



1960 - 2010

Larry Greene
AIR POLLUTION CONTROL OFFICER

January 13, 2011

James N. Goldstene
Executive Officer
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, California 95812

Dear Mr. Goldstene:

The Air Resources Board (ARB) recently concluded their 2010 audit of the Sacramento Metropolitan Air Quality Management District's (District) Carl Moyer Program and Lower-Emission School Bus Program (LESBP), including federal Diesel Emissions Reduction Act funded school bus retrofit projects. Enclosed is our response to the Audit Report including corrective actions for all identified findings and their applicable time frames.

We appreciate ARB recognizing that the District is achieving the program's intended emission reductions although the audit did identify two overall findings. The first finding states that some District contracts are missing certain requirements or contain incorrect information. The second finding is that there are insufficient internal controls and balances across the programs resulting in errors in various phases of the program. The Audit Report also provides recommendations for the District which are addressed in the attached response to the Audit Report.

The District acknowledges and appreciates the identification of incorrect information located in project files. Our response to the Audit Report will detail the steps already taken and forthcoming to address the action items identified and to better ensure project accuracy as we continue forward. The District also intends to update our other Moyer contracts' equipment exhibits to ensure that they reflect the most up to date information. The District disagrees with the decision to list "contracts missing requirements" as a finding. The errors noted during the audit related to the equipment specific information, but with the exception of a previously ARB approved School Bus contract, the Moyer contracts were not identified as missing requirements. The School Bus contract went through an approval process and received approval from ARB, as noted in the Audit Report. The District appreciates the more detailed look at the school bus contract during and subsequent to the audit and agrees that the changes noted need to be made to the contracts, however, since the contract was approved by ARB we do not agree that this item should be listed as a finding but rather should have been addressed outside the scope of the audit.

The District also appreciates the identification of process and control steps that can be taken to better ensure program requirements are met. As noted during the audit process, the District has been in the process of implementing numerous quality control measures over the past couple of years that will continue into the future. We believe that many of the errors noted on older projects would now be caught by changes that were already being implemented at the time of the audit. In addition, the audit has provided us with an opportunity to push forward other changes such as updating the District database to address inspection findings, equipment records, and also our contract amendment process. Additional detail will be provided in the enclosed response to the Audit Report.

We would also like to take the opportunity to thank ARB and Board Member Sandra Berg on the changes being implemented over all of the incentive programs this past year. Over the years, updates to the Guidelines and new programs with different processes and requirements created challenges for Districts and ARB in ensuring that each project met the Guidelines in effect at the time. The guideline changes and subsequent internal procedures that Districts implemented had the best intention, ensuring proper use of local and state funds for air quality improvements. These changes led to some ambiguity on applicability of specific requirements for projects in any given funding year. An example was the school bus retrofit labeling requirements which were initially identified as a problem, until it was demonstrated that the guidance requiring this action occurred after the project implementation date. This ambiguity is not a reflection on the efforts of either of our agencies staff's, but rather serves to highlight the challenges that we share with the necessary updates and differences between programs. We know that the results of the audit represent a collaborative effort and shared responsibility to ensure that we achieve emission reductions in the region. With this in mind we appreciate the recent efforts to harmonize programs where possible and look forward to the continued collaboration between ARB and the California Air Pollution Control Officers Association (CAPCOA) in this effort.

The District has always had a strong commitment to the success of the Carl Moyer, School Bus, and other state funded programs. We look forward to working with you and your staff in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Greene". The signature is fluid and cursive, with a large initial "L" and "G".

Larry Greene
Executive Director/Air Pollution Control Officer

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SMAQMD Responses to ARB Incentives Program Audit Report Findings

SMAQMD Responses to required actions are listed below and the timeframes based on the date when initial response is submitted.

