

CITY OF SAN DIEGO

Audit Report

SPECIAL GAS TAX STREET IMPROVEMENT FUND

July 1, 2004, through June 30, 2005

TRAFFIC CONGESTION RELIEF FUND ALLOCATIONS

July 1, 2000, through June 30, 2005



JOHN CHIANG
California State Controller

December 2007



JOHN CHIANG
California State Controller

December 31, 2007

Greg Levin, Comptroller
City of San Diego
202 C Street
San Diego, CA 92101

Dear Mr. Levin:

The State Controller's Office audited the City of San Diego's Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2005. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the AB 2928 Fund for the period of July 1, 2000, through June 30, 2005.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, and that no adjustment to the fund is required. In addition, our audit disclosed that the city overstated the fund balance in its TCRF allocations, recorded in the AB 2928 Fund, by a net of \$20,720 as of June 30, 2004. The net adjustment resulted from the city not meeting the TCRF expenditure requirement in the amount of \$890,962 and incurring ineligible TCRF expenditures totaling \$870,692.

If you have any questions, please contact Steven Mar, Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/vb:sk

Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	1
Conclusion	2
Follow-Up on Prior Audit Findings	2
Views of Responsible Official	2
Restricted Use	3
Schedule 1—Reconciliation of Fund Balance	4
Findings and Recommendations	5
Attachment—City’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the City of San Diego's Special Gas Tax Street Improvement Fund for the period of July 1, 2004, through June 30, 2005. We also audited the Traffic Congestion Relief Fund (TCRF) allocations recorded in the AB 2928 Fund for the period of July 1, 2000, through June 30, 2005. The last day of fieldwork was March 16, 2007.

Our audit disclosed that the city accounted for and expended its Special Gas Tax Street Improvement Fund in compliance with requirements, and that no adjustment to the fund is required. However, our audit disclosed that the city overstated the fund balance in its TCRF allocations, recorded in the AB 2928 Fund, by a net of \$20,720 as of June 30, 2004. The net adjustment resulted from the city not meeting the TCRF expenditure requirement in the amount of \$890,962 and incurring ineligible TCRF expenditures totaling \$870,692.

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 derive 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 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 Special Gas Tax Street Improvement Fund under the authority of Government Code section 12410.

Government Code section 14556.5 created 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 its Traffic Congestion Relief Fund allocations in the AB 2928 Fund. We conducted our audit of the city's TCRF allocations under the authority of Streets and Highways Code sections 2182 and 2182.1, and Revenue and Taxation Code section 7104.

Objective, Scope, and Methodology

Our audit objective was to determine whether the city accounted for and expended the Special Gas Tax Street Improvement Fund and the Traffic Congestion Relief Fund allocations recorded in the AB 2928 Fund in compliance with Article XIX of the California Constitution and the Streets and Highways Code, and Revenue Taxation Code. To meet the audit objective, we determined whether the city:

- Properly deposited highway users tax apportionments and other appropriate revenues in the Special Gas Tax Street Improvement Fund;

- Properly deposited Traffic Congestion Relief Fund 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 Special Gas Tax Street Improvement Fund and the Traffic Congestion Relief Fund allocations recorded in the AB 2928 Fund in accordance with Article XIX of the California Constitution, Streets and Highways Code, and Revenue and Taxation Code section 7104. 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 Special Gas Tax Street Improvement 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 Traffic Congestion Relief Fund allocations recorded in the AB 2928 Fund in compliance with Article XIX of the California Constitution, Streets and Highways Code, and Revenue and Taxation Code section 7104 for the period of July 1, 2000, through June 30, 2005, except as noted in Schedule I and described in the Findings and Recommendations section of this report. The findings require that the city return \$890,962 to the State Controller and to reimburse the TCRF \$870,692.

Follow-Up on Prior Audit Findings

Our prior audit report, issued on March 28, 1998, disclosed no findings.

Views of Responsible Official

We issued a draft audit report on October 5, 2007. Greg Levin, Comptroller, responded by letter disagreeing with the audit results. The city's response is included in this final audit report as an attachment.

