



COREY O'CONNOR

Allegheny County Controller

**Performance Audit on the Administration and
Operations of the Allegheny County Health
Department's Clean Air Fund
For the Period January 1, 2021
through September 30, 2023**

May 14, 2024

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May 2, 2024

Mr. Patrick Dowd
Acting Director
Allegheny County Health Department
542 Fourth Avenue
Pittsburgh, PA 15219

Performance Audit on the Administration and
Operations of the Allegheny County Health Department's Clean Air Fund
for the Period January 1, 2021 through September 30, 2023

Dear Mr. Dowd:

We have applied procedures to evaluate whether the administration and operations of the Allegheny County Health Department's ("ACHD's") Clean Air Fund have been effective. Our procedures were applied to the period from January 1, 2021, through September 30, 2023. However, we reviewed certain data and records through December 31, 2023. Our engagement was performed in accordance with *Government Auditing Standards*.

As we performed our procedures, we identified a number of conditions that are having an adverse impact on the Clean Air Fund. We have offered recommendations to assist in remediating these findings, which should improve the administration of the Fund. The results of our procedures are included in the attached report.

Mr. Patrick Dowd
May 2, 2024

We would like to thank the management and staff of the Allegheny County Health Department for their courtesy and cooperation during our engagement.

Kind regards,



Corey O'Connor
Controller



Lori A. Churilla
Assistant Deputy Controller, Auditing

cc: Honorable Patrick Catena, President, County Council
Honorable John F. Palmiere, Vice-President, County Council
Honorable Sara Innamorato, County Executive, Allegheny County
Ms. Jennifer M. Liptak, County Manager, Allegheny County
Mr. Grant Gittlen, Chief of Staff, Allegheny County
Mr. Kenneth J. Varhola, Chief of Staff, County Council
Ms. Sarah Roka, Budget Manager, County Council
Ms. Kim Joyce, Deputy Director of Administration, ACHD
Mr. Geoffrey Rabinowitz, Deputy Director, Environmental Health, ACHD

I. Introduction

The mission of the Allegheny County Health Department is to protect, promote, and preserve the health and well-being of all Allegheny County residents, particularly the most vulnerable.

Allegheny County Clean Air Fund

The Allegheny County Health Department (ACHD) enacted Article XXI, Allegheny County Air Pollution Control Rules and Regulations effective February 1, 1994. Section 2109.09 of Article XXI provides for the utilization of an Allegheny County Clean Air Fund. The purpose of the Clean Air Fund is to receive and disburse all penalties, fines, and interest received by the County under Article XXI as a result of applications, permits, licenses, consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings. The Clean Air Fund is specifically for the disbursement of such funds solely to support activities related to the improvement of air quality within Allegheny County and to support activities which will increase or improve knowledge concerning air pollution, its causes, its effects, and the control thereof. Funds may therefore be disbursed for such purposes as, but not limited to:

- The support of research and development of control technologies,
- Health effects studies and surveys concerning air pollution,
- Special purpose monitoring, as defined by the U.S. Environmental Protection Agency,
- Public education concerning air pollution,
- The acquisition of consulting or other services from persons with special experience and/or expertise,
- The purchase of equipment, materials, or services to supplement the County's Air Pollution Control Program, or
- Any other project that is consistent with the purpose of this Section and the mission of the Board of Health.

The ACHD, Air Pollution Control Advisory Committee, and the Board of Health are all involved in the process of evaluating and approving Clean Air Fund project applications.

The Board of Health is a nine-member governing body appointed by the County Executive and confirmed by County Council. Members serve staggered four-year terms, and the board appoints and advises the County Health Director. The Board's duties include:

- Formulating rules and regulations for the prevention of disease,
- Preventing or fixing conditions that constitute a threat to public health,
- Promoting and preserving public health,
- Reviewing and approving Clean Air Fund expenditures.

I. Introduction

The Air Advisory Committee, established in Article XXI, makes recommendations to the Board of Health regarding additions and/or changes to the air quality rules and regulations of Allegheny County. The committee also advises both the Health Department and the Board of Health on the management of air quality in Allegheny County. The 15-member committee was formed in 1970 and has members from a broad array of backgrounds and expertise. Members are appointed by the County Executive with the approval of the County Council.

Section 2109.09 of Article XXI was amended effective July 26, 2009. A provision was added to mandate that no air pollution source (except for ACHD facilities supporting the Air Quality Program) will receive money from the Clean Air Fund, or services, equipment, or materials purchased with money from the Fund in order to fulfill its obligations under Article XXI. Another provision was also added to permit an amount no greater than 5% of the balance of the Clean Air Fund on December 31st of the previous calendar year to be used to fund the normal operating costs of the County's Air Quality Program.

U.S. Steel was fined during 2022 by the Allegheny County Health Department \$6.4 million in penalties in connection with air quality related violations. These violations are currently under appeal by U.S. Steel.

Other Air Quality Related Health Department Funds

The Allegheny County Health Department also has an Air Pollution Control Fund and a Title V Fund related to air quality.

Air Pollution Control Fund

According to the ACHD Article XXI Section 2109.08, the Air Pollution Control Fund is a restricted fund and receives monies as a result of fees, related interest and all other related funds, including, but not limited to, related administrative charges and reimbursements for costs in accordance with the Air Pollution Control Act. Title V funds are not deposited into this account. Disbursement of monies from this fund is to be utilized solely to cover all reasonable (direct and indirect) costs incurred by the County and required to develop and administer the County's Air Pollution Control program, other than those portions of the program required by Title V of the Clean Air Act. No air pollution source, which is subject to the provisions of this article shall receive monies from the Funds under this section, or services, equipment or materials purchased with such monies, to fulfill its obligations under this Article, except for Department facilities supporting the Air Quality Program.

Title V Air Quality Fund

The Title V of the Clean Air Act requires major sources of air pollutants, and certain other sources to obtain and operate in compliance with an operating permit. Sources with these "Title V Permits" are required by the Act to certify compliance with the applicable requirements of their permits at least annually. The Fund was established under the major operating permit program for the deposit of all emission fees, related interest and other fees required by the Title V of the Clean Air Act. The fees and related interest collected can only be used to fund the costs of developing and

I. Introduction

administering a pollution control program in accordance with Title V of the Clean Air Act. Fund transactions are accounted for in a separate special revenue fund since the revenues are legally restricted to expenditures in connection with these specified purposes.

II. Objectives, Scope, and Methodology

Objectives

Our performance audit objectives were:

- To determine whether all air-quality-related penalties assessed by the ACHD are being collected,
- To determine whether all air-quality-related penalties collected by the ACHD are being deposited in the Clean Air Fund as required by Article XXI,
- To determine whether any Clean Air Fund resources have been diverted to other funds and used for inappropriate purposes,
- To determine the extent to which the ACHD has made Clean Air Fund resources available to the public to fund air-quality-related projects,
- To determine the extent to which the ACHD has sought input from the public (affected communities) concerning the use of Clean Air Fund resources for air-quality-related projects,
- To determine whether the administration of the Clean Air Fund project application processes may unnecessarily delay or complicate the approval of air-quality-related projects, or discourage the submission of project applications,
- To determine whether all Clean Air Fund project applications submitted are being processed by the ACHD (approved or rejected),
- To determine whether the process for approval of Clean Air Fund expenditures is occurring as prescribed in Article XXI,
- To determine whether the methodology being used by the ACHD to evaluate Clean Air Fund project applications is appropriate,
- To determine whether data supplied by the ACHD, and the Air Pollution Control Advisory Committee consultations have provided adequate information for the Board of Health to determine that a project's scope was consistent with the requirements of Article XXI,
- To verify that no emissions source received money, equipment, materials, or services from the Clean Air Fund to fulfill its obligations under Article XXI,
- To ensure that no more than 5% (the maximum amount allowable under Article XXI) of the balance of the Clean Air Fund at the end of each preceding calendar year was diverted to fund normal operating costs of the Air Quality Program,

