

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

2005 DEC - 13 PM 12: 59

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Finance and Management Agency  
DATE: December 13, 2005

RE: **ACTION ON A FOLLOW-UP REPORT REGARDING THE 2.5 PERCENT  
SET ASIDE OF UNRESTRICTED GENERAL FUND REVENUE TO THE  
KIDS FIRST! FUND**

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**SUMMARY**

At its October 11, 2005 meeting, the Finance and Management Committee heard reports from the City Auditor and the Finance and Management Agency (FMA) regarding the allocation of 2.5 percent of the unrestricted general fund revenue to the Kids First! Fund.

The City Auditor has determined that the City should allocate to the Kids First! Fund 2.5 percent of **actual** unrestricted general fund revenue. The City Auditor also stated that because the City has failed to "true up" the fund at the end of each fiscal year, the fund is owed an additional \$2.4 million.

FMA has determined that the intent of the voters, in approving Measure K, was to allocate to the Kids First! 2.5 percent of the unrestricted general fund revenue **budget** and no additional funds are due to Kids First!. At the request of the Committee, the Budget Office reviewed the City Auditor's computation of the 2.5 percent set-aside (based on **actual** revenues) and found the Auditor's calculation failed to take into account certain year-end audit adjustments and failed to exclude certain restricted revenues. After making these adjustments to the Auditor's calculations, the Budget Office determined the difference between the budgeted and actual amounts to be \$842,077.

The Committee directed staff to return with a report delineating the fiscal impact of two options: 1) Allocate the difference between budgeted and actual unrestricted general fund revenue beginning in FY 2005-06 or 2) Allocate to the Kids First! fund the amounts due from previous fiscal years; and if the Council decides to repay the Kids First! fund after a reconciliation, what source(s) of funds should be used to make the payment.

**FISCAL IMPACT**

The potential fiscal impact of a repayment from FY 1997-98 through FY 2004-05 is \$842,077 from the General Fund. The amount of a prospective true-up will not be known until at least December, following the end of each fiscal year, after the City completes the outside audit.

Item: \_\_\_\_\_  
Finance and Management Committee  
December 13, 2005

## BACKGROUND

The Kids First! Fund resulted from an initiative (Measure K) approved by Oakland voters in November 1996. Measure K includes two major requirements. The first is the set-aside of 2.5 percent of General Fund unrestricted revenues for appropriation in the Kids First! Fund. The drafters of the measure wanted to ensure that this set-aside did not supplant the budget that already existed in the City's General Fund. The second requirement, therefore, provides a base level of appropriations and expenditures on youth programs in the General Fund.

Measure K provides for an appropriation of 2.5 percent of the General Fund budget at the start of the fiscal year. For the first six months of the fiscal year, the oversight committee allocates the appropriations to various non-profit groups. Expenditures of the appropriation are made during the calendar year, which begins in that fiscal year. For example, appropriations for fiscal year July 1, 2005 to June 30, 2006 will be awarded in late 2005 to be spent during the calendar year (January 1, 2006 to December 31, 2006).

The second requirement of Measure K is to maintain a level of baseline spending; so that the Kids First! 2.5 percent set-aside does not supplant previous spending on youth programs. This requirement also provides for an annual "true-up" of the baseline spending amount by the City Auditor, based on actual expenditure levels. No annual true up to actual revenues is provided for the 2.5 percent set-aside.

In 2003, the City Auditor requested an opinion from the City Attorney's Office on whether the 2.5 percent set-aside should be based on actual or budgeted unrestricted General Fund revenues. The City Attorney's Office opined, in a memo dated August 19, 2003, that the set-aside should be based on **actual** revenues.

