

CITY OF EMERYVILLE

Audit Report

GAS TAX FUND AND TRAFFIC CONGESTION RELIEF FUND

July 1, 2004, through June 30, 2005



JOHN CHIANG
California State Controller

April 2007



JOHN CHIANG
California State Controller

April 13, 2007

Edmund Suen
Finance Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Dear Mr. Suen:

The State Controller's Office audited the City of Emeryville's Gas Tax Fund and Traffic Congestion Relief Fund (TCRF) for the period of July 1, 2004, through June 30, 2005. We also audited the TCRF for the period of July 1, 2001, through June 30, 2004.

The city accounted for and expended its Gas Tax Fund and TCRF in compliance with Article XIX of the California Constitution and the *Streets and Highways Code*, except for our adjustment to the TCRF. Our audit disclosed that the city overstated the fund balance in the TCRF by \$19,945 as of June 30, 2005. This overstatement occurred because the city did not meet the TCRF spending requirement. As a result of the required adjustment, the TCRF balance was deficit.

If you have any questions, please contact Paul R. Criss, Chief, Financial-Related Audits Bureau, at (916) 322-4941.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/ams:vb

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Audit Report

Summary

The State Controller's Office (SCO) audited the City of Emeryville's Gas Tax Fund and Traffic Congestion Relief Fund (TCRF) for the period of July 1, 2004, through June 30, 2005. We also audited the TCRF for the period of July 1, 2001, through June 30, 2004. The last day of fieldwork was July 24, 2006.

Our audit disclosed that the city overstated the fund balance in the TCRF by \$19,945 as of June 30, 2005. This overstatement occurred because the city did not meet the TCRF spending requirement. As a result of the required adjustment, the TCRF balance was deficit.

Background

The State apportions funds monthly from the highway users tax account in the transportation tax fund to cities and counties for the construction, maintenance, and operation of local streets and roads. The highway users taxes are derived from state taxes on the sale of motor vehicle fuels. In accordance with *Streets and Highways Code* Section 2101 and Article XIX of the California Constitution, a city must deposit all apportionments of highway users taxes in its Gas Tax Fund (also known as the Special Gas Tax Street Improvement Fund). A city must expend gas tax funds only for street-related purposes. We conducted our audit of the city's Gas Tax Fund under the authority of *Government Code* Section 12410.

Chapter 91, Statutes of 2000 (Assembly Bill 2928), as amended by Chapter 656, Statutes of 2000 (Senate Bill 1662), established a Traffic Congestion Relief Fund in the State Treasury for allocating funds quarterly to cities and counties for street or road maintenance, reconstruction, and storm damage repair. Cities must deposit funds received into the city account designated for the receipt of state funds allocated for transportation purposes. The city recorded the TCRF allocations in the Traffic Congestion Relief Fund. We conducted our audit of the city's TCRF under the authority of *Streets and Highways Code* Sections 2182 and 2182.1.

Objective, Scope, and Methodology

Our audit objective was to determine whether the city accounted for and expended the Gas Tax Fund and the TCRF in compliance with Article XIX of the California Constitution and the *Streets and Highways Code*. To meet the audit objective, we determined whether the city:

- Properly deposited highway users tax apportionments and other appropriate revenues in the Gas Tax Fund;
- Properly deposited TCRF allocations into an account designated for the receipt of state funds allocated for transportation purposes;
- Expended funds exclusively for authorized street-related purposes; and
- Made available unexpended funds for future expenditures.

We conducted our audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States. We did not audit the city's financial statements. We limited our audit scope to planning and performing the audit procedures necessary to obtain reasonable assurance that the city accounted for and expended the Gas Tax Fund and the TCRF in accordance with the requirements of the *Streets and Highways Code*. Accordingly, we examined transactions, on a test basis, to determine whether the city expended funds for street purposes. We considered the city's internal controls only to the extent necessary to plan the audit.

Conclusion

Our audit disclosed that the city accounted for and expended its Gas Tax Fund in compliance with Article XIX of the California Constitution and the *Streets and Highways Code* for the period of July 1, 2004, through June 30, 2005. Our audit also disclosed that the city accounted for and expended its TCRF in compliance with Article XIX of the California Constitution and the *Streets and Highways Code* for the period of July 1, 2001, through June 30, 2005, except as noted in Schedule 1 and described in the Findings and Recommendations section of this report. The findings require that the city adjust its books by a net amount of \$19,945.

Follow-Up on Prior Audit Findings

Our prior audit report, issued in December 1996, disclosed no findings.

Views of Responsible Official

We issued a draft audit report on January 26, 2007. The city's response, prepared by Edmund Suen, Finance Director, is included in this final audit report as an attachment. Mr. Suen states in the city's response that the city will make the necessary corrections to the financial records.

