

Strategic Growth Plan Bond Accountability

Goods Movement Emission Reduction Program

Administering Agency	California Environmental Protection Agency
Bond	Proposition 1B
Department Name	Air Resources Board
Program Title	Goods Movement Emission Reduction Program
Bond Statute	Government Code 8879.23(c)(2)
Implementing Statute (if needed)	Senate Bill 88 (2007) and Assembly Bill 201 (2007)

Background Information

In January 2007, Governor Schwarzenegger issued Executive Order S-02-07 highlighting the importance of transparency and accountability in administering the over \$40 billion in bond funding approved by voters in 2006. The Executive Order directs all State government entities responsible for expending bond proceeds to establish and document a three part accountability structure. This document details the accountability provisions for the Proposition 1B: Goods Movement Emission Reduction Program (Program) that provides \$1 billion in funding to the Air Resources Board (ARB or Board) to quickly reduce air pollution emissions and health risk from freight movement along California's priority trade corridors.

The State Fiscal Year (FY) 2007-08 budget includes the first installment of \$250 million, plus implementing legislation via Senate Bill 88 (Chapter 181, Statutes of 2007) that created the Goods Movement Emission Reduction Program. Assembly Bill 201 (Chapter 187, Statutes of 2007) includes a minor clarification. Under the enabling legislation, ARB will award grants to fund projects proposed by local agencies that are involved freight movement or air quality improvements associated with goods movement activities. The local agencies will then be responsible for providing financial incentives to owners of equipment used in freight movement to upgrade to cleaner technologies, consistent with Program Guidelines to be adopted by ARB.

The 130-page *Proposition 1B: [Goods Movement Emission Reduction Program -- Guidelines for Implementation](#)* adopted (February 28, 2008) detail the Program

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requirements and the accompanying [Staff Report](#) describes the basis for those requirements. The Guidelines include:

- The public process for development of the Guidelines and subsequent updates.
- Criteria and procedures for ARB allocation of funds to local agency projects.
- Criteria and procedures for local agency selection of equipment projects.
- Project funding demonstrations, contingencies, and remedies for projects that withdraw or don't perform.
- Specific project eligibility requirements, funding caps and match requirements, and project life.
- Operating conditions and enforcement mechanisms for bond-funded equipment.
- Maximum timeframes for ARB to obligate funds via grant agreements with local agencies.
- Criteria that local agencies must meet to receive grant funds from ARB and ARB internal controls on release of funds.
- Maximum timeframes for local agencies to obligate funds via contracts with equipment owners.
- Criteria that equipment owners must meet to receive grant funds from the local agency and local agency internal controls on release of funds.
- Maximum timeframes for local agencies to complete projects and make final payment (specific to each source category).
- Physical inspection requirements for old and new equipment.
- Ongoing monitoring and reporting on project operations.
- Ongoing tracking of funds obligated and expended.
- Enforceable grant agreements between ARB and local agencies, and enforceable contracts between local agencies and equipment owners.
- Periodic reporting to local agencies, ARB, the Department of Finance, and the Legislature.
- Program and fiscal audits of ARB and local agencies administering the Program.

Front-End Accountability

Program Objectives

The Guidelines are a detailed strategic plan to expend bond dollars over multiple funding cycles, with a public process to solicit input in each cycle. The provisions of the Guidelines are consistent with the implementing statutes, the specific directives from Governor Schwarzenegger in Executive Order S-02-07 and his signing statement on the FY2007-08 budget, and ARB's mission to protect public health from the harmful effects of air pollution. ARB staff has designed the Program to meet the following key objectives:

- Reduce existing emissions and health risk as quickly as possible in the four priority trade corridors, with a focus on communities heavily impacted by goods movement.
- Incorporate simplicity and efficiency.
- Ensure cost-effectiveness and leverage other funding sources.

- Provide transparency and accountability to the public.