II. Objectives, Scope, and Methodology

- To determine whether the ACHD has a process in place to monitor the project expenditures of those granted Clean Air Fund resources to ensure that the funds are actually being used to accomplish the stated project objectives in conformity with the requirements of Article XXI.
- To determine whether all Clean Air Fund expenditures have been associated with approved air-quality-related projects, and whether those projects met the requirements of Article XXI,
- To identify the amounts expended across the various permissible use categories,
- To determine the extent to which the expenditures actually benefitted those in affected communities,
- To determine whether Clack Building #1 would continue to be renovated,
- To determine whether there is any outstanding litigation pertaining to any other Clean Air Fund expenditures,

Scope

Our performance audit covered the period from January 1, 2021 through September 30, 2023. However, our review of certain data was extended through December 31, 2023. We conducted the audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. 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.

Methodology

The methodology used to accomplish our audit objectives included, but was not limited to, the following procedures:

- Reviewed Section 2109.09 of the Allegheny County Health Department's Article XXI Air Pollution Control Rules and Regulations which addresses the Allegheny County Clean Air Fund,
- Interviewed ACHD management personnel to gain an understanding of the ACHD's administration of the Clean Air Fund,
- Obtained a detail of the air-quality-related penalties assessed by the ACHD during our audit period and traced them to deposits in the Clean Air Fund,
- Examined the Clean Air Fund's general ledger to identify any inappropriate transfers of Clean Air Fund resources to other funds,

II. Objectives, Scope, and Methodology

- Reviewed the ACHD’s website and social media posts to evaluate the ACHD’s Clean Air Fund related communications,
- Obtained and analyzed the Clean Air Fund project applications utilized by the ACHD,
- Read the Air Pollution Control Advisory Committee and Board of Health meeting minutes that were applicable to Clean Air Fund projects,
- Reviewed documentation supporting Clean Air Fund project expenditures (test basis, items selected using a non-statistical sampling method),
- Identified the amounts expended across the various permissible use categories,
- Determined the extent to which the expenditures actually benefitted those in affected communities,
- Identified transfers out of the Clean Air Fund for normal operating costs of the Air Quality Program to ensure that they did not exceed the maximum allowable 5% of the preceding year’s Clean Air Fund balance,
- Inquired about the renovation plans for Clack Building #1, and whether there was any outstanding litigation pertaining to any other disputed Clean Air Fund expenditures,
- Our audit also included an assessment of internal controls that are significant within the context of our audit objectives. Any significant findings related to internal control are included in the findings and recommendations,
- Applied other procedures as deemed necessary.

We conducted our procedures from November of 2023 through April of 2024. We provided a draft copy of this report to the Acting Director of the Allegheny County Health Department for comment. His response begins on page 26.

III. Findings and Recommendations

Finding #1

Millions in Clean Air Fund Resources That Could Be Used to Conduct Air Quality Projects Remain Unused While Allegheny County Remains in Nonattainment of Air Quality Standards

Criteria: Section 2109.09a of the ACHD’s Article XXI states that the purpose of the Clean Air Fund is to receive and disburse all penalties, fines, and interest received by the County under Article XXI as a result of applications, permits, licenses, consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings. The Clean Air Fund is specifically for the disbursement of such funds solely to support activities related to the improvement of air quality within Allegheny County and to support activities which will increase or improve knowledge concerning air pollution, its causes, its effects, and the control thereof.

Condition: The National Ambient Air Quality Standards are the concentrations of six principal pollutants (ozone, particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, and lead) that serve as indicators of air quality, above which, adverse effects on human health may occur. Areas where air pollution levels persistently exceed these standards are designated “nonattainment.” Allegheny County is currently in nonattainment of an ozone standard and has been in nonattainment since May 21, 2012. Portions of Allegheny County are also currently in nonattainment of a sulfur dioxide standard and have been in nonattainment since October 4, 2013. Additionally, Allegheny County was designated as a moderate nonattainment area for the PM2.5 standard as of April 15, 2015 and still is currently.

We were told by the Acting Director of the Health Department that they have submitted letters and data to the EPA requesting for Allegheny County to be redesignated as in “attainment” for sulfur dioxide and PM2.5 pollutants. However, Allegheny County is still currently designated as a nonattainment area for the three pollutants mentioned above.

According to the EPA, the main causes of ozone pollution are pollutants emitted by cars, power plants, industrial boilers, refineries, chemical plants, and other sources that chemically react in the presence of sunlight. Exposure to these pollutants may cause coughing, sore, dry or scratchy throat, shortness of breath, a heavy feeling in the chest and fluid in the lungs, etc. Long term exposure to ozone is linked to aggravation of asthma. The largest source of sulfur dioxide is the burning of fossil fuels by power plants and other industrial facilities. Smaller sources of sulfur dioxide emissions include industrial processes such as extracting metal from ore, locomotives, ships and other vehicles and heavy equipment that burn fuel with a high sulfur content. Once again, exposures to sulfur dioxide can harm the human

III. Findings and Recommendations

respiratory system and make breathing difficult. In addition, high concentrations of sulfur dioxide can harm trees and plants by damaging foliage and decreasing growth. PM2.5 are particulate matter less than 2.5 micrometers in diameter which is a mixture of solid and liquid droplets found in the air. Most particles form in the atmosphere as a result of complex reactions of chemicals such as sulfur dioxide and nitrogen oxides, which are pollutants emitted from power plants, industries and automobiles and pose the greatest risk to health.

The Clean Air Fund has had a cash balance available to fund air-quality-related projects of more than \$10 million for a significant portion of our audit period. As shown in the chart below, only a small portion of the cash balance available each year ranging from 1.6% to 6.1% has been used to fund air-quality-related project expenditures, despite the fact that Allegheny County remains in nonattainment of air quality standards.

Year	Cash Available at Beginning of Year	*Penalties Collected	Approved Project Expenditures Paid	Expenditures Paid as a Percentage of Cash Balance
2023	\$9,792,496	\$175,271	\$157,565	1.6%
2022	11,361,192	121,135	557,974	4.9%
2021	11,573,680	789,220	704,586	6.1%

* See Exhibit I on page 22 for all cash receipts.

Article XXI permits up to 5% of the Clean Air Fund’s balance at the end of the preceding year to be used to fund normal operating costs of the Air Quality Program. The ACHD typically uses 5% of the preceding year’s cash balance to fund such costs. More Clean Air Fund resources were transferred to the Air Pollution Control Fund and Title V Air Quality Fund to cover normal operating costs of the Air Quality Program during our audit period than were actually used to pay air-quality-related project expenditures (see Exhibits I and II on pages 22 and 23).

As we reviewed the approved air-quality-related project expenditures paid during our audit period, we observed a group of “Professional and Technical support” expenditures totaling \$265,233 throughout the period. These expenditures included partial salaries for an attorney and two air quality engineers (\$97,985), transcription services (\$48,924), a forensic examination (\$10,000), and other miscellaneous professional services (\$108,324). Although these expenditures are allowable per the regulations, such expenditures can be considered Air Quality Program-related expenditures that could have been paid from the Air Pollution Control Fund (or the Title V Air Quality Fund to the extent that the expenditures relate to major emissions sources) as well as from the Clean Air Fund operating

III. Findings and Recommendations

transfers to the Air Quality program (up to 5% of the Clean Air Fund balance annually).