Restricted Use

This report is intended for the information and use of city management and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

**Schedule 1—
Reconciliation of Fund Balance
July 1, 2004, through June 30, 2005**

	Gas Tax Fund ¹	TCRF ²
Beginning fund balance per city	\$ 41,844	\$ —
Revenues	<u>151,662</u>	<u>—</u>
Total funds available	193,506	—
Expenditures	<u>—</u>	<u>—</u>
Ending fund balance per city	<u>193,506</u>	<u>—</u>
SCO adjustments: ³		
Finding 1—TCRF expenditure requirement not met	—	19,945
Finding 2—Deficit fund balance	<u>—</u>	<u>(19,945)</u>
Total SCO adjustments	<u>—</u>	<u>—</u>
Ending fund balance per audit	<u>\$ 193,506</u>	<u>\$ —</u>

¹ The city receives apportionments from the state highway users tax account, pursuant to *Streets and Highways Code* Sections 2105, 2106, 2107, and 2107.5. The basis of the apportionments for Sections 2105, 2106, and 2107 varies, but the money may be used for any street purpose. *Streets and Highways Code* Section 2107.5 apportionments are restricted to administration and engineering expenditures, except for cities with populations of fewer than 10,000 inhabitants. Those cities may use the funds for rights-of-way and for the construction of street systems.

² Chapter 91, Statutes of 2000 (Assembly Bill 2928), as amended by Chapter 656, Statutes of 2000 (Senate Bill 1662), established the State Traffic Congestion Relief Fund (TCRF), which allocates funds to cities and counties for street or road maintenance and reconstruction. The TCRF allocations were recorded in the Traffic Congestion Relief Fund.

³ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— TCRF expenditure requirement not met

The city did not expend its allocations of the Traffic Congestion Relief Fund (TCRF) within the fiscal year following the fiscal year in which the allocations were made, as required by *Streets and Highways Code* Section 2182.1(g). The unexpended allocation and interest earned subject to the spending requirements have accumulated a total of \$19,945 as of June 30, 2005.

Streets and Highways Code states, “. . . funds not expended within that period shall be returned to the Controller. . . .”

Recommendation

The city should return the unexpended TCRF allocations and interest earned on the funds, in the amount of \$19,945, to the State Controller’s Office, Attention: Bill Byall, P.O. Box 942850, Sacramento, CA 94250.

Additionally, the city should review its TCRF expenditure levels to ensure compliance with program requirements.

City’s Response

The city believes that it did incur TCRF-eligible expenditures for the audit period but inadvertently charged them to its General Capital Improvement Fund (Fund 475) instead of to its TCRF (Fund 222). The city will make the necessary corrections to the financial records.

Therefore, the city believes it does not need to return \$19,945 of TCRF apportionments to the SCO.

SCO’s Comment

The SCO concurs with the city’s response. Based on additional documentation provided by the city, we have determined that the city expended eligible TCRF expenditures within the required time period.

FINDING 2— Deficit fund balance

As of June 30, 2005, the city’s recorded fund balance in the TCRF was \$0. However, as the city did not meet the TCRF expenditure requirements and must return \$19,945 (see Finding 1) from the TCRF to the SCO, the city’s TCRF balance will be deficit \$19,945.

Pursuant to *California Government Code* Section 12440, warrants may only be drawn from an unexhausted specific appropriation provided by law. As a result of the SCO’s adjustment, the city’s TCRF will be exhausted and no funds will be available in the TCRF to meet those warrants. Additionally, the city may not carry forward a deficit fund balance to the subsequent fiscal year.

Recommendation

The city should eliminate the deficit fund balance in the TCRF. In the future, the city should adopt a balanced budget that limits expenditures to the amount of funds available.

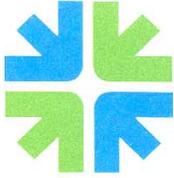
City's Response

The city believes that by satisfying the TCRF expenditure requirement, it will eliminate the negative fund balance.

SCO's Comment

The SCO concurs with the city's response.

**Attachment—
City's Response to
Draft Audit Report**



CITY OF EMERYVILLE

INCORPORATED 1896

1333 PARK AVENUE
EMERYVILLE, CALIFORNIA 94608

TEL: (510) 596-4300 FAX: (510) 658-8095

Mr. Paul R. Criss
Chief, Financial-Related Audits Bureau
State Controllers Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Criss:

I received your draft Audit Report of Emeryville's Gas Tax Fund and Traffic Congestion Relief Fund (TCRF). The report included a finding indicating that the City did not expend its allocation of TCRF within the fiscal year following the year when allocations were made. This unexpended allocation and interest earned subject to the spending requirement totaled \$19,945 as of June 30, 2005. The proposed disallowance and return of the \$19,945 lead to your second finding of a resulting deficit fund balance in our TCRF.

I am writing you to provide information indicating that the City of Emeryville did incur TCRF eligible expenditures for the audit period, but had inadvertently charged it to our General Capital Improvement Fund (Fund 475) instead of TCRF (Fund 222). We in fact did a street reconstruction project, Project no. EPW 105-02, that had a total cost of \$263,747.50. I have included copies of the check stubs as well as progress billing reports for your review as well as a July 28, 2006 fax communication with your staff member at your Division of Audits.

We are prepared to make corrections in our financial records and the Annual Street Report to charge \$19,945 of expenditures from Project no. EPW 105-02 to our TCRF (Fund 222). We request your consideration in amending your finding to allow for such an adjustment. Please contact me at 510 596-4328 with any questions.

Sincerely,

Edmund Suen, Finance Director
City of Emeryville

Enclosures

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>