

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
300 Lakeside Drive, P. O. Box 12688, Oakland, CA 94604-2688  
(510) 464-6000

**FINANCE, BUDGET & BOND OVERSIGHT COMMITTEE**

May 16, 2017

11:00 a.m.

COMMITTEE MEMBERS: Directors Josefowitz (Chairperson), Allen (Vice Chairperson), Blalock, and Dufty

Chairperson Josefowitz has call a meeting of the Finance, Budget, and Bond Oversight Committee will be held at 11:00 a.m. on Tuesday, May 16, 2017, in the BART Board Room, Kaiser Center 20<sup>th</sup> Street Mall – Third Floor, 344 – 20<sup>th</sup> Street, Oakland, California.

Members of the public may address the committee regarding any matter on this agenda. Please complete a “Request to Address the Board” form (available at the entrance to the Board Room) and hand it to the Secretary before the item is considered by the committee. If you wish to discuss a matter that is not on the agenda during a regular meeting, you may do so under Public Comment.

**AGENDA**

1. Call to Order.
  - a. Roll Call.
2. Alameda County Transportation Affordable Student Transit Pass Pilot Report.\* For information.
3. Revised Investment Policy.\* For information.
4. Independent Auditor’s Report on Audit of Federal Awards under the Office of Management and Budget Uniform Guidance for the Fiscal Year Ended June 30, 2016.\* For information.
5. Fiscal Year 2018 Preliminary Budget. \* For Information.
6. Public Comment.
7. New Business. (An opportunity for Committee Members to introduce potential matters for a future committee agenda)

Kenneth A. Duron  
District Secretary

Please refrain from wearing scented products (perfume, cologne, after-shave, etc.) to this meeting, as there may be people in attendance susceptible to environmental illnesses.

BART provides service/accommodations upon request to persons with disabilities and individuals who are limited English proficient who wish to address BART Board matters. A request must be made within one and five days in advance of Board meetings, depending on the service requested. Please contact the Office of the District Secretary at (510) 464-6083 for information.



# EXECUTIVE DECISION DOCUMENT

|  |   |  |                           |  |
|--|---|--|---------------------------|--|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Paus</i>   |   | GENERAL MANAGER ACTION REQ'D:                            |                           |  |
| DATE: 4/20/2017  |   | BOARD INITIATED ITEM: No                                 |                           |  |
| Originator/Prepared by: Donna Lee<br>Dept: Gov't & Community Relations<br><i>Donna Lee 5/4/17</i><br>Signature/Date: | General Counsel<br><i>[Signature]</i><br>5/2/17 [ ] | Controller/Treasurer<br><i>[Signature]</i><br>5/2/17 [ ] | District Secretary<br>[ ] | BARC<br><i>[Signature]</i><br>5-9-17 [ ] |

## Alameda CTC Affordable Student Transit Pass Pilot

### PURPOSE:

To authorize the General Manager to execute an agreement with Alameda County Transportation Commission (Alameda CTC) for the Affordable Student Transit Pass Pilot (ASTPP).

### DISCUSSION:

With the Board's approval, BART will participate in the Affordable Student Transit Pass Pilot, a pilot program developed, funded, and overseen by Alameda CTC. The goals of the ASTPP are to reduce transit-access barriers for middle and high school students traveling to and from schools, to school-related events, and to other extracurricular or job-related activities; to improve transportation options for Alameda County's middle and high school students; to develop effective transit pilot programs; to create a basis for a countywide student transit pass program (funding permitting); and to build support and develop future ridership for public transit in Alameda County.

Alameda County's transportation sales tax, Measure BB, passed by 70% of voters in 2014, allocated \$15 million to the ASTPP over a three-year period. BART plans to participate in the 2nd and 3rd years of the pilot program starting in August 2017. Participating agencies in the ASTPP are AC Transit, LAVTA (Wheels), Union City Transit, and BART. No federal funds are used in this pilot program.

Alameda CTC is piloting several different models in different parts of Alameda County, including free and universal programs which provide free passes to all students, and means-based programs which provide free passes to low-income students. Alameda CTC has adopted a comprehensive evaluation framework to understand the effectiveness of the

program and learn how the varying parameters affect outcomes.

The ASTPP will gather data about student usage of BART during the Pilot to address the following questions:

- \* For what purposes do students use BART?
- \* At what times during the day, and on which days of the week do students use BART?
- \* Which BART stations (origins and destinations) are used most frequently by students?
- \* How do BART trips connect with, complement, or replace trips that students are making on AC Transit or other transit systems?

Data gathered during Year 2, and the program's ability to fund ASTPP BART tickets will determine the parameters of BART ticket inclusion in the third year of the pilot program.

For student use on BART, Alameda CTC will purchase from BART, \$50-value ASTPP tickets, which are color-coded orange with a special graphic design, at a 50% discount (\$25). The ASTPP tickets are similar to BART's Orange ticket, which BART sells to participating middle and high schools at a 50% discount (\$32 in value sold for \$16).

While use of the existing Orange ticket is limited to Monday through Friday for the purpose of getting to and from school and school-sponsored events, students will be able to use the ASTPP BART ticket any day of the week, and for any purpose.

High schools in BART's service area selected by Alameda CTC to participate in the BART ASTPP include: Castlemont High, Fremont High, and McClymonds High in Oakland; San Leandro High in San Leandro; Hayward High in Hayward; and James Logan High in Union City.

School administrators will distribute ASTPP tickets, and Alameda CTC and BART will track usage and collect other data from students. Under the agreement, Alameda CTC will pay for the ticket stock and printing costs of the ASTPP BART tickets.

While Alameda CTC is paying for printing costs and reimbursing BART 50% of each ticket distributed, the use of the Orange BART ticket would be expanded to include student travel during nights and weekends for activities unrelated to school sponsored events. This expanded use is considered a fare change, subject to 2/3 vote by the BART Board.

The Office of Civil Rights (OCR) completed an equity analysis for BART's participation in the ASTPP. The Analysis assessed whether minority and/or low-income youth will experience disproportionately high and adverse impacts from their participation in this pilot program. It was found that while regular youth fare riders, ages 13-18 are disproportionately

minority and low-income when compared to BART's overall ridership, participating in the ASTPP is considered a benefit because these populations will receive free transportation due to ACTC's subsidy of the BART fare.

On Tuesday, April 11, 2017, staff presented this item to the combined Title VI/Environmental Justice and Limited English Proficient (LEP) Advisory committees. Committee members did not express any concern regarding BART's participation in the program and viewed participation favorably.

**FISCAL IMPACT:**

BART will sell the ASTPP tickets to Alameda CTC at a 50% discount, Alameda CTC will reimburse BART for ticket stock and printing costs. BART will initially print and code 10,000 ASTPP tickets with a face-value of \$50. At a 50% discount this would equate to a \$250,000 cost to BART (\$25 x 10,000), which is equivalent to the discount at which BART sells Orange tickets to participating middle and high schools. BART will print additional ASTPP tickets, if requested, and provide them to Alameda CTC at the same 50% discounted rate.

