



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

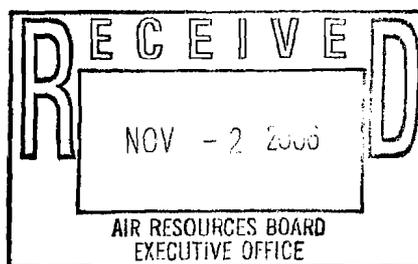
October 27, 2006

Office of the Executive Officer
Barry R. Wallerstein, D.Env.
909.396.2100, fax 909.396.3340

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Catherine Witherspoon
Executive Officer
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

Re: 2006 Carl Moyer Program Audit



Dear Ms. Witherspoon:

This letter presents the South Coast Air Quality Management District ("SCAQMD") staff's response to the Air Resources Board's ("CARB") Final Carl Moyer Air Quality Standards Attainment Program Audit Report, dated October 2006, and also constitutes the required written plan of action to address the audit report's three formal findings. While we disagree with several of the audit conclusions/recommendations, I want to make note of the highly professional manner in which the CARB staff conducted the audit. Our comments are provided below for each finding.

Finding 1

CARB states in Finding 1 that "SCAQMD fiscal records indicate that at least \$10,043,180 of the \$15,596,747 Proposition 40 funds have not been expended by the District within the two year timeframe required under State law . . ." The audit finding acknowledges that these funds are currently committed in fully executed contracts, although final payments to the contractors have not yet been made. CARB also states that the SCAQMD must provide quarterly expenditure reports to CARB for all funds that are past expenditure deadlines, and that the SCAQMD will not receive any additional disbursements of Year 7 or 8 funds until full expenditure of past funds can be documented.

SCAQMD's Response:

SCAQMD understands that CARB has made the determination regarding late expenditure of \$10,043,180 based upon an interpretation that the term "expenditure" requires that funds appropriated to the air districts be both committed under contract and

invoices paid within two years. **This interpretation, however, is inconsistent with both the intent of the Carl Moyer Program authorizing legislation and CARB's 2003 Carl Moyer Program Air Quality Standards Attainment Program Guidelines, which were in effect during Program Years 5 and 6.**

In analyzing the intent of the legislature in making an appropriation under Section 44287(k), it is necessary to look to the California Department of Finance (DOF), which has established uniform accounting guidance which is used by all state agencies in interpreting legal obligations with respect to fiscal appropriations by the state legislature. According to DOF's Glossary of Terms revised in December 2004 (www.dof.ca.gov/fisa/bag/dofgloss.htm), the term "appropriation" is an "authorization for a specific agency to make expenditures and incur liabilities from a specific fund for a specific purpose and is usually limited in amount and period of time which the expenditure is to be incurred." In this case, the legislature requires that funds be "expended" within two years. DOF, however, has also defined this term, stating that an expenditure represents the amount of an appropriation used for goods and services ordered, whether paid for or not. In other words, under DOF guidelines, an agency can meet the statutory deadline to expend appropriated funds by encumbering the monies, which is defined by DOF to mean "a commitment of part or all of an appropriation," as expressed in documents such as purchase orders, and contracts.

It is our belief that when the state legislature appropriated Carl Moyer Program funds, it intended to adhere to these DOF guidelines. Indeed, if the legislature intended for different accounting terms to apply than those used by state agencies across the board, specific language would have appeared in either the statutory text or the legislative history. Therefore, SCAQMD fully complied with statutory requirements by committing all funds for years 5 and 6 within the two year deadline.

Similarly, CARB's 2003 Carl Moyer Guidelines require only that the funds reserved to a district be "obligated," which the SCAQMD has done, and which we interpreted to mean encumbered so as to be consistent with DOF guidelines. On pages 5-6 of the 2003 Guidelines, CARB states: "Districts must report project status including specific projects, state fund expenditures, additional funds obligated via contract or contracts in progress, and remaining funds that have not been obligated. Any funds not obligated by contract at the end of fiscal year are subject to reallocation as determined by the interpretation of Proposition 40 by the California Department of Finance."

In one instance CARB staff actually requested that SCAQMD de-obligate Moyer funds from an executed contract (\$443,534) and substitute funding for that project with State Mitigation funds from the electricity crisis. Obviously, this caused the de-obligated Moyer funds to be reallocated to a new project at a later time.

