

**BAY AREA AIR QUALITY
MANAGEMENT DISTRICT**

**TRANSPORTATION FUND FOR CLEAN AIR
PROGRAM REGIONAL FUND**

AUDIT SUMMARY REPORT

PROJECT PERIOD ENDED JUNE 30, 2015

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

TRANSPORTATION FUND FOR CLEAN AIR PROGRAM REGIONAL FUND

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1. INTRODUCTION

The Bay Area Air Quality Management District (Air District) was created by the California legislature in 1955. The Air District's structure, operating procedures and authority are established by Division 26 of the California Health and Safety Code.

The Air District includes seven counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo and Santa Clara and portions of two other counties, Southwestern Solano and Southern Sonoma. The Air District is governed by a twenty-two member Board of Directors that includes representatives from all of the above counties.

The Air District's jurisdiction is limited principally to policing non-vehicular sources of air pollution within the Bay Area, primarily industry pollution and burning. Any company wishing to build or modify a facility in the Bay area must first obtain a permit from the Air District to ensure that the facility complies with all applicable rules.

The Air District also acts as the program administrator for Transportation Fund for Clean Air (TFCA) funds and Mobile Source Incentive funds (MSIF) derived from Assembly Bill 434 and Assembly Bill 923 respectively. TFCA and MSIF funding comes from a \$4 and \$2 surcharge, respectively, on motor vehicles registered within the Air District. TFCA funding may only be used to fund eligible projects that reduce motor vehicle emissions and support the implementation of the transportation and mobile source control measures in the Clean Air Plan in place at time of award. All projects must fall within the categories listed in State Law (Health and Safety Code Section 44241).

The Health and Safety Code requires the Air District to pass-through no less than 40% of the TFCA revenues raised within a particular county, after audit and administrative costs, to that county's designated Program Manager. The remaining 60% is for Regional Fund grants and is being allocated to projects on a competitive basis. Projects are evaluated using the Air District's Board adopted evaluation and scoring criteria.

2. PROGRAM DESCRIPTION

Health and Safety Code Sections 44223 and 44225 authorize a surcharge on the motor vehicle registration fee (surcharge) to be used by the Air District and local governments specifically for programs to reduce air pollution from motor vehicles. The Department of Motor Vehicles collects the surcharge and allocates the amounts to the Air District. The Air District administers these funds through the TFCA Program. Under the TFCA Program, money is allocated to two funds: (1) 60% is placed in the Regional Fund and allocated to entities on a competitive basis by the Air District and (2) 40% is placed in the Program Managers Fund and allocated to designated agencies. Allowable projects under Health and Safety Code Section 44241 include the following:

- Ridesharing programs
- Purchase or lease of clean fuel school and transit buses
- Feeder or shuttle bus service to rail and ferry stations and airports

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- Arterial traffic management
- Demonstrations in congestion pricing of highways, bridges and public transit
- Rail bus integration and regional transit information systems
- Low emission vehicle projects
- Bicycle facility improvement projects
- Physical improvements that support "Smart Growth" projects

State law requires that any agency receiving TFCA funding be subject to an audit, at least once every two years. Health and Safety Code Section 44242 provides the legal compliance guidelines for the Air District to follow in the event revenues are not spent appropriately or when projects do not result in emission reductions. Health and Safety Code Sections 44241 and 44242 are provided in Appendix A.

The Air District retained the firm of Gilbert Associates, Inc. to conduct financial and compliance audits of completed projects funded through the Regional Fund for the project period ended June 30, 2015, with the exception of Motivate International Inc.'s second year of operations of the Bay Area Bike Share project, whose project period ended December 31, 2015. These audits were conducted during the months of January 2015 through October 2016.

A total of 19 individual Sponsors and 26 projects were audited, with \$12,849,073 total funds expended. A listing of the projects audited is provided in Appendix B. Unqualified opinions were issued on all 19 reports.

3. AUDIT PROCESS

The audits were designed to address numerous financial and compliance objectives; however, the principal objectives of the audits were to (1) provide assurance that amounts reported in the Schedules of Expenditures are fairly stated, and (2) determine whether projects financed through the Air District's Regional Fund met funding agreement requirements. The audit procedures were specifically designed for TFCA financial and compliance requirements. The audit approach is described below:

Auditing Standards and Specific Procedures

The financial audits were performed in accordance with generally accepted auditing standards in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States for the period ended June 30, 2015.

