

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JUL 10 PM 4:00

City of Oakland Office of the City Auditor

Measure M Performance Audit: The City Used Emergency Medical Services Funds Appropriately

June 30, 2008



City Auditor
Courtney A. Ruby, CPA

CITY OF OAKLAND



CITY HALL • ONE FRANK H. OGAWA PLAZA, 4TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Auditor
Courtney A. Ruby, CPA
City Auditor

(510) 238-3378
FAX (510) 238-7640
TDD (510) 238-3254
www.oaklandauditor.com

June 30, 2008

OFFICE OF THE MAYOR
HONORABLE CITY COUNCIL
OAKLAND, CALIFORNIA

RE: Measure M Performance Audit: The City Used Emergency Medical Services Funds Appropriately

Dear Mayor Dellums, President De La Fuente and Members of the Council:

I am pleased to present a performance audit of the use of the parcel tax proceeds from the Emergency Medical Services Retention Act of 1997 (Measure M). In 1997, the voters of the City of Oakland (City) passed Measure M, which imposed a special tax on all parcels in the City of Oakland to raise revenue necessary to retain and enhance emergency medical services in the City.

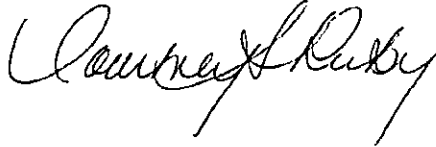
The objective of our audit was to determine whether the proceeds from Measure M were properly disbursed in accordance with the objectives established in the ballot measure. Our audit found that the City spent Measure M monies in accordance with the measure—to retain and enhance emergency medical services in the City of Oakland. However, the language of the measure provides the City with broad discretion on how the funds can be used and we believe the City would be better served if it developed formal guidance on how these monies should be used.

The Measure M Fund had a balance of nearly \$1.4 million as of June 30, 2007, and we recommend the City take steps to reduce this balance and establish an appropriate reserve. If the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increase until the fund balance is reduced to an acceptable level.

In response to the Administration's response, I want to emphasize that in the absence of procedures to ensure consistent and proper use of these funds, the City cannot provide the public with reasonable assurance that the measure's objectives are being met and that the interest of the public is being served. As I have stated in other reports released, I believe it is incumbent upon us as public servants to foster a sound internal control environment which will translate into increased public confidence.

I would like to express my appreciation to the City Administration for their cooperation during our audit. A response from the Administration is included in the audit report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Courtney A. Ruby". The signature is written in a cursive style with a large initial 'C' and a long, sweeping tail.

COURTNEY A. RUBY, CPA
City Auditor

City of Oakland
Office of the City Auditor

Measure M Performance Audit:
The City Used Emergency Medical
Services Funds Appropriately

June 30, 2008

Table of Contents

EXECUTIVE SUMMARY	i
INTRODUCTION	1
Background	1
Audit Objectives, Scope, and Methodology	4
AUDIT RESULTS: THE CITY HAS USED MEASURE M MONIES APPROPRIATELY BUT MORE FORMAL GUIDANCE ON THE USE OF THESE MONIES IS NEEDED	
The City Has Used Measure M Monies Appropriately	5
The City Needs to Develop Formal Guidance on How to Use Measure M Monies	6
The Measure M Fund Has a Significant Balance	7
CONCLUSION	8
Recommendations	8
City Administrator’s Response	9
City Auditor’s Response to the City Administrator’s Response	15

EXECUTIVE SUMMARY

In 1997, Oakland voters passed the “Emergency Medical Services Retention Act of 1997” (Measure M). The purpose of this measure was to impose a special tax on all parcels in the City of Oakland (City) to raise revenue necessary to retain and enhance emergency medical services in the City of Oakland. In fiscal years 2005-06 and 2006-07, the Fire Services Agency (Agency) spent a total of \$2.1 million in Measure M monies. The Agency spent \$1.9 million of these monies on personnel services, \$7,600 on operations and maintenance costs, and nearly \$171,000 on overhead costs. We concluded that the Agency spent Measure M monies in accordance with the measure—to retain and enhance emergency medical services in the City of Oakland. However, we believe that the City would be better served if it developed formal guidance on how these monies should be used. In addition, the Measure M Fund had a balance of nearly \$1.4 million as of June 30, 2007, and we recommend the City take steps to reduce this balance and establish an appropriate reserve.

