

**04/12/2023 MOBILE SOURCE AND CLIMATE
IMPACTS COMMITTEE MEETING**

ATTACHMENT 1

**BAY AREA AIR QUALITY
MANAGEMENT DISTRICT**

**TRANSPORTATION FUND
FOR CLEAN AIR PROGRAM**

**REGIONAL FUND AND
AIR DISTRICT-SPONSORED PROGRAMS**

AUDIT NO. 23 SUMMARY REPORT



**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS**

Table of Contents

	Page
1. Introduction.....	1
2. Project Description	1
3. Audit Process.....	2
4. Project Sponsor Findings.....	3
5. Other Program Compliance Review.....	4
 Appendix:	
A- Health and Safety Code Sections 44241 and 44242.....	6
B- Listing of Audited Projects.....	10

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
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Audit No. 23 Summary Report**

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 Section 44223 and 44225 authorize a surcharge on the motor vehicle registration fee (surcharge) to be used by the Bay Area Air Quality Management District (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 Transportation Fund for Clean Air (TFCA) Program. Under the TFCA Program, money is allocated to two funds: (1) 60% is placed in the Regional Fund and allocated to agencies on a competitive basis by the Air District and (2) 40% is placed in the Program Manager Fund and allocated to designated agencies. Allowable projects under Health and Safety Code Section 44241 include the following:

- The implementation of ridesharing programs.
- The purchase or lease of clean fuel buses for school districts and transit operators.
- The provision of local feeder bus or shuttle service to rail and ferry stations and to airports.
- Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, transit signal preemption, bus stop relocation and “smart streets.”

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS
Audit No. 23 Summary Report**

2 – PROGRAM DESCRIPTION (continued)

- Implementation of rail-bus integration and regional transit information systems.
- Implementation of demonstration projects in telecommuting and in congestion pricing of highways, bridges, and public transit.
- 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.
- Implementation of a smoking vehicles program.
- Implementation of an automobile buy-back scrappage program operated by a governmental agency.
- Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program.
- 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 plans.

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 Simpson and Simpson LLP to conduct TFCA financial and compliance Audit No. 23, which included Regional Fund projects and Air District-sponsored programs completed prior to June 30, 2021. These audits were conducted during the months of March 2022 through March 2023.

A total of 18 individual project sponsors and 24 projects were audited, with \$9,631,910.92 total funds expended for projects included in Audit No. 23. A listing of the projects audited is provided in Appendix B. Unmodified opinions were issued on all 18 financial audit 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, which are described below:

Audit of the Schedules of Expenditures

The financial audits were conducted in accordance with auditing standards generally accepted 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.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS
Audit No. 23 Summary Report**

3 – AUDIT PROCESS (continued)

Procedures performed included, but were not limited to:

- Gaining an understanding of the project sponsors' internal controls over the financial reporting of the TFCA program through observation, inquiry, and supporting documentation.
- Tracing expenditures related to the TFCA program to the project sponsor's accounting records.
- 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 Section (HSC) 44241). Compliance audits were planned and performed to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to in the HSC could have a direct and material effect on projects reported in the Schedules occurred.

The audit includes examining, on a test basis, evidence about the project sponsor's compliance with those requirements and performing such other procedures as considered necessary in the circumstances.

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 project sponsor used the TFCA funds for the reduction of emissions from motor vehicles.

4 – PROJECT SPONSOR FINDINGS

Audit of the Schedules of Expenditures

No project sponsor findings were identified for the projects audited as part of Audit No. 23.

Compliance Auditing Procedures

No project sponsor findings were identified for the projects audited as part of Audit No. 23.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS
Audit No. 23 Summary Report**

5 – OTHER PROGRAM COMPLIANCE REVIEW

An Agreed Upon Procedures (AUP) engagement was performed to test the project sponsor's compliance with other aspects of the TFCA Funding Agreement. These procedures were determined and prepared by the Air District for the auditors to perform.