**ALTERNATIVES:**

Do not give the General Manager authority to execute the Affordable Student Transit Pass Pilot Agreement with Alameda CTC. Alameda CTC would not include BART in the ASTPP as a participating transit agency. This would result in Alameda CTC's not being able to share important and enlightening student ridership data with BART, and BART would lose this opportunity to cultivate new riders.

**RECOMMENDATION:**

Adoption of the following motion with 2/3 vote from the Board.

**MOTION:**

The General Manager is authorized to execute an agreement with Alameda CTC for BART to participate in the Affordable Student Transit Pass Pilot for the 2017/18 and 2018/19 school years.



## EXECUTIVE DECISION DOCUMENT

|  |                               |                               |                    |                               |
|--|-------------------------------|-------------------------------|--------------------|-------------------------------|
| GENERAL MANAGER APPROVAL: <i>Robert M. Peavey</i> 9 MAY 2017 |                               | GENERAL MANAGER ACTION REQ'D: |                    |                               |
| DATE: 3/24/2017  |                               | BOARD INITIATED ITEM: Yes     |                    |                               |
| Originator/Prepared by: Michaela Morales<br>Dept: Finance    | General Counsel               | Controller/Treasurer          | District Secretary | BARC                          |
| <i>Michaela Morales</i> 5/1/17                               | <i>[Signature]</i> 5/1/17 [ ] | <i>[Signature]</i> 5/2/17 [ ] | [ ]                | <i>[Signature]</i> 5-9-17 [ ] |

### DISTRICT'S REVISED INVESTMENT POLICY

#### PURPOSE:

To adopt a revised Investment Policy of the San Francisco Bay Area Rapid Transit District.

#### DISCUSSION:

The District most recently adopted an Investment Policy in 2003. It is a best practice guidance of the Government Finance Officers Association (GFOA) to review a public entity's investment policy on an annual basis. Due to new regulations and guidelines from a variety of regulatory entities, it is helpful to revise the District's Investment Policy to facilitate the Controller-Treasurer's process of investing BART's funds which aggregate \$609.3 million as of December 31, 2016.

The District's Investment Policy describes the parameters for investing certain funds and identifies the investing objectives, constraints on the investment portfolio, and how the investments will be managed and monitored. The policy formalizes the framework for the District's investment activities that must be executed to ensure effective and judicious fiscal and investment management of the District's funds. The guidelines are intended to be broad enough to allow the Controller-Treasurer to function properly within the parameters of responsibility and authority, yet specific enough to adequately safeguard the District's investment assets.

The District's Investment Policy is a communications tool for the public, the Board, and District staff, and other stakeholders on investment guidelines and priorities. The investment policy demonstrates a commitment to the fiduciary care of the District's funds.

The investment policy should include:

1. Governing Authority for investments
2. Scope of Investment Policy (e.g., what fund investments are guided by the Policy)
3. Investment Objectives for the District
4. The District's Reporting/Disclosure for Investments
5. Authorized Investments
6. Investment Suitability for the District

The attached Investment Policy fulfills this requirement. It was prepared with the assistance of the District's financial advisor.

**FISCAL IMPACT:**

No fiscal impact.

**ALTERNATIVES:**

If the Board does not adopt this Revised District Investment Policy, the District will use the current Investment Policy which is outdated and doesn't reflect the changes in the California Public Utilities Commission (CPUC) Sections

**RECOMMENDATION:**

That the Board adopt the District's Revised Investment Policy.

**MOTION:**

The Board adopts the following revised Investment Policy (attached).

# **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT STATEMENT OF INVESTMENT POLICY**

## **SECTION I: INVESTMENT OBJECTIVES, SCOPE & SUITABILITY**

The Controller-Treasurer of the District shall invest District funds in a manner that the Controller-Treasurer deems prudent, suitable and advantageous under existing circumstances and in accordance with the following objectives, in order of priority:

1. Preservation of Capital – The investment portfolio should be structured to minimize the probability of a loss of principal value through adequate diversification of investments across a variety of security offerings, maturities, and financial institutions.
2. Liquidity- funds shall be invested only until date of anticipated need or for a lesser period. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets
3. Yield- generation of the best available return on investment without compromise of the first two objectives.

The District's investment policy shall also discourage the investment of funds in any institution or business which conducts operations or invests funds in any country whose laws discriminate against individuals based upon race, color or creed.

To the extent that District funds are invested pursuant to a Trust Agreement or other Security Agreement, the provisions of such document will control the investment of the funds held hereunder.

## **SECTION II: GOVERNING AUTHORITY**

The Controller-Treasurer may invest in Securities authorized by the California Public Utilities Code Sections 29100 through 29103; California Government Code Sections 53601, 53601.1 and 53635 and Board Resolution 2697 with the following exception: the Controller-Treasurer will not invest in financial or commodity futures, options contracts, medium-term corporate notes, or mutual funds unless specifically authorized by the Board. Should the provisions of respective Codes become more restrictive than those contained herein, such provisions will be considered as immediately incorporated into this investment policy.

## **SECTION III: AUTHORIZED INVESTMENTS**

The Controller-Treasurer may invest in repurchase agreements and will accept as collateral only securities of the U.S. government and U.S. governmental agencies which have a market value, including accrued interest, equal to the amount of the repurchase agreement. The maturity date of the collateral may, however, be later than that required by Objective 2 above.

The Controller-Treasurer may invest in reverse repurchase agreements with a maturity of 90 days or less.

The Controller-Treasurer may invest in "swaps" defined as, the simultaneous buying and selling of a security of approximately the same maturity to increase yield, cash flow or to improve quality.

In addition to the securities authorized above, the Controller-Treasurer may invest in public time deposits in financial institutions having at least one branch within the District boundaries.

The Controller-Treasurer will accept as collateral securities authorized by the California Government Code Section 53651 (a) through (p) excluding subsection (m) promissory notes secured by first mortgages and first trust deeds. The Controller-Treasurer will require 110% collateralization, less the portion authorized by California Government Code Section 53653 on public time deposits, except for San Francisco Federal Home Loan Bank Letters of Credit, in which case the required collateralization will be 105%.

The Controller-Treasurer has the authority to waive the required collateralization and substitute Federal Deposit Insurance Corporation (FDIC) for the first \$250,000 of the investment.

The Controller-Treasurer will continue to seek minority depository institutions, as defined by the Federal Government, for the placement of a portion of the District's funds.

The Controller-Treasurer may invest in money market mutual funds up to 20% of District funds eligible to be invested under California Government Code 53601. The money market mutual funds must carry a credit rating equal to or higher than U.S. Treasury securities and their portfolio must consist entirely of direct obligations of the U. S. Government, its agencies or instrumentalities eligible, and repurchase agreements backed by such obligations.

The Controller-Treasurer may invest in the State of California Local Agency Investment Fund as authorized by California Government Code Sections 16429.1, 2, 3 & 4. up to 20% of District funds eligible to be invested under California Government Code 53601.

The Controller-Treasurer may invest in United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank as authorized by California Government Code Section 53601 (q) up to 30% of District funds eligible to be invested under California Government Code 53601.

