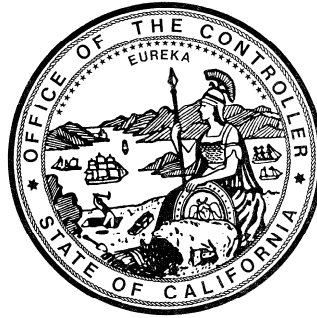


# **CITY OF SAN JOSE**

Audit Report

## **GAS TAX FUND AND TRAFFIC CONGESTION RELIEF FUND**

*July 1, 2004, through June 30, 2005*



**JOHN CHIANG**  
California State Controller

February 2007



**JOHN CHIANG**  
**California State Controller**

February 9, 2007

Scott P. Johnson  
Finance Director  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA 95113

Dear Mr. Johnson:

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

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*.

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/vb

cc: Inder Dhillon  
Senior Accountant  
City of San Jose

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the City of San Jose's Gas Tax Fund for the period of July 1, 2004, through June 30, 2005. We also audited the Traffic Congestion Relief Fund (TCRF) for the period of July 1, 2000, through June 30, 2005. The last day of fieldwork was June 7, 2006.

Our audit disclosed that no adjustment to the Gas Tax Fund or TCRF is required.

## 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 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 Traffic Congestion Relief Fund in compliance with Article XIX of the California Constitution and the *Streets and Highways Code* for the period of July 1, 2000, through June 30, 2005.

**Follow-Up on Prior Audit Findings**

Our prior audit report, issued in January 2000, disclosed no findings.

**Views of Responsible Officials**

We issued a draft audit report dated October 13, 2006. Scott Johnson, Director, Finance Department, responded by letter dated December 7, 2006. 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**

	Gas Tax Fund <sup>1</sup>	Traffic Congestion Relief Fund <sup>2</sup>
Beginning fund balance per city	\$ —	\$ 1,930,909
Revenues	<u>15,736,104</u>	<u>—</u>
Total funds available	15,736,104	1,930,909
Expenditures	<u>(16,999,998)</u>	<u>(1,930,909)</u>
Ending fund balance per city	(1,263,894)	—
Timing adjustment:		
Accrual of June 2005 highway users tax apportionment (Governmental Accounting Standards Board Statement No. 34)	1,521,593	—
SCO adjustment	<u>—</u>	<u>—</u>
Ending fund balance per audit	<u>\$ 257,699</u>	<u>\$ —</u>

<sup>1</sup> 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.

<sup>2</sup> 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 allocation was recorded in the Traffic Congestion Relief Fund.

# Finding and Recommendation

## **FINDING— TCRF expenditure requirements not met**

The City of San Jose 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 subject to the spending requirements as of June 30, 2005, is \$1,471,274. Further, the *Streets and Highways Code* states, “. . . funds not expended within that period shall be returned to the State Controller’s Office. . . .”

### Recommendation

The city must return the unexpended TCRF allocation and interest earned on the funds 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 does not concur with the reported finding as the unexpended allocation referred to in the report was, in fact, spent by the City on qualifying TCRF projects prior to June 30, 2005. However, these TCRF funds were inadvertently misclassified on the Annual Street Reports for FY 2003-04 and FY 2004-05 and reported as expenditures paid with the discretionary funds instead of TCRF funds. This issue was discussed during the audit and a partial listing of eligible expenditures with supporting documentation was provided to the auditor for review. However, there is no mention of the City’s position in the report. Please see the attached letter dated June 7, 2006 from the City to the auditor. The eligible expenditures that were incurred during FY 2003-04 and FY 2004-05 but inadvertently misclassified on the Annual Street Reports are listed below.

<b>Vendor Name</b>	<b>Amount</b>	<b>Date Paid</b>	<b>Description</b>
Graham Contractors, Inc.	\$1,060,551.22	7/23/03-11/06/03	Slurry Seal
Raisch Co.	131,611.76	8/19/04-5/26/05	Pothole Repair
Bond Blacktop, Inc.	780,535.36	11/24/04-4/14/05	Slurry Seal
O’Grady’s Paving, Inc.	24,185.24	11/25/2004	Surface Seal
San Jose Transport, Inc.	18,965.85	10/14/04, 11/24/04	Asphalt Trucking Services
<b>Total</b>	<b>\$2,015,849.43</b>		

As the eligible expenditures of \$2.02 million exceed the unexpended allocation of \$1.47 million cited in the report, the City requests that this audit finding be removed. Should the SCO wish to review the documentation in detail, please inform us in advance of your visit and City staff will ensure that the records are available and will respond to any questions.

### SCO’s Comment

Based on a review of the additional documentation provided by the city, we have withdrawn this finding.

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

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December 7, 2006

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

Dear Mr. Criss:

This letter is in response to the draft audit report ("report") issued by the State Controller's Office ("SCO") for the City of San José ("City") Gas Tax Fund and Traffic and Congestion Relief Fund for the period July 1, 2004 through June 30, 2005. The City's Finance Department received the report and audit finding notification on November 29, 2006.

The audit finding in the report states "*The City of San Jose did not expend its allocations of the Traffic and 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 subject to the spending requirements as of June 30, 2005, is \$1,471,274. Further the Streets and Highways Code states, "... funds not expended within that period shall be returned to the State Controller's Office . . .*"

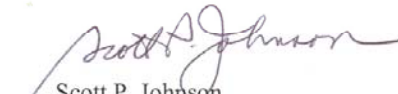
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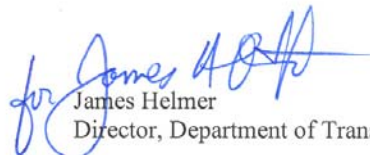
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<b>Total</b>	<b>\$ 2,015,849.43</b>		

As the eligible expenditures of \$2.02 million exceed the unexpended allocation of \$1.47 million cited in the report, the City requests that this audit finding be removed. Should the SCO wish to review the documentation in detail, please inform us in advance of your visit and City staff will ensure that the records are available and will respond to any questions.

If you have any questions, or need additional information, please contact me at 408.535.7001 or Inder Dhillon at 408.535.7032.

Sincerely,

  
Scott P. Johnson  
Director, Finance Department

  
James Helmer  
Director, Department of Transportation

Attachment

June 7, 2006

John Cobbinah,  
State Audit Specialist  
Division of Audits  
300 Capital Mall, Suite 518  
Sacramento, CA 9514

RE: State Gas Tax Audit for Fiscal Year 2004-05

Dear Mr. Cobbinah:

The City of San Jose thanks you for your review of the City's compliance with the State Gas Tax requirements. We appreciate your observations and recommendations you shared with us during the City's State Gas Tax Audit exit conference meeting today.

We look forward to receiving the draft audit report and intend to respond within fifteen (15) working days from the receipt of the report.

In addition, we wait for the conclusion of your review of the documentation we provided to you during the audit relating to the City's eligible expenditures for Traffic Congestion Relief Program (TCRP).

If you have any questions or need additional follow up, please contact me 408.535.7001 or Inder Dhillon at 408.535.7032.

  
Scott P. Johnson  
Director, Finance Department

  
Jim Ortbal  
Assistant Director, Department of Transportation

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

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