

CITY OF OXNARD

Audit Report

SPECIAL GAS TAX STREET IMPROVEMENT FUND

July 1, 2008, through June 30, 2015

TRAFFIC CONGESTION RELIEF FUND ALLOCATIONS

July 1, 2008, through June 30, 2011

PROPOSITION 1B FUND ALLOCATIONS

July 1, 2008, through June 30, 2015



BETTY T. YEE
California State Controller

March 2018



BETTY T. YEE
California State Controller

March 9, 2018

The Honorable Timothy B. Flynn
Mayor of the City of Oxnard
300 West Third Street, 3rd Floor
Oxnard, CA 93030

Dear Mayor Flynn:

The State Controller's Office audited the City of Oxnard's Special Gas Tax Street Improvement Fund for the period of July 1, 2008, through June 30, 2015. We also audited the Traffic Congestion Relief Fund allocations recorded in the city's Traffic Congestion Relief Fund for the period of July 1, 2008, through June 30, 2011; and the Proposition 1B Fund allocations recorded in the city's Proposition 1B Fund for the period of July 1, 2008, through June 30, 2015.

Our audit found that the city accounted for and expended its Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations in compliance with requirements. Our audit found that the city used Special Gas Tax Street Improvement Fund to service its Certificates of Participation (COPs) resulting in unallowable debt payments totaling \$11,998,961. The city served notice of a validation action on the State, in which it proposed to issue the COPs for the stated purpose. The State did not promptly object to the validation action. Consequently, the issue as to whether the state is bound by the validation appears to be a case of first impression, as there is no specific court decision that conclusively resolves the issue. Therefore, we are not identifying a finding at this time.

If you have any questions, please contact Efren Loste, Chief, Local Government Audits Bureau, by telephone at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/lis

cc: Jim Throop, Chief Financial Officer
City of Oxnard

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Audit Report

Summary

The State Controller's Office (SCO) audited the City of Oxnard's:

- Special Gas Tax Street Improvement Fund for the period of July 1, 2008, through June 30, 2015;
- Traffic Congestion Relief Fund allocations recorded in the city's Traffic Congestion Relief Fund for the period of July 1, 2008, through June 30, 2011; and
- Proposition 1B Fund allocations recorded in the city's Proposition 1B Fund for the period of July 1, 2008, through June 30, 2015.

Our audit found that the city accounted for and expended its Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations in compliance with requirements. Our audit found that the city used the Special Gas Tax Street Improvement Fund to service its Certificates of Participation (COPs) resulting in unallowable debt payments totaling \$11,998,961. The city served notice of a validation action on the State, in which it proposed to issue the COPs for the stated purpose. The State did not promptly object to the validation action. Consequently, the issue as to whether the state is bound by the validation appears to be a case of first impression, as there is no specific court decision that conclusively resolves the issue. Therefore, we are not identifying a finding at this time.

Background

The State apportions funds monthly from the Highway Users Tax Account (HUTA) 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 Article XIX of the California Constitution and Streets and Highways Code, 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 (GC) section 12410.

Chapter 91, Statutes of 2000, (Assembly Bill 2928) as amended by Chapter 636, Statutes of 2000, (Senate Bill 1662) and 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 its Traffic Congestion Relief Fund. We conducted our audit of the city's Traffic Congestion Relief Fund allocations under the authority of Revenue and Taxation Code section 7104.

Senate Bill 1266, Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, was introduced as Proposition 1B and approved by the voters on November 7, 2006, for a variety of transportation priorities, including the maintenance and improvement of local transportation facilities. Proposition 1B funds transferred to cities and counties must be deposited into an account that is designated for the receipt of State funds allocated for streets and roads. The city recorded its Proposition 1B Fund allocations in its Proposition 1B Fund. A city also must expend its allocations within four years following the end of the fiscal year in which the allocation was made and to expend the funds in compliance with GC section 8879.23. We conducted our audit of the city's Proposition 1B Fund allocations under the authority of GC section 12410.

Objective, Scope, and Methodology

Our audit objective was to determine whether the city accounted for and expended its Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations in compliance with Article XIX of the California Constitution, the Streets and Highways Code, Revenue and Taxation Code section 7104, and GC section 8879.23.

We audited the city's Special Gas Tax Street Improvement Fund for the period of July 1, 2008, through June 30, 2015. We also audited its Traffic Congestion Relief Fund allocations for the period of July 1, 2008, through June 30, 2011; and its Proposition 1B Fund allocations for the period of July 1, 2008 through June 30, 2015.