Cause:

ACHD management has told us that it believes that community involvement in air-quality-related projects is essential and has therefore elected not to conduct its own air-quality-related projects. However, the ACHD has not widely communicated to the public the amounts available in the Clean Air Fund to conduct air-quality-related projects. The general Clean Air Fund project application is also not available on the ACHD's website. Those that would like to request support from the Clean Air Fund can reach out to the Air Quality Program by completing an electronic form. We were told by ACHD management that the ACHD contacts and pre-screens prospective applicants to ensure that the type of project they intend to conduct is consistent with the requirements of Article XXI. ACHD management advised us that it has taken this approach because it is attempting to discourage the submission of inappropriate Clean Air Fund project applications. Unfortunately, the approach being taken is also making it more difficult for those that seek to conduct viable air-quality-related projects to apply.

The process for evaluating and approving Clean Air Fund project applications is also lengthy. The ACHD, Air Pollution Control Advisory Committee, and the Board of Health are all involved in the process. As a result of the multi-layered review structure, even if the ACHD completes its evaluation of Clean Air Fund project applications timely, it still typically takes at least several months for Clean Air Fund project applications to be approved. We noted that for two selected projects, our review of the applications indicated that on average it took at least 100 days, or over three months, for approval, with a range of 47 days to 305 days.

Title V Air Quality Fund and Air Pollution Control Fund financial resources, derived principally from fees assessed by the ACHD and collected from emissions sources, fund the costs of the County's Air Quality Program. The Title V Air Quality Fund's resources are restricted to funding the major emissions source permitting program. The Air Pollution Control Fund has greater spending flexibility but has had limited financial resources. In fact, the Air Pollution Control Fund actually had a cash deficiency of \$154,886 on December 31, 2023.

Because the ACHD has not applied procedures to evaluate its own costs associated with specific air quality program activities in recent years to serve as a basis for the fees it would charge emissions sources, it has elected to assess the fees developed by the Commonwealth of Pennsylvania. These fees have not been sufficient to cover all of the costs of administering the Air Quality Program. The ACHD is currently applying procedures to assess the costs associated with particular program activities to serve as a basis for

III. Findings and Recommendations

fee revisions, but these efforts are not expected to be completed until the end of 2024. The resultant shortage of resources available to cover Air Quality Program expenditures creates a need for the ACHD to garner resources from other sources, such as the Clean Air Fund.

The provision of Article XXI that permits the ACHD to use up to 5% of the Clean Air Fund's balance at the end of the preceding year to fund normal operating costs of the Air Quality Program creates an incentive for the ACHD to retain a significant cash balance in the Clean Air Fund. It is possible that a significant cash balance was retained in the Clean Air Fund because there was a desire to be able to use Clean Air Fund resources to cover normal operating costs of the Air Quality Program. Over \$1.7 million was transferred from the Clean Air Fund to the Air Pollution Control Fund and Title V Air Quality Fund to cover normal operating costs of the Air Quality Program during our audit period. This could not have occurred if the ACHD had used all or substantially all of the Clean Air Fund's financial resources to fund air-quality-related projects. For 2023, the 5% of the balance of year end 2022 has not yet been transferred to the Air Pollution Control Fund and will be approximately \$489,000.

Effect:

Opportunities to use Clean Air Fund resources to directly improve air quality in Allegheny County and to undertake projects that would assist in addressing the impacts of air quality violations in other ways (as provided for by Article XXI) have been missed. In addition, according to the Clean Air Council, the poor air quality in Allegheny County remains polluted which can increase the risk of heart and lung disease, asthma, adverse birth outcomes, cancer and premature death.

Recommendations: ACHD management should:

- Continue with the planned identification of the air quality program component costs to serve as a basis for revised fees that will cover all the costs of administering the Air Quality Program, eliminating the need to remedy a funding gap,
- Engage in more impactful Clean Air Fund projects by:
 - Taking steps to more broadly communicate the amounts and availability of Clean Air Fund resources to fund air-quality-related projects,
 - Clearly illustrating on the ACHD's website and social media and wherever else it communicates the types of projects that can be conducted with Clean Air Fund resources and the types of projects that cannot be approved, so that there is assurance that all potential project applicants are being

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provided with consistent information. This would also enable the application to be made available to everyone online while still reducing the risk that inappropriate applications will be submitted,

- Recommending to the Air Pollution Control Advisory Committee and Board of Health only air-quality-related projects/expenditures that will have a direct positive impact on air quality or will increase or improve knowledge concerning air pollution, its causes, its effects, or the control thereof, and
- Taking measures to help ensure that the ACHD's evaluation and approval (or rejection) of air-quality-related projects occurs in a timelier fashion.

Management's Response:

See page 26 for management's response.

III. Findings and Recommendations

Finding #2

Penalties Collected That Were Required to be Deposited in the Clean Air Fund Were Deposited in the Air Pollution Control Fund Which Finances Regular Operating Costs of the Air Program

- Criteria:** Section 2109.09a of the ACHD’s Article XXI states that the Clean Air Fund is to receive and disburse all penalties, fines, and interest received by the County under Article XXI as a result of applications, permits, licenses, consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings. The Clean Air Fund is specifically for the disbursement of such funds solely to support activities related to the improvement of air quality within Allegheny County and to support activities which will increase or improve knowledge concerning air pollution, its causes, its effects, and the control thereof.
- Condition:** We also observed that \$62,075 in penalties collected from Neville Chemical Company during 2021 in connection with air-quality-related violations were deposited in the Air Pollution Control Fund instead of the Clean Air Fund. We then noted that \$5,525 was properly returned to Neville Chemical Company in 2022 when a settlement agreement that modified the penalty amount was reached. However, the net amount collected of \$56,550 was retained in the Air Pollution Control Fund and not transferred to the Clean Air Fund.
- We further observed that \$2,090 in penalties collected from a minor emissions source during 2023 in connection with air-quality-related violations were also deposited in the Air Pollution Control Fund instead of the Clean Air Fund. We noted that \$420 was properly returned to the minor source later in 2023 when a settlement agreement that modified the penalty amount was reached. However, the net amount collected of \$1,670 was retained in the Air Pollution Control Fund and not transferred to the Clean Air Fund.
- Cause:** We were advised by ACHD management that it is ACHD’s policy that all air-quality-related penalties that are subject to appeals are deposited in the Air Pollution Control Fund. However, we noted other instances in which penalty amounts had been adjusted where the penalties had been deposited in the Clean Air Fund as required. It was also suggested to us that because the penalties collected were subject to appeal, and all or a portion of the penalties might have been required to be returned to the payors, it would have been inappropriate to calculate the 5% that could have been diverted from the Clean Air Fund to cover normal operating costs of the Air Quality Program with those penalties included in the Clean Air Fund balance. Although 5% is the maximum amount that can be diverted from the Fund to cover normal operating costs of the air quality program, the ACHD is not

III. Findings and Recommendations

obligated to request 5%. The ACHD could have simply deposited the penalties in the Clean Air Fund as required by Article XXI and excluded those penalties from the Clean Air Fund balance when calculating the amount to be requested to cover normal operating costs of the Air Quality Program.

Effect:

The ACHD's accounting treatment for those penalties was not consistent with the requirements of Article XXI. If the ACHD does not transfer the retained amounts of those penalties to the Clean Air Fund, the funds could easily be used for purposes other than those for which they were intended. The Clean Air Fund is not audited on an annual basis, so such errors could go undetected. The best way to ensure that all such penalties collected are expended in a manner that is consistent with the requirements of Article XXI is to immediately deposit the penalties in the Clean Air Fund as required by Article XXI as soon as they are collected.

