

**SCAQMD'S RESPONSES TO CARB'S PROGRAM REVIEW REPORT
OF THE DISTRICT'S AIR QUALITY INCENTIVE PROGRAMS
FOR GRANT FY 2005-06 THROUGH 2008-09**

INTRODUCTION AND SUMMARY

The South Coast Air Quality Management District ("SCAQMD" or "District") welcomes the opportunity to respond to the California Air Resources Board ("CARB") program review report of the District's State-sponsored air quality incentive programs for grants made in fiscal years ("FY") 2005-06 through FY 2008-09.¹ While the District appreciates CARB's acknowledgement of the successes of the District's State-sponsored incentive funding programs, the District disagrees with specific findings in the review report. The District believes that the issues identified in the report do not meet the criteria for issuing a "Findings." "Findings" are "district *practices* found to be inconsistent" with applicable statutes, guidelines, and contracts. (CARB Review Report, p. 8.) (Emphasis added.) In this respect, some of the "findings" in the review report involved issues that were not District practices, but were, instead, isolated instances that were remedied and resolved, many of them prior to CARB's audit. Moreover, many of the issues resulting in a "finding" arose because of conflicting guidance, poor procedures or errors by CARB regarding program policies and implementation issues. Given that CARB is a major participant in the implementation of these programs, and is directly responsible for a number of the identified items, the District strongly believes that these reviews should be conducted by a qualified independent third party instead of CARB so as to avoid conflicts of interest.

Based on the information presented in the District's "Response to Findings" below, the District hereby requests that CARB remove all or nearly all of the following "Findings":

- School Bus Program Finding 1: Improper payment practices
- School Bus Program Finding 2: Late expenditures
- School Bus Program Finding 3: Inadequate assessment of eligibility and missing documentation
- Carl Moyer Program Finding 1: Ineligible projects funded
- Carl Moyer Program Finding 2: Payment without correct documentation
- Carl Moyer Program Finding 3: Reporting errors and missing documentation

¹ The District is responding to the review report with less than the full 30 days usually allowed for a response. According to the audit report, the District has 30 days from the date of the report to respond. The report was dated August 6, 2012, which means a response is due by September 5, 2012. However, the report was first received by the District's Executive Officer, who only received it on August 14, 2012.

The specific circumstances CARB cites are due to CARB actions or inactions and would be more appropriately addressed as “Recommendations” to the District and itself. Recommendations are defined by CARB to improve the current implementation of our joint Incentive Programs. (CARB Review Report, p. 14.)

District Programs

As CARB notes in its review report, the District’s programs are the largest in the State, implementing over \$416 million in State grants and District-provided matching funds through the replacement and/or retrofit of over 9,000 vehicles and equipment during the subject period, including:

- Over 390 new natural gas school buses;
- Over 1000 retrofits of school bus engines;
- Over 2,600 on- and off-road engine and vehicle replacements under the Carl Moyer Program;
- Over 2,700 truck replacements and 60 engine retrofits under the Proposition 1B-Goods Movement Program.

Due to the District’s robust efforts in implementing these projects, the District’s incentive programs have achieved early and surplus reductions of ozone precursor and toxic emissions, as confirmed by CARB in its review report. The District is pleased that CARB recognizes the District’s highly successful implementation of its Proposition 1B-Goods Movement Program “Early Grant” projects, and the District appreciates CARB’s determination that the District’s efforts have been “commendable,” defined as “an exceptional practice that goes beyond the basic requirements for implementing an incentive program.” (CARB Review Report, p. 15.) The District’s ability to achieve these results is due in large part to the District Governing Board’s decision to give financial support to the program above and beyond what is expected or required. For instance, the District’s Board authorized the use of the District’s own funds, without assurances of reimbursement by the State. By doing so, the District was able to continue and complete the projects, despite suspension and delays in the availability of State bond funds. As such, the District was the only air district to have completed the “Early Grant” projects consistent with original deadlines. In total, 263 goods movement trucks were funded with over \$13 million in Proposition 1B funds. And thanks to the District Board’s approval to leverage Proposition 1B funds with an additional \$5 million in federal funds, the District was able to fund 132 liquefied natural gas (“LNG”) trucks, which, for the first time, appeared at the Ports of Los Angeles and Long Beach.

RESPONSE TO FINDINGS

I. School Bus Program

A. School Bus Program Finding 1: Improper payment practices

In making this finding, CARB contends that the District has a practice of making improper payments. As shown below, the District's payment practices are consistent with the applicable Guidelines, and the instances that CARB cited to support its assertion were isolated, nonrecurring instances that have all been resolved. Moreover, no funds were lost related to any of the items identified. Thus, CARB should remove this issue as a "Finding."

Response to Condition 1:

CARB states that the District had approved payments before particulate matter ("PM") trap cleaning equipment were delivered and installed in three school bus projects – Durham School Services and Laidlaw Education Services under FY 2005-2006 State grant, and Moreno Valley Unified School District under the 2009 Diesel Emission Reduction Act ("DERA") grant. The District's approval of payments does not violate the applicable Guidelines because the Guidelines do not prohibit the District from *approving* upfront payments for 11 years of maintenance per bus before the work is completed.² Thus, there is no violation of the Guidelines with respect to the Durham, Laidlaw or Moreno Valley projects for the District's payment approvals related to maintenance prior to the installation of the equipment.

The District acknowledges that it made actual payments to the vendors for the Laidlaw and Moreno Valley projects for cleaning equipment that were delivered, but not yet installed. Such payments were allowed under the CARB program guidelines for maintenance purposes as noted above. Thus, a lump sum check was issued for the cost of the buses and cleaning equipment. As for the Durham project, although the District issued a check for cleaning equipment that were delivered but not yet installed, the District did not actually give the check to the vendor until after the cleaning equipment were in fact installed. Procedural issues associated with check issuance were isolated events identified in a previous DOF Audit and were resolved

² "(b) Maintenance Costs: Up to \$4,000 may be allocated to fund passive diesel particulate filter (DPF) maintenance (baking and de-ashing) in addition to cost of purchase and installation of the retrofit device. DPF devices generally require periodic maintenance to remove ash caused by motor oil combustion residues. This periodic maintenance can be handled by a maintenance contract at the time of device purchase, periodic cleaning by outside contractor, or cleaning by the bus maintenance personnel. The ARB estimated a cost of \$4,000 over the 11 year life based on the assumption that the DPF requires cleaning once every two years at a cost of up to \$800 per cleaning." *2006 School Bus Program Guidelines*, p. 12.

and remedied prior to CARB's audit report. We acknowledge that the administrative practice in these three cases was unusual and did not comport with AQMD's internal policies. Nonetheless, the circumstances do not support a "finding" as defined in CARB's guidelines.³

SCAQMD Response to Condition 2:

CARB states that the District approved a payment of \$45,000 for six retrofits prior to receipt of the required California Highway Patrol ("CHP") certificates. This issue is not an appropriate "finding," as it is *not* District practice to approve payments prior to receipt of the required California Highway Patrol ("CHP") certificates. Indeed, out of 584 retrofit projects reviewed by CARB, AQMD had previously identified six (6) buses (1% of total) that were inadvertently paid without CHP certificates. District staff discovered the problem more than two years prior to CARB's review, as a result of AQMD QA/QC efforts, and quickly remedied it by requesting and obtaining CHP certificates for four buses, and getting refunds for the two non-operable buses (totaling \$15,000) where CHP certificates were not available.⁴ Again, these were isolated events that were quickly resolved and remedied by AQMD, and thus should not be used to support a "finding" that the District has improper payment practices.

Required Actions:

As described in the District's response to the Department of Finance's ("DOF") fiscal review of the District's State-sponsored incentive programs, the District has taken steps to ensure that the appropriate payment procedures are followed, including conducting a special training session and review of the accounting and check-keeping procedures with all implementation staff.

B. School Bus Program Finding 2: Late Expenditures

CARB made a finding that the District has a practice of making late expenditures. That is patently untrue. CARB cites two circumstances – the expenditure of interest funds after June 30, 2008 and the payment of \$12,000 after September 30, 2009 – in support of this finding. As shown below, the District did nothing improper in expending the interest funds after June 30,

³ The District agrees with CARB that the checks for the above-mentioned projects should have been returned to the Finance Division for safekeeping instead of keeping them in the project files. As described under "Required Actions" in this section, the District has taken steps to address this issue.