The auditors issued a separate AUP Report on the results of the procedures performed.

APPENDIX A

HEALTH AND SAFETY CODE SECTIONS 44241 AND 44242

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS
Appendix A - Health and Safety Code Sections 44241 and 44242
For Audit No. 23**

44241

- (a) Fee revenues generated under this chapter in the bay district shall be subvned 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.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
Appendix A - Health and Safety Code Sections 44241 and 44242
REGIONAL FUND
For Audit No. 23**

44241 (continued)

- (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, if those criteria have been modified in any way from the previous year. Any county, or entity designated pursuant to subdivision (e), that receives funds pursuant to this section, at least once a year, shall also hold one or more public meetings 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).

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
Appendix A - Health and Safety Code Sections 44241 and 44242
REGIONAL FUND
For Audit No. 23**

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
TRANSPORTATION FUND FOR CLEAN AIR PROGRAM
REGIONAL FUND AND AIR DISTRICT-SPONSORED PROGRAMS**

**Appendix B – Listing of Audited Projects
For Audit No. 23**

TFC Project Number	Project Sponsor	Project Description	Final Project Expenditures through 6/30/2021
08R74	Successor Agency to the Richmond Community Redevelopment Agency	Richmond Transit Village Pedestrian Improvements	\$ 451,405.86
16HDG001	Goodwill Industries of San Francisco, San Mateo, and Marin Counties and BYD	Purchase/lease 11 battery-electric heavy-duty trucks	62,272.68
17R20	City of Santa Rosa	City of Santa Rosa Bikeway Project	180,995.04
17R22	City of Redwood City	City of Redwood City Bikeway Project	29,206.00
17R29	San Francisco Municipal Transportation Agency	San Francisco Municipal Transportation Agency Electronic Bicycle Locker Project	50,000.00
18R10	Peninsula Corridor Joint Powers Board	Caltrain Shuttle Program	612,000.00
18R13	City of Alameda	City of Alameda Bikeway Project	137,980.71
18R16	City of South San Francisco	City of South San Francisco Bikeway Project	119,431.76
18R22	San Francisco Community College District	San Francisco Community College District Electronic Bicycle Locker Project	32,000.00
19EV076	Milpitas - District 1 Owner, LLC	Milpitas - District 1 Owner, LLC's Electric Vehicle Charging Project	94,995.00
19R15	Peninsula Corridor Joint Powers Board	Caltrain Shuttle Program	652,600.00
19R16	Santa Clara Valley Transportation Authority	ACE Shuttle Bus Program	916,201.00
19R18	Associated Students, San Jose State University	SJSU Trip Reduction	139,500.00
19RFG04	Wyse Logistics	Electric Equipment for Bulk Material Handling, Warehouse, and Delivery Operations	109,800.00
20R08	San Joaquin Regional Rail Commission	Pleasanton Connector Shuttles	33,657.78
20R10	Peninsula Corridor Joint Powers Board	Caltrain Shuttles	333,695.09
20R17	Peninsula Corridor Joint Powers Board	Caltrain Station Electronic Bicycle Locker Installation	200,000.00
20R23	Bay Area Rapid Transit District (BART)	Bike Locker Addition at El Cerrito Plaza and San Leandro BART	110,000.00
20R30	City of Fremont	Upgrade Class II to Class IV bikeways in City of Fremont.	130,000.00
21SBP114	Santa Clara Unified School District	School Bus Replacement	167,552.00
21R00	Bay Area Air Quality Management District	Administration	1,628,618.00
21R01	Bay Area Air Quality Management District	Enhanced Mobile Source Inspections/Commuter Benefits	850,000.00
21R02	Bay Area Air Quality Management District	Vehicle Buy Back Program	300,000.00
21R03	Bay Area Air Quality Management District	Spare the Air/Intermittent Control Programs	2,290,000.00
Final Project Expenses			\$ 9,631,910.92
Total Projects			24
Total Project Sponsors			18