To meet our objective, we:

- Gained a limited understanding of internal controls that would have an effect on the reliability of the accounting records of the Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations by interviewing key personnel, completing the internal control questionnaire, and reviewing the city's organization chart;
- Conducted a risk assessment to determine the nature, timing, and extent of substantive testing;
- Performed analytical procedures to determine and explain the existence of unusual or unexpected account balances;
- Verified the accuracy of the fund balances by recalculating the trial balances of the Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations;
- Verified whether the components of and changes to the fund balances were properly computed, described, classified, and disclosed by scheduling and analyzing the Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations fund balances;

- Reconciled the fund revenue recorded in the city ledger to the balance reported in the SCO's apportionment schedules to determine whether HUTA apportionments, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations received by the city were completely accounted for;
- Reviewed city accruals and adjustments for validity and eligibility;
- Analyzed the system that the city used to allocate interest and determined whether interest revenue allocated to the Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations was fair and equitable, by interviewing key personnel and recalculating FY 2010-11 and FY 2014-15 interest allocations;
- Reviewed the fund cash and liabilities accounts for unauthorized borrowing to determine whether unexpended HUTA funds were available for future street-related expenditures and protected from impairment;
- Verified whether the expenditures incurred during the audit period were supported by proper documentation and were eligible in accordance with the applicable criteria by judgmentally selecting transactions for the following (for the selected sample, errors found will not be projected to the intended population:
 - Special Gas Tax Street Improvement Fund – We tested \$14,291,290 of \$33,470,625.
 - Traffic Congestion Relief Fund Allocations – We tested \$32,706 of \$3,499,646.
 - Proposition 1B Fund Allocations – We tested \$287,039 of \$6,224,665.
- Verified whether the city expended its Traffic Congestion Relief Fund revenues within the required time limit by analyzing and scheduling the city's Traffic Congestion Relief Fund expenditures;
- Verified the city's compliance with the maintenance-of-effort requirement of the Traffic Congestion Relief Fund by computing the city's annual expenditures of its discretionary funds for street purposes; and
- Verified whether the city expended its Proposition 1B revenues within the required time limit by analyzing and scheduling the city's Proposition 1B expenditures.

We did not audit the city's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that the city accounted for and expended its Special Gas Tax Street Improvement Fund, Traffic Congestion Relief Fund allocations, and Proposition 1B Fund allocations in accordance with the criteria above. We considered the city's internal controls only to the extent necessary to plan the audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Conclusion

Our audit found that the City of Oxnard 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, 2008, through June 30, 2015.

Our audit found that the city used Special Gas Tax Street Improvement Fund to service its COPs, resulting in unallowable debt payments totaling \$11,998,961. There are no specific court decisions binding the State by the judgment validating the city's issuance of the COPs and use of the fund for debt service payments. Therefore, we are not identifying a finding at this time. This observation is described in the Observation and Recommendation section of this report.

- Traffic Congestion Relief Fund allocations recorded in its Traffic Congestion Relief Fund in compliance with Article XIX of the California Constitution, the Streets and Highways Code, and Revenue and Taxation Code section 7104 for the period of July 1, 2008, through June 30, 2011.
- Proposition 1B Fund allocations recorded in its Proposition 1B Fund in compliance with Government Code section 8879.23 for the period of July 1, 2008, through June 30, 2015.

Follow-up on Prior Audit Findings

Our prior audit report for the period of July 1, 2007, through June 30, 2008, issued on June 24, 2009, disclosed no findings.

Views of Responsible Officials

We issued a draft audit report on January 10, 2018. Jim Throop, Chief Financial Officer, responded by letter dated February 2, 2018 (Attachment). The city's response did not include additional comments related to the audit results.

Restricted Use

This report is solely for the information and use of the City of Oxnard 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, CPA
Chief, Division of Audits

March 9, 2018

**Schedule 1—
Reconciliation of Fund Balance
July 1, 2008, through June 30, 2015**

	Special Gas Tax Street Improvement Fund ^{1, 4}	Traffic Congestion Relief Fund Allocations ²	Proposition 1B Fund Allocations ³
Beginning fund balance per prior SCO audit	\$ 3,612,751	\$ 7,432	\$ -
Revenues	36,586,633	3,492,214	6,224,665
Total funds available	40,199,384	3,499,646	6,224,665
Expenditures	(33,470,625)	(3,499,646)	(6,224,665)
Ending fund balance per city	<u>\$ 6,728,759</u>	<u>\$ -</u>	<u>\$ -</u>
Ending fund balance per audit	<u>\$ 6,728,759</u>	<u>\$ -</u>	<u>\$ -</u>

¹ The city receives apportionments from the State HUTA, pursuant to Streets and Highways Code sections 2103, 2105, 2106, 2107, and 2107.5. The basis of the apportionments 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. The city must deposit its HUTA apportionments in its Special Gas Tax Street Improvement Fund.

