

BOARD MEETING DATE: November 6, 2020

AGENDA NO. 3

PROPOSAL: Reimburse CEC and Return Interest

SYNOPSIS: In February 2020, CEC issued a final audit report of CEC-funded projects, concluding that the majority of claimed agreement expenditures were in compliance with grant agreement requirements. However, the report questioned certain reimbursed subcontractor costs and requested that interest earned be returned to CEC. These actions are to: 1) reimburse CEC for unsupported costs with funds provided by two contractors in an amount not to exceed \$214,719 from the Clean Fuels Fund (31); 2) reimburse CEC for unsupported costs in an amount not to exceed \$70,631 from the Clean Fuels Fund (31); and 3) return to CEC interest earned on CEC funds in an amount not to exceed \$202,723 and future residual interest earned from the Hydrogen Fueling Infrastructure Network Fund (63).

COMMITTEE: Technology, October 16, 2020; Recommended for Approval

RECOMMENDED ACTIONS:

1. Reimburse CEC for unsupported costs with funds provided by Clean Fuel Connection, Inc. and Cummins Westport Inc. in an amount not to exceed \$214,719 from the Clean Fuels Fund (31);
2. Reimburse CEC for unsupported costs on behalf of H2 Frontier in an amount not to exceed \$70,631 from the Clean Fuels Fund (31); and
3. Return to CEC interest earned on CEC funds in an amount not to exceed \$202,723 and residual interest earned from the Hydrogen Fueling Infrastructure Network Fund (63).

Wayne Nastri
Executive Officer

Background

The CEC conducted an audit on five funding agreements, with aggregated project funds of \$12.6 million, and issued a final audit report on February 4, 2020. These grants were leveraged with other funds, including more than \$3.5 million from South Coast AQMD as well as significant private investments and were successfully implemented within CEC budgeted amounts. Collectively, these projects have resulted in or paved the way for significant reduction in criteria pollutants, greenhouse gases and petroleum usage, furthering the goals of both agencies, especially the projects that commercialized heavy-duty natural gas engines that are 90 percent cleaner than the existing standard and are currently being deployed throughout the Basin.

Existing processes and controls on invoices and supporting information are sound, however, research, development and demonstration projects, such as those included in the subject audit, often experience delays, and contractor/subcontractor reports need additional scrutiny to ensure completion of tasks. In line with existing controls, invoices and other documentation were thoroughly reviewed for accuracy prior to any payments and relied on contractors to provide true and accurate information for expenditures, especially indirect labor rates.

The final audit report concluded that the majority of claimed agreement expenditures were in compliance with grant agreement requirements. However, the final audit report contained two observations. The report questioned payments made to three contractors for unsupported labor, fringe benefits and indirect costs, totaling \$285,350. CEC also requested that South Coast AQMD return \$178,345 in interest earned on CEC funds. These funds were provided to South Coast AQMD as an advance payment on one of the agreements that was about to expire to prevent these funds from reverting to the state and enable the completion of three projects. Interest on the advance payment of funds was tracked in accordance with established protocols, and the interest income was always planned to be returned to CEC. Additional interest has been earned since the audit report, with a current interest balance of \$202,723. There is also residual interest which will continue to accrue and will also be returned to CEC.

Proposal

Two contractors agreed to reimburse South Coast AQMD. One contractor has paid \$9,622 to South Coast AQMD. The final invoice for the second contractor will be adjusted by \$205,097. However, one contractor is in financial hardship and is not able to reimburse South Coast AQMD for \$70,631 in unsupported costs, which is the only out-of-pocket cost South Coast AQMD will incur due to the CEC audit. The total amount that would be returned to CEC for unsupported costs is \$285,350.

Staff is proposing the following actions: 1) reimburse CEC for unsupported costs with funds provided by Clean Fuel Connection, Inc. and Cummins Westport, Inc. in an amount not to exceed \$214,719 from the Clean Fuels Fund (31); 2) reimburse CEC for

unsupported costs on behalf of H2 Frontier in an amount not to exceed \$70,631 from the Clean Fuels Fund (31); and 3) return to CEC interest earned on CEC funds in an amount not to exceed \$202,723 and return any future residual interest earned from the Hydrogen Fueling Infrastructure Network Fund (63).

Resource Impacts

The \$70,631 for unsupported costs for the contractor in financial hardship will be funded from the Clean Fuels Fund (31) which has sufficient funds available.