FINDING 1: Missing Contract Requirements or Incorrect Contract Information

Condition 1: Incorrect information regarding project details in contracts.

a. The District must submit to ARB properly-amended contracts for the following:

Contract	Company	District Action
VET-08-0059	Union Pacific Railroad	The District has submitted a more recent case by case approval to ARB. During discussions with UP for amending the contract to reflect fuel usage, UP indicated that megawatt-hours is a more appropriate means of measuring operation. Once a decision is received on the case by case determination, the District will proceed to amend the contract. If the case by case request is turned down the District will proceed with fuel usage. The amendment should be completed within 60 days of a decision by the Carl Moyer staff.
VET-06-0236	Teichert	District has received an electronic signed copy back and is awaiting the original. Copy attached.
VET-08-0001	CA Northern Railroad	District is currently working with CA Northern to clarify the actual value used for fuel consumption. Copy to be provided upon completion. Anticipated March 2011.
VET-07-0192	Elk Grove Unified School District	Fully executed amendment. Copy attached
VET-07-057	Robla Elementary School District	Fully executed amendment. Copy attached

b. The District must submit a revised example school bus contract Exhibit J that also includes appropriate coverage of the details for baseline equipment and retrofits to enable changes in those areas.

District Action: The request to add the baseline equipment to Exhibit J is a new request. The District will further update the Exhibit to reflect baseline equipment as well as the new equipment. We will provide an updated copy once it has been approved. Anticipated March 2011.

c. The District must submit the exhibit that it plans to use for Carl Moyer Program contracts.

District Action: The Moyer contracts had previously been updated to include an exhibit J in the same format as Exhibit J in the school bus contracts. The District will further update the exhibit to reflect baseline equipment as well as the new equipment. A copy will be provided once it has been approved. Anticipated March 2011.

d. The District must submit to ARB a narrative that spells out the new contract amendment process. The District shall incorporate that narrative into its policies and procedures manuals for the Carl Moyer and School Bus Programs.

SMAQMD Action: The District agrees to amend our policies and procedures manuals for the Carl Moyer and School Bus Programs.

Upon post-inspection of the equipment, the inspectors notes entered into the database (new feature of our database) must be accepted or rejected by the project lead. Upon completion of this step, exhibit J (actual exhibit naming may change in the revised copy) will be generated from the updated database information. This amendment requires the applicant and Program Supervisor's signature. This exhibit will be mailed out with the request for invoicing from the participant. The District will not provide the reimbursement check until the amended exhibit with all signatures is completed.

Condition 2: Project life in contract does not cover actual or required project life.

a. The District must submit to ARB properly-amended contracts for the following:

Contract	Company	District Action
VET-09-0019	Orland Joint Unified School District	The District has received approval from our legal counsel to update these and future contract extensions without going through our existing amendment process. The contract extension shall be addressed via a template letter extending their contract and requiring the school district responsible party to sign and return as an update to the contract. This document shall be added to the project file. The District is currently awaiting a signed copy back from the participant. Copies will be submitted upon receipt from the participant. Anticipated in January/February 2011.
VET-08-0072	Galt Joint Union Elementary School	

b. As covered in required actions c and d under condition 1 above, the District must submit the exhibit (akin to school bus exhibit J) that it plans to use for Carl Moyer Program contracts and must spell out the new contract amendment process in its School Bus and Carl Moyer Program policies and procedure manuals.

District Action: The District amended the Moyer contract at the same time as the school bus contract (provided August 2010) but at this time it only includes the new equipment information. The District will amend it consistent with the changes addressed in Response 1c. See copy of existing Exhibit J, which will be updated as noted.

Also consistent with 1c, the District will use the same amendment process identified for the School Bus policies and procedures in the update to the Carl Moyer policies and procedures.

Upon post-inspection of the equipment, the inspectors notes entered into the database must be accepted or rejected by the project lead. Upon completion of this step, exhibit J (actual exhibit naming may change in the revised copy) will be generated from the updated database information. This amendment requires the applicant and Program Supervisor's signature. This exhibit will be mailed out with the request for invoicing from the participant. The District will not provide the reimbursement check until the amended exhibit with all signatures is completed.

Condition 3: Activity levels in Carl Moyer contracts not clearly specified for the particular project under contract. District must submit to ARB an example of a new Carl Moyer contract (for an actual project as opposed to boilerplate) that demonstrates that this change was made.

