ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

1333 BROADWAY, SUITE 220 • OAKLAND, CA 94612 • PHONE: (510) 836-2560 • FAX: (510) 836-2185
E-MAIL: mail@accma.ca.gov • WEB SITE: accma.ca.gov

April 7, 2009
Agenda Item 3.1.1

Memorandum

DATE: March 27, 2009

TO: ACTAC

FROM: Matt Todd, Manager of Programming

RE: Transportation Fund for Clean Air (TFCA):
Approval of the FY 2009/10 Program Guidelines

Action Requested
ACTAC is requested to review and recommend Board approval of the attached ACCMA TFCA Program Guidelines for FY 2009/10.

Discussion
The Bay Area Air Quality Management District (Air District)'s FY 2009/10 TFCA Program Guidelines were released December 24, 2008. Statute requires Program Managers to annually review the programming guidelines for the Transportation Fund for Clean Air Program (TFCA). As specified in the Health and Safety Code section 44241, the ACCMA, as the entity designated to receive the TFCA Program Manager funds, is required to hold a public meeting, at least once a year, for the purpose of adopting criteria for the expenditure of the funds and to review the expenditure revenues. This review period will allow CMA staff to incorporate any updates to the TFCA legislation into the ACCMA's TFCA Program, as well as consider additional comments to the program from the member agencies.

The ACCMA last approved revisions to the ACCMA TFCA Program Guidelines in March 2008. Staff is proposing the attached revisions to the ACCMA TFCA Program Guidelines based on the Air District's December 2008 Guidelines.

<u>Revisions to TFCA Program Guidelines for 2009/2010</u>
The Air District approved revisions to the TFCA Program in December that include:

- The Air District has interpreted the authorizing legislation to require all County Program Manager Funds to have all funds programmed to projects within six months of the date of the executed funding agreement with the Air District. Clarification has been added to the ACCMA TFCA Program Guidelines that explicitly states that the funding agreement between the CMA and project sponsor is to be executed within six months of the date the Air District executes a funding agreement with the CMA. The Air District has indicated they may allocate any remaining funds directly after the six months.

The recommended revisions to the ACCMA TFCA Program Guidelines reflect the above program changes. Other proposed revisions are clarifications and corrections to last year's Guidelines and do not reflect new changes to the TFCA Program.

Attachment

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY TRANSPORTATION FUND FOR CLEAN AIR (TFCA) PROGRAM GUIDELINES

I. BACKGROUND

AB 434 (Sher; Statutes of 1991) and AB 414 (Sher, Statutes of 1995) permit the Bay Area Air Quality Management District (hereinafter the "Air District") to collect a fee of up to $4 per vehicle per year for reducing air pollution from motor vehicles and for related planning and programs. This legislation requires the Air District to allocate 40% of the revenue to an overall program manager in each county. The overall program manager must be designated "by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population."

The Alameda County Congestion Management Agency (hereinafter the "CMA") has been designated as overall program manager in Alameda County in accordance with the above requirements.

II. ELIGIBLE PROJECTS

Programs eligible for funding from revenues generated by this fee are:

1. Implementation of rideshare programs,
2. Purchase or lease of clean fuel buses for school districts and transit operators,
3. Provision of local feeder bus or shuttle service to rail and ferry stations and to airports,
4. Implementation and maintenance of local arterial traffic management, including, but not limited to, signal timing, signal preemption, bus stop relocation and "smart streets."
5. Implementation of rail-bus integration and regional transit information systems,
6. Implementation of demonstration projects in congestion pricing of highways, bridges and public transit; and in telecommuting (No funds expended pursuant telecommuting projects shall be used for the purchase of personal computing equipment for an individual's home use).
7. Implementation of vehicle-based projects to reduce mobile source emissions, including, but not limited to light duty vehicles with a gross vehicle weight (GVW) of 10,000 pounds or lighter, engine repowers, engine retrofits, fleet modernization, alternative fuels, and advanced technology demonstrations.
8. Implementation of smoking vehicles program,
9. Implementation of automobile buy back scrappage program operated by a governmental agency,
10. Implementation of bicycle facility improvement projects that are included in an adopted countywide bicycle plan or congestion management program,
11. Design and construction by local public agencies of physical improvements that support development projects that achieve motor vehicle emission reductions. The projects and the physical improvements shall be identified in an approved area-specific plan, redevelopment plan, general plan, or other similar plan.

