



# TransNet Independent Taxpayer Oversight Committee Bylaws

## Introduction

The TransNet Extension Ordinance and Expenditure Plan, approved by the voters in November, 2004 as Proposition A, established the Independent Taxpayer Oversight Committee (ITOC). The ITOC is intended to provide an increased level of accountability for expenditures made under the TransNet Extension, in addition to the independent annual fiscal and compliance audits required under the existing TransNet program. The ITOC is to function in an independent, open and transparent manner to ensure that all voter mandates are carried out as required in the Ordinance and Expenditure Plan, to support the implementation of the objectives of Proposition A to reduce congestion and improve regional mobility, and to develop positive, constructive recommendations for improvements and enhancements to the financial integrity and performance of the TransNet program. The ITOC reports to the public and makes recommendations to the SANDAG Board of Directors, which has the responsibility for decisions related to the implementation of the TransNet program. These bylaws are based on the provisions related to the ITOC that were included as part of Proposition A.

## A. Membership

There shall be seven ITOC voting members with the characteristics described below. The intent is to have one member representing each of the specified areas of expertise. If, however, after a good faith effort, qualified individuals have not been identified for one or more of the areas of expertise, then no more than two members from one or more of the remaining areas of expertise may be selected. For each of the areas of expertise listed below, an individual representing one of the region's colleges or universities with a comparable level of academic experience also would be eligible for consideration. The criteria established for the voting members of the ITOC are intended to provide the skills and experience needed for the ITOC to carry out its responsibilities and to play a valuable and constructive role in the ongoing improvement and enhancement of the TransNet program. Applications will be requested from individuals interested in serving on the ITOC through an open, publicly noticed solicitation process. The seven voting members are to include:

1. A professional in the field of municipal/public finance and/or budgeting with a minimum of ten years in a relevant and senior decision making position in the public or private sector.
2. A licensed architect, civil engineer or traffic engineer with demonstrated experience of ten years or more in the fields of transportation and/or urban design in government or the private sector.
3. A professional with demonstrated experience of ten years or more in the management of large-scale construction projects.
4. A professional with demonstrated experience of ten years or more in real estate, land economics, and/or right-of-way acquisition.

5. A licensed engineer with appropriate credentials in the field of transportation project design or construction and a minimum of ten years of experience in a relevant and senior decision making position in the government or private sector.
6. The chief executive officer or person in a similar senior-level decision making position, of a major private sector employer with demonstrated experience in leading a large organization.
7. A professional in biology or environmental science with demonstrated experience of ten years or more with environmental regulations and major project mitigation requirements and/or habitat acquisition and management.
8. Ex-Officio Members: SANDAG Executive Director and the San Diego County Auditor.

## **B. Selection Process**

### **1. Technical Screening Committee**

A technical screening committee will be established to review applications received from interested individuals. This committee will consist of three members selected by the SANDAG Executive Director from high-level professional staff of local, regional, state or federal transportation agencies outside of the San Diego region, or from one of the region's colleges or universities in a transportation-related field, or a combination thereof. The committee will develop a list of candidates determined to be qualified to serve on the ITOC based on the criteria established for the open position(s) on the ITOC. The technical screening committee will recommend the two candidates for each open position from the list of qualified candidates for consideration by the Selection Committee. The recommendations shall be made within 30 days of the noticed closing date for applications.

### **2. Selection Committee**

A selection committee shall be established to select the ITOC members from the list of qualified candidates recommended by the technical screening committee. The selection committee shall consist of the following:

- Two members of the County of San Diego Board of Supervisors
- The Mayor of the City of San Diego
- A mayor from the Cities of Chula Vista, Imperial Beach, or National City selected by the mayors of those cities.
- A mayor from the Cities of El Cajon, La Mesa, Lemon Grove, or Santee selected by the mayors of those cities.
- A mayor from the Cities of Carlsbad, Del Mar, Encinitas, Oceanside, or Solana Beach selected by the mayors of those cities.
- A mayor from the Cities of Escondido, Poway, San Marcos, or Vista selected by the mayors of those cities.