⁴ It should be noted that in addition to the State grant funds and interest funds, the District spent an additional \$77,000 using its own funds to implement additional projects under the program.

2008, and the payment of \$12,000 two months after September 30, 2009 is not sufficient to conclude that the District has a practice of making late expenditures.

SCAQMD Response to Condition 1:

CARB asserts that the District's use of interest funds to pay for work completed after June 30, 2008 was inappropriate. The District did not do anything improper by paying for the installation of PM trap cleaning equipment for two school bus projects – Durham School Services and Laidlaw Education Services -- after June 30, 2008. The installation of the cleaning equipment for both projects was solely paid from interest accrued from the State funds awarded to the District – the CARB review report mistakenly stated that the interest accrued was from the DERA grant funds. Nothing in the grant award or in the applicable guidelines indicates that “State budget funds awarded” include interest funds. (See Attachment “A.”) Moreover, the 2006 School Bus Program Guidelines do not mention the term “interest” and do not prohibit the expenditure of interest funds after June 30, 2008. Similarly, an August 9, 2007 letter on expenditures from CARB to the air districts also does not mention or prohibit interest expenditures after June 30, 2008. (See Attachment “B.”)

The District was also unaware of any directives from CARB about any interest expenditure deadlines until recently, when CARB review staff provided the District with a letter dated February 25, 2008 from CARB and addressed to the District's Executive Officer, stating that interest funds must be expended by June 30, 2008. (See Attachment “C.”) Neither the Executive Officer nor the implementation staff was aware of this letter. Since CARB has provided no evidence of AQMD receipt of such letter by certified mail or otherwise, we do not believe the letter was ever received by AQMD. Nonetheless, absent specific language in the guidelines or grant award requiring interest earned expenditure by June 30, 2008, this is an improper finding. The fact that CARB found it necessary to amend its guidelines at a later date to require interest income expenditure by a date certain is further evidence that such a requirement did not exist in 2008.

SCAQMD Response to Condition 2:

In the review report, CARB asserts that the work performed on the DERA-funded Moreno Valley Unified School District projects were not expended until after September 30, 2009, which was the expenditure deadline specified in CARB's DERA grant award to the District. CARB was referring to the installation of one cleaning equipment totaling \$12,000, which was paid two months after the deadline.

The District is extremely disappointed that CARB would make a finding on this issue. In early 2009, CARB urgently asked the District to participate in the EPA-funded DERA program

to install forty-two (42) PM traps in an accelerated four-month program. CARB desired to have a press conference to highlight the program and wanted it to occur in the near term. Although the time was very short, the District decided to help CARB with its urgent request. In May 2009, CARB granted \$898,000 to the District to retrofit 42 school buses with particulate traps, and by September 30, 2009, the District succeeded in installing 43 traps, one more than required, and the District did so under budget. The press conference was held as desired by CARB. (See Attachment "D.") One expenditure in the amount of \$12,000, that was two months late, cannot possibly evidence a District practice of making late expenditures. It was an isolated event and does not rise to a level of a "Finding." It seems unreasonable to highlight this as a significant concern given that the District met the goals of the DERA award. This is simply a case of CARB pointing to a technical flaw without considering the larger context, and merely serves as a disincentive to air districts to answer the call of CARB in future situations.

Moreover, the District later learned that CARB's grant agreement with the EPA for the same funds had a deadline of September 30, 2010, a full year after the deadline imposed by CARB on the District to spend those very same funds. A two-month extension should have therefore been routine. After CARB's Jack Kitowski, Chief of On-Road Controls Branch, refused the District's request to use the leftover funds to fund additional retrofit projects, the District returned the remaining funds, plus interest. (Attachment "E.") CARB gave no explanation as to why CARB refused to give the District an extension to its grant award to allow it to fund additional projects, given that CARB still had a full twelve months under the EPA award. The District notes that the "late" payment of \$12,000 for the Moreno Valley project would have been more than timely under the EPA deadline.

C. School Bus Program Finding 3: Inadequate assessment of eligibility & missing documentation.

CARB asserts that the District's project eligibility process does not comply with the School Bus Program Guidelines in several ways. However, CARB does not cite any specific projects where the District spent program funds on ineligible school buses. Indeed, the District's eligibility process has worked very well for the District. The projects reviewed by CARB under the School Bus Program represented 59% of the total School Bus Program funds awarded to the District for the subject review period, which is an unusually large sample size for a review. Yet despite spending months reviewing the program, CARB reviewers could not find a single bus, out of several hundred buses examined, which should have been disqualified from either the replacement or retrofit components of the program. Since CARB cannot point to a single bus that the District should have disqualified from the program, there is insufficient evidence to support a finding that the District's project eligibility process was inadequate.

SCAQMD Response to Condition 1:

Obtaining specific information prior to contract execution

CARB asserts that the application form does not capture all required information, such as the old bus engine model year for replacement projects. The District acknowledges that its application forms do not ask for the old bus engine model year for replacement projects. Instead, the District requires applicants to provide the bus model year information. However, the District does capture the engine model year information during the application evaluation process for model year 1987 buses, and in all cases the District confirms that the engines are 1986 or older before making any payments. This process has worked well for the District; CARB did not find a single bus which should have been disqualified from the replacement or retrofit components of the program. Thus, our process produces an equivalent result in a more efficient way.

Another finding made by CARB was that District project reviewers do not consistently collect or evaluate key pieces of documentation that are needed prior to contract execution, such as the old bus DMV registration or confirmation that private transportation company applicants hold a contract with a public school. While it is true that the District does not obtain the old bus DMV registration in the manner preferred by CARB, the District does obtain other pieces of information that identify that the old bus is registered with the DMV. First, most applicants do provide DMV registration for the buses to be replaced. Also, the application requires applicants to provide a license plate number, which is only issued for a school bus if it is registered with the DMV. Occasionally, applicants will instead submit a current CHP 292 certificate for the bus, which means the bus has been cleared by the California Highway Patrol (CHP) to operate on the road. Where a current CHP 292 certificate has been submitted for a bus and the application indicates a license plate number for the bus, the District will include that particular old bus on the preliminary eligibility list. However, if the applicant fails to follow up and provide the required DMV registration, then the bus is removed from the eligibility list. In all cases, the District will not pay for a replacement bus until the District has received a valid DMV registration for the old bus.

As to private transportation companies, the District does confirm that these companies hold a contract with a public school by obtaining copies of key pages of the public school contracts before any payments are made under the program. Moreover, contrary to CARB's assertions, there is no requirement in the 2008 School Bus Program Guidelines that the District obtain this documentation before the District executes a contract with those companies. For a couple of the large transportation companies, the District acknowledges that it did not get copies of the public contracts until after contract execution. The District, however, has since obtained the required information.

School board authorizations

CARB also asserts that the District does not comply with the provision in the School Bus Program Guidelines by not obtaining a school board resolution or document that the individual signing the application has been authorized by the school board to make financial decisions. The District strongly disputes this finding. Under the School Bus Program Guidelines, “[g]rant applications must include a resolution from the school district governing board (or a duly authorized official with authority to make financial decisions) authorizing the submittal of the application and identifying the individual authorized to implement the bus replacement” or retrofit project. (2008 School Bus Guidelines, pp. 36, 37.) This language is not ambiguous; it clearly allows “a duly authorized official with authority to make financial decisions” to authorize the submittal of the replacement or retrofit application in lieu of a school board resolution. That is the only reasonable interpretation of this language if the phrase “or a duly authorized official with authority to make financial decisions” is to have any effect, since “a duly authorized official with authority to make financial decisions” cannot issue resolutions.

Indeed, CARB’s Mr. Kitowski and Renee Kemena, Manager of the School Bus Transportation Program, agreed with the District that each school district’s superintendent or transportation manager has authority to sign the application. The CARB review staff confirmed Mr. Kitowski’s and Ms. Kemena’s agreement in its written communications with the District during the review period. (See Attachment “F.”) Moreover, although the District’s practice has been in place since the beginning of the program and the language in the applicable guidelines regarding school district authorizations has not changed, previous CARB program reviews (i.e., audits dated September 2007, October 2006) have never stated that this was a concern, and those previous reviews have never determined that the District’s practice was inconsistent with the applicable guidelines.

CARB’s decision to now determine that the District’s practice is inconsistent with the applicable guidelines highlights the necessity of an independent third party review, in that, an independent third party reviewer would not have made such a determination given the concurrence of Mr. Kitowski and Ms. Kemena that the District’s practice is acceptable as confirmed by CARB review staff, and the lack of a finding on this same issue in previous CARB program reviews.