#### **SECTION IV: REPORTING & ANNUAL REVIEW**

The Controller-Treasurer shall report on the investments covered under this policy at least quarterly to the Board.

The foregoing defines the Controller-Treasurer's investment policies for calendar year 2017 and thereafter unless and until they are modified by the Controller-Treasurer. The Controller-Treasurer shall review this policy annually and submit modifications to the Board when needed.




**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

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**INTER-OFFICE COMMUNICATION**

**TO:** Finance, Budget and Bond Oversight Committee **Date:** May 9, 2017  
**FROM:** Controller-Treasurer  
**SUBJECT:** Independent Auditor's Report on Audit of Federal Awards Under the OMB  
Uniform Guidance for the Fiscal Year Ended June 30, 2016

Attached is the Independent Auditor's Report on Audit of Federal Awards Under the OMB Uniform Guidance for the Fiscal Year Ended June 30, 2016 that will be presented to the Committee at the May 16, 2017 meeting as an information item.

If you have any questions, please contact me at 510-464-6070.

*for:*   
Rosemarie V. Poblete



# EXECUTIVE DECISION DOCUMENT

|  |   |  |                           |  |
|--|---|--|---------------------------|--|
| GENERAL MANAGER APPROVAL:<br><i>Robert M. Pava</i> 9 May 2017  |   | GENERAL MANAGER ACTION REQ'D:<br>N/A                     |                           |  |
| DATE: 4/28/2017  |   | BOARD INITIATED ITEM: Yes                                |                           |  |
| Originator/Prepared by: Christopher Gan<br>Dept: Assistant Controller<br><i>Chris Gan</i><br>Signature/Date:<br>5/2/17 | General Counsel<br><i>[Signature]</i><br>5/2/17 [ ] | Controller/Treasurer<br><i>[Signature]</i><br>5/2/17 [ ] | District Secretary<br>[ ] | BARC<br><i>[Signature]</i><br>5-9-17 [ ] |
| Status: Routed   |   | Date Created: 4/28/2017                                  |                           |  |

## Independent Auditor's Report on Audit of Federal Awards under the OMB Uniform Guidance for the Fiscal Year Ended June 30, 2016

### PURPOSE:

This Executive Decision Document is for information only, to advise the District's Board of Directors of the results of the independent audit performed to comply with the audit requirements of the Office of Management and Budget (OMB) "Uniform Administrative Requirement, Cost Principles and Audit Requirements; Final Rule" (Uniform Guidance), for the fiscal year 2016 and of actions staff plans to undertake to address the deficiencies reported.

### DISCUSSION:

As a non-federal entity that expends \$750,000 or more in federal awards in a year, the District is required to obtain an annual audit in accordance with the audit requirements of Title 2 U.S. Code of Federal Regulations Part 200 of the OMB Uniform Guidance. The Uniform Guidance requires a report on the following areas: a) internal control over financial reporting based on the audit of financial statements performed in accordance with Government Audit Standards; and b) compliance for each major federal program and internal control over compliance. Such audits are required to provide reasonable assurance that the awards received are being managed in compliance with laws, regulations, and the provisions of contracts or grant agreements.

The results of the auditor's report dated November 23, 2016 on internal control over financial reporting was unqualified and did not disclosed any instances of noncompliance that are required to be reported under Government Auditing Standards.

The auditor's March 16, 2017 report with regards to compliance for each major federal program and on internal control over compliance indicated a significant deficiency in the implementation of the Labor Wage Requirements (also known as the Davis-Bacon Act - 40 USC Section 3141, et seq.), which requires payment of prevailing wages to all laborers and mechanics employed by a contractor or subcontractor who work on construction contracts in excess of \$2,000 financed by federal funds. Contractors or subcontractors are required to submit to the District weekly, for each week in which any contract work is performed, a copy of the payroll and a statement of compliance (certified payroll records). In the event of non-compliance by a contractor, the District is required to initiate timely corrective actions to ensure compliance, such as sending timely follow-up requests to the contractor and withholding payment until the certified payroll records (CPR) are received. The audit finding noted that the District failed to consistently verify that contractors and subcontractors paid its laborers and mechanics prevailing wage rates before approving payments to the contractors. This creates a risk that federal funds may be paid to contractors who do not comply with the Wage Rate requirements, which could lead to unallowable costs. This exception is similar to the findings noted in Fiscal Years 2014 and 2015, although the number of incidence for noncompliance in Fiscal Year 2016 was significantly smaller.

Since March 2015, the District has implemented several measures to address the compliance required by the Davis Bacon Act, which included the following:

- Inserted Office of Civil Rights in the electronic invoice approval process to ensure that CPR are submitted prior to invoice approval.
- Boilerplate contract specifications language was amended to specify that failure to submit certified payroll records may delay progress payments
- Office of Civil Rights has conducted training workshops for BART staff and contractors on Davis-Bacon Act and California Labor Code prevailing wage requirements.
- Notifications are sent to prime and subcontractors when their CPR are overdue.
- Instituted a process to deny payment to the contractor if CPR are not received on a timely basis.

To address shortcomings of the current process, the District will implement the following additional measures to further strengthen the oversight in the submission of CPR:

- Require construction contractors to list work being billed for, per subcontractor on each invoice.
- Require prime contractors to identify all subcontractors working on a project during an invoice period in the District's electronic payroll system.

- Sign-in sheets will be required for all workers and prime contractors will be required to collect the records from all subcontractors for submission to the District on a weekly basis.

In addition to the above proposed updates, the District has also developed an electronic CPR verification form that allows the ability to verify all invoiced subcontractors are current with the CPR submission in the District's electronic CPR system.

**FISCAL IMPACT:**

If the deficiency related to Labor Wage Requirements is not fully addressed, unallowable costs could result since federal funds may be paid to contractors who do not comply with the provisions of the Davis-Bacon Act.

**ALTERNATIVES:**

None.

**ACTION**

No action by the Board is required. As a recipient of federal awards, the District is required by the federal government to have its books and records audited annually in accordance with the OMB Uniform Guidance.



**SAN FRANCISCO BAY AREA  
RAPID TRANSIT DISTRICT**

Single Audit Report

For the Year Ended June 30, 2016



Certified  
Public  
Accountants

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

Single Audit Report

For the Year Ended June 30, 2016

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**Independent Auditor’s Report on Internal Control over  
Financial Reporting and on Compliance and Other Matters  
Based on an Audit of Financial Statements Performed in  
Accordance with *Government Auditing Standards***

To the Board of Directors of the  
San Francisco Bay Area Rapid Transit District  
Oakland, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Enterprise Fund and the Retiree Health Benefit Trust Fund of the San Francisco Bay Area Rapid Transit District (the “District”), as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the District’s basic financial statements, and have issued our report thereon dated November 23, 2016.