INTRODUCTION

The Office of the City Auditor completed a required review of the use of the parcel tax proceeds of the Emergency Medical Services Retention Act of 1997 (Measure M). Specifically, the Office conducted this audit to determine whether the City of Oakland (City) spent Measure M monies in accordance with the objectives specified in the measure.

Background

In 1997, Oakland voters passed the “Emergency Medical Services Retention Act of 1997.” The purpose of this measure was to impose a special tax on all parcels in the City of Oakland to raise revenue necessary to retain and enhance emergency medical services in the City. Prior to the voters’ approval of the parcel tax, Alameda County (County) and the City assessed an Emergency Medical Services tax to offset the costs of providing dispatch service for county-wide emergency medical services. However, in 1996, California voters passed State Proposition 218, which invalidated this tax. As a result, the City’s general fund was used to pay for all of the City’s emergency medical services costs. To remedy this situation, the Oakland City Council approved an ordinance to place Measure M on the ballot to continue to fund, support, and enhance the City’s Emergency Medical Services (EMS) program.

Parcel Tax Rate

Measure M imposed varying tax rates on parcels depending on the type of structure on the property. The initial tax rates imposed under the measure were as follows:

- \$9.00 for single family residences, rural and institutional parcels;
- \$18.00 for small multiple residential (2-4 units) and commercial parcels;
- \$36.00 for industrial parcels; and
- \$45.00 for large multiple residential (5 or more units) parcels.

The measure also gave the City Council the authority to increase the tax rates through a prescribed formula after the third year of the imposition of the tax and each year thereafter. The measure allows the City Council to approve tax rate increases that are the lesser of (1) the increase in the Consumer Price Index in the San Francisco Bay Area using 1997 as the index year, or (2) 5 percent above the tax rates imposed in the previous year.

Accordingly, the City Council has increased the tax rates for Measure M each fiscal year following the third year of imposition of the tax, which has resulted in a 26 percent increase in the parcel tax rate since the measure's passage. The latest parcel tax rate increase was effective July 1, 2007. Table 1 summarizes the tax rate initially imposed and the current parcel tax rate.

TABLE 1
SUMMARY OF PARCEL TAX RATE
INCREASES FOR MEASURE M

Parcel Type	Initial Rate	FY 2007-08 Rate	Percentage Increase
Single Family Residential	\$ 9.00	\$ 11.34	26%
Small Multiple Residential (2-4 units)	\$ 18.00	\$ 22.67	26%
Large Multiple Residential (5 or more units)	\$ 45.00	\$ 56.67	26%
Commercial	\$ 18.00	\$ 22.67	26%
Industrial	\$ 36.00	\$ 45.33	26%
Rural	\$ 9.00	\$ 11.34	26%
Institutional	\$ 9.00	\$ 11.34	26%

Measure M Revenues and Expenditures

Measure M authorized the City Council to request the County to collect this parcel tax in conjunction with the County's collection of property tax revenues for the City. From the inception of Measure M through June 30, 2007, the City has received a total of over \$13.8 million in parcel tax revenue from the County. In addition to the parcel tax revenue, the City has earned \$678 in interest on the Measure M Fund balance. Furthermore, the City transferred nearly \$1.3 million to the Measure M fund that had accumulated from the Emergency Medical Services tax (Measure C) that was in place prior to the passage of Measure M. Thus, in total, the City has had approximately \$15.1 million available to spend on emergency medical services since passage of the measure. A summary of the revenues available for Measure M is displayed in Table 2 below.