Procedures performed included, but were not limited to:

- Gaining an understanding of the project sponsors' internal controls over financial reporting of the TFCA program through observation, inquiry, and supporting documentation.
- Tracing expenditures related to the TFCA program to the Sponsor's accounting records.

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- Validating TFCA expenditures related to vendor disbursements, payroll, and administrative charges to supporting documentation.
- Conducting interviews with project sponsors to inquire about known, alleged or suspected fraud related to the program.

Compliance Auditing Procedures

The audits were performed in accordance with the requirements outlined in the Health and Safety Code, individual funding agreements and *Government Auditing Standards*. The principal focus of the compliance auditing procedures was to ensure TFCA expenditures were paid in accordance with the program's objectives (Health and Safety Code Sections 44241 and 44242). Detailed tests on select transactions were performed to verify compliance with the Health and Safety Code and individual funding agreements, but were not designed to provide assurance on overall project compliance.

Auditing procedures performed included, but were not limited to:

- Testing expenditures for allowable costs in accordance with Section 44241 of the Health and Safety Code.
- Verifying that the Sponsor used the TFCA funds for the reduction of emissions from motor vehicles.
- Determining that the Sponsor adopted appropriate resolutions authorizing the grant application or, where applicable, an authorizing letter of commitment.
- Verifying the expenditure of funds was within two years, unless a longer period was approved in writing by the Air District.
- Determining whether the Sponsor submitted to the Air District all required reports and that the reports contained all information required as specified on Attachment C of the funding agreement.
- Verifying the use of the Air District's approved logo or acknowledgment of the Air District in printed or electronic materials for public distribution.
- Determining if the Sponsor followed the indirect cost determination approach when allocating indirect costs to the project.
- Determining whether administrative costs were adequately supported and did not exceed 5% of the TFCA revenues.
- Determining whether other specific terms of the funding agreement were adhered to, such as additional reporting requirements.

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4. SPONSOR FINDINGS

A summary of Sponsor audit findings is provided below.

Finding 2015-1: *Late Filing of Reports*

According to the funding agreement between the Air District and the Sponsors, Sponsors were required to submit to the Air District quarterly or semiannual reports, a final report, and other reports specified in the Sponsor's funding agreements.

During the audit, we noted that the projects listed in Table 1 had one or more late reports. 3 Sponsors out of 19 (15.79%) and 3 projects out of the 26 audited (11.54%) had one or more late reports. The number of reports submitted late are noted below:

	<u>Late Reports</u>	<u>Number of Sponsors</u>	<u>Number of Projects</u>
Quarterly reports	3	1	1
Semiannual reports	2	2	2
Annual report	<u>1</u>	1	1
Total Late Reports	<u>6</u>		

Air District's Response to Finding 2015-1:

The District has taken a series of steps over the past years to ensure project sponsors are aware of their contractual obligations to minimize the occurrence of late and missing progress reports, which have significantly reduced the incidence of late reports. These efforts include further strengthening the District's Administrative Operating Procedure (AOP) for Regional Fund Administration to specify that reminder notices be sent to project sponsors three weeks prior to report due dates and that follow-up telephone calls and/or emails be made beginning one week prior to the due date if a report is still not received.

If a report is more than three weeks late, the project sponsor is sent a Delinquent Notice, which includes language warning that failure to submit a report will delay payment, may result in termination of the grant, and may render the sponsor ineligible from future grants.

Additionally, the District has transitioned to online electronic submittal for reports to streamline the reporting process for project sponsors.

Current TFCA Regional Fund policies also prohibit project sponsors with uncorrected audit findings from being eligible for grant funding. The District is also exploring options for further action to reduce the incidence of late reports.

Moreover, Motivate International, Inc. was fined for the late filing of reports based on the terms and conditions set forth in the funding agreement.

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5. OVERSIGHT FINDINGS

No oversight findings noted as of and for the project period ending June 30, 2015.

