26 million over a two-year period beginning in 2018. Of the total amount, \$6.5 million will be provided to the County as a grant, and \$19.5 million will be repaid by the County. Functionally, the \$19.5 million acts as a zero percent loan. The funds will be used to supplant bond issuance for the bus replacement program over that time period. At the same time, the State will reduce its State Shared Revenue amount to the County by \$1.95 million per year for 10 years from 2018-2027 in order to recover the cost of the \$19.5 million zero-interest bond, at which time State Shared Revenue will return to the pre-established level.

For most future years, including the next two year, the County expects to spend \$13 million on the transit bus replacement program within the capital budget. Currently there is an approximately 80% match from the federal government, but that amount is expected to decrease to 20% or lower in future years. The County's match for these purchases historically have been 100% bonded. Mitigation Fund monies will have the effect of financing the bus replacements without accruing interest in contrast to the 15-year general obligation bonds that are typically used to finance bus purchases in other years. This presents the opportunity for the County to save on debt service payments in the long run as seen in Figure 1. The total level of savings for the County over the next 15 years results in a net present value of \$8.9 million.

Year	2018 Debt Service Payment Savings	2019 Debt Service Payment Savings	Reduction in Milwaukee County State Shared Revenue	Property Tax Levy (Increase)/Reduction	Net Present Value to Milwaukee County
2018	\$0	\$0	(\$1,950,000)	(\$1,950,000)	(\$1,962,516)
2019	\$2,031,967	\$0	(\$1,950,000)	\$81,967	\$30,780
2020	\$1,913,416	\$480,420	(\$1,950,000)	\$443,836	\$372,105
2021	\$1,879,432	\$452,336	(\$1,950,000)	\$381,768	\$307,587
2022	\$1,845,448	\$444,312	(\$1,950,000)	\$339,760	\$263,605
2023	\$1,811,464	\$436,288	(\$1,950,000)	\$297,752	\$221,165
2024	\$1,767,480	\$428,264	(\$1,950,000)	\$245,744	\$171,463
2025	\$1,733,732	\$420,240	(\$1,950,000)	\$203,972	\$132,345
2026	\$1,699,984	\$412,216	(\$1,950,000)	\$162,200	\$94,633
2027	\$1,666,236	\$404,192	(\$1,950,000)	\$120,428	\$58,288
2028	\$1,632,488	\$396,168	\$0	\$2,028,656	\$1,647,493
2029	\$1,598,740	\$388,144	\$0	\$1,986,884	\$1,583,328
2030	\$1,564,992	\$380,120	\$0	\$1,945,112	\$1,520,989
2031	\$1,531,244	\$372,096	\$0	\$1,903,340	\$1,460,431
2032	\$1,497,496	\$364,072	\$0	\$1,861,568	\$1,401,609
2033	\$1,463,748	\$356,048	\$0	\$1,819,796	\$1,344,479
2034	\$0	\$348,024	\$0	\$348,024	\$252,304
<b>TOTAL</b>	<b>\$25,637,867</b>	<b>\$6,082,940</b>	<b>(\$19,500,000)</b>	<b>\$12,220,807</b>	<b>\$8,900,087</b>

**Assumptions:**

- 1.) State provides cash amounts of \$21M in 2018 and \$5M in 2019; State cash to supplant Bonding.
- 2.) State Shared Revenue reduction of \$1.95m/annually over 10 years.
- 3.) 2018/2019 Bonding Caps reflect a 1:1 reduction from State VW Settlement Cash.

Figure 1: this chart looks at the financial impact of the VW EMA over time. It includes the 15-year period, estimated debt service payment savings from 2018 and 2019 as well as the reduction in state shared revenue over 10 years and the impact on the County property tax levy. The final column is the net present value of this agreement.

The EMA funds will impact County finances by reducing the amount of interest-accruing bond debt issued in 2018 and 2019 through the capital financing process. The savings to the county will only be realized if the amount of bonds issued in those years do not exceed the typical 3% increase from year to year. The modeling for this report was done using the projected 2018 capital budget bonding cap, all other levels of revenue and expenditure were kept constant.

**IV. NEXT STEPS**

If this provision is included in the final State Budget will memorialize the proposed EMA with Milwaukee County within State Statute. The process for receiving monies from the Mitigation Trust Fund is outlined in Appendix D-2, specifically Sections II.2.0 Establishment of the Trust, IV.4.0 Determination of Beneficiary Status, IV.4.1 Beneficiary Mitigation Plan,

V. Distribution of Mitigation Trust Assets. Figure 3 below outlines the basic structure of required steps moving from the establishment of the Mitigation Trust by VW and the U.S. Court through to the reduction in State Shared Revenue.<sup>6</sup>

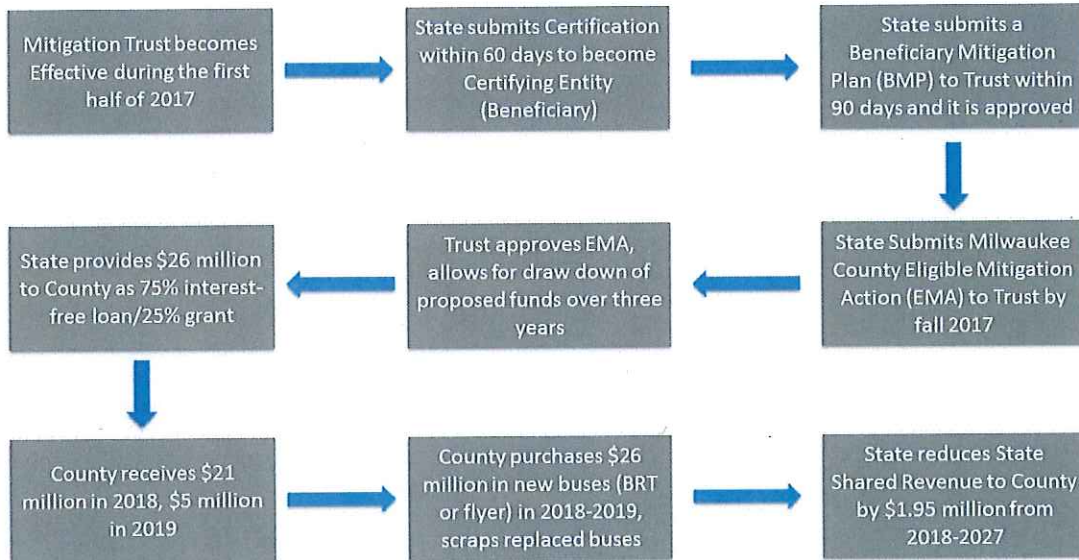


Figure 3: process for proposed County EMA through completion.

The County will be expected to provide the State with information and support in the preparation of the formal EMA proposal to be submitted to the Mitigation Trust Trustee for approval. Within this proposal, the County will be required to outline environmental impacts related to the replacement of older eligible transit buses with new clean diesel buses.

Prepared by: Jonathan Schatz, Senior Budget & Management Analyst, DAS-PSB

Approved By:

Teig Whaley-Smith, Director  
Department of Administrative Services

<sup>6</sup> Partial Consent Decree. Pg 185.

Cc: Chris Abele, County Executive  
Raisa Koltun, Chief of Staff, County Executive's Office  
Kelly Bablitch, Chief of Staff, County Board  
County Board  
Steve Kreklow, Director, DAS-PSB  
Brian Dranzik, Director, Department of Transportation  
Scott Manske, Comptroller