TABLE 2
SUMMARY OF MONIES AVAILABLE
FOR MEASURE M
FISCAL YEARS 1998 THROUGH 2007

Total Revenue Received from County	\$13,803,249
Interest	678
Fund Balance from Measure C ¹	<u>1,274,485</u>
Total Revenue	<u>\$15,078,412</u>

Since the inception of the measure through fiscal year ending June 30, 2007, the City has spent \$13,691,570 in Measure M monies. Thus, Measure M Fund expenditures (\$13,691,570) have approximated the amount of revenues received from Measure M (\$13,803,249). The Audit Results section of this report describes how the City has spent these monies.

The City accounts for all Measure M revenues and expenditures in a separate fund, Fund 2412, hereinafter referred to as the Measure M Fund. As of June 30, 2007, the year-end balance for Measure M Fund was \$1,386,842. The amount of the fund balance is discussed in the Audit Results section.

Oakland Fire Services Agency's 911 Dispatch Communications Program

The Oakland Fire Services Agency's (Agency) 911 Dispatch Communications Program provides dispatch support for emergency calls. Emergency calls first go to the Oakland Police Department and fire-related calls are then directed to the Agency's Dispatch Center. The Dispatch Center operates continuously and has three work shifts daily, each eight hours long. The Agency staffs each shift with four Fire Communications Dispatchers and one Fire Communications Supervisor who supervises the dispatchers.

During the two years of our review, the Dispatch Center was budgeted for 23 full-time equivalent (FTE) positions. Of this total, the general fund was budgeted for 14 FTE's, Measure M Fund was budgeted for 8 FTE's, and 1 FTE was funded from the Sewer Service Fund.

¹ Revenue from Measure C, the ballot measure previously used to fund Emergency Medical Services, was transferred to the Measure M fund in fiscal year 1997.

Audit Objectives, Scope, and Methodology

Audit Objectives

The objective of this audit was to determine whether the proceeds from Measure M were properly disbursed in accordance with the objectives established in the ballot measure.

Audit Scope

The scope of the audit was all Measure M monies spent in fiscal years 2005-06 and 2006-07.

Audit Methodology

To determine whether the City has disbursed the proceeds in accordance with the ballot measure, we reviewed the ballot language and discussed how the monies can be used with a representative from the Office of the City Attorney. We also met with representatives from the Agency to determine how they used Measure M monies. To determine whether the City used the monies in accordance with the measure, we analyzed payroll and overhead expenditures charged to the Measure M Fund to determine if these expenditures were consistent with the intent of the measure. For example, for payroll expenditures, we identified the staff costs charged to the Measure M Fund and assessed whether their duties were consistent with the objectives established in the measure. For overhead expenditures, we verified that these charges were consistent with the City's methods for applying overhead costs.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS: THE CITY HAS USED MEASURE M MONIES APPROPRIATELY BUT MORE FORMAL GUIDANCE ON THE USE OF THESE MONIES IS NEEDED

Measure M provides the City with broad discretion on how the monies can be used. Specifically, the measure allows the monies to be used to retain and enhance emergency medical services. In fiscal years 2005-06 and 2006-07, the Agency spent a total of \$2.1 million in Measure M monies. The Agency spent \$1.9 million of these monies on personnel services, \$7,600 on operations and maintenance costs, and nearly \$171,000 on overhead costs. We concluded that the Agency spent Measure M monies in accordance with the measure--to retain and enhance emergency medical services in the City of Oakland. However, we believe that the City would be better served if it developed formal guidance on how these monies should be used. In addition, the Measure M Fund had a balance of nearly \$1.4 million as of June 30, 2007 and we recommend the City take steps to reduce this balance and establish an appropriate reserve.

The City Has Used Measure M Monies Appropriately

The Measure M language provides the City with broad discretion on how the funds can be used. Specifically, Measure M states:

The tax imposed under this ordinance is solely for the purpose of raising revenue necessary to retain and enhance emergency medical services in the City of Oakland.

In fiscal years 2005-06 and 2006-07, the Agency spent over \$2.1 million in Measure M monies, \$975,613 in 2006 and \$1,167,605 in 2007. Table 3 shows Measure M monies spent by expenditure category.