District action: Please see attached copy of an actual Moyer project listing only hours as is applicable to this specific project.

Condition 4: School bus contracts missing several required provisions. The District must submit to ARB two modified school bus contract boilerplates (one for retrofits and one for replacements). Revisions to contract section 1.15 (section 1.14 in retrofit contract) and 2.6.4 shall be made to spell out that those provisions are in effect for the contract term plus two years.

District Action: The District shall amend both school bus contracts to include the appropriate reference to "plus two years." Based on discussions that occurred during the audit, the District believed that amended version provided to ARB on August 2, 2010 had already addressed any deficiencies in these contracts. The District appreciates ARB's additional look at the contracts to realize this requirement was missing from the contract and expect to have this updated by March 2011.

As discussed during the audit process, the District respectfully disagrees with the decision to include this item as a finding. As acknowledged by ARB, the original District contract was approved by ARB during approval of our School Bus Policies and Procedures. As the District was using an ARB approved contract, we do not believe that a finding of deficiency should exist. We agree that the identified corrections should be made but believe the changes should be addressed outside the scope of the audit.

Condition 5: Contracts contain District requirements that are not enforced or are not applicable. The District is not required to amend the existing contracts where issues were identified under this condition. However, the District must ensure that, for each future contract, all the provisions apply and all the provisions are enforced. The District is strongly encouraged to develop separate contract templates tailored to each of the different project type funds.

District Action: None required. The District currently has slightly different templates for each of the programs. The conditions in question were District requirements unrelated to Moyer or School Bus Guidelines and were based on an earlier understanding of school bus requirements. Since that time, the District and ARB along with CAPCOA have sought to more clearly define program requirements. The District shall continue to review its contracts to ensure they meet program requirements and that conditions, if no longer applicable, will be removed in the future.

FINDING 2: Insufficient Internal Controls and Balances. The elements of this finding include administrative practices not consistent with the guidelines, missing documentation, inspection inconsistencies, and reporting errors.

Condition 1: Administrative practices were not consistent with the Carl Moyer guidelines for a number of projects.

a. Ensure signed applications are received before contract execution.

District Action: As noted in ARB's report, the District had recently initiated a check list as part of the project processing. At the time of the audit the District had recognized that while a check list was a good idea, the checklist needed to be reviewed by the supervisory staff to ensure that all necessary elements had been completed. A copy of the checklist is now included with all contracts as they proceed through the District review process. Contracts missing any item for the checklist are returned to staff to complete prior to allowing it to proceed through the process.

It is also important to note that the check list itself has evolved over the past two years and was a step in transition for many of the projects reviewed by ARB at the time of the audit. The list in the past year has firmed up and the new steps implemented to ensure that all elements have been completed are an element of this evolution. The District is also in the process of reviewing the list to ensure that items listed fall in the same order as they would during the project review process.

b. Ensure work is not done before contract execution.

District Action: The District cover letter has been amended to include language in a form identical to that now appearing in the school bus contract cover letter (being revised per ARB's suggested recommendation). The newer database also provides a check and balance to compare the contract signed date and the invoicing date to ensure that a project has not occurred prior to contract execution. If the District determines at any time during the project that work has commenced prior to execution, the applicant shall be found in breach of contract and the project will not be allowed to proceed forward.

c. Include safeguards to prevent overpayment of projects in the future.

District Action: Since the time of these overpayments, the District has added an additional level of review prior to invoices reaching our fiscal staff and added the ability within the District's database to further screen equipment invoice amounts in comparison to the contracted amounts.

The District actions under this condition will be incorporated into the District's Policies and Procedures.

Condition 2: Missing or incorrect documentation.