For Years 1-6 SCAQMD has relied on an annual solicitation process to select projects for program implementation instead of the first-come-first-served approach. This annual selection process achieves maximum emissions reductions as the most cost-effective projects are selected for awards. Through the same process a number of

additional program goals established by our Governing Board can also be addressed. These goals are:

- Environmental Justice (50%)
- Goods Movement (40%)
- Advanced Technologies
- Fleet Rules
- School Buses

Since the program's conception, the SCAQMD has fully funded over 1,700 individual projects with the anticipated reductions of over 2,000 tons per year of NOx and 32 tons per year of PM. In addition, during the first six years of the program the SCAQMD has also successfully implemented the State Emissions Mitigation Fund Program, fully funding the purchase of an additional 939 pieces of equipment in excess of \$27 million. These program funds reduce NOx emissions another 1,375 tons per year. We believe SCAQMD's selection of the most cost effective projects and projects located in disproportionately impacted areas achieves larger emission reductions for a longer period of time than required by CARB.

Because of the success of SCAQMD's implementation of both the Carl Moyer Program and the State Emissions Mitigation Fund Program, we do not believe that the delay in expending turn back funds from Years 5 and 6 has "delayed the expected emissions reduction for a significant portion of the program." Obviously obtaining an anticipated 300 tons per year of NOx reductions and approximately 15 tons per year of PM as early as possible is important in the SCAQMD. But we do not believe that CARB's findings fully take into account SCAQMD efforts over the past decade to implement these voluntary emission reduction programs, including efforts to reallocate turn back funds as soon as possible. Moreover, CARB's findings fail to take into account that the SCAQMD has been able to achieve an average cost-effectiveness of \$4,000 per ton in projects funded by Carl Moyer, which is substantially lower than the program cap of \$14,300. This means that the SCAQMD has achieved anticipated emission reductions that are far greater than allowed by the legislation, and the equipment/vehicles funded under the Carl Moyer Program are anticipated to operate between ten to twenty years.

SCAQMD acknowledges that in the most recent version of the Carl Moyer Program Guidelines CARB specifically requires that funds be obligated within one year and expended within two years from the reservation. It is our understanding that CARB defines "expended" as used in the new guidelines, and requires that the award monies be actually paid to the project within two years. Although, for reasons noted above, we do not believe this is required by the statute, SCAQMD has revised its program process to meet the new time requirements established by CARB.

SCAQMD is also very concerned that CARB's proposal to withhold disbursements of Program Years 7 and 8 funds may have the unintentional effect of jeopardizing the viability of the program in Fiscal Years 2006/07, 2007/08 and beyond. The SCAQMD has already entered into Year 7 binding contracts for approximately 23

projects in excess of \$11.9 million. These projects are anticipated to achieve future reductions of approximately 385 tons per year of NOx and 14.7 tons per year of PM. Invoices for these projects are already arriving to the District, and all invoices are due by June 2007. SCAQMD is also in process of entering into Year 8 contracts in excess of \$30.5 million and invoices for these projects will start arriving within a few months. AQMD does not believe, from an accounting or legal standpoint, it is appropriate to use non-Year 7 or Year 8 funds to pay these invoices. Thus, without availability of funds previously awarded by CARB to the district, prompt payment of these invoices cannot be assured and contracts will have to be cancelled. We are concerned that this could negatively impact the reputation and continuing success of the Carl Moyer Program. If this were to occur, substantial future emission reduction opportunities would be lost. We don't believe that CARB intends such consequences, but SCAQMD needs immediate written confirmation that the Year 7 funding is forthcoming soon.

In addition, SCAQMD does not believe that the decision to hold back disbursement of Year 7 and 8 funds is a remedy authorized in either the Health & Safety Code or the CARB program guidelines. Pursuant to the guidelines, CARB is to provide a district with a written review of the audit, including, if applicable, any deficiencies in the district's program that require correction. The district has 30-days to correct the deficiencies and respond in writing to the report. CARB must also provide the district with the opportunity for training and technical assistance to develop and implement a corrective management plan. Only if the CARB determines that the district has not taken adequate corrective action within the allotted 30 days will the district be deemed "at-risk." In this case, SCAQMD has re-obligated the turn back funds (see attachments 1 and 2), and committed to CARB that all such funds will be fully expended by July 2007. CARB has acknowledged that this corrective action is sufficient.

SCAQMD's Plan of Action:

First, in order to adhere with CARB's new program guidelines requirements, SCAQMD has developed specific project timelines, which were recently incorporated in the SCAQMD's Governing Board approved Carl Moyer Program Guidelines, to ensure that all contracts are fully executed within one year and that all invoices are received and paid within two years. These timelines will be strictly adhered to the degree humanly possible. As an example, the Year 8 awards for 46 projects totaling about \$30.5 million have already been granted and the contractors will have at least 18 months rather than a year to complete their projects by the due date of June 30, 2008.