TABLE 3
MEASURE M EXPENDITURES
BY CATEGORY
FY 2005-06 AND FY 2006-07

Expenditure Category	FY 2005-06	FY 2006-07	Total	Percent of Total
Personnel Services	\$ 894,446	\$ 1,070,168	\$ 1,964,614	91.7%
Operations and Maintenance	2,064	5,583	7,647	.3%
Overhead	79,103	91,854	170,957	8.0%
Totals	\$ 975,613	\$ 1,167,605	\$ 2,143,218	100.0%

As Table 3 shows, in fiscal years 2005-06 and 2006-07, the City spent nearly 92 percent of Measure M monies on personnel services. Furthermore, the Agency spent less than 1 percent of the Measure M monies on operations and maintenance costs, and overhead accounted for the remaining 8 percent of expenditures.

Our review found that these expenditures were in accordance with Measure M's broad directive to retain and enhance emergency medical services. The Agency used these monies to pay for the salaries, overtime, fringe benefits, and leave costs of the Agency's Fire Communications Dispatchers. Specifically, in fiscal years 2005-06 and 2006-07, the Agency spent Measure M monies to fund eight FTE Fire Communications Dispatcher positions.

The City charges certain funds an overhead rate, referred to as Central Services Overhead, to recover general administrative costs associated with those operations providing direct services. The overhead costs were consistent with the City's procedures for calculating overhead costs.

The City Needs to Develop Formal Guidance on How to Use Measure M Monies

The City has not developed any written policies and procedures regarding how Measure M monies can be used. Thus, the City lacks any formal guidance on how these monies can or cannot be used. Therefore, the decisions on how Measure M monies can be spent are left to the discretion of Agency staff.

In our opinion, the City needs to develop formal guidance on the use of Measure M monies to ensure consistent and proper use of these monies.

Formal written policies and procedures are a fundamental component of an organization's management that provides reasonable, though not absolute, assurance that management's objectives are being met. Therefore, we recommend that the City Administration develop a policy and procedure defining how Measure M monies can be used. Specifically, the policy and procedure should clearly state the specific programmatic activities that can be funded with Measure M monies and the allowable costs associated with these activities. This policy and procedure should also identify responsibility for enforcing its provisions.

The Measure M Fund Has a Significant Balance

At the end of fiscal year 2006-07, the Measure M Fund had a significant balance of nearly \$1.4 million. The Measure M Fund balance has fluctuated dramatically since the passage of the measure. For five straight years beginning in fiscal year 1999-00, the Measure M Fund had a deficit at year end. Beginning in fiscal year 2002-03, the Agency reduced its spending from the Measure M Fund to eliminate the deficit. Specifically, the Agency reduced the number of Fire Communications Dispatchers funded from Measure M. As a result of the expenditure reductions over the last five years, the Measure M Fund now has a year-end balance of nearly \$1.4 million.

Although the Measure M Fund has a significant balance, City staff has requested the City Council to approve an increase to the tax for each of the last eight years. In our opinion, the Fire Services Agency should work with the Office of the City Administrator and the Finance and Management Agency to reduce the year-end balance for the Measure M Fund. These steps should include developing a policy on an appropriate reserve for the fund, developing a long term expenditure plan for Measure M monies, budgeting expenditures at a level commensurate with the estimated annual revenues, monitoring the fund balance, and identifying other uses for these monies that are consistent with the uses specified in the measure. If the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level.

In response to the audit, the Agency has stated that they are exploring options to use the available monies in the Measure M Fund. Specifically, the Agency staff is evaluating options for a one-time use of the monies to lower the Measure M Fund balance.

CONCLUSION

Our review found that the Agency spent \$2.1 million in Measure M monies in fiscal years 2005-06 and 2006-07. The Agency spent nearly 92 percent of these monies on personnel costs associated with Fire Communications Dispatcher salaries, overtime, fringe benefits, and leave costs. The remaining monies were spent on operations and maintenance costs and overhead. Our review concluded that these monies were spent in accordance with the broad directive to retain and enhance emergency medical services in the City of Oakland. However, we believe that the City would be better served if it developed formal guidance on how these monies should be used. In addition, the Measure M Fund had a balance of nearly \$1.4 million at the end of the 2006-07 fiscal year. The City should take steps to reduce this balance.