AB 414 references the trip reduction requirements in the CMP legislation and states that Congestion Management Agencies in the Bay Area that are designated as AB 434 program managers, "shall ensure that those funds are expended as part of an overall program for improving air quality and for the purposes of this chapter (the CMP Statute)." The Air District has interpreted this language to allow a wide variety of transportation control measures as now eligible for funding by program managers, including an expansion of eligible transit, rail and ferry projects.

AB 414 adds a requirement that County Program Managers adopt criteria for the expenditure of the county subventions and to review the expenditure of the funds. The content of the criteria and the review were not specified in the bill. However, the Air District has specified that any criteria used by a Program Manager must allocate funding to projects that are: 1) eligible under the law, 2) reduce motor vehicle emissions, 3) implement the relevant Transportation Control Measures in the 1997 Clean Air Plan, and 4) are not planning or technical studies.

The program funds will be disbursed either through an individual call for projects or in a coordinated call for projects with other funding sources that provide funding for similar projects.

III. COST EFFECTIVENESS

The CMA will measure the effectiveness level of TFCA funded projects using the TFCA cost of the project divided by an estimate of the total tons of emissions reduced (reactive organic gases (ROG), oxides of nitrogen (NOx), and weighted particulate matter 10 microns in diameter and smaller (PM_{10})) due to the project. These are used to calculate a cost effectiveness number of $/ton. The CMA will only approve projects with a TFCA cost effectiveness, on an individual project basis , equal to or less than $90,000 of TFCA funds per ton of total ROG, NOx and weighted PM_{10} emissions reduced ($/ton). All projects will be required to conduct cost effectiveness calculations.

IV. GENERAL PROGRAM STRUCTURE

As the overall program manager in Alameda County, the CMA will be allocated 40% of the funds collected in Alameda County. The Air District will advance these funds to the CMA in biannual installments each fiscal year.

The 40% funds programmed by the CMA will be distributed as follows:

> A maximum of 5% of the funds for program implementation and administration annually to the CMA.

70% of the remaining funds to be allocated to the cities/county based on population, with a minimum of $10,000 to each jurisdiction. City population will be updated annually based on State Department of Finance estimates. 70% funds will be programmed annually in its own call for projects or in a coordinated call for projects with like funding sources. The Board may also program against future TFCA programming for projects that are larger than the annual funds available.

30% of the funds (discretionary) allocated to transit related projects. All eligible applicants may apply for these funds for transit related projects. 30% funds will be programmed annually in its own call for projects or in a coordinated call for projects with like funding sources. The Board may also program against future TFCA programming for projects that are larger than the annual funds available.

A city or the county, with approval from the CMA Board, may choose to roll its annual "70%" allocation into a future program year. Since all of the available TFCA funds are to be programmed each year, a jurisdiction may borrow against its projected future year share in order to use rolled over funds in current year.

With approval from the CMA Board, a local jurisdiction may request programming of a multi-year project using its current and projected future year share of the 70% funds.

Projects competing for the 30% discretionary funds will be evaluated based on the total emissions reductions projected as a result of the project. Projects will be prioritized based on the total tons of pollutants reduced divided by the TFCA funds invested, as calculated using the Air District guidelines for the regional program. When this calculation is not sufficient to prioritize candidate projects, the CMA Board may also consider the emissions reductions per total project dollar invested for the project and the matching funds provided by the project sponsor.

Projects will normally be funded only if the TFCA funds requested exceed $50,000, unless the project sponsor can show special and unusual circumstances to set this limit aside.

V. PROGRAM SCHEDULE

December-January	A call for projects will be issued by the CMA.
January-February	Project applications due to CMA.
March 31st	CMA to submit Expenditure Plan Application to Air District
March-April	Review of projects by ACTAC. Draft program reviewed by the PPC and released by the CMA Board.
April-May	ACTAC adopts list of recommended projects and forwards list to CMA Board. CMA adopts resolution endorsing list of projects. Semi-annual project status reports due to CMA (as requested).
May 31st	CMA to submit Semi-annual Report to Air District

_____September	For on-going projects, annual status reports from project sponsors due to the CMA.
_____October 31st	CMA to submit Annual Report to Air District

Schedule subject to modification based on schedule changes imposed by the Air District and previous programming actions by the Board.

VI. APPLICATION PROCESS

Project sponsors shall complete the CMA TFCA funding application. This can be a single TFCA application or included in coordinated call for projects process that consolidates like fund sources. Please include the following in your application:

1. **Partner agencies/organizations**: If the project is sponsored by more than one agency, the applicant shall list the partner agencies, including the point of contact(s).