Second, SCAQMD has taken steps to reduce any potential delay in reallocating so-called "turn back funds," such as where a contractor decides not to move forward with all or part of a previously executed contract. This delay is mostly associated with the need to obtain Governing Board approval to award the turn back funds to a new contractor. In July 7, 2006, our Governing Board authorized its Chairman to expend turn back funds by executing contracts from a back-up list of unfunded projects that meet Carl Moyer criteria and were previously approved by the Board. A copy of the Governing Board letter approving this action is attached (attachment 1).

Finally, to ensure sufficient projects will be funded by June 30, 2007, which is the final date to expend Program Year 7 funds, SCAQMD staff is recommending that the Governing Board authorize a Program Announcement in an amount not to exceed \$12 million from the Clean Fuels Fund and the Carl Moyer Program turn back funds to fund cleaner construction equipment on a first come, first serve basis. All equipment funded under this Program Announcement must be installed by May 31, 2007 and invoiced no later than June 30, 2007. We believe this will ensure sufficient projects will be available so that all Program 7 funds will be expended within the deadline set in the new CARB guidelines. SCAQMD staff will be taking this item to the Governing Board for approval in November 3, 2006 (attachment 2).

Quarterly Reports: In accordance with Finding 1, SCAQMD will provide CARB reports for any funds that are past expenditure deadlines. The reports will discuss:

- Current status of expenditures;
- Current status of program selection, contract execution and expenditures of turn back funds; and
- Current status of project selection, contract execution and expenditures of interest.

The reports will be provided to CARB on a quarterly basis, beginning 60 days from the date of the audit report cover letter. The report will include copies of Carl Moyer Program project invoices paid by SCAQMD and updated cost-effectiveness calculations reflecting changes in existing projects or new projects selected as a result of turn back funds.

Annual Reports and Revised Cost-effective Calculations: As previously agreed to, the SCAQMD staff has already provided CARB an updated annual report and updated cost-effective calculation for Program Years 1 through 7 to reflect any change made to existing projects or the award of new projects as a result of turn back funds.

Finding 2

CARB determined during the audit that miscalculations of cost-effectiveness in two projects (numbers 5237 and 6126) resulted in contracts for amounts that did not meet the cost-effectiveness thresholds. CARB determined that for contract 5237, repayment of \$6,317 was required. For contract 6126, a contract amendment was required to reduce funding by \$3,703.

SCAQMD's Response and Plan of Action:

Contract 6126: SCAQMD has recalculated the cost-effectiveness for this project and amended the contract. A copy of the amendment was previously provided to CARB. Since the \$3,703 in question was never paid to the contractor, this issue is resolved.

Contract 5237: We agree that there was an error in the original calculation performed by SCAQMD staff and reviewed by CARB staff. SCAQMD recalculated the cost effectiveness of this project, and has provided that information to CARB. This project was fully funded before completion of the audit. SCAQMD has sent a letter to the contractor seeking reimbursement of \$6,317 (attachment 3). The contractor has not responded to the request as of the date of this letter. SCAQMD will either retrieve the \$6,317 in question or pay the local Moyer Program back that amount from our budget.

Finding 3

CARB identified that for Program Years 7 and 8, project files showed that the project awardees had not signed "Disclosure of Funds" statements required by the Carl Moyer Guidelines.

Response and Plan of Action:

As CARB is aware, this is a new requirement just implemented for Program Year 7 awards. SCAQMD had prepared a disclosure statement, but it was inadvertently left out of individual award packets. As of the date of this letter, appropriate disclosure of fund language has been incorporated into our contract boilerplate for Carl Moyer Program awards, and contract modification forms have been sent out to all of the Program Year 7 awardees for signature to include the required language. Both the boilerplate contract language and a copy of the modification forms were sent to CARB staff on July 27, 2006.

SCAQMD sent via FedEx to CARB signed copies of all disclosure forms for all Year 7 applicants on October 19, 2006. Thus, Finding 3 has been fully addressed and resolved.