**Internal Control over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the District’s internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District’s internal control. Accordingly, we do not express an opinion on the effectiveness of the District’s internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the District’s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

***Purpose of this Report***

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Macias Gini & O'Connell LLP

Walnut Creek, California  
November 23, 2016





**Independent Auditor’s Report on Compliance for Each Major Federal Program;  
Report on Internal Control over Compliance; and Report on  
Schedule of Expenditures of Federal Awards Required by the Uniform Guidance**

To the Board of Directors of the  
San Francisco Bay Area Rapid Transit District  
Oakland, California

***Report on Compliance for Each Major Federal Program***

We have audited the San Francisco Bay Area Rapid Transit District’s (the “District”) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of the District’s major federal programs for the year ended June 30, 2016. The District’s major federal programs are identified in the summary of auditor’s results section of the accompanying schedule of findings and questioned costs.

***Management’s Responsibility***

Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

***Auditor’s Responsibility***

Our responsibility is to express an opinion on compliance for each of the District’s major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. Code of *Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the District’s compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of the District’s compliance.

***Opinion on Each Major Federal Program***

In our opinion, the District complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2016.

## **Report on Internal Control over Compliance**

Management of the District is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the District's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over compliance.

*A deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies, and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, we identified a deficiency in internal control over compliance, as described in the accompanying schedule of findings and questioned costs as item 2016-001, that we consider to be a significant deficiency.

The District's response to the internal control over compliance finding identified in our audit is described in the accompanying schedule of findings and questioned costs. The District's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

## **Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance**

We have audited the financial statements of the District, as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the District's basic financial statements. We issued our report thereon dated November 23, 2016, which contained an unmodified opinion on those financial statements.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

*Macias Gini & O'Connell LLP*

Walnut Creek, California  
March 16, 2017

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
 Schedule of Expenditures of Federal Awards  
 For the year ended June 30, 2016  
 (dollar amounts in thousands)

| Program Description  | CFDA Number | Grant Approval Date | Total Approved Budget | Approved Federal Grant | Federal Awards Expended Prior to Fiscal Year | Federal Awards Expended During Fiscal Year | Federal Share as of June 30, 2016 |          |            |
|--|-------------|---------------------|-----------------------|------------------------|--|--|-----------------------------------|----------|------------|
|  |             |                     |                       |                        |  |  | Expended                          | Received | Receivable |
| <b>U.S. Department of Justice:</b>                         |             |                     |                       |                        |  |  |                                   |          |            |
| Federal Bureau of Investigation                            |             |                     |                       |                        |  |  |                                   |          |            |
| San Francisco Joint Terrorism Task Force FY 16             | 16.unknown  | 07/26/04            | \$ 10                 | \$ 10                  | \$ -   | \$ 10                                      | \$ 10                             | \$ 7     | \$ 3       |
| Total U.S. Department of Justice                           |             |                     | 10                    | 10                     | -  | 10   | 10                                | 7        | 3          |
| <b>U.S. Department of Transportation:</b>                  |             |                     |                       |                        |  |  |                                   |          |            |
| Federal Transit Administration (FTA)                       |             |                     |                       |                        |  |  |                                   |          |            |
| Federal Transit Cluster                                    |             |                     |                       |                        |  |  |                                   |          |            |
| Federal Transit_Capital Investment Grants (Section 5309):  | 20.500      |                     |                       |                        |  |  |                                   |          |            |
| Direct programs:   |             |                     |                       |                        |  |  |                                   |          |            |
| CA-03-0729-01  |             | 03/30/05            | 21,373                | 17,099                 | 13,206                                       | 462  | 13,668                            | 13,536   | 132        |
| CA-05-0211   |             | 09/14/06            | 36,106                | 28,885                 | 28,104                                       | 781  | 28,885                            | 28,096   | 789        |
| CA-05-0216   |             | 07/16/07            | 50,335                | 40,268                 | 36,873                                       | 3,395                                      | 40,268                            | 40,054   | 214        |
| CA-05-0248-00  |             | 09/21/10            | 48,055                | 38,444                 | 26,334                                       | 10,884                                     | 37,218                            | 32,823   | 4,395      |
| CA-05-0253   |             | 09/16/11            | 45,630                | 36,504                 | 20,839                                       | 11,663                                     | 32,502                            | 27,997   | 4,505      |
| CA-05-0263-00  |             | 09/21/12            | 36,399                | 29,119                 | 16,077                                       | 8,752                                      | 24,829                            | 22,052   | 2,777      |
| CA-04-0212-00  |             | 01/06/14            | 5,173                 | 4,138                  | 970  | 79   | 1,049                             | 970      | 79         |
| Pass Through - Union City, Terminal/Intermodal Bus Station |             |                     |                       |                        |  |  |                                   |          |            |
| CA-04-0151-00  |             | 02/26/10            | 1,199                 | 959                    | 820  | 139  | 959                               | 850      | 109        |
| CA-04-0046   |             | 09/11/07            | 3,232                 | 2,586                  | 2,586  | -  | 2,586                             | 2,444    | 142        |
| CA-04--0169-00   | (b)         | 06/02/10            | 1,084                 | 867                    | 867  | -  | 867                               | 867      | -          |
| Total Federal Transit_Capital Investment Grants            |             |                     | 248,586               | 198,869                | 146,676                                      | 36,155                                     | 182,831                           | 169,689  | 13,142     |
| Federal Transit_Formula Grants (Section 5307):             | 20.507      |                     |                       |                        |  |  |                                   |          |            |
| Direct programs:   |             |                     |                       |                        |  |  |                                   |          |            |
| CA-90-Y111   |             | 09/23/02            | 52,032                | 43,928                 | 43,893                                       | 35   | 43,928                            | 43,889   | 39         |
| CA-90-Y216   | (b)         | 08/07/03            | 12,193                | 9,754                  | 9,740  | 14   | 9,754                             | 9,754    | -          |
| CA-90-Y270   |             | 09/24/02            | 74,175                | 61,614                 | 60,116                                       | 1,498                                      | 61,614                            | 61,578   | 36         |
| CA-90-Y339   |             | 07/25/05            | 43,704                | 35,939                 | 24,934                                       | 4,060                                      | 28,994                            | 27,325   | 1,669      |
| CA-90-Y541   |             | 07/27/07            | 57,412                | 45,930                 | 30,588                                       | 1,215                                      | 31,803                            | 30,413   | 1,390      |
| CA-05-0224   |             | 09/02/08            | 62,144                | 49,715                 | 35,981                                       | 13,367                                     | 49,348                            | 47,172   | 2,176      |
| CA-04-0043   |             | 09/17/08            | 10,854                | 8,683                  | 6,686  | 343  | 7,029                             | 7,014    | 15         |
| CA-05-0236   |             | 08/26/09            | 67,620                | 54,096                 | 43,953                                       | 9,441                                      | 53,394                            | 51,865   | 1,529      |
| CA-04-0126   |             | 09/09/09            | 3,951                 | 3,161                  | 2,587  | (79)                                       | 2,508                             | 2,587    | (79)       |
| CA-90-Y604   |             | 08/05/08            | 33,575                | 26,860                 | 18,954                                       | 5,842                                      | 24,796                            | 22,824   | 1,972      |
| CA-90-0689   |             | 05/12/08            | 1,096                 | 877                    | 649  | 210  | 859                               | 668      | 191        |
| CA-95-X095-00  |             | 08/24/09            | 31,157                | 27,583                 | 27,138                                       | 6  | 27,144                            | 27,138   | 6          |
| CA-90-Y694-00  |             | 08/26/09            | 12,708                | 10,167                 | 7,161  | 573  | 7,734                             | 7,522    | 212        |
| CA-90-Y833-00  |             | 09/24/10            | 14,507                | 11,606                 | 6,461  | 1,858                                      | 8,319                             | 7,983    | 336        |
| CA-95-X145-00  |             | 09/22/11            | 8,193                 | 7,253                  | 3,242  | 1,308                                      | 4,550                             | 4,313    | 237        |
| CA-90-Y873-00  |             | 09/22/11            | 67,615                | 54,092                 | 40,819                                       | 5,390                                      | 46,209                            | 45,706   | 503        |
| CA-90-Y946-00  |             | 09/21/12            | 88,561                | 70,849                 | 62,984                                       | 5,130                                      | 68,114                            | 64,811   | 3,303      |