2. **TFCA Funding Category**: The applicant shall indicate whether the funds applied for are from the 70% city/county funds or the 30% transit discretionary funds. Project sponsors may choose to rollover their 70% funds to into a future fiscal year 70% allocation. Project sponsors may also request to reprogram any remaining TFCA funds from previous projects or allocations in their jurisdiction, to the proposed project.

3. **Funding Sources**: Applicants shall include a funding plan listing all funding sources and amounts (including regional 60% TFCA funds and unsecured funds.)

4. **Schedule and Project Milestones**: Applicants shall include project schedule and milestones.

5. **Input Data Chart**: Applicants shall submit the necessary data for their project(s) to calculate the estimated emissions reductions and cost-effectiveness.

6. **Transportation Control Measures (TCM)**: Applicants shall list the TCMs from the 1997 Clean Air Plan that are applicable to the project.

VII. MONITORING REQUIREMENTS

The Air District may require that emissions reduced as a result of each project be calculated twice. The first is an estimate of projected emissions reduction. Sponsors must provide input data for this calculation in their application.

Sponsors must also conduct post-project evaluation and/or surveys (known as the monitoring requirements) as specified in the fund transfer agreement for the project.

Project sponsors shall provide estimates for the cost of collecting the data for the monitoring requirements that are required by the Air District. The cost of the monitoring

requirements data collection efforts should not exceed 5% of the total project budget (including both TFCA and non-TFCA funds).

VIII. INSURANCE REQUIREMENTS

Insurance Requirement- Each Project Sponsor must maintain general liability insurance, workers compensation insurance and additional insurance as appropriate for specific projects, with coverage amounts specified in the specific project funding agreements.

This section provides guidance on the insurance coverage and documentation typically required for TFCA Program Manager Fund projects. Note that the Air District reserves the right to specify different types or levels of insurance in the funding agreement. The typical funding agreement requires that each project sponsor provide documentation showing that the project sponsor meets the following requirements for each of its projects.

1. **Liability Insurance** with a limit of not less than $1,000,000 per occurrence, of the type usual and customary to the business of the Project Sponsor, and to the operation of the vehicles, vessels, engines or equipment operated by the Project Sponsor.

2. **Property Insurance** in an amount of not less than the insurable value of Project Sponsor's vehicles, vessels, engines or equipment funded under the Agreement, and covering all risks of loss, damage or destruction of such vehicles, vessels, engines or equipment.

3. **Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A, VII. The Air District may, at its sole discretion, waive or alter this requirement or accept self-insurance in lieu of any required policy of insurance. Below is a table listing the types of insurance coverage generally required for each project type. The requirements may differ in specific cases.

County Program Manager Fund Contract Activity	Insurance Required
Vehicle Purchase	Automobile Liability; and Automobile Physical Damage
Engine Repowers/Retrofits	Automobile Liability; and Automobile Physical Damage
Operation of shuttle from transit hubs to private business and other location	Commercial General Liability; Automobile Liability; and Automobile Physical Damage
Transit pass subsidy or commute incentives	None
Transit Marketing Program	Commercial General Liability
Guaranteed Ride Home	None

Bicycle facilities including bike paths, bike lanes (either striping and signs or construction of roadway shoulders, bike routes, bike lockers, bike racks	Commercial General Liability; Automobile Liability; and Worker's Compensation
Bike routes and lockers	None
Constructing and bike/pedestrian overpass	Commercial General Liability, Automobile Liability; and Worker's Compensation
Signal Timing	Commercial General Liability

IX. FUNDING AGREEMENT, REPORTS AND AUDIT REQUIREMENTS

Prior to receiving any reimbursement of funds, project sponsors must execute a fund transfer agreement with the CMA. The fund transfer agreement includes a description of the project/program to be funded and specifies the terms and conditions for the expenditure of funds, including all audit requirements imposed by the Air District.

A contract executed by both the Air District and the CMA constitutes final approval and obligation for the Air District to fund a project. Costs incurred before the execution of the funding agreement (Air District and CMA) will not be reimbursed. An executed funding agreement between the CMA and project sponsor is required before any reimbursements will be made. The funding agreement between the CMA and project sponsor is to be executed within six months from the date the funding agreement between the Air District and the CMA is executed. After the six month deadline has passed, any funding associated with an unexecuted funding agreement may be considered unallocated and may be reprogrammed by the Air District.