* * * * *

Please feel free to call me at 909-396-2100 if you have any questions regarding our response

Sincerely,



Barry Wallerstein, D.Env.
Executive Officer

Attachments

Attachment 1



South Coast
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov



BOARD MEETING DATE: July 7, 2006

AGENDA NO. 38

PROPOSAL: Execute Contracts for Carl Moyer Memorial Air Quality Standards Attainment Program with Returned Funds from Incomplete Projects

SYNOPSIS: The AQMD has administered its Carl Moyer Program since FY 1998-99, awarding more than \$85 million in projects for purchase of low-emitting heavy-duty vehicles, engines, and equipment. Some of the awarded contracts have been returned by the recipients due to various reasons such as economic conditions and other business priorities. This action is to execute new contracts under the Carl Moyer Program with companies that were unable to receive funds in the last round of awards in February 2006, with turn-back funds in an amount not to exceed \$9.1 million.

COMMITTEE: Technology, June 23, 2006, Recommended for Approval

RECOMMENDED ACTIONS:

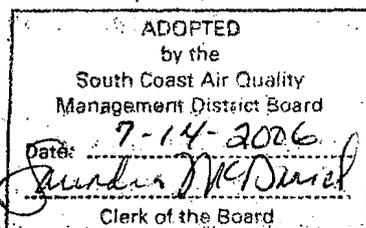
A. Authorize the Chairman to execute the following contracts with turn-back dollars from the Carl Moyer Program Fund:

1. A contract with Rentrac for the repower of five diesel dual engine scrapers in an amount not to exceed \$1,064,270 from the Carl Moyer Program Fund Prop. 40 Account.
2. A contract with Cash Grading for the repower of one dozer and 5 diesel dual engine scrapers in an amount not to exceed \$74,614 from the Carl Moyer Program Prop. 40 Account and \$862,545 from the Carl Moyer Program Fund.
3. A contract with Bruno Farms for the repower of one diesel agricultural tractor in an amount not to exceed \$55,821 from the Carl Moyer Program Fund SB1107 Account.
4. A contract with JKM Equipment for the repower of seven diesel dual engine scrapers in an amount not to exceed \$1,277,124 from the Carl Moyer Program Fund SB1107 Account and \$212,854 from the Carl Moyer Program Fund.
5. A contract with Yeager Skanska for the repower of one dual engine scraper in an amount not to exceed \$194,000 from the Carl Moyer Program Fund.

6. A contract with Parsec, Inc. for the purchase of ten new LNG yard tractors in an amount not to exceed \$489,780 from the Carl Moyer Program Fund.
7. A contract with KEC Engineering for the repower of four diesel cranes in an amount not to exceed \$137,592 from the Carl Moyer Program Fund.
8. A contract with Moss Equipment for the repower of 10 diesel dual engine scrapers in an amount not to exceed \$1,326,625 from the Carl Moyer Program Fund.
9. A contract with TNT Grading to repower seven diesel scrapers in an amount not to exceed \$608,438 from the Carl Moyer Program Fund.
10. A contract with American Contracting to repower two diesel dual engine scrapers in an amount not to exceed \$374,990 from the Carl Moyer Program Fund.
11. A contract with Dalton Trucking to repower two diesel pipe loader in an amount not to exceed \$52,590 from the Carl Moyer Program Fund.

B. Authorize the Chairman to modify the following contracts with turn-back dollars from the Carl Moyer Program Fund:

1. A contract with Pick Your Part to add the repower of three diesel scrap metal loaders in an amount not to exceed \$20,065 from the Carl Moyer Program Fund Prop. 40 Account, \$20,065 from the Carl Moyer Program Fund SB1107 Account, and \$24,967 from the Carl Moyer Program Fund to the existing contract that is for the repower of 16 diesel scrap metal loaders for \$496,988 from the Carl Moyer Program Fund Account AB923 originally approved on February 3, 2006.
2. A contract with Sukut Equipment to add the repower of five diesel dozers, and six diesel single engine scrapers in an amount not to exceed \$41,893 from the Carl Moyer Program Fund Prop. 40 Account, and \$740,522 from the Carl Moyer Program Fund to the existing contract that is for the repower of one dual engine and 16 single engine diesel scrapers for \$1,488,925 from the Carl Moyer Program Fund AB923 Account originally approved on February 3, 2006.
3. A contract with Jagur Tractor to add the repower of eight diesel dual engine scrapers in an amount not to exceed \$1,438,560 from the Carl Moyer Program Fund to the existing contract that is for the repower of nine diesel scrapers for \$794,903 from the Carl Moyer Program Fund AB923 Account originally approved on February 3, 2006.