TABLE 1

SPONSORS WITH LATE REPORTS

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**TABLE 1 - SPONSORS WITH LATE REPORTS
FOR THE PROJECT PERIOD ENDED JUNE 30, 2015**

Project Number	Project Sponsor	Project Description
12R19	San Francisco Municipal Transportation Agency	Shuttle Operations
08BFP04	Successor Agency to the Richmond Community Redevelopment Agency	Barrett Avenue Bicycle Lanes
2013.025	Motivate International, Inc.	Bay Area Bike Share, Year 2 Operations

APPENDIX A

HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242

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AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2015

44241

- (a) Fee revenues generated under this chapter in the bay district shall be subvended to the bay district by the Department of Motor Vehicles after deducting its administrative costs pursuant to Section 44229.
- (b) Fee revenues generated under this chapter shall be allocated by the bay district to implement the following mobile source and transportation control projects and programs that are included in the plan adopted pursuant to Sections 40233, 40717, and 40919:
 - (1) The implementation of ridesharing programs.
 - (2) The purchase or lease of clean fuel buses for school districts and transit operators.
 - (3) The provision of local feeder bus or shuttle service to rail and ferry stations and to airports.
 - (4) Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and "smart streets."
 - (5) Implementation of rail-bus integration and regional transit information systems.
 - (6) Implementation of demonstration projects in telecommuting and in congestion pricing of highways, bridges, and public transit. No funds expended pursuant to this paragraph for telecommuting projects shall be used for the purchase of personal computing equipment for an individual's home use.
 - (7) Implementation of vehicle-based projects to reduce mobile source emissions, including, but not limited to, engine repowers, engine retrofits, fleet modernization, alternative fuels, and advanced technology demonstrations.
 - (8) Implementation of a smoking vehicles program.
 - (9) Implementation of an automobile buy-back scrappage program operated by a governmental agency.
 - (10) Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program.
 - (11) The design and construction by local public agencies of physical improvements that support development projects that achieve motor vehicle emission reductions. The projects and the physical improvements shall be identified in an approved area-specific plan, redevelopment plan, general plan, or other similar plan.

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- (c) (1) Fee revenue generated under this chapter shall be allocated by the bay district for projects and programs specified in subdivision (b) to cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency responsible for implementing one or more of the specified projects or programs. Fee revenue generated under this chapter may also be allocated by the bay district for projects and programs specified in paragraph (7) of subdivision (b) to entities that include, but are not limited to, public agencies, consistent with applicable policies adopted by the governing board of the bay district. Those policies shall include, but are not limited to, requirements for cost-sharing for projects subject to the policies. Fee revenues shall not be used for any planning activities that are not directly related to the implementation of a specific project or program.
- (2) The bay district shall adopt cost-effectiveness criteria for fee revenue generated under this chapter that projects and programs are required to meet. The cost-effectiveness criteria shall maximize emissions reductions and public health benefits.
- (d) Not less than 40 percent of fee revenues shall be allocated to the entity or entities designated pursuant to subdivision (e) for projects and programs in each county within the bay district based upon the county's proportionate share of fee-paid vehicle registration.
- (e) In each county, one or more entities may be designated as the overall program manager for the county by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county. The resolution shall specify the terms and conditions for the expenditure of funds. The entities so designated shall be allocated the funds pursuant to subdivision (d) in accordance with the terms and conditions of the resolution.
- (f) Any county, or entity designated pursuant to subdivision (e), that receives funds pursuant to this section, at least once a year, shall hold one or more public meetings for the purpose of adopting criteria for expenditure of the funds and to review the expenditure of revenues received pursuant to this section by any designated entity. If any county or entity designated pursuant to subdivision (e) that receives funds pursuant to this section has not allocated all of those funds within six months of the date of the formal approval of its expenditure plan by the bay district, the bay district shall allocate the unallocated funds in accordance with subdivision (c).