² GC 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 city recorded its Traffic Congestion Relief Fund allocations in its Traffic Congestion Relief Fund.

³ Senate Bill 1266, Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, introduced as Proposition 1B, provided funds for a variety of transportation priorities. The city recorded its Proposition 1B Fund allocations in its Proposition 1B Fund.

⁴ See the Observation and Recommendation section.

Observation and Recommendation

**OBSERVATION—
Certificates of
Participation debt
service payments**

The city charged debt service payments (principal and interest) of \$11,998,961 to the Special Gas Tax Street Improvement Fund for the period of July 1, 2008, through June 30, 2015. The debt service payments were for \$27,675,000 in COPs with a 30-year term issued by the city on December 18, 2007. The proceeds from the sale of the COPs were to be used for the 2007 Street Improvement Program. The main purpose of this program was to repair various streets throughout the city. The COPs are solely secured by future gas tax revenues to be received from the State of California.

COPs are similar to bonds, and as such, principal and interest may be eligible for Gas Tax funding. The Streets and Highways Code allows for Gas Tax funding of principal and interest when bonds are voter-approved, the terms of the bonds do not exceed 25 years, and the bonds are limited to 25% of the annual gas tax allocation.

Streets and Highways Code section 2107.4 states:

Not more than one-quarter of the funds allocated to a city or county from the Highway Users Tax Account in the Transportation Tax Fund for the construction of Streets therein may be used to make principal and interest payment on bonds issued for such construction, if the issuance of such bonds is authorized by a proposition approved by a majority of the votes cast thereon. The term of any such bonds shall not exceed 25 years.

We are not aware of any provision in the Streets and Highways Code for the payment of principal and interest of COPs.

Our audit found that the city charged the COPs debt service payments to the Special Gas Tax Street Improvement Fund as follows:

Fiscal Year	Debt Service Charges		
	Principal	Interest	Total
2014-15	\$ 600,000	\$ 1,107,050	\$ 1,707,050
2013-14	580,000	1,133,650	1,713,650
2012-13	555,000	1,156,350	1,711,350
2011-12	535,000	1,178,150	1,713,150
2010-11	515,000	1,199,150	1,714,150
2009-10	495,000	1,219,350	1,714,350
2008-09	240,000	1,485,261	1,725,261
Total	\$ 3,520,000	\$ 8,478,961	\$ 11,998,961

The SCO maintains that the use of COPs payable through the Special Gas Tax Street Improvement Fund is impermissible, resulting in unallowable debt service payments totaling \$11,998,961 for the period of July 1, 2008, through June 30, 2015. The city served notice of a validation action on the State, in which it proposed to issue the COPs for the stated purpose. The State did not promptly object to the validation action. Consequently, the

issue as to whether the state is bound by the validation appears to be a case of first impression, as there is no specific court decision that conclusively resolves the issue. Therefore, we are not identifying a finding at this time.

Recommendation

In the future, we recommend that the city ensure that all debt service payments charged to the Special Gas Tax Street Improvement Fund are for voter-approved bonds, that the debt service payments do not exceed one-quarter of the annual gas tax allocations, and that the terms of the bonds do not exceed 25 years, in accordance with Streets and Highways Code section 2107.4.

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



Finance Department

300 West Third Street
Oxnard, CA 93030
(805) 385-7475
Fax (805) 385-7466
www.oxnard.org

SENT VIA EMAIL and USPS

February 2, 2018

Mr. Efron Loste, Bureau Chief
State Controller's Office
Division of Audits

Re: Response to the Final Draft of Special Gas Tax Street Improvement Fund

Dear Mr. Loste:

This letter is being sent to the State Controller's Office (SCO) in response to the letter dated January 10, 2018, requesting any comments on the SCO audit results for Gas Tax revenue.

Given that the SCO did not have a finding on the City's use of Gas Tax revenue to pay the debt service on the Certificates of Participation (COPs), then the City has no additional comments.

Thank you for the time and effort that the SCO spent on the audit and please know that the City appreciates all the work that your department does for the citizens of Oxnard.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Throop".

Jim Throop
Chief Financial Officer
City of Oxnard, CA

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

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