Barry R. Wallerstein, D.Env.
Executive Officer

Background

The Carl Moyer Memorial Air Quality Standards Attainment Program (CMP) provides funding on an incentive basis for the incremental cost of purchasing cleaner than required engines and equipment. Eligible projects include cleaner on- and off-road, marine, locomotive, and agricultural engines, as well as forklifts, airport ground support equipment, and auxiliary power units. To date, the AQMD has awarded more than \$85 million in projects for purchase of low-emitting heavy-duty vehicles, engines, and equipment under its Carl Moyer Program. Some of the awarded contracts have been returned by the recipients due to various reasons such as economic conditions and other business priorities. Table 1 shows the total amount of returned funds currently available under the Carl Moyer Program, and Table 2 shows the detailed breakdown of the turn-back funds.

Table 1: Carl Moyer Program Available Dollars

Funding Source	Available Amount
SB 1107	\$1,353,077
Carl Moyer Turn-Back (Proposition 40 funds)	\$1,200,602
Carl Moyer Turn-Back (Non Proposition 40 funds)	\$6,461,127
Total	\$9,014,806

Table 2: Returned Program Dollars

AWARD RECIPIENT	AMOUNT DECLINED	ACCOUNT
FY 1999-00		
American Marine	\$60,862	CMP
Seaboard Marine	\$16,900	CMP
FY 2000-01		
City of Pasadena	\$14,000	CMP
London Bus & Taxi	\$194,040	CMP
Lowe's	\$269,403	CMP
Palm Springs Disposal	\$192,221	CMP
Sysco	\$90,636	CMP
Ware Disposal	\$176,865	CMP
FY 2001-02		
Blue Barrel Disposal	\$134,490	CMP
Altfillisch	\$44,131	CMP
G&B Rubbish	\$124,708	CMP
Nationwide Environmental	\$227,325	CMP
Sysco	\$315,900	CMP
Sukut Construction	\$150	CMP
USA Waste, LA Metro	\$72,600	CMP
USA Waste, Sun Valley	\$121,000	CMP
Waste Mgmt. Orange County-Dewey's	\$132,325	CMP
Waste Mgmt. San Gabriel/Pomona Valley	\$319,728	CMP
Waste Mgmt. San Gabriel/Pomona Valley	\$459,800	CMP
WXRT - Express Reefer Transport	\$2,000,000	CMP
FY 2002-03		
Athens Services	\$65,181	Prop 40
City of Cathedral City	\$7,908	Prop 40
City of Los Angeles	\$6,200	Prop 40
County Sanitation Districts of L.A.	\$99,650	Prop 40
Enterprise Rent-a-Car	\$45,317	CMP
Herigstad Equipment Rental	\$360,888	CMP
Interstate Sweeping Services	\$67,500	Prop 40
Jagur Tractor	\$171,310	CMP
Mellon Grading	\$140,450	CMP
Roadbuilders	\$78,673	CMP
Tidewater Marine	\$404,232	CMP
Two Harbor Enterprises	\$20,339	Prop 40
FY 2003-04		
Catalina Passenger Services	\$396,955	Prop 40
London Bus & Taxi	\$285,000	Prop 40
Omnitrans	\$64,000	Prop 40
Shaw Diversified Services, Inc.	\$63,805	Prop 40
Clean Street	\$97,632	Prop 40
Southern California Regional Rail	\$282,000	CMP
City of Whittier	\$26,432	Prop 40
FY 2004-05		
Unused Funds	\$388	SB1107
City of Los Angeles	\$960,749	SB1107
Altfillisch	\$391,940	SB1107
City of Banning	\$11,173	CMP
TOTAL DECLINED AWARDS	\$9,014,806	

Proposal

At its July 8, 2005 meeting, the Board approved the release of RFP #P2006-01 to solicit proposals for Year Seven of the Carl Moyer Program. By the closing date of September 30, 2005, a total of 72 proposals were submitted requesting approximately \$52 million in funding. On December 2, 2005, and February 3, 2006, the Board approved awards for a total of \$19,625,677. This action is to execute new contracts under the Carl Moyer Program with companies that were unable to receive funds in the last round of awards under RFP #P2006-01, with turn-back funds in an amount not to exceed \$9,017,315. This amount is comprised of \$1,353,010 from the Carl Moyer Program Fund Account SB1107, \$1,200,842 from the Carl Moyer Program Fund Account Proposition 40, and \$6,463,463 from the Carl Moyer Program Fund. Table 3 provides a detailed list of all the projects proposed for funding.

Total NOx and PM reductions from the recommended projects are approximately 463 tons/year and 16 tons/year, respectively. All the recommended award recipients have agreed to complete the recommended projects by June 30, 2007.