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AUDIT SUMMARY REPORT HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242 FOR THE PROJECT PERIOD ENDED JUNE 30, 2015

44242

- (a) Any agency which receives funds pursuant to Section 44241 shall, at least once every two years, undertake an audit of each program or project funded. The audit shall be conducted by an independent auditor selected by the bay district in accordance with Division 2 (commencing with Section 1100) of the Public Contract Code. The district shall deduct any audit costs which will be incurred pursuant to this section prior to distributing fee revenues to cities, counties, or other agencies pursuant to Section 44241.
- (b) Upon completion of an audit conducted pursuant to subdivision (a), the bay district shall do both of the following:
 - (1) Make the audit available to the public and to the affected agency upon request.
 - (2) Review the audit to determine if the fee revenues received by the agency were spent for the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717.
- (c) If, after reviewing the audit, the bay district determines that the revenues from the fees may have been expended in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to that plan, the district shall do all of the following:
 - (1) Notify the agency of its determination.
 - (2) Within 45 days of the notification pursuant to paragraph (1), hold a public hearing at which the agency may present information relating to expenditure of the revenues from the fees.
 - (3) After the public hearing, if the district determines that the agency has expended the revenues from the fees in a manner which is contrary to this chapter or which will not result in the reduction of air pollution from motor vehicles pursuant to the plan prepared pursuant to Sections 40233 and 40717, the district shall withhold these revenues from the agency in an amount equal to the amount which was inappropriately expended. Any revenues withheld pursuant to this paragraph shall be redistributed to the other cities within the county, or to the county, to the extent the district determines that they have complied with the requirements of this chapter.
- (d) Any agency which receives funds pursuant to Section 44241 shall encumber and expend the funds within two years of receiving the funds, unless an application for funds pursuant to this chapter states that the project will take a longer period of time to implement and is approved by the district or the agency designated pursuant to subdivision (e) of Section 44241. In any other case, the district or agency may extend the time beyond two years, if the recipient of the funds applies for that extension and the district or agency, as the case may be, finds that significant progress has been made on the project for which the funds were granted.

APPENDIX B

LISTING OF AUDITED PROJECTS

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

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APPENDIX B FOR THE PROJECT PERIOD ENDED JUNE 30, 2015

Project Number	Project Sponsor	Project Description	Project Expenditures
14R18	Associated Students, San Jose State University	SJSU - Ridesharing & Trip Reduction	\$ 120,000
14PEV00A	BAAQMD	PEV Rebate Program	112,500
15R00	BAAQMD	Administration	1,246,837
15R01	BAAQMD	Enhanced Mobile Source Inspections	2,162,493
15R02	BAAQMD	Vehicle Buy Back Program	124,948
15R03	BAAQMD	Spare The Air/Intermittent Control Programs	1,176,363
09R46	City of Berkeley	Berkeley Transit Action Plan	100,000
14R07	City of Oakland	City of Oakland Broadway Shuttle	219,518
14R09	County of Alameda	Bay Fair BART Shuttle	16,400
09R28	East Bay Clean Cities Coalition	U.S. Department of Energy's - Clean Cities Coalition Outreach (East Bay)	25,000
12R13	Metropolitan Transportation Commission	511 Rideshare Program	878,581
14R17	Metropolitan Transportation Commission	511 Rideshare Program	903,435
2013.025	Motivate International Inc.	Bay Area Bike Share (year 2 operations)	1,500,943
09R44	Pacific Gas & Electric Company	E-PTO Hybrid Demonstration	310,953
12R14	Peninsula Corridor Joint Powers Board	Caltrain Shuttles	992,823
14R14	Peninsula Corridor Joint Powers Board	Caltrain Shuttle Program	954,948
12R16	The Presidio Trust	PresidiGO Downtown Shuttle	100,000
09R52	ProPark America West, LLC	(20) Charging Stations	21,365
09R24	The Regents of the University of California, Davis Fleet	(1) Compressed Natural Gas Bus	36,626
09BFP12	San Francisco Municipal Transportation Agency	San Francisco Citywide Bicycle Racks Installation	83,760
12R19	San Francisco Municipal Transportation Agency	Shuttle Operations	122,000
14R12	San Joaquin Regional Rail Commission	Shuttle/Feeder Bus	49,723
14R16	Santa Clara Valley Transportation Authority	ACE Shuttle Bus Program	960,000
08BFP04	Successor Agency to the Richmond Community Redevelopment Agency	Barrett Avenue Bicycle Lanes	56,639
09R47	University of California, Berkeley	High-Pressure Hydrogen Fueling Facility and Fuel-Cell-Vehicle Demonstration	97,218
09R25	Waste Management of Alameda County	(31) Compressed Natural Gas Refuse Trucks	<u>476,000</u>
		Total Funds Expended	<u>\$ 12,849,073</u>
		Total Sponsors Audited	19
		Total Projects Audited	26