The District utilizes a checklist to ensure files are complete before filing. It is unclear how effective this checklist is, considering the number of errors identified. The District must evaluate the use of the checklist and determine if improvements can be made to ensure:

- a. Project files contain documentation of project's eligibility verification,*
- b. Project engines are in compliance with program requirements, and*
- c. Updates to the project for such instances as engine substitutions are reflected in project file.*

District Action: The District commits to regularly reviewing and updating our checklist as applicable. For example any guideline revisions will initiate a review of our checklist as would the development of any new program opportunities. In review of the ARB findings, most but not all of the file issues either predated the current checklist and the review protocol or involved projects not yet complete and ready for filing (i.e. the school district contracts). We believe that the current protocol would have caught most of the older discrepancies and the elements associated with newer but not yet filed project folders. We do see a potential challenge in the process catching incorrect Executive Orders (EOs) and commit to further reviewing this element. One possible solution is to maintain a separate repository of EOs and have project staff consult that file as part of the process. This mechanism comes with its own share of pros and cons and shall be evaluated as part of our update to the District Policy and Procedures.

Condition 3: Inspection forms were inconsistent in their completeness.

The District must update the District's Policy and Procedures to include the process the District intends to follow to ensure inspection information is properly reported, updated, and followed up on.

District Action: As noted in ARB's comments, we initiated the requests made during the audit process and will incorporate the new provisions within our Policy and Procedures. It should also be noted that as part of our database enhancements that occurred in the spring and summer of 2010 (after the initial audit review), the database now requires project staff to accept or reject any project changes noted by field staff during the inspections. This will ensure that any noted changes are incorporated into the projects.

However, while the District has made changes to our program and will update the policies, the District believes that this item should not be listed as a finding condition, but rather as a recommendation. As noted in our June 2010 response to the draft finding, the District believes that the existing inspection procedures were consistent with the training provided by ARB in their Uniform Air Quality Training Program (UAQTP). The UAQTP is a uniform training program for inspection staff state wide for Districts and ARB. The protocols therein discuss using field notes to prepare a final report which is then to be included in the file. Originals, due to the nature of field notes, were not

required to be kept in the file, and in fact are discouraged to avoid confusion from future review of notes versus the final report.

The District recognizes that the ARB incentive program staff believes a different approach involving maintaining originals and adding "N/A" to fields that are not used provides for better program over site. The District agree that steps to improve the program are always desired and has made the requested changes, but believe this request should be listed as a recommendation and not as a finding since past District practice was consistent with the training provided by the UAQTP.

Condition 4: Reporting errors.

- a. *The District must submit to ARB an example contract exhibit that it plans to use for Carl Moyer Program contracts as described in Finding 1. This exhibit must include appropriate coverage of the details for baseline equipment and retrofits to enable changes in those areas.*

District Action: The Moyer contracts had previously been updated to include an exhibit in the same format as Exhibit J in the school bus contracts. The District will further update the exhibit to reflect baseline equipment as well as the new equipment. A copy will be provided once it has been approved. Anticipated March 2011.

- b. *Demonstrate that the update to the contract results is updated information in the CARL database, listed earlier under the first finding.*

On a standard basis, the District shall continue to update CARL on an annual basis consistent with the Moyer reporting procedures and timelines. To demonstrate that the new District process is working to update CARL, please note the attached screenshots of CARL from our August 2010 update and the revised screenshot based on a January 7th, 2011 update from our database for El Rio Farms, Inc. The District will also continue working with our database tech support contractor and the CARL help staff to make sure that the database is compatible with updates to CARL.

Recommendations:

1. *Include the District's identifier in the contract detail.*

District Action: We will investigate inclusion of this information in the contract.

2. *Eliminate project eligibility criteria in School Bus Program contracts.*

District Action: The District shall evaluate the contracts to determine if eligibility criteria are applicable to the contracts and update as applicable.

3. *Include a more direct statement barring work prior to full contract execution in the contract transmittal cover letter to School Bus Program applicants.*

District Action: The District will amend the existing sentence as follows:

"You may order the new equipment/engine(s) and complete the purchase transaction of the new equipment/engine(s) after the executed Agreement is returned to you. Any new equipment/engine(s) ordered or purchased before the Agreement is executed will not receive Lower Emission School Bus Program grant funds."

This language is consistent with existing cover letter language for our Moyer contracts.