Project Eligibility, Selection Criteria, and Performance Measures

SB 88 and AB 201 detail more than 15 factors that ARB is directed to consider when allocating funds and selecting local agency projects. Some of these criteria are most effectively applied by targeting levels of funding to trade corridors and emission source categories, while others lend themselves to selecting among competing local agency projects or equipment projects. The steps ARB will take to allocate funding include:

- Identifying funding targets for the overall Program and setting funding priorities (Guideline Chapter II.B.).
- Defining the equipment project options for each appropriation (Guideline Appendices A-G).
- Competitively ranking and selecting local agency projects for funding in each appropriation cycle (Guidelines Chapter II.D.6.).
- Establishing the procedures that local agencies will use to competitively rank and select equipment projects for funding (Guidelines Chapter III.D.6.).

Only local public entities able to fully implement the Guidelines are eligible to compete for Program funds. ARB will evaluate each application to determine the eligibility of both the agency and the proposed project. The local agency must also demonstrate its ability to implement the project, including the availability of funding and resources. These entry requirements are set forth in Guidelines Chapter II.D.3-4 and Chapter III.B.

ARB staff will use a two-step process to recommend local agency projects for funding within each trade corridor and source category. ARB staff will competitively rank eligible local agency projects based on their potential to reduce emissions and to realize the greatest benefits per State dollar invested, as described in Guidelines Chapter II.D.6. With public input, ARB staff will then develop recommendations on the level of funding for the top project(s) in each corridor and funding category. This approach will consider the availability of Program funds, the corridor and source category funding targets, and priorities established by the Board for each funding cycle, as described in Guidelines Chapter II.B.

Following a public hearing and Board action to allocate funds for specific local agency projects, ARB staff will execute Local Agency Project Grant Agreements with the successful local agencies. Grant agreements will contain the Program expectations and performance criteria. Minimum provisions for grant agreements are listed in Guidelines Chapter II.D.10.

The Guidelines define a competitive process that local agencies must use to prioritize and select equipment projects for funding, based on the same quantitative criteria described above for ARB and detailed in Guidelines Chapter III.D.6. Local agencies will pre-inspect the old equipment according to Guidelines Chapter III.D.8 prior to the execution of the equipment contract. Local agencies will execute Equipment Project Contracts with equipment owners that establish the technical, financial, and

administrative requirements for the life of the bond-funded equipment, consistent with Guidelines Chapter III.D.10. The local agencies will verify the scrapping of old equipment and inspect the new or upgraded equipment prior to final payment, according to Guidelines Chapter III.D.13-14.

In addition to establishing criteria for both local agency and equipment project selection, the Guidelines define funding schedules to make certain bond money is spent in a timely manner. These schedules address both ARB's expenditure and liquidation of bond funds to local agencies (Chapter II.E.2), and the local agencies' expenditure and liquidation to equipment owners (Chapter III.E.2). The Guidelines accelerate both of these schedules ahead of the statutory requirements where practicable and require proof of progress prior to payment.

SB 88 authorizes ARB to use five percent of the funds for administration and audits, and allows local agencies to apply for up to five percent of the grant award for administrative costs. To allow more funding for clean air projects, ARB and its local agency partners (in the aggregate) will limit their bond-funded expenses to well below the five percent each is authorized to use by the statute. In addition to reducing ARB's administrative costs to an expected 2-3 percent through Program design, the Guidelines include lower caps on local agency compensation for the source categories that will require fewer resources to administer. The Guidelines require that expenditures of administrative funding are separate from any expenditure of project funding. ARB expenditure of administrative funding for the local agency will be completed according to the schedule outlined in the Guidelines Chapter II.E.2.

Public Access and Transparency

The Guidelines provide for public involvement in many steps of Program development and implementation, as well as public access to information on the status of bond-funded projects. Table 18 of the Staff Report (Question 45) highlights the major products and decision points within the Program, along with the responsible agency and the mechanism(s) for public input and/or access. The first major decision point is Board adoption of the Guidelines in a public hearing, followed by the Board's selection of local agency projects for funding. ARB has also established requirements for community meetings to solicit input on the development of local agency proposals and to report back annually on progress.

ARB will maintain a website at: <http://www.arb.ca.gov/gmbond> to make information readily available to the public. The website will include at minimum: documents and notices of meetings, the Program Guidelines and accountability structure, Notices of Funding Availability, lists of the local agency projects being considered for funding, the local agency projects awarded bond funds, the local agency project status, links to local agency websites showing the prioritized list of equipment projects considered for funding, the equipment projects awarded bond funds, and periodic updates on the status of equipment projects.