Recommendations

RECOMMENDATION No. 1: The City Administration should develop a policy and procedure defining how Measure M monies can be used. Specifically, the policy and procedure should clearly state the specific programmatic activities that can be funded with Measure M monies and the allowable costs associated with these activities. This policy and procedure should also identify responsibility for enforcing its provisions.

RECOMMENDATION No. 2: The Fire Services Agency should work with the Office of the City Administrator and the Finance and Management Agency to reduce the year-end balance for the Measure M Fund. These steps should include developing a policy on an appropriate reserve for the fund, developing a long term expenditure plan for Measure M monies, budgeting expenditures at a level commensurate with the estimated annual revenues, monitoring the fund balance, and identifying other uses for these monies that are consistent with the uses specified in the measure. If the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level.



Inter-Office Memo

Office of the City Administrator

June 2, 2008

To: Courtney Ruby, City Auditor

From: Deborah Edgerly, City Administrator *DE*

Re: Response to Draft Measure M Audit Findings and Recommendations

I have reviewed the May 29, 2008 Draft Measure M Audit Report and offer the following comments:

The draft report confirms that the City expended Measure M funds in accordance with the provisions of the ballot measure during fiscal years 2005-06 and 2006-07. Unfortunately, the draft report continues with two recommendations, several negative inferences and disregards several key points discussed during our May 21, 2008 audit exit conference.

Recommendation No. 1:

The City Administration should develop a policy and procedure defining how Measure M monies can be used. Specifically, the policy and procedure should clearly state the specific programmatic activities that can be funded and the allowable costs associated with these activities. This policy and procedure should also identify responsibility for enforcing its provisions.

1

Response:

The Measure M initiative clearly states the purpose for which these funds may be utilized – to retain and enhance emergency medical services. A written policy would merely re-state this measure language and would serve no useful purpose. Such written policies defining specifically how monies may be used do not exist for any of the City's other numerous funds. Furthermore, direction for the appropriate expenditure of all City funds is provided in the City's Budget which is reviewed and adopted by the City Council.

The audit also recommends establishing written procedures for the expenditure of these funds. The City currently has in place detailed purchasing procedures for the expenditure of all City funds. The procedure for the expenditure of Measure M funds falls within those existing purchasing guidelines.

Recommendation No. 2:

The Fire Services Agency should work with the City Administrator's Office and the Finance and Management Agency to:

- reduce the year end balance for the Measure M Fund. These steps should include developing a policy on an appropriate reserve for the fund, developing a long term expenditure plan for Measure M monies, budgeting expenditures at a level commensurate with the estimated annual revenues, monitoring the fund balance, and identifying other uses for these monies that are consistent with the uses specified in the measure.
- If the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level.

Response:

A review of annual revenues and expenditures indicates that each year expenditures closely approximate total revenue collected. The current fund balance of \$1.4 million is mainly attributable to the one-time revenue carry forward from 1997-1999 due to the length of time required to implement the Emergency Medical Service Program. These are therefore one-time funds which should be expended on one-time capital costs. The notation in Recommendation No. 2 that "if the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level" is misleading and disregards discussions that the Fire Chief and his staff had with the audit staff. The Fire Chief has a plan for the expenditure of the Measure M fund balance. This plan was discussed with the City Auditor prior to completion of the audit and during the May 21, 2008 audit exit conference and was also documented in an April 30, 2008 memorandum from the Fire Chief to the City Auditor (copy attached). The Fire Chief has requested an opinion from the City Attorney's Office regarding whether the Measure M fund balance can be utilized for the purchase of three replacement fire engines which are currently utilized approximately 80 percent of the time to provide emergency medical response services. The City Attorney's opinion has not yet been received.