Recommendations: ACHD management should:

- Immediately transfer the \$56,550 and the \$1,670 of penalties that are no longer subject to appeals from the Air Pollution Control Fund to the Clean Air Fund, and
- Take steps to ensure that such penalties are deposited in the Clean Air Fund as required by Article XXI as soon as they are collected. The ACHD can utilize the escrow cash object code in the accounting system to help ensure that the funds are not spent before any applicable appeals are ultimately resolved.

**Management's
Response:**

See page 26 for management's response.

III. Findings and Recommendations

Finding #3

Penalty Transactions Are Not Being Properly Recorded in the Accounting Records Which Adversely Impacts the ACHD's Ability to Ensure Collectability

Criteria: Generally Accepted Accounting Principles (GAAP) requires that revenues be recognized when the earnings process occurs. Penalties for air-quality-related violations should be deemed earned and receivables (amounts due from the violators) recognized when the violations identified by the ACHD are supported by adequate documentary evidence and penalty invoices are issued.

Condition: The ACHD is not recording penalty revenues and receivables when air-quality-related violations are supported by adequate documentary evidence and penalty invoices are issued. We noted that nine penalties assessed by the ACHD during 2021 and 2022 in the aggregate amount of \$28,555 were not collected by the ACHD as of the end of 2023. In addition, no receivable was recorded.

Cause: Processes and procedures being implemented by the ACHD in prior years had not been documented. This, combined with the departure of the former Air Quality Program Manager in 2022 prior to the addition of a new Air Quality Program Manager resulted in a loss of job knowledge. Had the ACHD recorded the penalties due from emissions sources as receivables it would have facilitated the monitoring of the receivables to help ensure collectability. In the past, ACHD enforcement personnel had advised ACHD fiscal staff when they were assessing penalties for air quality violations. That no longer occurs. No ACHD employee has been tasked with tracking the uncollected penalties receivable.

Effect: The accounting records do not accurately reflect the financial position of the Clean Air Fund as a result of the accounting errors. In addition, not collecting the penalties that should have been deposited in the Clean Air Fund resulted in a reduction of the amount of Clean Air Fund resources available to fund air-quality-related projects.

Recommendations: ACHD management should:

- Immediately apply collection efforts to collect the nine outstanding penalty amounts totaling \$28,555 and if they are collected, properly deposit them into the Clean Air Fund,
- Ensure that ACHD fiscal staff are advised when penalties are assessed for air quality violations, and that the ACHD's accounting for the penalties is consistent with the requirements of GAAP, and

III. Findings and Recommendations

- Assign a specific staff member to monitor the collection of penalties. In addition, the procedures should be written and maintained as documentation to ensure compliance with regulations, guidance and to streamline internal processes.

**Management's
Response:**

See page 26 for management's response.

III. Findings and Recommendations

Finding #4

Clean Air Fund Cash Totaling \$59,418 Was Erroneously Transferred to the Air Pollution Control Fund Twice During 2023

Criteria: Section 2109.09a of the ACHD’s Article XXI states that the Clean Air Fund is to receive and disburse all penalties, fines, and interest received by the County under Article XXI as a result of applications, permits, licenses, consent orders, noncompliance penalties, civil penalty actions, consent decrees, civil penalties, or summary proceedings. The Clean Air Fund is specifically for the disbursement of such funds solely to support activities related to the improvement of air quality within Allegheny County and to support activities which will increase or improve knowledge concerning air pollution, its causes, its effects, and the control thereof.

Condition: At the end of 2023, the ACHD transferred Clean Air Fund cash to the Air Pollution Control Fund to reimburse that Fund for expenditures originally incurred in that Fund that the ACHD sought to recharacterize as Clean Air Fund expenditures. However, we noted that there were 13 such expenditures totaling \$59,418 for which cash was transferred to the Air Pollution Control Fund in October of 2023 and then again in December of 2023.

Cause: It appears that this condition resulted from an accounting error.

Effect: As a result of the duplicate cash transfers, cash of \$59,418 that belongs in the Clean Air Fund is currently in the Air Pollution Control Fund. Therefore, the Clean Air Fund cash is understated by \$59,418.

Recommendations: ACHD management should immediately transfer the \$59,418 in Clean Air Fund cash erroneously transferred to the Air Pollution Control Fund back to the Clean Air Fund.

Management’s Response: See page 26 for management’s response.

III. Findings and Recommendations

Finding #5

Internal Controls Surrounding Blanket Approvals of Future Clean Air Fund Expenditures Need to be Strengthened

Criteria: Internal controls are designed to help safeguard an organization and further its objectives. Internal controls function to minimize risks and protect assets, ensure accuracy of records, promote operational efficiency, and encourage adherence to policies, rules, regulations and laws. In addition, the role of the Advisory Board and the Board of Health are to review, approve and ensure all expenditures related to the Clean Air fund are in compliance with Article XXI.

Condition: We noted that \$120,000 was approved on March 6, 2019 by the Board of Health for professional and technical support on an as-needed basis for case analysis, data and technical support, legal support, and medical and toxicology consulting. The request was intended to fund future costs which had not been specifically identified. The motion to approve the request was passed unanimously. We identified \$12,825 of Clean Air Fund expenditures during our audit period related to this approval. These expenditures consisted entirely of payments for transcription services pertaining to air-quality-related legal matters.

We also noted that \$500,000 was approved by the Board of Health on September 2, 2020 to expand the funds available for professional and technical support on an as-needed basis for case analysis, data and technical support, legal support, and medical and toxicology consulting. Similar to the earlier request for such funding, the request was intended to fund future costs which had not been specifically identified. One Board Member abstained from voting on the motion, but the motion to approve the request was passed unanimously. However, per the Board minutes, the Board approved the \$500,000 with the requirement that the Health Department administration report details on the use of the funding at the subsequent Board meetings via inclusion in the program reports. We identified \$181,435 of Clean Air Fund expenditures during our audit period related to this approval. These expenditures consisted of a wide variety of services, including development of asbestos project design and specifications for emergency building demolition, a supervisor/competent person training for de-leading and hazardous coatings removal course, and a forensic examination.

Although these expenditures are allowable, the Advisory Board and the Board of Health are not made aware of the actual expenditures that were made under this blanket approval to ensure compliance with Article XXI. Per the Health Department administration, the program reports submitted to the Board do not include a list of expenditures via the reports as required by

III. Findings and Recommendations

the Board of Health. We were told that the prior ACHD Director provided verbal reports to the Board of Health members.

Cause: The requirement to communicate the nature of the expenditures at subsequent Board of Health meetings via inclusion in the program reports was communicated to the former Air Quality Program Manager at a Board of Health meeting. It appears that the departure of the former Air Quality Program Manager may have led to a lack of awareness about the specific nature of the reporting requirement.

Effect: The preapproval of unidentified future expenditures without follow-up of actual expenditures by the Board of Health creates a risk that Clean Air Fund resources will be used for purposes of other air-quality-related expenditures that do not meet the requirements of Article XXI.

Recommendations: We recommend that internal controls surrounding blanket appropriations approved by the Board of Health be strengthened by having the expenditures monitored closely by ACHD Management to ensure that there is no misuse of funds, and all expenditures are in compliance with Article XXI. ACHD Management should present to the Board of Health a written list of expenditures at each Board meeting detailing the expenditures made under this blanket approval.

Management's Response: See page 26 for management's response.