Documenting/evaluating optional equipment prior to payment.

CARB states in the review report that optional equipment for new bus purchases are not consistently documented in the project files or evaluated by District program staff for eligibility prior to payment. Unless specifically authorized by CARB, the District does not use program funds to pay for any other optional equipment on a school bus besides fire suppression, which

CARB has determined to be eligible under the program for an amount of up to \$4,000 per bus. The District pays for optional equipment only if the school district clearly identifies this equipment as installed in its cover letter and/or accompanying invoice that are submitted to the District. Given limited staff resources, it simply makes no sense for the District to evaluate other optional equipment that is not paid by the District with program funds. Doing so has no purpose, is inefficient, and only serves to waste valuable public resources. Thus, this issue is not sufficient to support a finding that the District's project eligibility process is inadequate.

SCAQMD Response to Condition 2:

Fontana Unified School District

CARB's report includes a finding that there was no application on file for Fontana Unified School District, and that the delivery deadline and performance penalty statement were missing on the purchase order. To ensure Fontana Unified School District's participation in the program, the District decided to forgo having the delivery deadline and performance penalty statement on the purchase order.

To provide some background, in 2006-07, CARB allocated \$2.1 million to the District solely to replace and completely eliminate pre-1977 school buses from the District's jurisdiction. As part of this funding, CARB pre-screened and selected each and every pre-1977 school bus, including fifteen from Fontana, and forwarded the list to the District for funding. Fontana Unified School District had the largest number of pre-1977 school buses, and the school district had some concerns about participating in the program. Given the difficulty of enlisting the school district to participate in this program, and given the potential benefit in addressing the largest number of pre-1977 school buses in the South Coast Air Basin, the District decided not to request duplicate information from Fontana USD or to require the delivery deadline and the performance penalty statement on the purchase order. We note that the District completed the replacement of all fifteen buses at Fontana Unified School District on time. In the future, District staff will follow the details of the guidelines in this regard.

Sulphur Springs Unified School District

CARB asserts that the Sulphur Springs Unified School District project was missing a complete purchase order, noting that the purchase order in the project file only covered the school district's match commitment. This assertion is flat out wrong. The purchase order clearly identified the school district purchasing the bus, the date of the purchase order, the account to which the purchase needs to be charged, the due date of the new bus to be delivered, the name of the staff who issued the purchase order, details of the vendor, and the model of the propane bus, in addition to the amounts to be paid by the school district. (See Attachment "G.") The purchase

order also has the mandatory penalty clause. In addition, the Executive Order for the propane engine of the school bus is also included in the project file along with the purchase order.

D. Required Actions:

- a. CARB has reviewed the District's programs before and has never indicated that there was an issue with the District's application form, even though the form had remained the same. Nevertheless, the District will review its application form and consult with CARB as to what other information CARB believes should be required in the application.
- b. As described above, the District has, with the exception of a couple of isolated incidences, gathered all necessary information. As previously noted, CARB did not find any ineligible buses during its review. Nevertheless, the District will work with CARB to further enhance the information-gathering and documentation process.
- c. The District believes the Sulphur Springs Unified School District purchase order complies with the 2008 School Bus Program Guidelines. The District needs CARB to specifically identify in writing what other additional information CARB believes must be in the purchase order, and where the applicable guidelines require that particular information to be in the purchase order.

II. Carl Moyer Program

A. Carl Moyer Program Finding 1: Ineligible projects funded

In making this finding, CARB asserts that the District has a practice of funding ineligible projects. That is untrue. As shown below, the projects CARB cites as ineligible were in fact eligible under the applicable guidelines or had received approval by CARB to be funded under the program. Moreover, the District has otherwise used non-State funds to implement Moyer-like projects in excess of the amounts associated with the identified projects. Thus, CARB should not make a finding that the District has a practice of funding ineligible projects.

SCAQMD Response to Condition 1:

CARB's review report claims that "[a]t the time of contract execution, five marine vessel projects were not surplus to ARB regulation for commercial harbor craft adopted in November 2007, and as such did not meet compliance dates for that regulation." (CARB Review report, p. 11.) These five projects total \$1,374,487, and were subject to the 2005 Carl Moyer Program Guidelines. CARB bases its finding on a November 17, 2006 e-mail to air districts from CARB,⁵ which provided that a "contract must be signed before ARB approves the regulation in

⁵ As discussed below, the District has no record of receiving this email. Attached as Exhibit "H" is a copy of the email, as forwarded to the District by Anthony Fournier at the Bay Area AQMD on August 22, 2012.

order for projects under that contract be considered surplus to ARB regulation. If a contract is signed after the Board hearing, then a district must consider regulatory requirements in determining eligibility.” (*Id.*, p. 12.) The District strongly disagrees with CARB’s assertion that these marine vessel projects are not surplus projects under the program.

The plain language of the 2005 Carl Moyer Program Guidelines supports the District’s position that projects awarded by its Board before the applicable regulation was adopted are surplus projects under the program. The Guidelines define “surplus emission reductions” as follows: “reductions that occur prior to a rule compliance date or the reductions exceed the requirements.” (2005 Moyer Guidelines, p. II-29.) Under the Guidelines, districts are required “to obligate state funds one year from June 30 of the year the District receives” its grant award. (2005 Moyer Guidelines, p. II-11.) The Guidelines stated that,

When obligating funds, districts shall do so by contracting with owners to complete selected projects. Funds are considered to be obligated when the district takes one of the following actions:

- 1) The district’s Governing Board approves a project for funding through a resolution, minute order, letter or other written instrument.*
- 2) The Air Pollution Control Officer or designated staff, if given the authority by governing board, approves a contract.*
- 3) The contract between the district and the owner is fully executed.*

(Id.)

The language in the 2005 Guidelines clearly equates “obligating funds” to “contracting with owners.” Under these Guidelines, funds are deemed to be obligated upon Board approval of the project, approval by authorized staff, or contract execution. Moreover, the Guidelines do not make a distinction between district Board approval of the award and contract execution when determining when funds have been considered obligated under the Moyer Program. Thus, it reasonably follows that there is no distinction between contract execution and district Board approval for purposes of determining surplus projects. In practical terms, since emissions reductions have yet to occur regardless of which event is the cutoff – contract execution or district Board approval of the award, the definition of “surplus emission reductions” can still be met.

Here, the District’s Governing Board approved all five marine vessel projects *six weeks before* CARB adopted its commercial harbor craft regulation. On October 5, 2007, the District’s

Governing Board approved the awards for the five marine vessel projects, and in November 2007, CARB adopted the commercial harbor craft regulation. Since the District Board approved the five marine vessel projects prior to CARB's adoption of the regulation, these projects are properly considered surplus projects under the Guidelines.

As to the November 17, 2006 e-mail purportedly clarifying the Guidelines on this issue, the District was unaware of this e-mail until CARB review staff recently brought it to the District's attention. Indeed, it is our understanding that two other air districts – San Diego and San Luis Obispo – were unaware of this e-mail as well. In fact, the District has been unable to locate this e-mail in its records. In any event, the District's actions are consistent with the official Guidelines. The November 17 e-mail, which we have no record of receiving, does not substitute for an amendment to the official Guidelines. As discussed above, the Guidelines equate “obligating funds” with “contracting with owners” and one of the actions that would “obligate funds” is district Board approval of the awards. (*See supra.*)

Notwithstanding that the District's actions were in compliance with program requirements, the District further contends that CARB's email message attempting to revise program guidelines is an improper basis to support this condition and this finding. As evidenced in these circumstances, there is no guarantee under this process that proper notice will be received or followed by CARB's own staff. For example, on December 11, 2006, Heather Arias, CARB's liaison to the District, sent an email to District program staff reiterating the three alternatives for “obligating funds,” from page II-11 of the 2005 Guidelines. In 2008, the Guidelines were formally amended as to this issue. Again, CARB should not be in the position of ratifying its own conduct through this review process. Where there is conflicting information, the official Guidelines should be followed.

SCAQMD Response to Condition 2:

CARB asserts that engine retrofits for 1997 and 1999 model year engines with American GTS (contract #10027), funded for \$37,674, did not meet surplus requirements at the time of contract execution. The District agrees with CARB's assessment, and has already remedied the problem by using non-State funds to implement Moyer-eligible projects, as discussed below under “Required Actions.” We would suggest, however, that in the future CARB identify in its regulatory package presented to its Board those dates when incentive projects will no longer be surplus.