In case of availability of additional turn-back funds, staff recommends the Board to approve the selection of projects and execution of contracts from unfunded projects under RFP #P2006-01, which is provided as a back-up list in Attachment 1.

Funding Distribution

Table 4 summarizes staff's recommendation for awards in disproportionately impacted areas under the requirements of AB1390. The total amount of projects funded in disproportionately impacted areas is \$6,914,027. The total amount of projects funded solely based on cost-effectiveness is \$2,100,288. In summary, 76.7% of the projects are in disproportionately impacted areas. The requirements of AB 1390 are implemented according to the following criteria.

- 1) All projects must qualify for the Carl Moyer program by meeting the cost effectiveness limits established in the RFP.
- 2) All projects were evaluated according to the following criteria to qualify for funding under DI requirements:
 - a) Poverty Level: All projects in areas where at least 10% of the population falls below the Federal poverty level based on the year 2000 census data, are eligible to be included in this category, and
 - b) PM Exposure: All projects in areas with the highest 15% of PM concentration will be eligible to be ranked in this category. The highest 15% of PM concen-

tration level is 46 micrograms per cubic meter and above, on an annual average, or

- c) Air Toxics Exposure: All projects in areas with a cancer risk of 1,000 in a million and above (based on MATES II estimates) will be eligible to be ranked in this category.

Table 3: Recommended Awards by Fund Accounts

Carl Moyer Program Proposition 40 Account	Awards
Rentrac	\$1,064,270
Cash Grading	\$74,614
Pick Your Part	\$20,065
Sukut	\$41,893
Total Prop. 40 Account	\$1,200,842
Carl Moyer Program Funds	Awards
Cash Grading	\$862,545
JKM Equipment	\$212,854
Yeager Sanska	\$194,000
Parsec	\$489,780
KBC Engineering	\$137,592
Moss Equipment	\$1,326,625
TNT Grading	\$608,438
American Contracting	\$374,990
Dalton Trucking	\$52,590
Pick Your Part	\$24,967
Sukut	\$740,522
Jagur	\$1,438,560
Total Carl Moyer Program Funds	\$6,463,463
Carl Moyer Program SB1107 Account	Awards
Bruno Farms	\$55,821
JKM Equipment	\$1,277,124
Pick Your Part	\$20,065
Total SB1107 Account	\$1,353,010
Grand Total	\$9,017,315

Table 4: Award Recommendations and Proposed Funding Distribution

Projects Under AB1390	Awards
Cash Grading	\$ 937,159
Pick Your Part	\$ 65,097
Sukut	\$ 782,415
JKM	\$1,489,978
Yeager Sanska	\$ 194,000
Parsec	\$ 489,780
KEC Engineering	\$ 137,592
Moss Equipment	\$1,326,625
Jagur	\$1,438,560
Bruno Farms	\$ 52,821
Total AB1390	\$6,914,027
Projects Solely Based on Cost Effectiveness	Awards
Dalton	\$ 52,590
American Contracting	\$ 374,990
Rentrac	\$1,064,270
TNT	\$ 608,438
Total Cost Effectiveness Only	\$2,100,288

Outreach

In accordance with AQMD's Procurement Policy and Procedure, a public notice advertising the RFP/RFQ and inviting bids was published in the following publications:

- | | | |
|--|-----------------------------------|---|
| 1. <i>Antelope Valley Press</i> | 11. <i>La Opinion</i> | 21. <i>Rafu Shimpo</i> |
| 2. <i>Black Voice News</i> | 12. <i>La Prensa Hispana</i> | 22. <i>San Bernardino Sun</i> |
| 3. <i>Chinese Daily News</i> | 13. <i>La Voz Publications</i> | 23. <i>State of California Contracts Register</i> |
| 4. <i>Desert Sun</i> | 14. <i>Los Angeles Daily News</i> | 24. <i>The Daily Breeze</i> |
| 5. <i>Eastern Group Publications</i> | 15. <i>Los Angeles Sentinel</i> | 25. <i>The Excelsior</i> |
| 6. <i>El Chicano</i> | 16. <i>Los Angeles Times</i> | 26. <i>The Signal</i> |
| 7. <i>El Informador</i> | 17. <i>Orange County Register</i> | 27. <i>Wave Community Newspapers</i> |
| 8. <i>Inland Empire Hispanic News</i> | 18. <i>Philippine News</i> | |
| 9. <i>Inland Valley Daily Bulletin</i> | 19. <i>Precinct Reporter</i> | |
| 10. <i>Korea Central Daily</i> | 20. <i>Press Enterprise</i> | |

Additionally, potential bidders may have been notified utilizing the Los Angeles County MTA Directory of Certified Firms, the Inland Area Opportunity Pages Ethnic/Women Business & Professional Directory; and AQMD's own electronic listing of certified minority vendors. Notice of the RFP/RFQ was mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at AQMD's Web site (<http://www.aqmd.gov>).