2

The draft audit report indicates that the majority of funds have been expended for personnel services. Table 1 of the draft report (Summary of Rate Increases) indicates that rates have been increased by 26 percent between the initial rate and the FY 2007-08 rate. What the audit does not reflect, however, is a comparison of the annual rate increase to the salary increases granted to sworn Fire personnel. The table below indicates that between 2000 and 2007, while the annual Measure M assessments have increased by 26 percent, the personnel costs (COLA only) which these measures fund have increased by 49 percent. Eliminating an annual increase to this fund which is highly labor intensive would result in the funds revenue lagging behind expenditure obligations. This action could be considered short-sighted and poor fiscal management.

3

Historical Measure M Rate Increases versus IAFF COLA		
Effective Date	Measure M Assessment % Increase	IAFF COLA % Increase
July 2000	4.2%	3.0%
July 2001	4.5%	8.0%
July 2002	5.0%	6.0%
July 2003	1.6%	6.0%
July 2004	1.8%	5.0%
July 2005	1.2%	5.0%
July 2006	2.0%	4.0%
July 2007	3.2%	4.0%
Cumulative Total	26.0%	49.0%

In summary, the audit finding that Measure M funds have been expended properly is accurate. The notation that the fund balance is too high ignores the fact that the reserve funds are mainly the result of a one-time lag in expenditures during the set-up of the fund, the reserve fund balance is monitored by staff and a specific plan for use of these funds was identified well in advance of this audit. The recommendation for written policies and procedures for the expenditure of these funds ignores the fact that these guidelines are already provided within the initiative language and the City's purchasing procedures and disregards the fact that staff has consistently demonstrated a clear understanding of these guidelines.

4

cc: Daniel Farrell
William Noland
William Zenoni

CITY OF OAKLAND

MEMORANDUM

To: Courtney Ruby, City Auditor
From: Daniel D. Farrell, Fire Chief
Date: April 30, 2008

Subject: Measures M & N

The purpose of this memo is to respond to our discussion that took place on April 4, 2008 with your staff on the Measure M and Measure N internal audit for the periods of FY 2005-06 and FY 2006-07.

Our discussion was focused on the following:

1. "... the City Council direct City staff to develop regulations on how Measure (M & N) monies should be used."
2. "Take steps to reduce the Measure (M & N) fund balance."

The following are our responses:

It is my position that the City Council has in fact promulgated the parameter for use of Measures M & N fund, through their approval of departmental budgets. As outlined we (OFD) continue to utilize the Measure language and guideline for our fund expenditure.

Measure M

1. The Measure M language is used as the guideline for utilizing Measure M funds. For example, Measure M is used "for the following services:

"The Emergency Medical Dispatch Center, which receives medical 911 calls, helps the caller to determine the best medical response, and provides initial medical advice while firefighters are on the way.

Training and equipment for firefighters to perform Basic Life Support emergency medical response. Basic Life Support includes monitoring blood pressure, stopping bleeding, defibrillation for irregular heart beat, treatment for shock, and temporary support for broken bones.

Continued training for firefighters to ensure and improve high quality basic medical service in Oakland." (see attached)

Currently, we use Measure M funds to fund 10 dispatcher positions and 1 medical quality assurance position. In addition, we use Measure M funds to provide medical service supplies and required training.

2. As discussed and your staff concurred, the current annual expenditure is at about the same level of the revenue collection. The \$1.38 million fund balance is mainly attributed to the one-time carry forward from 1997-1999 due to the time it took to implement the Emergency Medical Service (EMS) program. We believe that the one-time saving should be used for one-time expenditure items. Oakland Fire Department (OFD) has submitted a request to interpret the fund usage and see whether the fund is qualified for purchasing fire engines. A fire engine is the primary apparatus to carry our personnel to the medical scene and provide Basic Life Support and Advance Life Support emergency medical services.

Measure N

1. The Measure N language is the guideline for utilizing Measure N funds. For example, Measure N is used “for the following services:

“Paramedic training for firefighters to give Advance Life Support emergency medical response. Advance Life Support includes giving life-saving medication, replacing blood loss with intravenous fluids, and keeping air passages open by intubation. Paramedic firefighters are in contact with an Emergency Room physician and act only at his/her direction, until the ambulance staff arrives and takes over.