SCAQMD Response to Condition 3:

CARB asserts that the engines funded under the Burrtec contract were ineligible under the Carl Moyer Program. On the contrary, the District funded those projects only after it

received approval from CARB's Jack Kitowski, Chief of On-Road Controls Branch. The 2006-07 calendar year was a transition period for the certification of new diesel engines. Although the NOx standard was lowered from 2.4 to 1.2 g/bhp-hr, the cleanest available engines at the time for solid waste collection vehicles ("SWCV") were at 1.44 g/bhp-hr level. CARB initially disapproved funding SWCVs with engines rated 1.44 g/bhp-hr NOx. But after several subsequent discussions between CARB and District management, CARB verbally approved the implementation of the Burrtec project. The District's Technology Implementation Manager, Fred Minassian, sent an e-mail to CARB's Jack Kitowski, who was responsible for the implementation of the Carl Moyer Program and was present in all the discussions, confirming a conversation Mr. Minassian had with Mr. Kitowski wherein Mr. Kitowski approved the funding of the Burrtec project. (See Attachment "I.")

This issue illustrates, and reinforces, the need to have an independent third party review of these programs. During the review period from September 2010, up to and including the exit interview in May 2011 (nine months after), the District staff were unable to find a copy of the confirming e-mail from Mr. Minassian to Mr. Kitowski. About a month after the exit interview, the District finally found the e-mail and forwarded a copy to the CARB review team. (See *id.*). The District subsequently learned from Scott Rowland of the CARB review team that the review team had actually been in possession of this e-mail even prior to the exit interview, and had not disclosed it to the District. It is simply unacceptable that CARB would withhold a crucial piece of evidence supporting the District's understanding that the project was approved. Clearly, CARB has a conflict of interest in conducting the reviews itself instead of an independent third party, since it has a strong interest in ensuring that its actions will be reflected in the best possible light. We object to being designated as having any fault whatsoever related to this matter.

Required Actions:

The District routinely funds Moyer-eligible projects which can substitute for an amount far exceeding \$1,412,161, the amount CARB alleged to be ineligible for Moyer funds. These projects include the funding of LNG drayage trucks that are certified for NOx emissions at a rate of six times less than their diesel counterparts, using non-State funds of about \$17 million. Further, the District is using \$1.6 million in non-State funds to fund the retrofit side of a Moyer shore power project. We strongly disagree with CARB's findings under Condition 1, but consider this matter closed.

B. Carl Moyer Program Finding 2: Payment without correct documentation

CARB cites a couple of instances to support its finding that the District has a practice of making payments without correct documentation. Those were isolated instances that were

remedied and resolved once the District learned of the error, and thus are not sufficient to support a finding that there is a District practice of making payment without the right documentation.

SCAQMD Response to Condition No. 1:

CARB states that the District approved payment for a project where the serial number on the invoice did not match the serial number on the post-inspection report. It is not District practice to pay for projects with mismatched serial numbers between the invoice and post-inspection forms. This was an isolated error that had been remedied and resolved, and is an issue that does not support a finding of a District practice of making payments without correct documentation. As CARB noted in the review report, the District, upon learning of the error, requested and received a corrected invoice from the dealer.

SCAQMD Response to Condition No. 2:

CARB states that the District made a duplicate payment of \$15,852 for a project. It is not District practice to make duplicate payments. The District was misled by the engine/vehicle owner who removed the serial numbers. This was an isolated error in a very unusual circumstance that had been remedied and resolved, and is an issue that does not support a finding of a District practice of making payments without correct documentation. As CARB noted in the review report, the District, upon learning of the error, sought and received reimbursement of the duplicate payment from the grantee.

Required Actions:

As CARB noted in the review report, the District has already taken corrective action to further ensure that payments are not made without the correct documentation. It has instituted annual training for inspectors and projects officers to review inspection and billing processes and adopt process changes to further reduce the possibility of errors.

C. Carl Moyer Program Finding 3: Reporting errors and missing documentation

As discussed below, the District believes that it is not appropriate to make a finding regarding reporting errors and missing documentation, and that these should instead be addressed as “recommendations” to the District. The reporting errors were due to a confluence of events that made it more likely that errors would occur and, even under these conditions, only a small number of projects were missing the documents that CARB had noted.

SCAQMD Response to Condition 1:

The District acknowledges that there were reporting errors made in CARB's CARL database for the fiscal year 2006-07 and 2007-08 projects reviewed by the CARB review team, and as CARB acknowledges in the review report, all of these reporting errors have been corrected. The inaccuracies were caused by the sheer number of projects being administered by the District, which entail thousands of items to be entered into the database. We believe that such errors constitute a minor fraction of all data entered. The District has also improved its data entry process through increased communications between its field inspectors and project officers.

SCAQMD Response to Condition 2:

The District acknowledges that four project files were missing CARB's written compliance check and one file was missing a retrofit evaluation. The CARB compliance check documentation requirement, which started with the Fleet Modernization component of the program for on-road heavy-duty vehicles, is a means by which both the District and CARB verify that a program participant does not have an outstanding violation under State laws or regulations. The Fleet Modernization program was new, and parts of the program, especially the procedures for the compliance check requirements, were not clear to District staff at the time. Nevertheless, the small number of projects missing these documents are not sufficient to support a finding regarding missing documentation. Furthermore, as CARB noted in the review report, the District has already incorporated the necessary documentation or clarifying information into its project files.

CARB also notes that one project still has a violation that has not yet been cleared (Orestes Pena), and as discussed under "Required Action" below, the District is awaiting feedback from CARB on how to proceed. Given that CARB is the one holding up the resolution of this issue, it is not appropriate to use this issue to support a "finding" of reporting errors and missing documentation.

Required Action:

CARB required the District to work with grantee Orestes Pena to clear an existing violation of a CARB regulation. The District has been communicating with CARB and Mr. Pena on this issue ever since it was brought to the District's attention. The last e-mail on this issue between CARB and the District is a response from Danielle Robinson on May 29, 2012, CARB's liaison to the District, stating:

I can't provide much feedback at this time. However, I will contact you again once we have determined a remedy internally.

To date, the District is still awaiting CARB's feedback on what action needs to be taken to remedy this issue.

RESPONSE TO RECOMMENDATIONS

The District appreciates CARB's suggestions on how to improve the current implementation of its incentive programs. For its School Bus Program, the District will inform grantees in writing that they assume all financial risk if they initiate work prior to the contract being fully executed. For both its School Bus Program and Carl Moyer Program, the District will continue to work with CARB to further enhance the local and state program effectiveness and efficiency. Regarding its Goods Movement Program, the District will consider adopting a standard file review checklist.

CONCLUSION

The District implements the largest State-sponsored air quality incentive programs in the State, and the District has made every effort to ensure that the projects funded with State funds comply with the requirements of the specific programs. Once again, the District strongly suggests that CARB use an independent third party to review these programs to avoid potential conflicts of interest and to increase the value of these reviews for the benefit of both agencies. Other than a couple of cases (constituting \$53,526 out of more than \$416,000,000 in funding), the District has not used program funds to pay for ineligible projects. As shown above, some of the issues identified in the review report simply are not sufficient to be considered "findings," since these were not District practices, but isolated errors that were remedied and resolved, many of them prior to CARB's review. And as described above, many of the issues resulting in a "finding" were because of miscommunications and inadequate formal Guidelines between CARB and the District regarding program policies and implementation issues. In these instances, the District should not be faulted or penalized with a "finding." Therefore, the District strongly requests CARB to withdraw all or nearly all of its findings in the review report and, where there is undisputed evidence of isolated and remedied mistakes, address these issues as recommendations or observations.

**Lower Emission School Bus Program
GRANT AWARD & AUTHORIZATION FORM ADDENDUM
Fiscal Year 2005 - 2006**

Your Air Quality Management District was allocated funds for the 2005 – 2006 fiscal year for implementation of the retrofit component of the Air Resources Board's (ARB) Lower-Emission School Bus Program. The ARB is awarding additional retrofit funding to your district through this addendum to Grant Number G05-SB008. The retrofit funding was appropriated to the ARB through budget items 3900-001-0044 and 3900-001-0115 in the Budget Act of 2005 (Senate Bill 77; Statutes of 2005, Chapter 38).