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**

	Highway Users Tax Allocation ¹	Traffic Congestion Relief Fund Allocations ²
Beginning fund balance per city	\$ 3,816,820	\$ 1,757,323
Revenues	<u>24,548,280</u>	<u>46,454</u>
Total funds available	28,365,100	1,803,777
Expenditures	<u>(23,828,328)</u>	<u>(1,783,507)</u>
Ending fund balance per city	<u>4,536,772</u>	<u>20,270</u>
Timing adjustment:		
Accrual of June 2005 highway users tax apportionment (Governmental Accounting Standards Board Statement No. 34)	<u>2,102,144</u>	<u>—</u>
SCO adjustments: ³		
Finding 1—TCRF expenditure requirement not met	—	(890,962)
Finding 2—Ineligible expenditures	<u>—</u>	<u>870,692</u>
Net SCO adjustments	<u>—</u>	<u>(20,270)</u>
Ending fund balance per audit	<u><u>\$ 6,638,916</u></u>	<u><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 restricts apportionments 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 Government Code section 14556.5 created a Traffic Congestion Relief Fund in the State Treasury for allocating funds quarterly to cities and counties for street and road maintenance, reconstruction, and storm damage repair. The Traffic Congestion Relief Fund allocations were recorded in the AB 2928 Fund. The audit period for the TCRF allocations was July 1, 2000, through June 30, 2005.

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 Revenue and Taxation Code section 7104. The unexpended allocation and interest earned subject to the spending requirements have accumulated a total of \$1,756,125 as of June 30, 2003.

Section 7104 further states, “. . . funds not expended within that period shall be returned to the Controller. . . .”

Recommendation

The city must return the unearned Traffic Congestion Relief Fund allocations and interest earned on the funds, in the amount of \$1,756,125, 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 the program requirements.

City’s Response

In response to the Audit Report of the Traffic Congestion Relief Fund (TCRF) for the City of San Diego, from July, 2000 through June 30, 2005, the City does not concur with the audit finding related to the reimbursement of \$1,756,125. Per the audit report the return of TCRF funds is a result of ineligible expenditures incurred by the City during the time period being reviewed; it is our opinion the City of San Diego has met all requirements as referenced in the Revenue & Taxation Code 7104. In particular, we believe the requirement to expend all allocations within the fiscal year following the fiscal year in which the allocation was made have been properly followed.

The City of San Diego has exceeded the Maintenance of Effort (MOE) requirement of \$15,869,398 for both Fiscal Years 2003 and 2004, as filed on our annual street report. During the fiscal years mentioned, the City spent approximately \$120 and \$113 Million, respectively on Street and Highway related expenditures including, but not limited to, construction, maintenance, and reconstruction. Approximately \$22 Million in Fiscal Year 2003 and \$18 Million during Fiscal Year 2004, of Street and Highway related expenditures, were incurred with General Fund, or other, discretionary related funding. The remaining amount utilized non-discretionary funding, consisting primarily of Transnet and Gas Tax receipts.

During the period between fiscal year 2001 and 2004, the City received approximately \$16 Million of TCRF funding, including allocations and interest. As mentioned in the audit report, \$1.8 Million of TCRF funds remained in Fund Balance as a result of internal budgeting restrictions which was spent during Fiscal Year 2005 after proper authority was received from City Council. Qualifying expenditures occurred previous to Fiscal Year 2005 and should have utilized TCRF funding, with no effect to the City meeting its MOE requirement, if not for the absence of proper Council approval. Therefore, the City of San Diego fulfilled

it's obligation to incur street related maintenance and reconstruction expenses within the allotted time in excess of total allocations and interest, during the period covered by the audit.

Furthermore, we request the approximate \$865,000 received as part of the FY 2003 TCRF Allocation, be considered received in FY 2004 as it was obtained in the later part of July 2003 (FY 2004). Therefore, the City had until the end of FY 2005 to spend this portion of the allocation per TCRF guidelines.

As representatives of the City of San Diego, we feel that the City has fulfilled all requirements regarding the allocations made to us by the State as part of the Traffic Congestion Relief Fund. We further do not believe any amounts should be reimbursed to the State. In an effort to avoid this situation in the future, we have implemented a process to ensure more timely utilization of the allocated funds. We appreciate your consideration in this matter and look forward to your response. Supporting information regarding all amounts referenced above is available upon request. Please contact Bryce Collins at (619) 236-6863 or Bcollins@sanidiego.gov with any questions, comments, or requests for information.

SCO's Comment

We agree that the city met its maintenance-of-effort requirements during the periods audited. However, the finding pertains to the city's failure to record the expenditure of the FY 2002-03 TCRF allocations within the two-year period. Revenue and Taxation Code section 7104 states that allocations, "shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller. . . ." As mentioned in the city's response to our draft audit report, the city did not receive authorization from the city council to spend the remaining balance of TCRF allocations until FY 2004-05. The city also requests that the FY 2002-03 fourth-quarter payment of \$865,163, received in July 2003, be recognized as revenue belonging to FY 2003-04, thus allowing the city until June 30, 2005, to expend this amount. We concur; the city complied with the \$865,163 by expending and recording this amount by June 30, 2005. Therefore, our finding will be reduced by the fourth-quarter payment of \$865,163, from \$1,756,125 to \$890,962.