Advance Life Support equipment and supplies for each fire engine.” (see attached)

OFD is currently using Measure N funds to provide funding for 5 full-time equivalent positions, which cover administrative service to the Emergency Medical Service (EMS) program, design of the EMS training curriculum, instructors who provide EMS training, and keep records of EMS training.

Measure N funds are also used to provide Advance Life Support equipment. For example, in 2004-05, EMS division purchased defibrillators in the amount of \$875,000.

2. The Measure N fund balance was \$1.5 million as of the end of FY 2006-07. The fund balance can be attributed to two reasons: (1) OFD has been actively seeking grant funds to purchase medical related supplies and equipment; and (2) the fund balance is to be used when medical equipment needs to be replaced as was the case in FY 2004-05 for the defibrillators.


These are some examples for which we used the federal grant funds to purchase medical equipment:

- a. \$6,360.66 for various medical supplies on 9/26/06
- b. \$287,301.02 for SCBA on 2/9/07
- c. \$82,402 for the Haz Mat van on 10/11/07
- d. \$123,100.06 medical supplies on 2/15/02
- e. \$251,899.94 medical supplies on 12/15/01.

Staff also had developed a spending plan of \$991,700 in utilizing the Measure N fund balance.

We appreciate you and your staff’s assistance on this internal audit. If you have any questions

regarding our response, please contact Donna Hom, the Chief Financial Office of the Fire Department, at ext. 2038 or via e-mail at dhom@oaklandnet.com



Daniel D. Farrell
Fire Chief

Comments

City Auditor's Response to the City Administrator's Response

To provide clarity and perspective, we are commenting on the response from the Office of the City Administrator. In this response, the Office of the City Administrator will be referred to as the Administration.

1. In its response, the Administration states, "The Measure M initiative clearly states the purpose for which these funds may be utilized—to retain and enhance emergency medical services. A written policy would merely re-state this measure language and would serve no useful purpose. Such written policies defining specifically how monies may be used do not exist for any of the City's other numerous funds. Furthermore, direction for the appropriate expenditure of all City funds is provided in the City's Budget which is reviewed and adopted by the City Council."

We disagree with the points the Administration has raised in the above statement. First, we believe that the language in the measure is so broad that additional written guidance is needed on how the monies can and cannot be used. The ballot measure charges the Director of Finance with the enforcement of the ordinance and authorizes the Director of Finance to prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of the ordinance. The need for policies and procedures is highlighted by the fact that the Administration needed to obtain a legal opinion as to whether the Measure M monies could be used to pay for equipment in support of emergency medical services. The Administration requested this opinion in 2008, 11 years after the ballot measure was passed. Additionally, the City's budget is a high level document that appropriates funding programmatically but does not specifically address how Measure M monies can and cannot be used. Finally, the Administration suggests that the procedure for the expenditure of Measure M funds falls within the City's existing purchasing guidelines and procedures. The City's general purchasing procedures are intended to be the framework for the City's overall purchasing requirements. Thus, these procedures do not define specific allowable costs associated with any measure. It is the City's responsibility to use Measure M monies in accordance with the measure and to ensure consistent and proper use of these monies. In the absence of procedures to ensure consistent and proper use of these funds, the City cannot provide the public with reasonable assurance of its compliance with Measure M. For example, a written policy would clearly identify responsibility for enforcing the provisions of Measure M and thereby

provide reasonable assurance that the measure's objectives are being met. Thus, we reiterate our recommendation that the Administration should develop a policy and procedure defining how Measure M monies should be used.

2. The Administration takes issue with a component of Recommendation No. 2 which states, that "If the City cannot reduce the fund balance, it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level." In regards to this component of the recommendation, the Administration states "The notation in Recommendation No. 2...is misleading and disregards discussions that the Fire Chief and his staff had with the audit staff." The Administration goes on to state that "The Fire Chief has a plan for the expenditure of the Measure M fund balance. This plan was discussed with the City Auditor prior to completion of the audit and during the May 21, 2008 audit exit conference and was also documented in an April 30, 2008 memorandum from the Fire Chief to the City Auditor (copy attached)."