V. Conclusion

It is not advisable for the ACHD to retain millions of dollars that have been set aside for and that should be used to directly improve air quality, or in other ways counter the impacts of air quality violations when Allegheny County is still in nonattainment of air quality standards. Under the Air Quality Program model that the ACHD is utilizing, the ACHD's goal should always be to utilize the available Clean Air Fund resources on air-quality-related projects, the majority of which would ideally directly improve air quality, in a timely fashion.

In addition to the retention of an excessive amount of Clean Air Fund resources, we noted that a significant portion of the Clean Air Fund resources used during our audit period were associated with items that could be considered normal operating costs of the Air Quality Program. The ACHD has already started the process of identifying the actual costs associated with each component of the administration of its permitting programs. It should continue and complete that work as planned, so that it is able to determine and assess appropriate fees to be paid by the emissions sources in Allegheny County that fully cover the costs of administering the Air Quality Program. Once appropriate fees are set and collected, there will be no need to use Clean Air Fund resources to cover normal operating expenses of the Air Quality Program, and no reason to retain a significant cash balance in the Clean Air Fund.

The ACHD's administration of the Clean Air Fund has likely not met the expectations of many County residents. We have noted recent improvements in the ACHD's administration of the Clean Air Fund, and to the ACHD's credit, the most recent air-quality-related projects that it has sponsored should be having a direct positive impact on air quality in Allegheny County. However, the conditions we have identified, specifically the failures to properly account for the penalty transactions, ensure that all of the penalties are collected, and deposit all of the penalties in the Clean Air Fund, to review the accounting records to reduce the likelihood of accounting errors, and to use the majority of the Fund's resources on Clean Air Fund projects that meet the requirements of Article XXI, are significant, and should be addressed. If the ACHD addresses the conditions that we have identified, which can be accomplished by implementing the recommendations we have offered, it will likely yield far greater benefits to Allegheny County residents and others who spend a significant amount of time in Allegheny County.

Clean Air Fund Activity Summary

Summary of Cash Transactions

	2021	2022	2023	Total
Beginning Cash Balance	\$ 11,573,679.81	\$ 11,361,191.50	\$ 9,792,496.32	\$ 11,573,679.81
Cash Inflows:				
Penalties Collected	789,220.00	121,135.00	175,271.02	1,085,626.02
Interest Earned	105,849.97	29,219.48	150,735.56	285,805.01
Transfer in from Air Pollution Control Fund to Return Funds Previously Drawn for Clack Building Renovations	174,451.51	-	-	174,451.51
Transfer in from Air Pollution Control Fund for Approved Project Expenditures	12,867.00	-	-	12,867.00
Private Party Funds Added (ACHD Unable to Identify Project to Which Funds Relate)	-	-	3,053.00	3,053.00
Refunds Received	2,530.96	-	-	2,530.96
Transfers in from Air Pollution Control Fund to Reimburse for Non-Project Expenditures	-	-	191.83	191.83
Total Cash Inflows	1,084,919.44	150,354.48	329,251.41	1,564,525.33
Cash Outflows:				
Transfers out to other funds for Air Quality Program Operating Costs (5%)*	(592,822.00)	(1,117,809.00)	-	(1,710,631.00)
Approved Project Expenditures	(704,585.75)	(557,974.26)	(157,564.79)	(1,420,124.80)
Transfers out to the Air Pollution Control Fund for Approved Proj/Tech Project Expenditures	-	-	(70,973.50)	(70,973.50)
Erroneous Transfer Out to the Air Pollution Control Fund (See Finding #4)	-	-	(59,418.17)	(59,418.17)
Repayment of Unearned Interest to General Fund (Error Correction)	-	(43,155.00)	-	(43,155.00)
Transfer out to the Fireplace Conversion Fund for Approved Project Expenditures	-	-	(21,660.70)	(21,660.70)
Non-Project Expenditures	-	(111.40)	(40.21)	(151.61)
Total Cash Outflows	(1,297,407.75)	(1,719,049.66)	(309,657.37)	(3,326,114.78)
Ending Cash Balance	\$ 11,361,191.50	\$ 9,792,496.32	\$ 9,812,090.36	\$ 9,812,090.36

Expenditures Paid by Project

	2021	2022	2023	Total
Tree Planting	\$ 201,711.39	\$ 60,687.10	\$ 43,227.84	\$ 305,626.33
Development of Pediatric Asthma Registry	46,143.74	158,158.38	-	204,302.12
Professional & Technical Support	34,989.39	92,005.71	67,264.77	194,259.87
Monitoring Studies of Air Toxics and Hydrogen Sulfide (H2S)	51,559.29	133,454.95	2,328.00	187,342.24
Computational Fluid Dynamics Modeling and Measurement Study	179,311.50	-	-	179,311.50
Air Monitoring Station Activities	93,997.56	13,506.17	-	107,503.73
Permitting & Enforcement Software	56,559.25	45,900.00	-	102,459.25
Southwest Pa Air Quality Partnership	25,000.00	-	25,000.00	50,000.00
Air Ambassador Program	4,999.50	24,747.50	11,703.96	41,450.96
Conducting Air Quality Education	4,776.39	29,208.10	-	33,984.49
Pgh Regional Science & Engineering Fair	2,500.00	-	5,000.00	7,500.00
Future Cities Competition	3,000.00	-	3,000.00	6,000.00
Erroneous Transactions	37.74	306.35	40.22	384.31
Totals	\$ 704,585.75	\$ 557,974.26	\$ 157,564.79	\$ 1,420,124.80

* 2021 Transfers out were 5% of 2019 balance in the Clean Air Fund

2022 Transfers out were 5% of 2020 and 2021 balance in Clean Air Fund

The ACHD has not yet transferred out 5% of the 2022 balance for 2023 which amounts to approximately \$489,000

**Summary of Clean Air Fund Projects
For 2021, 2022 and 2023**

Tree Planting:

Project aimed at obtaining, planting, and maintaining the tree population throughout Allegheny County. Projects were required to be located on public land, near pollution sources or in pollution corridors, and utilize tree species that are native, drought tolerant and provide maximum pollution reduction. According to ACHD, annual pollution removal benefits by U.S. trees located in urban areas are estimated at about 75,000 tons, or 80 pounds per acre of tree cover. Several grants have been awarded to Western PA Conservancy, Friends of the Pittsburgh Urban Forest (Tree Pittsburgh), Etna Borough, and the Allegheny County Parks.

Total expenditures for three years (2021, 2022 and 2023) totaled \$305,626.33

Development of Pediatric Asthma Registry:

Project aimed at developing a pediatric asthma community registry for the surveillance and management of asthma in Allegheny County. The registry was developed by the University of Pittsburgh and UPMC Children Hospital of Pittsburgh.

Total expenditures for the three years totaled \$204,302.12.

Professional and Technical Support:

Project aimed at Professional and Technical Support on as-needed basis for case analysis, technical expertise, legal support, and medical and toxicology consulting.

Total expenditures for the three years totaled \$194,259.87.

Monitoring Studies of Air Toxics and Hydrogen Sulfide (H₂S):

Project aimed at monitoring and other equipment, lab analysis, and related expenses to complete a series of air monitoring studies of Air Toxics and Hydrogen Sulfide in the Mon Valley of Allegheny County.

Total expenditures for the three years totaled \$187,342.24.

Computational Fluid Dynamics Modeling and Measurement Study:

Carnegie Mellon University was awarded this grant to work on a fluid dynamics model to understand emissions and dispersion of SO₂ from the Clairton Coke plant. This included mobile and stationary monitoring measurements.

Total expenditures for the three years totaled \$179,311.50.