- (b) Grant was closed during the fiscal year
- (d) Amount provided to subrecipient is \$191
- (e) Amount provided to subrecipient is \$207

The accompanying notes are an integral part of this schedule.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
Schedule of Expenditures of Federal Awards  
For the year ended June 30, 2016  
(dollar amounts in thousands)

| Program Description  | CFDA Number | Grant Approval Date | Total Approved Budget | Approved Federal Grant | Federal Awards Expended Prior to Fiscal Year | Federal Awards Expended During Fiscal Year | Federal Share as of June 30, 2016 |           |            |
|--|-------------|---------------------|-----------------------|------------------------|--|--|-----------------------------------|-----------|------------|
|  |             |                     |                       |                        |  |  | Expended                          | Received  | Receivable |
| <b>U.S. Department of Transportation (continued):</b>                              |             |                     |                       |                        |  |  |                                   |           |            |
| Direct programs (continued):   |             |                     |                       |                        |  |  |                                   |           |            |
| CA-90-Z079-00  |             | 01/14/14            | \$ 20,894             | \$ 16,715              | \$ 12,401                                    | \$ 1,231                                   | \$ 13,632                         | \$ 13,145 | \$ 487     |
| CA-90-X236-00  |             | 02/07/14            | 56,975                | 50,440                 | 11,816                                       | 12,144                                     | 23,960                            | 20,189    | 3,771      |
| CA-95-X271-00  |             | 08/05/14            | 7,188                 | 6,393                  | 543  | 3,075                                      | 3,618                             | 3,408     | 210        |
| CA-90-Z177-00  |             | 08/26/14            | 12,839                | 10,271                 | 7,279  | 107  | 7,386                             | 7,317     | 69         |
| CA-95-X301-00  | (a)         | 09/25/15            | 12,338                | 6,591                  | -  | 2,949                                      | 2,949                             | 2,857     | 92         |
| CA-90-Z276-00  | (a)         | 09/25/15            | 4,502                 | 3,602                  | -  | 1,346                                      | 1,346                             | 1,346     | -          |
| Pass Through - Union City, Terminal/Intermodal Bus Station                         |             |                     |                       |                        |  |  |                                   |           |            |
| CA-95-X048   | (b)         | 04/30/09            | 2,063                 | 1,826                  | 1,826  | -  | 1,826                             | 1,826     | -          |
| Total Federal Transit Formula Grants   |             |                     | 758,296               | 617,945                | 459,751                                      | 71,063                                     | 530,814                           | 512,650   | 18,164     |
| State of Good Repair Grants Program (section 5337)                                 | 20.525      |                     |                       |                        |  |  |                                   |           |            |
| Direct Program:  |             |                     |                       |                        |  |  |                                   |           |            |
| CA-54-0007   |             | 11/13/13            | 131,360               | 105,088                | 61,052                                       | 3,743                                      | 64,795                            | 61,497    | 3,298      |
| CA-54-0023   |             | 08/05/14            | 140,585               | 112,468                | 76,893                                       | 194  | 77,087                            | 76,890    | 197        |
| CA-54-0041-00  | (a)         | 09/25/15            | 95,863                | 76,691                 | -  | 46,600                                     | 46,600                            | 46,673    | (73)       |
| Total State of Good Repair Grants Program  |             |                     | 367,808               | 294,247                | 137,945                                      | 50,537                                     | 188,482                           | 185,060   | 3,422      |
| Total Federal Transit Cluster  |             |                     | 1,374,690             | 1,111,061              | 744,372                                      | 157,755                                    | 902,127                           | 867,399   | 34,728     |
| Public Transportation Research, Technical Assistance, and Training (Section 5312): | 20.514      |                     |                       |                        |  |  |                                   |           |            |
| CA-64-7001-00  |             | 09/18/15            | 1,500                 | 750                    | -  | -  | -                                 | -         | -          |
| New Freedom Program (Section 5317):  | 20.521      |                     |                       |                        |  |  |                                   |           |            |
| CA-57-X075   |             | 04/16/12            | 360                   | 255                    | 152  | -  | 152                               | 152       | -          |
| Federal Highway Administration (FHWA)  |             |                     |                       |                        |  |  |                                   |           |            |
| Highway Planning and Construction  |             |                     |                       |                        |  |  |                                   |           |            |
| Passed Through - State of California Department of Transportation                  | 20.205      |                     |                       |                        |  |  |                                   |           |            |
| Seismic Retrofit   |             |                     |                       |                        |  |  |                                   |           |            |
| Project #6000 (025)-04-924309L   | (b)(c)      | 01/27/10            | 30,242                | 19,844                 | 19,844                                       | -  | 19,844                            | 19,844    | -          |
| Project #6000 (043)-04-925620  | (b)         | 06/04/12            | 23,735                | 4,565                  | 4,565  | -  | 4,565                             | 4,565     | -          |
| Project #6000 (060)0414000549L-N   |             | 05/15/15            | 18,738                | 3,016                  | 21   | 10   | 31                                | 17        | 14         |
| STPLZ-6000 (058)0414000402L-N  |             | 05/15/15            | 16,926                | 3,696                  | 11   | 703  | 714                               | 9         | 705        |
| Total Passed Through State of California Department of Transportation              |             |                     | 89,641                | 31,121                 | 24,441                                       | 713  | 25,154                            | 24,435    | 719        |
| Passed Through - San Francisco County Transportation Authority                     |             |                     |                       |                        |  |  |                                   |           |            |
| Travel Smart Rewards - Agreement 15/16-07  | (a)         | 09/15/15            | 406                   | 325                    | -  | 161  | 161                               | -         | 161        |
| Total Highway Planning and Construction  |             |                     | 90,047                | 31,446                 | 24,441                                       | 874  | 25,315                            | 24,435    | 880        |

- (a) New federal award
- (b) Grant was closed during the fiscal year
- (c) Grant was amended