**FINDING 2—
Ineligible
expenditures**

The city did not expend their fiscal year 2001-02 TCRF allocations within the required time period. The city expended their FY 2001-02 allocations totaling \$1,735,855 in FY 2004-05. However, the expenditures were not incurred within the required time period as required by the Revenue and Taxation Code section 7104. TCRF allocations received in FY 2001-02 should have been expended by June 30, 2003.

Revenue and Taxation Code section 7104 states:

The allocation made under Section 7104 shall be expended no later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in Section 7104.

Recommendation

The city must reimburse the TCRF \$1,735,855 for its failure to expend the allocations within the required time period.

City's Response

See Finding 1 for the city's response.

SCO's Comment

As explained in the SCO's comment to Finding 1, the finding remains, but will be reduced by the fourth-quarter payment of \$865,163, from \$1,735,855 to \$870,692.

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



THE CITY OF SAN DIEGO

Steven Mar, Chief, Local Governments Audit Bureau
State Controller's Office, Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Dear Mr. Mar:

In response to the Audit Report of the Traffic Congestion Relief Fund (TCRF) for the City of San Diego, from July, 2000 through June 30, 2005, the City does not concur with the audit finding related to the reimbursement of \$1,756,125. Per the audit report the return of TCRF funds is a result of ineligible expenditures incurred by the City during the time period being reviewed; it is our opinion the City of San Diego has met all requirements as referenced in the Revenue & Taxation Code 7104. In particular, we believe the requirement to expend all allocations within the fiscal year following the fiscal year in which the allocation was made have been properly followed.

The City of San Diego has exceeded the Maintenance of Effort (MOE) requirement of \$15,869,398 for both Fiscal Years 2003 and 2004, as filed on our annual street report. During the fiscal years mentioned, the City spent approximately \$120 and \$113 Million, respectively on Street and Highway related expenditures including, but not limited to, construction, maintenance, and reconstruction. Approximately \$22 Million in Fiscal Year 2003 and \$18 Million during Fiscal Year 2004, of Street and Highway related expenditures, were incurred with General Fund, or other, discretionary related funding. The remaining amount utilized non-discretionary funding, consisting primarily of Transnet and Gas Tax receipts.

During the period between fiscal year 2001 and 2004, the City received approximately \$16 Million of TCRF funding, including allocations and interest. As mentioned in the audit report, \$1.8 Million of TCRF funds remained in Fund Balance as a result of internal budgeting restrictions, which was spent during Fiscal Year 2005 after proper authority was received from City Council. Qualifying expenditures occurred previous to Fiscal Year 2005 and should have utilized TCRF funding, with no effect to the City meeting its MOE requirement, if not for the absence of proper Council approval. Therefore, the City of San Diego fulfilled its obligation to incur street related maintenance and reconstruction expenses within the allotted time in excess of total allocations and interest, during the period covered by the audit.



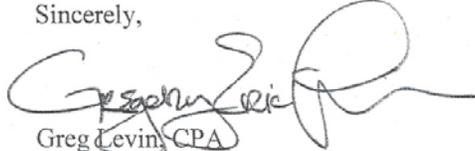
Office of the Auditor and Comptroller

202 C Street • San Diego, CA 92101
Tel (619) 236-6310 Fax (619) 533-3998

Furthermore, we request the approximate \$865,000 received as part of the FY 2003 TCRF Allocation, be considered received in FY 2004 as it was obtained in the later part of July 2003 (FY 2004). Therefore, the City had until the end of FY 2005 to spend this portion of the allocation per TCRF guidelines.

As representatives of the City of San Diego, we feel that the City has fulfilled all requirements regarding the allocations made to us by the State as part of the Traffic Congestion Relief Fund. We further do not believe any amounts should be reimbursed to the State. In an effort to avoid this situation in the future, we have implemented a process to ensure more timely utilization of the allocated funds. We appreciate your consideration in this matter and look forward to your response. Supporting information regarding all amounts referenced above is available upon request. Please contact Bryce Collins at (619) 236-6863 or Bcollins@sandiego.gov with any questions, comments, or requests for information.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Levin". The signature is stylized with a large, looping flourish at the end.

Greg Levin, CPA
Comptroller, City of San Diego

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

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