**Summary of Clean Air Fund Projects
For 2021, 2022 and 2023
(continued)**

Air Monitoring Station Activities

The grant was used to move an air monitoring station to a new location, purchase an outdoor shelter for the stations, and use new tools to investigate emissions and air toxins.

Total expenditures for the three years totaled \$107,503.73.

Permitting and Enforcement Software:

Project aimed at expanding the scope for support for ACHD Air Quality Permitting and Enforcement Software. This grant was awarded to EnfoTech & Consulting to create the software for the Regulated Entities Portal. This software is a web-based system for regulated facilities to submit required paperwork and for the Air Quality program to review it.

Total expenditures for the three years totaled \$102,459.25.

Southwest Pennsylvania Air Quality Partnership:

Partnership provides guidelines for individual actions to reduce exposure to pollution, provide alerts on high pollution days, and ozone and particulate forecasting. Two grants were awarded to Southwest Pa Air Quality Partnership. One grant was for a gas lawnmower exchange in which residents could exchange a gas mower for a credit for a battery powered lawnmower. The other grant was to educate area residents about reducing exposure to pollution, providing alerts and air pollution education,

Total expenditures for the three years totaled \$50,000.00.

Air Ambassador Program:

Project aims to reach out to people and educate them on the Allegheny Alerts notification system with an end goal of getting them to register for Allegheny Alerts. Project will also partner with School Districts and print out information to pass along to the families within the district. The Air Ambassador Program was an outreach campaign in response to the creation of the Mon Valley Air Pollution Episode rule. The grant was awarded to several municipalities and community groups to encourage the Mon Valley residents to sign up for Allegheny Alerts so they would be notified of pollution events.

Total expenditures for the three years totaled \$41,450.96.

**Summary of Clean Air Fund Projects
For 2021, 2022 and 2023
(continued)**

Conducting Air Quality Education:

Project aimed at conducting Air Quality Education. The grant was awarded to Bike Share Pittsburgh, Inc., Duquesne University and Group Against Smog and Pollution. This involved the creation of middle school air quality education by Group Against Smog and Pollution, air quality bike rides and education from Bike Share, and focus groups in Clairton and the creation of education material by Duquesne University.

Total expenditures for the three years (2021, 2022 and 2023) totaled \$33,984.49.

Pittsburgh Regional Science and Engineering Fair:

Sponsorship to the Pittsburgh Regional Science and Engineering Fair held in Pittsburgh by Carnegie Science Center for the competition in science, mathematics, and engineering research projects of the region's brightest minds for middle and high school students in the Pittsburgh region. The Health Department selects three awards and is recognized as a sponsor at the fair and on the website. ACHD has supported this Fair since 1989.

Total expenditures for the three years (2021, 2022 and 2023) totaled \$7,500.

Future Cities Competition:

Sponsorship to Future Cities regional competition conducted by the Engineers' Society of Western Pennsylvania in Pittsburgh to imagine, research, design, and build a city to showcase a sustainability issue. This supports STEM education for students in grades 6th through 8th. ACHD has supported this competition since 2014.

Total expenditures for the three years (2021, 2022 and 2023) totaled \$6,000.

COUNTY OF



ALLEGHENY

SARA INNAMORATO
COUNTY EXECUTIVE

May 9, 2024

The Honorable Corey O'Connor
Allegheny County Controller
Allegheny County Courthouse
436 Grant Street
Pittsburgh, PA 15219

Controller O'Connor,

I have received and reviewed with the ACHD team the Performance Audit on the Administration and Operation of the Allegheny County Health Department's Clean Air Fund for the Period January 1, 2021 through September 30, 2023 dated May 2024, hereafter referred to as "the Audit."

The response from the Allegheny County Health Department (ACHD) can be summarized as follows:

- The Audit has a stated purpose of "evaluating the administration of the Clean Air Fund" but interjects opinions on air quality and the motives of the ACHD.
- The Audit omits information regarding important reforms and innovative practices that contradict the Audit's assertion that the ACHD has "a need to garner resources from other sources, such as the Clean Air Fund."
- The Audit contains incorrect statements regarding the state of air quality in Allegheny County and the work of the ACHD.

Please find below a detailed response by finding.

Finding #1

The Audit omits important reforms and adoption of innovative practices that ACHD implemented during the timeframe of the Audit and previously shared with the Controller's Office. The reforms improved the approval process for the use of the Clean Air Fund resources and increased the likelihood that resources are deployed in a manner consistent with the needs of



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the public and the stipulations of [Article XXI: Air Pollution Control](#). The innovative practices directed at least \$7.75 million dollars specifically to communities impacted by pollution.

Since 2020, and while it was engaged in combating a worldwide pandemic, the ACHD moved from passively receiving applications for the use of Clean Air Funds to actively soliciting the community applications for projects in response to Requests for Proposals (RFP). This is significant because the ACHD has long recognized the need to become more aggressive in directing funds to support impacted communities and to do so in greater collaboration with the public.

One example of this new practice came in 2021 when, through an RFP process, the ACHD solicited from community-based organizations the best thinking on how to enroll residents in a messaging platform for information on the Mon Valley Air Pollution Episode Rule. The ACHD Air Quality Programs received a number of responses including from organizations that had never before applied for the use of these funds.

A second example came in 2023 when the Board of Health approved \$2.29 million in grants from the Clean Air Funds.

Beginning in 2022, the ACHD engaged both the Board of Health and the Air Pollution Advisory Committee in an effort to develop plans to utilize Clean Air Fund resources to reduce emissions. After multiple meetings and intense and productive discussions with these important community stakeholders, the Air Quality Program developed an RFP process for the electrification of municipal vehicles and increasing the tree canopy.

The Air Quality Program formally presented the concept to the Air Pollution Advisory Committee on April 10, 2023. The Air Quality Program presented again to the Committee on August 14, 2023, with a request the committee vote to recommend moving the funding for the selected projects to the Board of Health. The committee voted 8-1 in favor of recommending the plan to the Board of Health for approval. The Board of Health next met on September 6, 2023, at which time they voted unanimously to approve grants totaling \$2.29 million. The ACHD entered into contracts immediately thereafter.

To make the public aware of this grant opportunity, the ACHD launched a significant communications effort. It issued a notice to the public regarding the application process. This information was publicized on all ACHD communications channels, including notice on the ACHD website. The ACHD Air Quality Programs sent mass emails to all eligible municipalities. The Director and the Deputy Director attended various meetings, e.g. meetings of the Councils of Government (COGs) of the applicable communities. The ACHD advertised these funding opportunities at all the meetings of the Air Advisory Committee and the Board of Health. The County Executive's Office shared the information widely with community-based organizations, municipal leaders and others. Again, the ACHD Air Quality Programs received applications, including from organizations that had never before applied for the use of Clean Air Funds, and awarded \$2.29 million in projects.

Meaningful discussion of these grants and the RFP process are absent from the Audit.

Another example of reform in the Clean Air Fund approval process is the application itself. In both of the examples above, the ACHD Air Quality Program used a new and more standardized application form. The Air Advisory Committee had worked with the Air Quality Program in 2020 to initiate a process of reviewing the applications that had been used previously. As we noted during our discussions with the Controller's Office, the new application, again supported by the Air Advisory Committee, collected more information including information designed to ensure the reduction, if not elimination of conflicts of interest. The Audit makes no mention of this change and ignores the work of volunteers and others engaged in that committee.

The Audit fails to note any significant changes in outcome related to the use of Clean Air Funds.