District: South Coast Air Quality Management District (SCAQMD)

Addendum Grant Award: \$ 712,000 (pursuant to 2006 Lower-Emission School Bus Program Guidelines, Section II.J)
Original Grant Award: \$ 5,449,000
Total Grant Award: \$ 6,161,000
Required Match Amount: \$ not applicable **Qualifying Projects (11/1/05 – 6/30/08)**
Grant Number: G05-SB008-A

Notes: An amount of \$712,000 will be placed in an account for the SCAQMD (or District) for use in retrofitting in-use diesel school buses with ARB-verified Level 3 technologies that produce the lowest possible NO₂ across the device, consistent with Budget Act language. These funds will be available to the SCAQMD upon the ARB's receipt of this signed Grant Award and Authorization Form Addendum and documentation signed by a duly authorized official of the SCAQMD authorizing acceptance of the funds and participation in the Lower-Emission School Bus Program.

With the Addendum Grant Award, the SCAQMD is authorized to administer a local program according to the criteria contained in: 1) the ARB's Lower-Emission School Bus Program Guidelines approved by the Board on February 23, 2006, and issued in March 2006; and 2) the provisions of this Grant Award and Authorization Form Addendum. The SCAQMD will expend the funds in the Addendum Grant Award by paying invoices associated with approved projects. The SCAQMD must fully expend all 2005-2006 fiscal year State budget funds awarded to it for implementation of the retrofit component of the ARB's Lower-Emission School Bus Program by June 30, 2008. Any retrofit funds from the 2005-2006 fiscal year not expended by June 30, 2008 must be returned to the ARB.

The undersigned parties agree to the terms and conditions as set forth in this grant addendum. The undersigned parties certify under the penalty of perjury that they are duly authorized to bind the parties to this grant addendum.

California Air Resources Board:

Marie Stephens
Signature of Authorized Official

Name: Marie Stephens
Title: Chief, Administrative Services

Date: 8-9-07

District: SCAQMD

Peter Micray
Signature of Authorized Official

Name: Peter Micray
Title: Acting Executive Officer

Date: 8/29/07

**Lower Emission School Bus Program
GRANT AWARD & AUTHORIZATION FORM
Fiscal Year 2005-2006**

Your Air Quality Management District has been allocated funds for the 2005 – 2006 fiscal year for implementation of the retrofit component of the Air Resources Board's (ARB) Lower-Emission School Bus Program. The retrofit funding is appropriated to the ARB through budget items 3900-001-0044 and 3900-001-0115 in the Budget Act of 2005 (Senate Bill 77; Statutes of 2005, Chapter 38).

District: South Coast Air Quality Management District (SCAQMD)

Grant Award: \$ 5,449,000
Total Grant Award: \$ 5,449,000
Required Match Amount: \$ not applicable **Qualifying Projects (11/1/05 – 6/30/07)**
Grant Number: G05-SB008

Notes: A total amount of \$5,449,000 will be placed in an account for the SCAQMD (or District) for use in retrofitting in-use diesel school buses with ARB-verified Level 3 technologies, consistent with Budget Act language. These funds will be available to the SCAQMD upon the ARB's receipt of this signed Grant Award and Authorization Form and either of the following: 1) a Board Resolution authorizing acceptance of the funds and participation in the Lower-Emission School Bus Program; or 2) other documentation signed by a duly authorized official of the SCAQMD authorizing acceptance of the funds and participation in the Lower-Emission School Bus Program.

The funds will be released to the SCAQMD when the following terms and conditions are met:

- 1) All Lower-Emission School Bus Program retrofit funds previously allocated to the SCAQMD by the ARB have been obligated to public school districts or private school transportation companies that provide transportation services, under contract, to public school districts for the completion of qualifying school bus retrofit projects; or
- 2) If previously allocated Lower-Emission School Bus Program retrofit funds described in Provision 1 have not been obligated by March 15, 2006, the SCAQMD shall submit a plan to the ARB by March 31, 2006, describing its efforts to obligate its remaining retrofit funds, and demonstrating its progress in expending the remaining funds and its ability to allocate the retrofit funds awarded through this grant agreement. The SCAQMD's 2005 – 2006 fiscal year retrofit allocation will not be released to the District prior to the Executive Officer's approval of the District's plan. If the Executive Officer does not approve the plan, the District's 2005 – 2006 fiscal year retrofit funds may be reallocated to other local air districts participating in the retrofit component of the Lower-Emission School Bus Program.

The SCAQMD is authorized to administer a local program according to the criteria contained in: 1) the provisions of this Grant Award and Authorization Form; and 2) the provisions of budget items 3900-001-0044 and 3900-001-0115 in the Budget Act of 2005 (Senate Bill 77; Statutes of 2005, Chapter 38).

The undersigned parties agree to the terms and conditions as set forth in this grant. The undersigned parties certify under the penalty of perjury that they are duly authorized to bind the parties to this grant.

California Air Resources Board:

Marie LaVergne
Signature of Authorized Official

Name: Marie LaVergne
 Title: Chief, Administrative Services

Date: October 26, 2005

District: SCAQMD

Barry R. Wallerstein
Signature of Authorized Official

Name: Barry R. Wallerstein, D.Env
 Title: Executive Officer

Date: November 15, 2005



Air Resources Board



Alan C. Lloyd, Ph.D.
Agency Secretary

1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

RECEIVED

'05 NOV -2 P2 9
Arnold Schwarzenegger
Governor

SEARCHED
EXECUTIVE FILE

SEARCHED
EXECUTIVE FILE

TO: Air Districts Participating in the Lower-Emission School Bus Program

FROM: Jack Kitowski, Chief
On-Road Controls Branch
Mobile Source Control Division

Jack Kitowski
11-2-05

DATE: October 27, 2005

SUBJECT: LOWER-EMISSION SCHOOL BUS PROGRAM RETROFIT
GRANT AWARD

The Air Resources Board (ARB) is pleased to announce that we have been appropriated \$25 million to clean up California's school bus fleet by replacing or retrofitting older, higher-emitting school buses. In appropriating funds to the ARB, the State Legislature also directed us to provide funding to air districts as quickly as possible so they may begin the process of updating California's school bus fleet. To that end, we are making every effort to immediately obligate a significant portion of the \$12.5 million in retrofit funding to air districts that demonstrate the ability to expend the funds on qualifying school bus retrofit projects. Installing retrofit devices on in-use diesel school buses will provide an immediate 85 percent reduction in the toxic particulate matter emissions emitted from each retrofitted bus.

While we are working to get the retrofit funds obligated now, the ARB staff will continue developing technical updates for the Lower-Emission School Bus Program and the \$12.5 million in new bus funding. We will present the proposed updates for Board approval at a public hearing scheduled for February 23 - 24, 2006. For more information regarding these activities, please see the Lower-Emission School Bus Program website at: <http://www.arb.ca.gov/msprog/schoolbus/schoolbus.htm>

We have enclosed two copies of the Grant Award and Authorization Form (Form) for allocation of school bus retrofit funds for the 2005 – 2006 fiscal year. Please review the terms and conditions set forth in this grant award, including the provisions of the enclosed 2005 – 2006 Fiscal Year Budget Language that pertain directly to the expenditure of retrofit funding. Your district's retrofit funding allocation, which is shown on the Form, was determined using a population-based funding methodology. If you agree to the terms and conditions contained in the Form and with the additional terms and conditions described below, please sign both copies of the Form, keep one for your records, and return the other to Ms. Krista Fregoso, at the following address:

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

California Air Resources Board
Mobile Source Control Division
PO Box 2815
Sacramento, CA 95812

In participating in the retrofit component of the Lower-Emission School Bus Program, your air district also agrees to the following terms and conditions:

- To notify all public school districts and private school transportation companies under contract to public school districts that are awarded retrofit funds that they must obtain a California Highway Patrol school bus inspection for each retrofitted bus prior to placing it back into service. This provision shall be included in all contract agreements between air districts and public school districts or private transportation companies under contract to public school districts.
- To submit to us documentation by June 30, 2007, describing school bus retrofit projects funded or retrofit projects to which funding is obligated. Failure to obligate your allocated retrofit funds by June 30, 2007, may require us to reallocate the funds to other participating air districts that are able to use more funding.
- Submit to us a final report by September 30, 2008, detailing the expenditure of your 2005 – 2006 fiscal year funds to school bus retrofit projects. The report shall contain the entity to which funds are awarded (either a public school district or a private school transportation company under contract to a public school district), including contact information; the funding amount awarded to each entity; bus and engine descriptions on which the retrofits are installed; and information on the specific ARB-verified Level 3 retrofit devices installed.