The accompanying notes are an integral part of this schedule.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
Schedule of Expenditures of Federal Awards  
For the year ended June 30, 2016  
(dollar amounts in thousands)

| Program Description   | CFDA Number | Grant Approval Date | Total Approved Budget | Approved Federal Grant | Federal Awards Expended Prior to Fiscal Year | Federal Awards Expended During Fiscal Year | Federal Share as of June 30, 2016 |                   |                  |
|---|-------------|---------------------|-----------------------|------------------------|--|--|-----------------------------------|-------------------|------------------|
|   |             |                     |                       |                        |  |  | Expended                          | Received          | Receivable       |
| <b>U.S. Department of Transportation (continued):</b>   |             |                     |                       |                        |  |  |                                   |                   |                  |
| Metropolitan Transportation Planning and State and Non-Metropolitan Planning and Research:      | 20.505      |                     |                       |                        |  |  |                                   |                   |                  |
| Passed Through - Metropolitan Transportation Commission Agreement 74A0769                       |             | 03/19/14            | \$ 410                | \$ 238                 | \$ 216                                       | \$ 21                                      | \$ 237                            | \$ 237            | \$ -             |
| Passed Through - State of California Department of Transportation Agreement 74A0847             |             | 05/1/15             | 450                   | 300                    | -  | 49   | 49                                | -                 | 49               |
| Total Metropolitan Transportation Planning and State and Non-Metropolitan Planning and Research |             |                     | 860                   | 538                    | 216  | 70   | 286                               | 237               | 49               |
| Total U.S. Department of Transportation   |             |                     | 1,467,457             | 1,144,050              | 769,181                                      | 158,699                                    | 927,880                           | 892,223           | 35,657           |
| <b>U.S. Department of Homeland Security:</b>  |             |                     |                       |                        |  |  |                                   |                   |                  |
| Rail and Transit Security Grant Program   | 97.075      |                     |                       |                        |  |  |                                   |                   |                  |
| Direct Programs:  |             |                     |                       |                        |  |  |                                   |                   |                  |
| EMW-2011-RA-K00039-S01  | (b)         | 10/07/11            | 20,780                | 20,780                 | 4,920  | 15,860                                     | 20,780                            | 20,780            | -                |
| EMW-2013-RA-00004-S01   |             | 09/06/13            | 12,890                | 12,890                 | 1,555  | 3,872                                      | 5,427                             | 2,868             | 2,559            |
| EMW-2014-R-00011-S01  |             | 09/09/14            | 17,412                | 17,412                 | -  | -  | -                                 | -                 | -                |
| EMW-2015-R-000022   | (a)         | 08/27/15            | 1,630                 | 1,630                  | -  | 505  | 505                               | 343               | 162              |
| HSTS0210HCAN625 - Fiscal Year 2014  | (b)         | 11/20/14            | 51                    | 51                     | 51   | -  | 51                                | 51                | -                |
| HSTS0215HNCP406 - Fiscal Year 2015  | (b)         | 05/12/15            | 202                   | 202                    | 164  | 38   | 202                               | 202               | -                |
| FY2016 HSTS02-16-H-NCP406 - Year 1  | (a)         | 03/18/16            | 202                   | 202                    | -  | 67   | 67                                | -                 | 67               |
| Total Rail and Transit Security Grant Program   |             |                     | 53,167                | 53,167                 | 6,690  | 20,342                                     | 27,032                            | 24,244            | 2,788            |
| Total U.S. Department of Homeland Security  |             |                     | 53,167                | 53,167                 | 6,690  | 20,342                                     | 27,032                            | 24,244            | 2,788            |
| <b>TOTAL FEDERAL GRANTS</b>   |             |                     | <b>\$ 1,520,634</b>   | <b>\$ 1,197,227</b>    | <b>\$ 775,871</b>                            | <b>\$ 179,051</b>                          | <b>\$ 954,922</b>                 | <b>\$ 916,474</b> | <b>\$ 38,448</b> |

- (a) New federal award  
(b) Grant was closed during the fiscal year

The accompanying notes are an integral part of this schedule.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

Notes to the Schedule of Expenditures of Federal Awards  
For the Year Ended June 30, 2016

**Note 1. General**

The accompanying schedule of expenditures of federal awards presents the activity of all federally funded programs of the San Francisco Bay Area Rapid Transit District (the "District"). The reporting entity is defined in Note 1 in the District's basic financial statements.

**Note 2. Basis of Accounting**

The accompanying schedule of expenditures of federal awards is presented using the accrual basis of accounting as described in Note 1 in the District's basic financial statements.

**Note 3. Grants from Government Agencies**

The District receives grants from the Federal Transit Administration ("FTA") and other agencies of the U.S. Department of Transportation, U.S. Department of Homeland Security, State of California, and local transportation funds for the acquisition of transit-related assets, equipment, improvements and reimbursement of certain transit related expenses.

**Note 4. Relationship to the Financial Statements**

Expenditures of federal awards are reported in the District's basic financial statements as capital assets for capital expenditures and operating expenses for certain transit expenses.

**Note 5. Indirect Costs**

The District did not elect to use the 10% de minimis cost rate as covered in 2 CFR Section 200.414 Indirect (F&A) costs.

**Note 6. Correction of CFDA Numbers**

The accompanying schedule of expenditures of federal awards includes a correction in previously reported CFDA number 97.039, with grant identification of EMW-2011-RA-K00039-S01 (grant), to CFDA number 97.075 Rail and Transit Security Grant Program. This grant has been previously reported in the following fiscal years:

Federal award expended (in thousands):

|                                  | Previously Reported |                  | Corrected        |
|----------------------------------|---------------------|------------------|------------------|
|                                  | CFDA No.            | CFDA No.         | CFDA No.         |
|                                  | 97.039              | 97.075           | 97.075           |
| For the year ended June 30, 2015 | \$ 2,585            | \$ 7,786         | \$ 10,371        |
| For the year ended June 30, 2014 | 1,278               | 13,786           | 15,064           |
| For the year ended June 30, 2013 | 1,057               | 16,632           | 17,689           |
| Total Federal award expended     | <u>\$ 4,920</u>     | <u>\$ 38,204</u> | <u>\$ 43,124</u> |

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
 Schedule of Findings and Questioned Costs  
 For the Year Ended June 30, 2016

**Section I - Summary of Auditor's Results**

*Financial Statements:*

|  |               |
|--|---------------|
| Type of auditor's report issued:   | Unmodified    |
| Internal control over financial reporting:   |               |
| • Material weaknesses identified?  | No            |
| • Significant deficiencies identified that are not considered to be material weaknesses? | None reported |
| Noncompliance material to the financial statements noted?                                | No            |

*Federal Awards:*

|  |            |
|--|------------|
| Type of auditor's report issued on compliance with major programs:                       | Unmodified |
| Internal control over major programs:  |            |
| • Material weaknesses identified?  | No         |
| • Significant deficiencies identified that are not considered to be material weaknesses? | Yes        |
| Any audit findings required to be reported in accordance with 2 CFR 200.516(a)?          | Yes        |