As we conveyed to the Controller's Office, beginning in 2020, the Director wanted to increase the proportion of Clean Air Fund resources used to actually improve air quality. Between 2009 and 2021, 15% of approved projects were related to education, increasing public awareness and professional development. An additional 20% of projects were classified as research. Only 25.8% of approved projects could be classified as improving air quality directly.

Altogether, between 2021 and 2023 the Board of Health approved \$3.68 million in Clean Air Fund projects. Of that, 62% or \$2.29 million went to projects that will directly reduce emissions. Since 2021, approximately 5% of approved Clean Air Fund projects involved education, public awareness and professional development. In that same time period, less than 1% of approved Clean Air Fund projects involved research. The Audit omits this shift.

The Audit omits changes in the work of the Air Quality Enforcement Program. Since 2020 this program has collected more penalties. As a result, the ACHD has initiated different innovative practices with the goal of getting penalty money more directly and expeditiously into the communities most impacted by the actions causing the penalties. For example, during the period of the Audit, one company, US Steel, paid \$2.5 million to the Community Benefits Trust which provides those resources directly to a set of impacted Mon Valley Communities. Absent the use of the trust, that money would have been assessed as a penalty and would have been deposited into the Clean Air Fund. Even in that scenario, only 5% of that money would have been available to the Program. Instead, the Program through the use of a trust opted to take none.

In a further attempt to innovate, in 2023 the ACHD established formal partnerships with two organizations that have a strong track record of working with communities and grantmaking. As the ACHD team explained to the Controller's Office, the Air Quality Program had long been negotiating a settlement to the case revolving around the 2018 Christmas Eve Fire at US Steel Clairton. Instead of dedicating penalty money to the Clean Air Fund, the ACHD and the Air Quality Programs advocated for the establishment of a Supplemental Environmental Project. After negotiations, the co-plaintiffs and US Steel agreed to this concept. As a result, the agreement dedicates \$2.25 million to the Jefferson Regional Foundation which has a mission closely aligned with that of the ACHD's Plan for a Healthier Allegheny and is deeply embedded in Mon Valley communities. The agreement also dedicated \$2.25 million to the Allegheny County Department of Economic Development, which has a track record of utilizing public

funds in a manner consistent with the Plan for a Healthier Allegheny. Again, these are dollars which otherwise would have gone to the Clean Air Fund.

The Audit omitted ACHD's work with different stakeholders across the region and has brought to Allegheny County almost \$20 million in grants from the US Environmental Protection Agency in the form of Targeted Airshed Grants. These grants have supported projects that would have otherwise been perfect candidates as projects for the Clean Air Fund. The ACHD partnered with entities like Pittsburgh Regional Transit, the City of Pittsburgh as well as various providers of school transportation.

Between 2021 and the end of 2023, the ACHD either granted more than \$10 million directly from the Clean Air Fund or sent directly to the community (instead of sending it through the Clean Air Fund as penalties). These payments included \$2.29 million in Clean Air Fund grants to Mon Valley communities, \$4.5 million in the settlement of the 2018 USS Clairton Fire Case sent to Jefferson Regional Foundation and Allegheny County Economic Development, \$750,000 from the 2022 consent decree with US Steel Edgar Thompson and the Department of Justice which was sent to Allegheny County Economic Development, and more than \$2.5 million in stipulated penalties that US Steel sent to the Community Benefits Trust.

The ACHD also notes the Audit contains many misleading and uninformed statements, particularly regarding air quality.

Under "Conditions," the Audit states "Allegheny County is currently in nonattainment of ozone standards and has been in nonattainment since May 21, 2012." This statement is misleading. Allegheny County monitored data has been meeting the federal 2008 ozone standard since 2013-2015 design values, as well as the newer 2015 standard (which is 5 ppb lower than the 2008 standard). The nonattainment area is regional in nature and, hence, beyond the borders of Allegheny County. Even when Allegheny County is meeting federal standards, which it is, it will remain in nonattainment because Allegheny County is part of the larger regional area that transports pollutants across our boundaries.

On page 9 under "Conditions," the Audit states "Portions of Allegheny County are currently in nonattainment of a sulfur dioxide standard and has been in nonattainment since October 4, 2013." Again, this statement is misleading. [On October 12, 2023, Allegheny County submitted their request to be redesignated as in attainment to PA DEP](#), which it forwarded to US Environmental Protection Agency (EPA) on November 14, 2023. Redesignation can only be requested when the County has "measured" attainment over a three-year span, which it has done.

On page 9 the Audit briefly mentions PM2.5. The EPA issued [a Clean Data Determination in 2022](#) confirming and proving that Allegheny County is meeting the federal standard for PM2.5. In fact, in 2023, even with the Canadian wildfire smoke, Allegheny County still met the 2012 federal standards. Note, this standard requires a "most-restrictive" approach in that the air quality monitor with the worst (highest validated measurement) must be used as the restrictive design value for the county. Thus, even the most impacted air quality in the county for 2023 met federal annual standards

On page 10 under “Conditions,” the Audit notes “the cash balance of the Clean Air Fund available to fund air quality related projects [is] more than \$10 million dollars.” As mentioned above, on September 6, 2023, the Board of Health voted to commit \$2.29 million to projects. It is true that the recipients of those funds have not drawn them down. While it is true that the cash has not yet been withdrawn from the Clean Air Fund, the contracts have been signed and those funds committed. The funds are not “available.”

On page 10 under “Conditions,” the Audit looks only at the cash balance at the beginning of the year 2023 rather than using the balance on an accrual basis at the end of 2023. In all other calculations for the Clean Air Fund, the end of year (December 31) balance is the method of calculation. It is also the balance of reference as a matter of county regulation.

On page 10 under “Conditions,” the Audit states, “More Clean Air Fund resources were transferred to the Air Pollution Control Fund and Title V Air Quality Fund to cover normal operating costs...than were actually used to pay air-quality related projects.” This statement is only true if the Audit excludes the work the ACHD Air Quality team did and the approvals of the Board of Health in 2023. The Board of Health approved \$3.68 million between 2021 and 2023. Of that, 62% or \$2.29 million went to projects that directly improve air quality. Only 27% or \$1.1 million went to the ACHD for operations. Importantly, the ACHD did not make a request for 2023 and will not be making a request for 2024.

On page 11 under “Causes,” the Audit states, “the general Clean Air Fund project application is not available on the ACHD website.” Any resident can fill out a form and start the application process with a representative from the ACHD. The ACHD Air Quality Program encourages those who wish to apply for the use of Clean Air Funds and not in conjunction with an RFP process to submit their name and contact information. The ACHD Air Quality Program reaches out to those individuals to guide them on purposes for which the funds can be used. In response to this approach, the Controller’s Office wrote, “Unfortunately, the approach being taken is also making it more difficult for those that seek viable...projects.” This is a conclusory statement and wholly unsupported by any evidence suggesting that the approach taken by the ACHD has stifled applications. In fact, as noted above, the RFP process has resulted in more applications as well as applications from new entities.

As the ACHD previously conveyed to the Controller’s Office, two cases led the institution of this process. The first example is that of the individual who proposed using Clean Air Funds to build a so-called Einstein Szilard unit. The ACHD Air Quality Program spent time with the individual and explained that while the project may have merit, it did not fit within the guidelines laid out in [Article XXI: Air Pollution Control](#). Despite the position of the program, the individual insisted that the application be made and submitted to the Air Advisory Committee for its review and consideration. The ACHD Air Quality Programs respected the wishes of the individual and submitted their application for review. The Air Advisory Committee did not recommend the proposal to the Board of Health.