I thank you for your participation in the Lower-Emission School Bus Program. If you have any questions regarding this program, please call Ms. Cherie Rainforth, Air Resources Engineer, at (916) 323-2507, or Ms. Krista Fregoso, Air Pollution Specialist, at (916) 445-5035.

Enclosures

ARB
FY 2005-06 Budget Language
Lower Emission School Bus Program
\$25 million

Budget Language

3900-001-0044 (Motor Vehicle Account)

1. Of the amount appropriated in this item, \$12,500,000 shall be used by the State Air Resources Board to replace pre-1977 school buses with new school buses that comply with the most recent passenger safety standards, and that have been certified by the board to meet the lowest achievable emission levels irrespective of the fuel stock used.
2. Of the amount appropriated in this item, \$2,500,000 shall be used to retrofit in-use diesel school buses to protect children's health and reduce particulate matter emissions from those buses by at least 85 percent.
3. In expending funds under Provision 2, the State Air Resources Board shall require retrofit technologies to do all of the following: (a) have at least a level 3 verification from the board; (b) apply to the broadest range of year, make, and model of school bus diesel engine; (c) operate on CARB diesel fuel or ultra-low sulfur diesel fuel; (d) operate across the broadest range of school bus operating conditions and duty cycles; and (e) produce the lowest possible NO₂ across the device.
4. It is the intent of the Legislature in appropriating these funds that the State Air Resources Board provide equitable geographic distribution of the funds in a manner that reduces the risk to children's health from diesel emissions from school buses.

3900-001-0115 (Air Pollution Control Fund)

1. Of the amount appropriated in this item, \$10,000,000 shall be used to retrofit in-use diesel school buses to protect children's health and reduce particulate matter emissions from those buses by at least 85 percent.
2. In expending funds under Provision 1, the State Air Resources Board shall require retrofit technologies to do all of the following: (a) have at least a level 3 verification from the board; (b) apply to the broadest range of year, make, and model of school bus diesel engine; (c) operate on CARB diesel fuel or ultra-low sulfur diesel fuel; (d) operate across the broadest range of school bus operating conditions and duty cycles; and (e) produce the lowest possible NO₂ across the device.

Enclosure

3. It is the intent of the Legislature in appropriating these funds that the State Air Resources Board provide equitable geographic distribution of the funds in a manner that reduces the risk to children's health from diesel emissions from school buses.

Governor's Veto Message

To ensure that this augmentation is spent most appropriately, I am directing the Air Resources Board to develop a plan by September 15, 2005, for allocation of these resources, and to submit this plan to the California Environmental Protection Agency for review and approval. The allocation plan must consider the overall financial capacity of the applicant to reasonably replace these buses without state assistance, the exposure to children, and the age of the buses slated for replacement.



Air Resources Board

Linda S. Adams
Secretary for
Environmental Protection

Mary D. Nichols, Chairman
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov

RECEIVED
Arnold Schwarzenegger
Governor

7 AUG 14 P12:00

ATTACHMENT B

TO: Select Air Districts Participating in the Lower-Emission School Bus Retrofit Program

SOUTH COAST
AQMD
TECHNOLOGY ADVANCEMENT OFFICE

FROM: Jack Kitowski, Chief
On-Road Control Regulations Branch
Mobile Source Control Division

Ranji
#3255

DATE: August 9, 2007

SUBJECT: ADDENDUM GRANT AWARD – REALLOCATION OF LOWER-EMISSION SCHOOL BUS PROGRAM FISCAL YEAR 2005-2006 RETROFIT FUNDING

The Air Resources Board (ARB) has some Lower-Emission School Bus Program 2005-2006 fiscal year (FY) State budget retrofit funds available to reallocate to your air district. These reallocated funds, also known as the Addendum Grant Award, must be spent as part of a local retrofit program that is administered according to the criteria contained in the enclosed ARB Lower-Emission School Bus Program Guidelines (Guidelines) approved by the Board on February 23, 2006, and issued in March 2006.

Please note that:

- The retrofit funds are to be used to retrofit in-use diesel school buses with ARB-verified Level 3 technologies that produce the lowest possible nitrogen dioxide across the device, consistent with Budget Act language.
- The expenditure deadline for 2005-2006 FY State budget retrofit funds has not changed, and the Addendum Grant Award must be fully expended, by paying invoices associated with approved projects, by the original deadline of June 30, 2008.
- The due date – September 30, 2008 – for the final report detailing the expenditure of 2005-2006 FY State budget funds on school bus retrofit projects has not changed.

In order to claim the Addendum Grant Award, you must return the attached Grant Award and Authorization Form Addendum, along with documentation signed by a duly authorized official of the air district authorizing acceptance of the funds, by September 10, 2007.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency



Linda S. Adams
Secretary for
Environmental Protection

Air Resources Board

Mary D. Nichols, Chair
1001 I Street • P.O. Box 2815
Sacramento, California 95812 • www.arb.ca.gov



Arnold Schwarzenegger
Governor

February 25, 2008

South Coast AQMD
Dr. Barry Wallerstein, APCO
21865 E. Copley Dr.
Diamond Bar, California 91765-4182

Dear Dr. Wallerstein:

As you know, the Air Resources Board (ARB) Board adopted the 2005-2006 Lower-Emission School Bus Program Guidelines on February 23, 2006. In May 2006, ARB awarded \$12.5 million to districts to fund new school bus purchases and \$12.5 million to fund retrofit school bus projects. The school bus funding allocation awarded to local air districts is required to be administered according to these ARB adopted guidelines.

ARB granted funds to your district under the 2005/2006 Lower-Emission School Bus Program Guidelines for new school bus purchases and/or retrofit projects. As stated in the guidelines and consistent with State fiscal requirements, funds granted to your district must be expended by June 30, 2008. Please inform ARB if the district has or will be able to expend funds by the deadline. Any outstanding funds and associated interest that cannot be expended must be returned to ARB within 60 days of the expenditure deadline. Districts with outstanding funds beyond the deadline will not be eligible to receive future funding disbursements under the Lower-Emission School Bus Program. If your district has expended their funds and has submitted a final report, please submit a request for your remaining 5 percent of 2005/2006 funds.

The ARB commends your agency for demonstrating its on-going commitment to reducing school bus emissions and protecting children's health. We thank you for working cooperatively with our staff as we move forward to clean-up California's aging school bus fleet. We look forward to your participation in future funding.

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

Air Pollution Control Officers
February 25, 2008
Page 2

Again, thank you for your commitment to the Lower-Emission School Bus Program. If you have questions regarding this request or the program, please call me at (916) 445-6102, or Ms. Janet Page, Air Pollution Specialist, at (916) 324-1988 or email at jpage@arb.ca.gov.

Sincerely,


Mr. Jack Kitowski, Chief
On-Road Controls Branch

cc: Ms. Lucina Negrete, Manager
Planning and Regulatory Development Section

Ms. Janet Page, Air Pollution Specialist
Planning and Regulatory Development Section

District School Bus Program Managers

ARB District Liaisons

ATTACHMENT D



California Environmental Protection Agency
Air Resources Board



Release 09-66
FOR IMMEDIATE RELEASE
July 22, 2009

Leo Kay, ARB, (916) 849-9843

Francisco Arcaute, EPA, (213) 798-1404

**STIMULUS PLAN'S FIRST CLEANER SCHOOL BUS
STATE GIVES SAN DIEGO FUNDING TO RETROFIT DIRTY DIESELS**

SAN DIEGO - Today the California Air Resources Board and the San Diego Air Pollution Control Board unveiled one of the first school buses in the country to be retrofitted with a pollution control device using American Recovery and Reinvestment Act (economic stimulus) funding from the U.S. Environmental Protection Agency.

This funding will allow the San Diego Unified School District to clean up an additional ten school buses, leaving only seven of its 519-bus fleet without this advanced diesel particulate filtration.

"School buses should be a happy sight in a community," said Shelia Jackson, President of the SDUSD Board of Education. "Our clean fleet ensures that's the case and we'd like to thank our federal and state partners for helping clean up our communities."

In addition, through their efforts, the San Diego Air Pollution Control District and SDUSD are using this stimulus funding to create or sustain jobs in the manufacturing sector and, with the school district's Automotive Technology Program, paving the way for a greener workforce for tomorrow.