*Major programs:*

| <u>CFDA Number</u> | <u>Federal Program</u>  |
|--------------------|---|
|                    | U.S. Department of Transportation -<br>Federal Transit Cluster: |
| 20.500             | Federal Transit_Capital Investment Grants                       |
| 20.507             | Federal Transit_Formula Grants                                  |
| 20.525             | State of Good Repair Grants Program                             |
| 97.075             | Rail and Transit Security Grant Program                         |

|   |             |
|---|-------------|
| Dollar threshold used to distinguish between Type A and Type B programs | \$3,000,000 |
| Auditee qualifies as a low-risk auditee?                                | Yes         |

**Section II -Financial Statement Findings**

None



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

Schedule of Findings and Questioned Costs

For the Year Ended June 30, 2016

**Section III - Federal Award Findings and Questioned Costs**

**Finding 2016-001 Wage Rate Requirements (also known as the Davis-Bacon Act)  
(Significant Deficiency in Internal Control Over Compliance)**

***Program Identification:***

|                         |                                   |
|-------------------------|-----------------------------------|
| Federal Agency:         | U.S. Department of Transportation |
| Federal Program Title:  | Federal Transit Cluster           |
| Federal Catalog Number: | 20.500, 20.507 and 20.525         |
| Passed Through:         | N/A                               |
| Award Number:           | CA-90-Y604 and CA-95-X145-00      |
| Award Year:             | 2008 and 2011                     |

**Criteria**

TITLE 29: LABOR PART 5-STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT), Subpart A—Davis-Bacon and Related Acts Provisions and Procedures, §5.5 Contract provisions and related matters.

(a) The agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, provided, that such modifications are first approved by the Department of Labor):

(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

(ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the agency that is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number).

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2016

**Condition Identified and Context**

The District's contractors submitted approximately 600 weekly certified payrolls for the construction period July 1, 2015 through June 30, 2016. We selected a statistically valid sample of forty certified payrolls and noted that the District did not perform timely follow-up of overdue certified payroll reports with the prime contractors for twenty-eight certified payrolls. Of the twenty-eight certified payrolls, the District appropriately withheld payments to the contractor until after receipt of the payrolls for twenty-two of the items tested. However, the District did not receive the required certified payroll reports prior to the District's project managers' instruction to disburse payments to the prime contractors for the other six items. This condition is similar to comment number 2015-001 reported in the year ended June 30, 2015.

**Questioned Costs**

None.

**Effect**

The District's Office of Civil Rights (OCR), who is responsible for overseeing compliance with the Wage Rate requirements, did not consistently verify that contractors and subcontractors paid its laborers and mechanics prevailing wage rates before approving payments to the contractors. There is a risk that federal funds may be paid to contractors who do not comply with the Wage Rate requirements, which may result in unallowable costs.

**Cause of Condition**

The District makes monthly payments to its contractors. Although contractors are required to submit certified payrolls weekly, the contractors did not consistently comply with the required timeframe.

**Recommendation**

During fiscal year, the District updated its contract specifications and internal procedures to specify the submission of certified payrolls before progress payments are requested. The procedures are designed to ensure that certified payroll reports are received before disbursements are processed to the contractors. We recommend the District continue to evaluate the effectiveness of its current internal control policies to ensure that payments are not disbursed until certified payrolls are received.

**Management Response**

The District acknowledges that it paid one subcontractor prior to collecting certified payroll records (CPR).

In response to the FY2015 Single Audit, the District instituted process changes to ensure the collection of CPR prior to making payments. Under the new process, contractors and subcontractors are not paid if their CPR are not submitted on a timely basis. The Resident Engineer (RE) must submit a CPR Verification Form to OCR which lists all contractors whose payments are included in an invoice and the status of each contractor's CPR submissions. If a contractor has not submitted its CPR, OCR works with the RE to correct the deficiency by obtaining the CPR, or the prime contractor may choose to remove the

## SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

### Schedule of Findings and Questioned Costs

For the Year Ended June 30, 2016

invoice of the delinquent subcontractor(s) from the full invoice. Failing these remedies, OCR denies payment to the contactor.

During the audit period in question, a subcontractor worked on a project but did not submit CPR and was not included on the CPR Verification Forms because the RE mistakenly identified the sole employee of the violating subcontractor to be an employee of the prime contractor. When the invoice and CPR Verification Form were reviewed, it appeared that all contractors submitted CPR and the payment was subsequently approved. The subcontractor eventually submitted all overdue CPR and is now current with its CPR submissions.

Processes implemented in response to previous Single Audit findings have been effective in ensuring the collection of CPR prior to invoice payment. To ensure proper oversight of the timely submission of CPR, the District will implement the following additional corrective actions:

- 1) Invoices Including Subcontractors: The District will require all construction contractors to list all work being billed for, per subcontractor, on each invoice. This measure will prevent subcontractors from working on projects without submitting CPR and ensure that invoices are paid after all CPR are submitted.
- 2) Electronic CPR Verification: Prime contractors will be required to identify all subcontractors working on a project during an invoice period in the District's electronic payroll system. Further, the District has developed an electronic version of the CPR Verification Form that verifies all invoiced subcontractors are current with their CPR submission in the District's electronic CPR system.
- 3) Sign-in Sheets: All contractors will be required to collect a standard contemporaneous record, signed by each worker that includes the worker's name, employer, craft/classification, start and end time, breaks, and work activities performed. Further, prime contractors will be required to collect the records from all subcontractors and submit those weekly to the District.
- 4) Labor Compliance Staffing: The District hired a Labor Compliance Manager in August 2015, and created a separate unit dedicated to labor compliance. Currently staffed with five employees, the unit will be fully staffed with seven employees by the end of FY17. The increased staffing will allow for more checks and balances through increased site visits and worker interviews to verify information on CPR and ensure that workers are paid prevailing wages.

**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
Summary Schedule of Prior Year Findings and Questioned Costs  
For the Year Ended June 30, 2016

| <b>Comment</b> | <b>Summary</b>  | <b>Status</b>                        |
|----------------|---|--------------------------------------|
| # 2015-001     | Wage Rate Requirement<br>(also known as Davis-Bacon Act)<br>(Significant Deficiency in Internal Control Over<br>Compliance) | In progress: See Finding<br>2016-001 |

## SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

### MEMORANDUM

**TO:** Finance, Budget, and Bond Oversight Committee      **DATE:** May 12, 2017  
**FROM:** Carter Mau, AGM Administration and Budgets  
**SUBJECT:** Fiscal Year 2017-18 Preliminary Budget

The Fiscal Year 2018 Preliminary budget will be discussed as an informational item at the Finance, Budget, and Bond Oversight Committee meeting of May 16, 2017. At the meeting, staff will follow up on questions asked by the committee members at the April 18, 2017 committee meeting, and if possible, provide responses to questions from the May 11 Board of Directors meeting. The following are questions and comments received at the April Standing committee meeting:

- Information on \$6M of STA capital funding, including details on spending it in operating versus capital, and confidence in the accuracy of the estimates?