## KEY ISSUES AND IMPACTS

The FMA maintains that the intent of the voters was to provide 2.5 percent of **budgeted** unrestricted General Fund revenues. However, the Council directed staff to provide the impact of: 1) 2.5 percent of **actual** General Fund revenues prospectively, and 2) 2.5 percent of **actual** General Fund revenues beginning with FY 1997-98. Provisions for prospective and retroactive true-ups are discussed below. The options below are presented as a compromise to the dispute over the City Charter language. Accepting any one of the alternatives, to be based on the Budget Office calculation, would not indicate agreement that a true-up to actual revenues is required under the measure.

### Prospective True-up

If City Council desires to true-up the Kids First! transfer to actual revenues on a prospective basis, this true-up would need to be delayed approximately until the December following the end of each fiscal year (once the year end audit is finalized). Council could grant the City

Administrator the authority to make the appropriate budget adjustments to fund the additional transfer, or staff could return to Council for approval.

This transfer should have no budget impact if the fiscal year ended in a surplus, due to revenues coming in over budget. In that case, Kids First! would receive 2.5 percent of the excess revenues. In the FY2005-07 budget deliberations, Council decided to use the projected surplus for FY2003-04 to fund a portion of the FY05-07 budget. If prospective true-ups are to be performed in the future, an estimated amount would first need to be set aside to fund the projected additional transfer to Kids First!, before the surplus could be used to balance future budgets. If the General Fund finished the year in a deficit position, because expenditures were over budget, appropriation adjustments would need to be made to fund the transfer.

Should revenues come in under budget (as was the case in three of the first seven years of the Kids First! Fund), Kids First! would need to repay the General Fund. If sufficient fund balance is available, this should not be a problem. Otherwise, contracts with the non-profit entities would need to contain a provision to reduce the contract amount, dependent on funding availability.

**Retroactive True-up**

If City Council decides to perform a retroactive true-up to actual revenues, the \$842,077 balance could be repaid in one of three ways:

- *The repayment could be made in the current (FY2005-06) budget year.* As no provision has been made for this transfer in the adopted budget, offsetting budget cuts would need to be made in other General Fund appropriations.
- *The repayment could be deferred until the next two-year budget cycle.* As the total fund balance of the Kid’s First Fund is projected to be \$9.7 million (approximately one year’s appropriations for the fund), at June 30, 2005, there is no apparent urgency for the repayment. Funding for this repayment would be taken into account during the development of the next two-year budget.
- *The repayment could be made from future General Fund surpluses.* Though this option mitigates impacts to current or future General Fund budgets, the timing of the repayment would be uncertain. Given the robust projected Kids First! Fund balance discussed above, the timing of the repayment does not appear critical.

**SUSTAINABLE OPPORTUNITIES**

None.

**DISABILITY AND SENIOR CITIZEN ACCESS**

None.

### RECOMMENDATION(S) AND RATIONALE

Staff recommends the Kids First! Fund receives its legally mandated 2.5 percent set-aside based on **budgeted unrestricted general fund revenues**. The Kids First! legislation contains no true-up provision to adjust the 2.5 percent set-aside at year-end. Arguments for Measure K (voter intent) clearly indicate the use of budgeted revenues.

However, if the Council determines that it will allocate the \$842,077 from the previous years and any excess amount from the current year, it is recommended that this amount be from future General Fund surpluses, so as not to impact current or future budgets. The Kids First! Fund has a total projected fund balance of \$9.7 million as of June 30, 2005, which should allow the program to continue to fund contracts to provide services to the children of Oakland.

### ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the Council provide direction on the following:

1. Should Kids First! receive its 2.5 percent set-aside based on **budgeted or actual** unrestricted general fund revenue;
2. If the Council decides that the allocation will be based on **actual** unrestricted general fund revenue, will the true-up be for all previous fiscal years (\$842,077) or be done prospectively, beginning with FY 2005-06; and
3. If a retroactive true-up is to be made, how should the repayment be funded?

Respectfully submitted,



**WILLIAM E. NOLAND**

Director, Finance and Management Agency

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:

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**OFFICE OF THE CITY ADMINISTRATOR**

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Finance and Management Committee  
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