"The state and its school children thank the Obama Administration for sending this funding our way to clean up older, dirty diesel school buses," said ARB Chairman Mary D. Nichols. "San Diego officials, in particular, wasted no time in parlaying this money into real, on-the-ground projects that are providing jobs and protecting children's lungs at the same time."

Diesel emissions pose significant environmental health problem, including respiratory and cardiac illnesses, and asthma. Particulate matter in diesel exhaust is the driver of risk. It is considerably smaller in size than human hair and penetrates deeply into the lungs. Diesel exhaust also degrades air quality and contributes to climate change. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.

Today's announcement marks the launch of a state-wide effort, as part of the Diesel Emission Reduction Act State Clean Diesel Program, being implemented by the ARB and other state partners to retrofit more than 80 school buses throughout California with \$1.73 Million USEPA American Recovery and Reinvestment Act funding.

"EPA congratulates the State of California for its leadership in bringing the American Recovery and Reinvestment Act to life in our communities," said Laura Yoshii, EPA's Acting Regional Administrator in the Pacific Southwest. "As a result of federal, state and local efforts, this project helps create a healthier environment through cleaner diesel technologies and a revitalized economy through job creation and retention."

In December, the ARB adopted a first-in-the-nation requirement that calls for the nearly one million trucks and buses driving California roadways be retrofitted and that all older, dirtier engines be replaced over the next several years. The regulation is expected to prevent 4,500 premature deaths, 71,000 cases of asthma and lower respiratory systems and 450,000 work days lost once fully implemented.

- # # # -

For information on EPA's implementation of the American Recovery and Reinvestment Act of 2009 in California, visit: <http://www.epa.gov/region09/eparecovery/cleandiesel.html>.

For information about EPA's clean diesel initiatives, visit: <http://www.epa.gov/cleandiesel>.

For information about the California Air Resources Board, visit: <http://www.arb.ca.gov>.

For information on the San Diego Unified School District, go to <http://www.sandi.net>.

For information about the San Diego County Air Pollution Control District, please visit: <http://www.sdapcd.org>. For information on how San Diego County is using stimulus funds, visit <http://www.recoverysdcounty.org>.



South Coast Air Quality Management District

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

ATTACHMENT E

February 25, 2010

Ms. Lauri Brunkhorst, Manager
California Air Resources Board
Accounting Section
P.O. Box 1436
Sacramento, CA 95812-1436

RE: Return of unused 2009 state DERA funds and interest earnings (\$30,481.81)

Dear Ms. Brunkhorst,

In May 2009, we executed with CARB, the 2008 USEPA funded ARRA state DERA Grant #G08-DEA-02, in the amount of \$898,000 for the retrofit of at least 42 school buses in our Air District to be completed by September 30, 2009.

Despite the very short time provided, we exceeded the target, came under budget and kept the schedule. We installed 43 PM traps, and had a surplus of \$27,453.

Attached is a check payable to "US EPA", returning these surplus funds (\$27,453), along with interest earnings (\$3,028.81), for a total of \$30,481.81 cents. When this check arrives, please confirm receipt of these funds, so we can close our books at our end.

We continue to look forward to working with CARB to replicate our success in managing school bus projects in a timely fashion, and in protecting the health of thousands of school kids that travel daily in these buses.

If you have any questions, please feel free to call me at (909) 396 2641 or Ranji George of my staff, at (909) 396 3255.

Sincerely

Fred Minassian
Technology Implementation Manager
Technology Advancement Office

Enclosure

Refund Check of \$30,481.81, payable to US Environmental Protection Agency, addressed to CARB.

ATTACHMENT F

Page 16 of the

SCAQMD 2010 Incentives Audit – Part 2: Lower Emission School Bus

Dated: 4/12/11

[The full document is available upon request.]

SCAQMD 2010 Incentives Audit- Part 2: Lower Emission School Bus

A: District response via email 10/29/10 and 11/2/10: page 36 and 37 of the 2008 School Bus guidelines states: "Grant applications must include a resolution from the school district governing board (or a duly authorized official with authority to make financial decisions) authorizing the submittal of the application and identifying the individual authorized to implement the bus replacement project." The sentence in the parenthesis was added after the initial year 2000 guidelines and was also included in the previous guidelines. The reason was that the schools' schedules and the extended time required to obtain resolutions prohibited schools from submitting applications on time, and ARB allowed to have signatures from Transportation Managers, Superintendents, or other school officials as substitute.

We believe the guideline language is clear that in lieu of a Board resolution the signature of an authorized person, which we interpret as a Transportation Manager is adequate. At the time we had discussions regarding this with Mr. Jack Kitowski and Ms. Renee Kemena and it was fully accepted to have the signatures of the Transportation Managers, but don't have anything in writing form Jack or Renee. Furthermore, the school bus program was fully audited both by CARB and DOF four years ago and all the applications were found to be in compliance, and there were absolutely no issues raised regarding Board resolutions. In addition, we have a lot of one-time applicants and if they have to seek Board resolution or Board authorization for someone to sign, they will never be able to apply due to the extended time required for their Board process. Also, schools have to order the buses with some sort of authorization and pay their \$25,000 per bus from their own funds. We could not force any one person in a school to do so if he or she is not authorized.

SATISFIED PREVIOUSLY: The audit team discussed this issue with School Bus Program staff involved in overseeing projects funded under the 2006 Guidelines, who also recalled the discussions the District had with ARB management. Because there was agreement among all parties at the time, and that this agreement was also extended to other districts, this issue is satisfied for those older projects.

However, please note that this is not the case for projects funded under the 2008 Guidelines, as indicated below as a remaining issue under each applicable project. Such projects are funded by bond sales and are subject to rigorous accountability standards. To establish whether an applicant has been duly authorized with authority to make funding decisions, ARB requires a resolution from the school district governing board that formally establishes this authority. If such a resolution cannot be provided in time to meet the District's application deadline, it must be provided prior to contract execution.

[REDACTED]: The 2008 Guidelines (page 36) is very explicit in its "either/or" language. The resolution is either from the school governing board or from a duly authorized official. There is nothing in the language to indicate that the program was restricted only to school board resolution or that the school board must explicitly provide the air district with language authorizing a particular individual to sign the application. If the 2008 Guidelines had insisted on a school board resolution only, they could have removed the language in the parenthesis. In turn, if a school board resolution was required, we would be compelled to allow an additional 90 or more for the application process. This would have considerably delayed the successful implementation of Prop1B which, at present, is moving forward at full throttle.

Purchase Order

Form No. 502-083

DATE ISSUED

12/22/09

BUYER

Greggwood, Carol - Sulphur SUSD

BUYER PHONE NUMBER

661.252-5131 EXT. 26

FROM

SULPHUR SPRINGS UNION SD

27000 Weychbacher Way
Canyon Country CA 91351

ACCT PAYABLE PHONE NO.

661.252-5131 EXT. 17

BUYER FAX NO.

REQUESTOR NAME

TO

A-Z BUS SALES

DEPT 1135
LOS ANGELES CA 90084-1135

BID/QUOTE/CONTRACT NO.

VENDOR NO.

000001154

PO TERMS

Net 30 Days

QUOTE BY

VENDOR PHONE NO.

714-781-7188

WAREHOUSE INSTRUCTIONS (DELIVER TO)

SHIP TO

Transportation Office
16628 Lost Canyon Road
Canyon Country CA 91351

DELIVERY HOURS

7:00 AM - 3:00 PM (Mon-Fri.)

VENDOR FAX NO.

SHIP VIA

UPS

DUE DATE

012/22/09

FOB

DES

DISTRICT

65065

FISCAL YEAR

09-10

EXTENSION

50,000.00

QTY UNIT COST

2.00 EA 25,000.0000

50,000.00

1-1 69 PASSENGER BLUE BIRD BBCV PROPANE SCHOOL BUSES

BUSES UNDER THE PROPOSITION 18 SCHOOL BUS REPLACEMENT GRANT PROGRAM - GRANT #09211-ACMD
A WITHHOLD OF \$100 PER BUS PER DAY WILL BE IMPOSED ON THE VENDOR BY THE ACMD FOR EACH DAY AND EACH BUS THAT IS
DELIVERED AFTER OCTOBER 28, 2010, TO THE GRANTEE AT THE SCHOOL DISTRICT PREMISES.
BUS VENDOR SHALL INVOICE ACMD DIRECTLY FOR GRANTEE'S AWARD.