In-Progress Accountability

ARB and local agencies are responsible for ensuring bond funds are spent on equipment projects that meet the provisions of statute and the Guidelines. ARB will utilize multiple mechanisms to ensure accountability through its own actions and requirements imposed on local agencies. These mechanisms include the equipment project inspections discussed above, ongoing evaluations, reporting, and audits.

Evaluations

ARB procedures for ongoing evaluations of local agency projects and equipment projects are detailed in Guidelines Chapter II.E.4. Ongoing ARB evaluations of the local agency include review of the local agency project records to ensure consistency with the Guidelines and the performance benchmarks in the grant agreement. Ongoing ARB evaluations of equipment projects include review of equipment project records to ensure those projects are meeting the performance benchmarks in the contract, including the operating conditions for that project option.

ARB will issue an adverse finding in the local agency's evaluation and/or audit if it finds that Program funds have been expended on ineligible projects. The ARB Executive Officer may require that the local agency reimburse the Program funds identified in an adverse finding, or may seek other remedies from the local agency. ARB will issue a non-performance finding in the local agency's evaluation and/or audit if ARB finds issues related to Program implementation. Specific issues and remedies for local agency non-performance are detailed in Guidelines Chapter II.E.7.

Local agencies are required to provide direct oversight and enforcement of their executed equipment project contracts. Local agency staff will evaluate equipment projects on an ongoing basis to confirm that they are on schedule and within the scope and cost outlined in the contract. Requirements for local agency evaluations are listed in Guidelines Chapter III.F. Equipment project non-performance and remedies are discussed in Guidelines Chapter IV.G.

Reporting and Recordkeeping

The Guidelines define reporting and recordkeeping for equipment owners, local agencies, and ARB to maintain accountability, and enhance the effectiveness of evaluations and audits.

Equipment owners must keep project records and report annually to the local agency. The specific information depends on the type of equipment and project as described in Guidelines Appendices A-G.

The local agencies must report the following information while the project is in progress, as detailed in Guidelines Chapter III.G.:

- Quarterly data updates on the implementation of all local agency projects and the status of specific equipment projects (under contract, inspected, funded, etc).

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- Semi-annual reports which include: the quarterly data, information on the performance benchmarks achieved, and actions undertaken to ensure the local agency project is on schedule and within budget.
- Project completion reports that describe the final project costs, timelines, and performance outcomes, as compared to the original project proposal.

As required by statute, ARB will forward the semi-annual and project completion reports submitted by local agencies to the Department of Finance (DOF), consistent with Guidelines Chapter II.E.6.c.

ARB staff will prepare an annual report documenting progress in implementing the Goods Movement Emission Reduction Program. Once the Program is fully implemented, ARB will submit the report to the Legislature by January 10 of each year. Requirements for ARB's annual report are included in Chapter II.E.6.d. of the Guidelines.

ARB staff will periodically update the status of local agency projects on the Program website and will post all final reports.

Follow-Up Accountability

ARB will utilize the reports submitted by local agencies to assess each local agency's progress and compliance with the terms of the grant agreement.

Audits

In addition to ongoing evaluations, the Guidelines contain auditing procedures to ensure that all funded local agencies continue to meet the requirements of the Program. ARB will use a risk-based approach to select specific local agency projects for program and fiscal audits. Local agencies demonstrating good performance when audited will likely be audited less frequently in the future than similarly-funded local agencies with poorer audit results. Auditing procedures and the responsibilities of all parties are detailed in Guidelines Chapter II.E.5 for ARB audits of local agency projects. Guidelines Chapter II.E.7. describes the process for dealing with a poor audit finding, including the remedies available to ARB.

ARB staff is currently discussing with DOF the best mechanism(s) for performing concurrent program and fiscal audits of local agencies, using staff from ARB and potentially other State agencies. Local agencies and equipment owners must give ARB, DOF, Bureau of State Audits, or authorized parties access to records and equipment.

ARB is also subject to audit by DOF, the Bureau of State Audits, and other agencies to determine whether the bond expenditures were made according to the established front-end criteria and processes (i.e., the Guidelines), and achieved the intended outcomes.