SB1 provides for new formula-based funding sources for public transit. Increases to the existing diesel sales tax rate will augment the current STA program, with an expected statewide increase of approximately \$250M annually, or \$167M for a partial year in FY18. Another \$105M annually is anticipated from a new Transportation Improvement Fee and will be distributed according to the STA formula. According to language in SB1, this new component is generally limited to improvements focused on modernizing transit vehicles and facilities and can be spent on the following:

- 1) Transit capital projects or services to maintain or repair a transit operator's existing transit vehicle fleet or existing transit facilities, including rehabilitation or modernization of existing vehicles or facilities;
- 2) The design, acquisition, and construction of new vehicles or facilities that improve existing transit services; and
- 3) Transit services that complement local efforts for repair and improvement of local transportation infrastructure.

BART's initial estimate of \$10M for operating and \$6M for capital STA funding was provided by the Metropolitan Transportation Commission (MTC) in early April. A more detailed estimate was provided by MTC on May 9, with \$9,947,101 projected for operating and \$6,266,680 for capital, for a total of \$16,213,781 in FY18. The transit operator shares are currently based on FY15 revenue-based STA factors. Actual funding

amounts should be expected to change, based upon updated revenue-based STA factors and actual diesel tax revenues and Transportation Improvement Fees in FY18.

- Information on the filled headcount table through FY17 combined with FY18 preliminary budget headcount numbers

Please see attached. Note an arithmetical error was discovered in previous information sent to the board, and the attached information is corrected.

- Review medium and long range financial plans. How do we start to get a handle on the challenges ahead? What are strategies for generating revenue, improving efficiencies, growing ridership and addressing retiree medical and pension liabilities.

The District is preparing to perform medium and long term revenue assessments for its telecommunications, parking, advertising, and real estate programs. The assessments will be performed over the next 6-9 months and brought back to the Finance, Budget and Bond oversight committee for discussion. In addition, the District will be updating its Short Range Transit Plan (SRTP) to incorporate new information about both revenues and expenses. In combination with the revenue assessments, the District can produce a medium and long range financial outlook and determine the strategies and policy changes necessary to address its financial situation.

- Additional information on the \$4M in Low Carbon Fuel Standards funding. When will a policy be developed?

The Low Carbon Fuel Standards (LCFS) funding is provided through a state program which allows electric railroad operators such as BART to sell “credits” to producers of higher-carbon-intensity fuels. Please see page 13 of the Preliminary Budget Memo for additional information. Staff is preparing a proposal for the use of this funding and anticipates bringing it to the Planning subcommittee in June 2017.

- Additional information on parking program modifications

As of May 12, the revised FY18 preliminary budget does not include any modifications to the District’s paid parking programs. Director Josefowitz and other board directors have asked staff to analyze changes to the District’s adopted parking policies. For example, if the District were to modify the percentage of spaces dedicated for reserved parking beyond 40%, each additional 1% could generate approximately \$150,000 annually. Another modification that was preliminarily analyzed was instituting a different parking fee policy for West Bay station with parking. This change would generate

approximately \$1 million annually. Staff will be available at the subcommittee meeting for additional discussion.

If you have any additional questions, please contact Carter Mau at 510-464-6194.

cc: Board Appointed Officers  
Deputy General Manager  
Executive Staff

| Budgeted Positions - Vacant and Filled, by Operating/Capital, FY05 - Present |           |           |            |            |            |            |            |            |            |            |            |            |            |         |
|--|-----------|-----------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|---------|
|  | FY05      | FY06      | FY07       | FY08       | FY09       | FY10       | FY11       | FY12       | FY13       | FY14       | FY15       | FY16       | FY17*      | FY18**  |
| Budgeted - District  | 3,329.0   | 3,251.5   | 3,265.0    | 3,343.5    | 3,379.5    | 3,221.5    | 3,217.5    | 3,281.3    | 3,352.5    | 3,417.8    | 3,478.1    | 3,746.4    | 3,985.5    | 4,408.5 |
| Vacant - District  | 233.5     | 200.5     | 245.0      | 381.0      | 362.5      | 315.0      | 312.0      | 330.0      | 326.3      | 333.4      | 302.1      | 446.0      | 580.0      |         |
| Total Filled - District  | 3,095.5   | 3,051.0   | 3,020.0    | 2,962.5    | 3,017.0    | 2,906.5    | 2,905.5    | 2,951.2    | 3,026.2    | 3,084.4    | 3,176.0    | 3,300.4    | 3,405.5    |         |
| <b>% Vacant - District</b>   | <b>7%</b> | <b>6%</b> | <b>8%</b>  | <b>11%</b> | <b>11%</b> | <b>10%</b> | <b>10%</b> | <b>10%</b> | <b>10%</b> | <b>10%</b> | <b>9%</b>  | <b>12%</b> | <b>15%</b> |         |
| Budgeted - Operating   | 3,014.5   | 2,946.5   | 2,997.0    | 3,061.5    | 3,065.5    | 2,858.1    | 2,820.5    | 2,868.1    | 2,933.2    | 2,985.4    | 3,044.4    | 3,221.6    | 3,240.8    | 3,505.0 |
| Vacant - Operating   | 219.5     | 188.5     | 190.2      | 330.6      | 300.1      | 217.8      | 236.8      | 253.0      | 264.9      | 261.4      | 250.5      | 324.0      | 312.2      |         |
| Filled - Operating   | 2,795.0   | 2,758.0   | 2,806.8    | 2,730.9    | 2,765.5    | 2,640.4    | 2,583.7    | 2,615.1    | 2,668.3    | 2,724.0    | 2,793.9    | 2,897.7    | 2,928.6    |         |
| <b>% Vacant - Operating</b>  | <b>7%</b> | <b>6%</b> | <b>6%</b>  | <b>11%</b> | <b>10%</b> | <b>8%</b>  | <b>8%</b>  | <b>9%</b>  | <b>9%</b>  | <b>9%</b>  | <b>8%</b>  | <b>10%</b> | <b>10%</b> |         |
| Budgeted - Capital***  | 314.5     | 305.0     | 268.0      | 282.0      | 314.0      | 363.4      | 397.0      | 413.2      | 419.3      | 432.4      | 433.8      | 524.8      | 744.8      | 903.5   |
| Vacant - Capital   | 14.0      | 12.0      | 54.8       | 50.4       | 62.5       | 97.3       | 75.2       | 77.0       | 61.4       | 72.0       | 51.7       | 122.1      | 267.8      |         |
| Filled - Capital   | 300.5     | 293.0     | 213.2      | 231.6      | 251.6      | 266.2      | 321.8      | 336.1      | 357.9      | 360.4      | 382.1      | 402.7      | 477.0      |         |
| <b>% Vacant - Capital</b>  | <b>4%</b> | <b>4%</b> | <b>20%</b> | <b>18%</b> | <b>20%</b> | <b>27%</b> | <b>19%</b> | <b>19%</b> | <b>15%</b> | <b>17%</b> | <b>12%</b> | <b>23%</b> | <b>36%</b> |         |

Data retrieved from year-end (June) labor stats reports

\*As of 3/1/2017

\*\*includes post-prelim service addbacks (operating). Capital HC is a draft and subject to change prior to adoption. No vacant/filled data available for FY18.

\*\*\*includes capital and reimburseable positions