40.0 -00000.0-00000-00000-6560-0010000 -RG-

\$ 50,000.00

Sub Total 50,000.00
Total Tax Amount 0.00
Total Frt Amount 0.00
Total PO Amount 50,000.00

TOTAL P. 02

P. 02/02

W. Long Nguyen
AUTHORIZED APPROVAL SIGNATURE

ATTACHMENT H

Vicki White

From: Chuck Bennett [cbennett@arb.ca.gov]
Sent: Friday, November 17, 2006 2:09 PM
Subject: Subject: IPI follow up
Attachments: Notes from the November 8, 2006 IPI meeting doc

IPI Contacts -- We wanted to send you notes from the discussion we had at the November IPI meeting regarding the Guideline revisions. In addition, there were a few things we wanted to clarify.

- * *Latest Date to Sign an Contract Before a Regulatory Requirement. * There was discussion at the IPI about what was the latest date an applicant may sign a contract before a district must consider the requirements of a regulation in determining eligibility. After consulting e-mails we have provided to numerous districts over the last year, we have confirmed that a contract must be signed before the ARB approves a regulation. If a contract is signed after the ARB Board Hearing, than a district must consider the regulatory requirements in determining eligibility. For example, the off-road fleet rule is scheduled to be considered by the ARB in April 2007. Contracts signed before the Board Hearing date do not have to consider the regulatory requirements. Contracts signed after the Board Hearing date must consider those requirements. Obligation date is used to determine when a district/applicant can lock in a BACT determination for a retrofit.
- * *Admin Costs in SB225. * Some districts have asked what kinds of things can be paid for with the "admin" funds authorized by SB225 (the 5% or 10% of program funds outlined in the district solicitation). These funds can be used to cover any administrative costs associated with the Moyer Program including staff, travel, training, outreach, etc. We will clarify this in an advisory early next year.
- * *HUSS Retrofit.* On Nov 13, ARB verified HUSS Level 3 retrofits for on-road and off-road engines. The verifications are very far-ranging; the only engines that are excluded are those that have EGR and those that have DOCs. We are planning to have a conference call with the IPI Team on November 28 at 1:30 to discuss the HUSS retrofit and how it will impact the Moyer Program. We will send the conference call information shortly.
- * *Pump Efficiency Program.* We intended to discuss the Pumping Efficiency Program at the IPI meeting to see if any districts are interested in exploring Moyer incentives for a non-engine agricultural project. The Pumping Efficiency program provides incentive funds for irrigation pump testing and pump repairs. An efficient pump requires less work to move a quantity of water. Emission reductions are achieved through a reduction of engine operating hours required for water output. The Program is implemented through the Center for Irrigation Technology at California State University, Fresno. Pump efficiency testing is conducted by trained technicians from participating pump companies throughout California. Initial testing occurs during seasonal or regular use. If a pump is found to be operating inefficiently, the owner can get an estimate on repair costs. A final pump test is conducted after repairs are completed to confirm improved

efficiency. Any districts interested in participating in a pilot program using Carl Moyer Program funds for the Pumping Efficiency Program should contact Elise Keddie (ekeddie@arb.ca.gov)

* *Rural District Admin. * Stew Wilson has been retained by CAPCOA to assist rural districts with administering the Carl Moyer Program (which is why he was at the IPI meeting). Stew's first task is finding projects for Year 7 funds that have been returned by some rural districts. Although his priority will be finding projects in rural areas, he may be contacting larger districts as well.

Let us know if you have any questions.
Edie, John, and Lucina

ATTACHMENT I

Fred Minassian

From: Fred Minassian
Sent: Thursday, June 23, 2011 11:55 AM
To: 'Rowland, Scott@ARB'
Cc: 'Zaremba-Schmidt, Laura@ARB'; Kersey, Charles@ARB; Vicki White; Connie Day
Subject: Audit Finding on Burtec
Attachments: Sweeper projects for year 8.pdf

Scott,

I know we are past the exit interview period and your staff is preparing the final report on the audits. However, CARB's finding on the "Year 8" Burtec project for being ineligible has bothered me a lot, because I have insisted all along that we did receive verbal approval to move forward with the project. Hence, I have continued my search through all our documents to find any kind of evidence supporting my argument.

As you are aware, CARB's audit team referred to Jack Kitowski's e-mail of April 2, 2007, that rejected the project's approval as the reason for this finding. In our response we referred to Chung Liu's subsequent letter of April 4th, and the conference call between Jack Kitowski, Tom Cackette, Chung Liu, and I, as evidence for continuation of the discussion. In our response we further stated that in conclusion we received verbal approval for this project, but for the lack of any written confirmation (or rejection), our argument has not been accepted.

Finally my search has led me to the attached e-mail. It's from me to Jack Kitowski, dated April 26, 2007. In the first sentence of the e-mail I refer to my conversation with him and his verbal approval of the Burtec project. I think this is a clear evidence supporting our argument all along that we did receive verbal approval for this project, and we would like to request to remove this specific finding from the audit report.

Thanks. - Fred

Penny Shaw Cedillo

From: Fred Minassian
Sent: Thursday, April 26, 2007 10:33 AM
To: 'Jack Kitowski'
Cc: Chung Liu; Dipankar Sarkar; Suresh Chaurushiya
Subject: Sweeper projects for year 8

Jack,

As I understand from our conversation last week, from the list of "Year 8" on-road projects we can move forward with the Burtec project. We propose to cancel the project with Prometheus for one LNG truck, since we discovered that the P/O was placed before our Board meeting, unless you are OK with it. That leaves us the R.F. Dixon, and the Clean Street projects that we would like to have your consensus for their implementation.

The attached table shows the current status of both projects, and the following is a summary of AQMD's discussion with Steve Dixon of R.F. Dixon, Rick Anderson of Clean Street, and Terry Roberts of GCS western power and equipment, who will "repower" the new FC80 chassis street sweepers for Clean Street.

There are only a limited number of FC80 chassis (manufactured by Freightliner) that are available nationwide. Both R.F. Dixon and Clean Street have secured Chassis for the sweepers that will be purchased using Carl Moyer funds. There are no more of these chassis available. The warranty on the sweepers are only good for chassis that are delivered with OEM fitted Cummins 5.9L MY 2006 diesel engine or if they are repowered with Cummins Westport 5.9L CNG engine. New chassis will be available in February of 2008 with different diesel engines with an option to repower with latest CNG engine available at that time. Cost of MY 2008 sweepers will be significantly higher and the lead time for the availability of these sweepers is not predictable at this time. Given the timing period of "Year 8" projects, and based on our most recent conversations with both companies and the vendor described above, the proposed engines are the lowest emitting engines that were available with delivery times within the requirements of "Year 8" project cycle.

Both companies are also subject to District rule restricting them to use clean fuel sweepers. Delivery time for the sweepers is anywhere from 120 days to 250 days depending on when the FC80 chassis are provided by the Freightliner. Both companies are in need to put the sweepers in service as soon as possible, but the limited number of available chassis and decision to allow them to repower from higher emitting diesel (MY2006) to lower emitting CNG (MY2006) is delaying the process. We would appreciate your approval of these two projects.

Fred

-----Original Message-----

From: Jack Kitowski [mailto:jkitowsk@arb.ca.gov]
Sent: Wednesday, April 25, 2007 11:35 AM
To: jkitowski@arb.ca.gov
Cc: Fred Minassian
Subject: Re: Year 8 SCAQMD On-Road Projects

we are trying to wrap this up - please let us know. the part I am MOST interested in is the following:
From our discussions, the contracts and the P.O.s for these projects were both done after the first of the year. You also told us that the delivery date for these street sweepers would be June or July. Is that correct, and is that delivery firm?

Jack Kitowski wrote:

Chung, Fred: per the request of SCAQMD, we are looking into 2006/2007 street sweepers, as they relate to the proposed Year8 Dixon and Clean Street contracts.

>From our discussions, the contracts and the P.O.s for these projects were both done after the first of the year. You also told us that the delivery date for these street sweepers would be June or July. Is that correct, and is that delivery

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firm?

We have confirmed - as you stated - that one can *not* get a CNG engine lower than 1.8g HC+NOx. However, our calls indicate that one can still get a 2006 diesel engine at 2.4 g or one can get a 2007 diesel engine at 1.3 g. Our calls also indicate that the 1.3 diesel engine would be delivered in the 4Q of 07 or 1Q of 08. Obviously, the availability of a lower emission diesel engine raises concerns about these projects.

I wanted to make sure you concurred with this info. If you have other info for us to consider in evaluating these two projects, please let us know. Thanks.