Information was also available on AQMD's bidder's 24-hour telephone message line (909) 396-2724.

Benefits to AQMD

AQMD's Clean Fuels Program has been active in funding the development and demonstration of low emission, alternative fuel technologies within its Technology Advancement Office. The AQMD has also supported a number of activities directed to commercialization of low-emission alternative fuel technologies. The successful implementation of the Carl Moyer Program is a direct result of these technology advancement activities. The vehicles and equipment funded under this recommendation will operate many years and will provide long-term emissions reductions.

Resource Impacts

Funding for the recommended projects shall not exceed \$9,017,315 in turn-back funds under the Carl Moyer Program comprised of \$1,353,010 from the Carl Moyer Program Fund Account SB1107, \$1,200,842 from the Carl Moyer Program Fund Proposition 40 Account, and \$6,463,463 from the Carl Moyer Program Fund, which includes projected interest.

Attachment

Backup list of Qualified Projects from RFP #P2006-01

Attachment 1
Backup List of Qualified Projects from RFP #P2006-01

Company	Equipment	Requested Funding
Moss Equipment	Diesel repower of 7 single engine scrapers	\$ 551,011
American Contracting	Diesel repower of 8 dual engine scrapers	\$1,499,960
Larry Jacinto Construction	Diesel repower of 4 dozers, 3 single engine scrapers, and 1 loader	\$ 440,476
Road Builders	Diesel repower of 4 dozers	\$ 399,147
TNT	Diesel repower of 3 dual engine scrapers, 2 water pulls, 1 tractor	\$ 625,827
Total		\$3,516,421



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov



BOARD MEETING DATE: November 3, 2006

AGENDA NO. 8

PROPOSAL: Issue Program Announcement to Solicit Projects for Cleaner Construction Equipment Under the Carl Moyer Program, Correct Name of Existing Contract, and Allow Acceptance of 2006 and Newer Model Year Vehicle Applications Under the Fleet Modernization Program

SYNOPSIS: CARB's Carl Moyer Program guidelines have strict requirements for expenditure of funds for each year before allocation of new funds for each subsequent year. This action is to issue a Program Announcement in an amount not to exceed \$12 million from the Clean Fuels Fund and the Carl Moyer Program returned funds to fund cleaner construction equipment on a first come first served basis with the requirement that all equipment be installed by May 31, 2007, and be invoiced no later than June 30, 2007. This action is also to correct the name of an awarded contract, and also to allow the purchase of 2006 and newer model year diesel vehicles rather than 2006 model years only under the Fleet Modernization Program.

COMMITTEE: Technology, October 27, 2006

RECOMMENDED ACTIONS

1. Approve issuance of Program Announcement PA# 2007-07 in an amount not to exceed \$12 million, to solicit off-road projects under the Carl Moyer Program on a first come, first served basis.
2. Approve correction of an error by changing the name of an awarded contract from its owner's name of Kimberly Salas to its company name of Harbor Breeze Corporation under the Carl Moyer Program.
3. Approve revising the Fleet Modernization Program Announcement #PA2007-01, to accept applications for the purchase of model years 2006 and newer heavy-duty diesel vehicles rather than 2006 model year vehicles only, as newer models become available.

Barry R. Wallerstein, D.Env.
Executive Officer

Background

The Carl Moyer Memorial Air Quality Standards Attainment Program (CMP) provides funds on an incentive basis for the incremental cost of purchasing cleaner than required engines and equipment. CARB's Carl Moyer Program guidelines have strict requirements for expenditure of funds for each year before allocation of new funds for each subsequent year. Therefore, all outstanding funds must be expended no later than June 30, 2007 for the AQMD to receive future funding. Due to the nature of the Carl Moyer Program, it is not unusual to have a quantity of returned funding during a program year. The new requirement makes it difficult to conduct the program annually and meet the fund expenditure deadlines. Therefore, creating a pool of completed backup projects funded with the Clean Fuels Fund, and the expedited reallocation of any Carl Moyer returned funds to complete new projects, will enable the AQMD to expend the program funding in a timely manner.