We do not believe that the recommendation is misleading. It states, "If the City cannot reduce the fund balance (emphasis added), it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level." The City should not continue to pass along cost of living increases to the taxpayers if the funds are not being fully used in a timely manner. On other hand, if the City Attorney opines that the monies can be used to purchase fire equipment to assist in responding to medical emergencies and these monies are used for such a purpose, then the Measure M Fund balance will be decreased significantly.

In addition, we disagree with the statement that the audit disregards discussions the audit staff had with the Fire Chief and other Fire Services Agency (Agency) staff. We acknowledge that we met on several occasions with the Fire Chief and Agency staff to discuss the Measure M Fund balance and potential uses for the monies. Furthermore, the audit report acknowledges the Agency's proposed actions. Specifically, page 7 of the audit report states, "In response to the audit, the Agency has stated that they are exploring options to use the available monies in the Measure M Fund. Specifically, the Agency staff is evaluating options for a one-time use of the monies to lower the Measure M Fund balance." Nevertheless, our recommendation remains unchanged and we will verify if such purchases occur to reduce the Measure M Fund balance when we perform our quarterly audit recommendation follow up process.

The Administration takes issue with the audit report for including a table that shows the parcel tax rates have increased by 26 percent between the initial rate and the 2007-08 fiscal year rate. The Administration's response points out that personnel costs have increased by 49 percent while the parcel tax rates have increased by 26 percent. The Administration also states that eliminating the annual increase to the fund would result in the funds revenue lagging behind expenditure obligations.

3. We have several comments on the statements in the above paragraph. First, as noted earlier, the recommendation states, "If the City cannot reduce the fund balance (emphasis added), it should consider suspending the annual parcel tax rate increases until the fund balance is reduced to an acceptable level." We believe that the City should not continue to pass along cost of living increases to the taxpayers if the funds are not being fully used in a timely manner. On other hand, if the City uses the monies as planned to purchase fire equipment to assist in responding to medical emergencies, then the Measure M Fund balance will be decreased significantly. Secondly, despite the fact that personnel costs have outpaced the parcel tax rate increases, the Measure M Fund balance was nearly \$1.4 million as of June 30, 2007.
4. We have several comments in regards to the Administration's summary of its response. First, the Measure M Fund balance is not the result of the a one-time lag in expenditures during the set-up of the fund. As noted on page 2 of the report, the City transferred nearly \$1.3 million to the Measure M Fund from the Emergency Medical Services tax measure that was in place prior to the passage of Measure M. However, the City spent more than it received in Measure M funds for the first four years after the measure passed. Furthermore, as stated on page 7 of the report, "For five straight years beginning in fiscal year 1999-00, the Measure M Fund had a deficit at year end. Beginning in fiscal year 2002-03, the Agency reduced its spending from the Measure M Fund to eliminate the deficit. Specifically, the Agency reduced the number of Fire Communication Dispatchers funded from Measure M. As a result of the expenditure reductions over the last five years, the Measure M Fund now has a year-end balance of nearly \$1.4 million."

Second, the Administration's assertion that it had a plan for the use of these monies prior to the audit is simply not true. During the audit, audit staff had frequent discussions with Agency staff on the size of the Measure M Fund balance. Audit staff and Agency staff discussed options for the use of these monies. These discussions led to the Agency requesting a legal opinion on whether the Measure M monies

could be used to purchase equipment to assist in responding to medical emergencies.

Finally, the Administration refers to guidelines in the initiative's language and they have provided examples of these guidelines. As noted earlier, Measure M states, "The tax imposed under this ordinance is solely for the purpose of raising revenue necessary to retain and enhance emergency services in the City of Oakland." This is the only language governing the use of the Measure M monies. As noted earlier, we believe this language is so broad that additional written guidance is needed to define how the monies can and cannot be used. The guidelines that the Administration has referred to in its response are from the published *Arguments In Favor of Measure M* that accompanied the original ballot measure, but are not a part of the measure's language. According to the Office of the City Attorney, the language in the measure is the only guiding language on how the monies can be used. Again, we believe that this language is too broad and the City should develop a specific policy and procedure on how Measure M monies can be used.