



ASSET OWNERSHIP AND DISPOSITION

Purpose

This policy establishes guidelines and procedures for the ownership and disposal of SANDAG assets.

1. Ownership of Assets

1.1 SANDAG, North San Diego County Transit Development Board (NCTD), and the Metropolitan Transit Development Board, a California Public Agency operating the Metropolitan Transit System (MTS), are parties to a Master Memorandum of Understanding (MOU), which among other things, describes the manner in which acquired real property and personal property will be owned and managed by the three agencies. This policy is consistent with the terms of the Master MOU and its addenda. In addition, from time to time a transfer of property from SANDAG to another entity will be appropriate if that entity will operate, maintain or have liability for the property.

1.2 Real Property

1.2.1 Real property owned by NCTD, MTS, or an owner other than SANDAG (Third Party Owner) prior to construction of a project by SANDAG shall be referred to as "Pre-Owned Property" in this Policy.

1.2.2 When SANDAG constructs physical improvements on Pre-Owned Property, the real property, including the improvements constructed by SANDAG, will be owned by the Third Party Owner, unless otherwise agreed to in writing by the parties or prohibited by an entity funding the project.

1.2.2.1 To enable SANDAG to construct improvements on MTS or NCTD Pre-Owned Property, the parties will enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies between or among SANDAG and the affected operating agency(ies) (Affected Parties) to enable SANDAG to construct the project and MTS and/or NCTD to continue necessary operations during construction.

1.2.2.2 To convey improvements developed on Pre-Owned Property to NCTD and MTS, the Affected Parties may enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies amongst the parties to make the Affected Party responsible to operate and maintain the property and allocate liability for claims involving the property.

1.2.3 When SANDAG constructs physical improvements to property acquired for the purpose of a project ("Subsequently Acquired Property"), the real property, including the improvements constructed by SANDAG, may be transferred to another entity, if permitted by the funding source of the procurement and agreed to by the parties. Notwithstanding the foregoing, the parties involved with the project may agree to have one or more other entities own Subsequently Acquired Property.

1.2.3.1 To convey the real property including improvements developed on Subsequently Acquired Property to NCTD or MTS, the Affected Parties will enter into one or more addenda to the Master MOU that will set forth the legal rights and remedies amongst the parties to make the operating agency responsible to operate and maintain the property and allocate liability for claims involving the property to the operating agency.

1.2.3.2 In the event Subsequently Acquired Property may offer the opportunity to be further developed for other public transportation uses, SANDAG will retain the appropriate real property interest to enable it to develop such public transportation projects on the property in the future.

1.2.4 In the event real property is procured by SANDAG utilizing Federal Transit Administration (FTA) grants, said real property may be conveyed to a Third Party Owner with FTA approval, and if agreed to by the parties.

1.3 Personal Property

1.3.1 All property other than real property and its associated bundle of rights will be referred to herein as "Personal Property."

1.3.2 Personal Property procured by SANDAG for the operating purposes of NCTD or MTS may be owned, operated and maintained by the operating agency if permitted by the funding source of the procurement, and if agreed to by the Affected Parties.

1.3.3 To the extent the funding source of the procurement of Personal Property requires SANDAG to retain ownership, SANDAG may convey possession of the Personal Property to one or more Third Party Owners pursuant to a lease which will obligate the Third Party Owner to operate and maintain the Personal Property and account for its use and maintenance. Said lease will require the operating agency to retain full responsibility for the operation, maintenance, and liability associated with the use and possession of the Personal Property.

1.3.4 In the event Personal Property is procured by SANDAG utilizing FTA grants, the Personal Property may be conveyed to a Third Party Owner with FTA approval, and if agreed to by the parties.

2. Disposition Procedures

- 2.1 SANDAG has various assets which, over time, will be deemed obsolete due to normal use and wear, or new technology, or no longer needed due to project completion, underutilization, or surplus status. Therefore, these assets become candidates for disposal. Laws governing SANDAG's purchase of such assets require the use of a competitive procurement process. Likewise, the disposal or sale of property purchased with public funds should be done so in an open competitive process, unless the property will be assigned to government or nonprofit entities and designated for public purposes. It is SANDAG policy to capitalize assets with a unit purchase value of \$5,000 or more. This policy is intended to ensure that when SANDAG disposes of personal assets or real property assets, it will be done in a manner which is in the best interests of SANDAG, within the standards and procedures set forth.
- 2.2 Surplus properties are made available for various public purposes, including negotiated sale to state and local governments and eligible nonprofit institutions, or are sold competitively to the general public. State and local governments, eligible public institutions, and nonprofit organizations may acquire surplus property that SANDAG no longer needs on terms that SANDAG's Transportation Committee deems are in the best interest of SANDAG's goals and public need.
- 2.3 Surplus property that is not conveyed to state/local governments or other eligible recipients for public purposes may be sold to private individuals and companies by competitive bid.
- 2.4 Methods. The method of disposal must be approved by the Transportation Committee for capital assets with an individual or aggregate actual or depreciated value of \$100,000 or more. For assets valued under \$100,000, the Executive Director may authorize disposal and the method. For audit purposes, a memorandum must be filed which certifies the depreciated value of the asset and indicates the method of disposal. Such methods may include, but are not limited to, the following:
 - 2.4.1 Trade-in allowance - provided that an independent appraisal is conducted to determine the value, or an analysis is conducted which certifies that the sale price is fair and reasonable.
 - 2.4.2 Use of competitive auctions, such as a government agency-sponsored auction or a competitive public auction.
 - 2.4.3 Competitive sale.
 - 2.4.4 Negotiated sale.
 - 2.4.5 Destruction
 - 2.4.6 Trash

- 2.5 Competitive Sale. Under a competitive sale, the following procedures must be followed:
 - 2.5.1 Notification to the public. This would include, at a minimum, the placing of an advertisement in a newspaper(s) of general circulation. The ad must specify the item(s) to be sold, the condition and the terms for the sale, and the date/time/place sealed bids are to be received.
 - 2.5.2 All bids must be sealed.
 - 2.5.3 Prospective bidders may be afforded an opportunity to view the item(s) being disposed.
 - 2.5.4 Award. The award will be to the highest responsive, responsible bidder.
- 2.6 Negotiated Sale. Capital assets with an individual or aggregate value in excess of \$100,000 may be disposed of on a negotiated sale basis provided a finding by the Transportation Committee by a two-thirds vote that special circumstances exist that make it in the best interest of SANDAG. Such circumstances may include the following:
 - 2.6.1 Unique item(s) may have a limited resale market.
 - 2.6.2 The financial interest of SANDAG would be best served by negotiation.
 - 2.6.3 In the case of used buses, the Transportation Committee will give specific direction on the method of disposal to be followed on a case-by-case basis considering potential financial return and available alternatives, including the sale for scrap or other nonoperating purposes to avoid use of the vehicles and resultant air pollution in California and the San Diego region. A method of disposal may be approved even though the financial benefit may be less than other methods of disposal.
 - 2.6.4 If approved, the Executive Director may be authorized to negotiate a sale price.
- 2.7 Ineligible Participants. SANDAG, NCTD, MTDB, SDTC, and SDTI employees, Board members and members of their immediate family may not participate in a competitive or negotiated sale of SANDAG capital assets.
- 2.8 Federal Grant Funded Assets. Capital assets which have been purchased with federal capital grant funds must be disposed of in a manner consistent with any applicable laws, including FTA regulations. The proceeds from such disposal will be distributed in the percent of which was provided for the original purchase if the per unit fair market value of the asset exceeds \$5,000.

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