Proposal

Carl Moyer Program Announcement

This action is to issue a program announcement for heavy-duty off-road construction or similar equipment in an amount not to exceed \$12 million comprised of Carl Moyer Program returned funds and up to \$4 million from the Clean Fuels Fund. The projects will be funded on a first come first served basis. All the projects must have a maximum cost-effectiveness level of \$5,000/ton for combined emission reductions of NOx + ROG + (20 x PM), and they must be installed by May 31, 2007 and be invoiced no later than June 30, 2007. Under CARB's Carl Moyer Program guidelines funding for each year must be expended within two years from the date of their allocation. Due to the variety of projects with a short implementation time coupled with the fact that a number of project fundings are returned each year, it is imperative to implement a backup system in order to have a pool of available projects for substituting the returned projects in an expedited manner. Projects funded with the Clean Fuels Fund will therefore be available to be substituted with any returned funds from incomplete projects from years 1 through 7. The \$4 million from the Clean Fuels Fund will then revert as returned funds from Moyer projects become available. This will ensure the timely expenditure of all the Carl Moyer Program funds and will enable the AQMD to receive its fair share of funds from CARB each year. At no time will more than \$4 million from the Clean Fuels Fund be used to create a pool of backup projects.

Correction of a Carl Moyer Program Contract

This action is to approve correction of an error by changing the name of an earlier awarded contract from its owner's name of Kimberly Salas to its company name of Harbor Breeze Corporation under the Carl Moyer Program.

Fleet Modernization Program Announcement #PA2007-01

This action is to approve revising the Fleet Modernization Program Announcement #PA2007-01, to accept applications for the purchase of model years 2006 and newer

heavy-duty diesel vehicles rather than 2006 model year vehicles only, as newer models become available.

Outreach

In accordance with AQMD's Procurement Policy and Procedure, a public notice advertising the Program Announcement and inviting bids will be published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and Riverside County Press Enterprise newspapers to leverage the most cost-effective method of outreach to the entire South Coast Basin.

Additionally, potential bidders may be notified utilizing AQMD's own electronic listing of certified minority vendors. Notice of the Program Announcement will be mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at AQMD's Web site (<http://www.aqmd.gov/> where it can be viewed by making menu selections "Inside AQMD"/"Employment and Business Opportunities"/"Business Opportunities" or by going directly to <http://www.aqmd.gov/rfp/index.html>). Information is also available on AQMD's bidder's 24-hour telephone message line (909) 396-2724.

Benefits to AQMD

The successful implementation of the projects under this program announcement will help the AQMD retain its fair share of state emission reduction funding under the CMP, and significantly reduce NOx and PM10 emissions in a cost effective and expeditious manner.

Resource Impacts

The total project cost of up to \$12 million will be comprised of returned funds from the Carl Moyer Program Fund and up to \$4 million from the Clean Fuels Fund. The \$4 million from the Clean Fuels Fund will serve as a pool of backup projects and will gradually be returned to the Clean Fuels Program Fund, as additional CMP returned funds become available.

The Clean Fuels Program under Health and Safety Code Sections 40448.5 and 40512 and Vehicle Code Section 9250.11, establishes mechanisms to collect revenues from mobile sources to support projects to increase the utilization of clean fuels, including the development of the necessary advanced enabling technologies. Funds collected from motor vehicles are restricted, by statute, to be used for projects and program activities related to mobile sources that support the objectives of the Clean Fuels Program.

Attachment

Program Announcement #PA2007-07 – Carl Moyer Heavy-Duty Off-Road Construction Equipment Program



Attachment 3
South Coast
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

October 11, 2006

Mr. Mick Rapport
Frontier Aluminum Corporation
2480 Railroad Street
Corona, CA 92880-5418

Subject: AQMD Contract # 05237

Dear Mr. Rapport:

It has come to our attention as a result of ARB's audit, in July 2006, of the AQMD's Carl Moyer Program that your company was awarded funding in excess of what is allowable. At the time of the analysis incorrect guidance was provided. As a result of new information, it has been determined that your FY 2003-04 Carl Moyer Program award needs to be adjusted.

Frontier Aluminum's award should have been \$7,448. The actual award of \$13,765 resulted in an overpayment of \$6,317 which must be returned to the Carl Moyer Program funds.

Regretfully, we must ask Frontier Aluminum to return the overpayment of \$6,317. If you wish to discuss this matter please contact me at 909 396-2641. Thank you for your attention to this matter.

Respectfully,

A handwritten signature in cursive script that reads "Fred Minassian".

Fred Minassian
Technology Implementation Manager
fminassian@aqmd.gov

FM:CD:lm