Project sponsors will be required to submit bi-annual progress reports to the CMA which provide project status and itemize the expenditure of funds for each project. Project sponsors are also required to submit a final project report, which include monitoring requirements, upon completion of the project.

All projects will be subject to a performance audit including project monitoring requirements established by the Air District. Project sponsors will, for the duration of the project/program, and for three (3) years following completion, make available to the Air District or to an independent auditor, all records relating to expenses incurred in implementing the projects.

X. TIMELY IMPLEMENTATION OF PROJECTS AND USE OF FUNDS

The enabling legislation requires project sponsors to encumber and expend funds within two years, unless a time extension has been granted. To ensure the timely implementation of projects and use of funds, the following timelines will be imposed for each program year:

1. Within two months of receipt of funds from the Air District, the CMA will send out fund transfer agreements to each project sponsor

2. Project sponsors must execute a fund transfer agreement with the CMA within three months of receipt of an agreement from the CMA to ensure that the agreement is executed within six months from the execution of the funding agreement between the Air District and the CMA. The executed fund transfer agreement must contain an expenditure plan for implementation of the project. After the deadline has passed, any funding associated with an unexecuted funding agreement may be considered unallocated and may be reprogrammed by the Air District.

3. Project sponsors must initiate implementation of a project within three months of the date of receipt of the executed fund transfer agreement from the CMA, unless an extended schedule has been approved in advance by the CMA.

4. Funds must be expended within two years from the date of the first receipt of funds by the CMA from the Air District, unless an extension has been approved by the CMA Board. (No more than two (one year) extensions can be approved by the CMA Board, additional schedule extension requests can only be granted with approval from the Air District.)

5. Sponsors must submit requests for reimbursement at least once per fiscal year. Requests must be submitted within six (6) months after the end of the fiscal year, defined as the period from July 1 to June 30. All final requests for reimbursement must be submitted no later than six (6) months after the end of the fiscal year in which the project was completed.

6. Sponsors must submit annual progress reports within the period established by the Air District.

7. Sponsors must submit required post-project monitoring reports within three months after the post-project evaluation period.

8. An at risk report will be presented to ACCMA Committees throughout the year to advise sponsors of upcoming critical dates and deadlines.

Any sponsor that does not comply with any of the above requirements within the established time frames will be given written notice from the CMA that they have 60 days in which to comply. Failure to comply within 60 days will result in the reprogramming of the funds allocated to that project, and the project sponsor will not be permitted to apply for new projects until the sponsor has demonstrated to the CMA that steps have been taken to avoid future violations of this policy.

XI. REIMBURSEMENT OF FUNDS

Upon execution of a fund transfer agreement, project sponsors may request reimbursement for documented expenses on an approved project. Project sponsors must complete the "Request for Reimbursement of Funds" form attached to the fund transfer agreement for each reimbursement request. All complete requests for reimbursement will be paid within 30 days.

The Request for Reimbursement form must have an original signature by an authorized person, and should be sent to the attention of CMA's Administrative and Financial Officer. The form must be accompanied by the following documentation:

1. **Direct Costs:** Copies of invoices that the project sponsor has paid, including copies of checks evidencing payment that are directly and solely related to implementation of the project. Travel and training costs may be used only if the travel and training are directly related to the implementation of the funded project.

2. **Labor Charges:** Payroll records indicating pay rate, time sheets indicating time worked on project. Hourly labor charges are the sum of the salary paid to an employee plus the cost of fringe benefits provided, expressed on the basis of hours worked.

3. **Indirect Costs:** Indirect costs may be considered eligible for reimbursement with TFCA funds provided the project sponsor requests and justifies the reimbursement in the grant application. Sponsor will be required to have an Indirect Cost Rate proposal approved in advance by the Air District. The Air District relies on OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments for determining appropriate Indirect Costs for TFCA projects. Sponsor may choose not to charge any indirect costs to a TFCA project. Indirect costs are the reasonable overhead costs incurred in providing a physical place of work and in performing general support services and oversight. Examples include rent, utilities, office supplies, computer, payroll, reproduction, mailroom support staff, and management oversight. All administrative costs combined shall not exceed 5% of the project cost. Sponsor may choose not to charge any administrative costs to a TFCA project. All project costs must be specifically identified in the budget in the original project application and approved by the Air District in the project budget attachement A of the TFCA funding agreement.

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