The second case is that of the electric switcher car proposed by US Steel. The latter had received a grant from the Commonwealth of Pennsylvania which covered 75% of the cost of an electric switcher car to be used in its rail yard. US Steel wanted to use Clean Air Funds, effectively penalty funds, to cover 12.5% of the remaining 25% of the cost of the vehicle. Although the

ACHD did not approve of this project it nonetheless submitted the application to the Air Advisory Committee which did not recommend it for approval to the Board of Health.

The ACHD Air Quality Program believes that conversations with potential applicants can improve the alignment of applications with the provisions of [Article XXI: Air Pollution Control](#). Such conversations can also reduce the unnecessary use of staff and volunteer time vetting applications which do not align with the legal requirements of Article XXI. Audit findings aside, the ACHD has never stopped anyone from applying for the use of Clean Air Funds.

On page 12 under “Causes,” the Audit claims that the ACHD has “a need...to garner resources from other sources, such as the Clean Air Fund.” It further states that “it is possible that a significant cash balance was retained in the Clean Air Fund because there was a desire to be able to use Clean Air Fund resources to cover normal operating costs of the Air Quality Program.” As in the earlier draft, the Audit opines on the motivations of the ACHD absent any real facts.

Several important facts omitted from the Audit and its consideration. These include, among other things, the more than \$2.5 million paid to the Community Benefits Trust, the recent approval of \$2.29 million in Clean Air Fund projects and the recent settlement with US Steel directing payment of \$4.5 million to the Jefferson Regional Foundation and the Allegheny County Department of Economic Development. Lastly, in 2023, the ACHD did not request a 5% draw from the Clean Air Fund and will not be doing so again in 2024. Consequently, the facts reveal ACHD’s attempt to prevent an infusion of funds into the Clean Air Fund account which unequivocally contradicts the Audit’s bald assertion.

On page 12 under “Effect,” the Audit states, “Opportunities to use Clean Air Funds to directly improve air quality...have been missed.” No evidence of to that end was provided and the Audit omitted mention of the 2023 Clean Air Fund projects which will directly reduce emissions.

On page 13, under “Recommendations,” the Audit omits that all the recommendations reflect actions undertaken in 2023. The one exception is the final recommendation, which reads, “Take measures to help ensure the ACHD’s evaluation and approval of air-quality-related projects occurs in a timelier fashion.”

The ACHD Air Quality Program must negotiate all Clean Air Fund projects with both the Air Advisory Committee and the Board of Health, both of which are duly appointed bodies with deliberative authority. Despite having access to the minutes of these meetings and those of the Board of Health, the Audit makes no mention of the significant deliberations that have taken place as the ACHD changed its practices related to the Clean Air Fund. The ACHD cannot and would not limit the length of time these bodies deliberate for the sake of rushing the disbursement of money for disbursement’s sake. Rather, ACHD strives to be as responsive as possible and ensure a manner of disbursement that truly reflects the legislature’s intent that these bodies provide cogent oversight of those funds. These bodies are the public’s representatives in these matters.

Finding #2

The ACHD does not disagree with finding or recommendation. The ACHD acknowledges a lack of communication in transferring settled escrow funds into the CAF upon conclusion of litigation and/or settlement. The ACHD fiscal team is working with the program and legal team to identify and implement best practices moving forward.

Finding #3

The Audit wades into personnel matters. It notes that “the departure of the former Air Quality Program Manager in 2022 prior to the addition of a new Air Quality Program Manager resulted in a loss of job knowledge.”

Technically, there were two Air Quality Program Managers, not one. While it is true that together these individuals possessed knowledge of practices from prior years, the ACHD Director made significant changes to the operations of the ACHD overall and particularly to the Air Quality Program.

The ACHD agrees with the necessity of improving the documenting of its processes, which is why the ACHD had been reforming the Clean Air Fund processes over the past few years.

The Audit notes that the ACHD “is not recording penalty revenues and receivables when air-quality-related violations.” The ACHD generally agrees with this overall statement which is why the ACHD launched the new “Regulated Entities Portal.” This software tool is designed to act as the air quality programs data management system and repository, along with acting as a fee/fiscal portal and an overall reporting tool. The information that will be contained in this system will be more readily accessible within the ACHD, across Allegheny County government and with the public overall. Further, the asbestos and abrasive blasting programs will have a similar software environment in which they will be housed, called Accela. Both programs are scheduled to be launch in 2024.

During our discussions with the Controller’s Office, the ACHD made the case for an annual audit of the Clean Air Funds. Each year, the Controller’s Office audits the Title V Fund, which generally has a balance of less than \$2 million. While the Clean Air Fund has a fund balance well in excess of the Title V Fund, the Controller’s Office refused to agree to conduct an annual audit.

The ACHD fiscal team agrees with recommendation on penalty tracking processes moving forward.

Finding #4

The ACHD does not challenge this finding. The transaction was performed 2 times in error and the fund return has already been initiated. The Grants Manager will more closely monitor any transfers occurring from the Clean Air Fund.

The ACHD notes again that at repeated points during our discussions, the ACHD encouraged the Controller’s Office to perform an annual audit of the Clean Air Funds.

Finding #5

The Audit fails to note that the Director and the Board of Health overhauled the reports the ACHD provides the Board of Health at its monthly meeting. The departure of one or two individuals did not cause a change. Rather, the Director and the Board of Health actively decided which reports were most important.

Moreover, in addition to reporting to the board, regular annual audits are the best way to ensure the proper controls are in place for such an important public asset. At repeated points during our discussions with the Controller's Office, the ACHD called for an annual audit of the Clean Air Funds.

Conclusion

The Audit mistakenly claims that the ACHD is retaining an "excessive" balance in the Clean Air Fund. Since 2020 ACHD has become more consistent in its enforcement and, as a result, has levied significantly more penalties than in prior periods.

Take, for example, the enforcement actions listed on the ACHD Air Quality Enforcement pages website and in its records. Between 2014 and 2023, the ACHD issued \$16.9 million in penalties to just one entity, US Steel. Of that the ACHD issued more than \$10 million between 2020 and 2023. In the first quarter of 2024, the ACHD issued an additional \$2 million in penalties to that same company taking the total to nearly \$19 million.

The ACHD, recognizing this change, has been actively seeking solutions to the question of how to disperse these funds to the communities most impacted by the violations.

Between 2021 and 2023, the Board of Health approved \$3.68 million in Clean Air Fund grants. The use of these funds differs significantly from what was done in the past. More than 60% of those projects focus on reducing emissions.

The Audit also fails to consider the fact that the ACHD has partnered with different stakeholders across the region and has brought to Allegheny County almost \$20 million in grants from the US EPA in the form of Targeted Airshed Grants. These grants have supported projects that would have otherwise been perfect candidates for Clean Air Funds.

Additionally, the Audit makes no mention of the ACHD partnerships with organizations to more directly and expeditiously make grants to the impacted communities. The ACHD created the Community Benefits Trust concept, of which the Audit makes no mention. The ACHD has recently formed a partnership with both the Jefferson Regional Foundation and the Allegheny County Department of Economic Development. These two approaches alone sent \$2.5 million and \$4.5 million, respectively, to organizations with grantmaking expertise and connection in the community. These two approaches and others have diverted these funds from the Clean Air Fund and sent them more directly to the impacted communities.

In conclusion, the ACHD encourages the Controller's Office to conduct annual audits of the spending of the Clean Air Fund to confirm that the resources of the public are being used in ways consistent with the needs of the public, the relevant regulations and generally accepted accounting standards.

Please contact me if you have any further questions regarding this matter.

Sincerely,

DocuSigned by:
Patrick Dowd
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Patrick Dowd
Acting Director