The selection of ITOC members shall be made within 30 days of the receipt of recommendations from the technical screening committee. All meetings of the selection committee shall be publicly noticed and conducted in full compliance with the requirements of the Brown Act. Should the selection committee be unable to reach agreement on a candidate from the qualified candidates recommended by the technical screening committee, the selection committee shall request the technical screening committee to recommend two additional qualified candidates for consideration.

## **C. Terms and Conditions for ITOC Members**

### **1. Length of Term**

ITOC members shall serve a term of four years, except that appointments may be less than four years in order to ensure the terms of the ITOC members are sufficiently staggered.

Term limits for ITOC members should be staggered to prevent turnover of more than two members at any one time. In the event more than two members need to be replaced during the same recruitment period, the Selection Committee shall determine the length of their replacements' first term in order to limit concurrent future turnover.

### **2. Additional Term**

For a member eligible to serve for an additional four year term, an application for reappointment to continue as a member of the ITOC must be submitted to the Selection Committee for approval at least 120 days prior to the end of the member's current term. If the Selection Committee does not approve the additional term, the position will be considered vacant at the end of the member's current term and the selection process for a new member will be initiated. In no case shall any member having served two four-year terms, serve more than eight years on the ITOC.

ITOC members shall serve no more than eight years unless the member's first term was less than four years, in which case the member may serve an additional two terms after the partial term. In no case, however, shall any member serve more than ten years on the ITOC.

### **3. Removal from Membership**

Members of the ITOC may be removed for cause including the member's failure to attend more than 50% of the regular ITOC meetings, not including special meetings or subcommittee meetings, in one calendar year or for failure to comply with the ITOC's conflict of interest provisions. The Selection Committee will be automatically notified when an ITOC member has failed to meet the established standard for attendance and will consider any appeal or review of extenuating circumstances prior to initiating the process to select a new member.

### **4. Vacancies**

If mid-term vacancies occur as a result of Section C(3) or due to the death, disability, or resignation of a member, the process for replacement shall generally follow the same process as established for regular appointments described in Section B. The Selection Committee may modify the process as may be necessary given the particular circumstances. Every effort should be made to fill the vacancy in the same area of expertise.

## **5. Selection of Chair and Vice Chair**

The ITOC shall select a Chair and Vice-Chair by majority vote of the committee. The Chair and Vice-Chair shall serve a term of one year. The selection will be made at the first regular meeting following commencement of the SANDAG fiscal year.

## **6. Responsibilities of the Chair**

The Chair will run the ITOC meetings, work with staff to set the agenda for the meetings, and serve as the primary spokesperson for the ITOC to the SANDAG Board of Directors and Transportation Committee, other groups and organizations, and the media.

## **7. Responsibilities of the Vice-Chair**

The Vice-Chair serves in the capacity of the Chair when the Chair is not available.

## **8. Compensation**

ITOC members shall serve without compensation except for direct expenses (parking/mileage for attendance at meetings) related to the work of the ITOC.

## **9. Conflict of Interest**

The ITOC shall be subject to the SANDAG conflict of interest policies. ITOC members shall have no legal action pending against SANDAG and are prohibited from acting in any commercial activity directly or indirectly involving SANDAG, such as being a consultant to SANDAG or to any party with pending legal actions against SANDAG during their tenure on the ITOC. ITOC members shall not have direct commercial interest or employment with any public or private entity, which receives TransNet sales tax funds authorized by this Ordinance. Each ITOC member shall be required to sign a conflict of interest statement and an annual statement of economic interests.

# **ITOC Funding and Administration**

## **1. Annual Funding**

Beginning with the implementation of the TransNet Extension on July 1, 2008, costs incurred in administering the activities of the ITOC, including related fiscal and performance audit costs, shall be paid annually from the proceeds of the TransNet sales tax. The funds made available to the ITOC shall not exceed \$250,000 annually, as adjusted for inflation annually for the duration of the program. Any funds not utilized in one fiscal year shall remain available for expenditure in subsequent years as part of the annual budget process.

## **2. Transition Period**

During the initial transition period through July 1, 2008, the ITOC's activities will be phased in to the extent possible within the budget constraints of the one percent administrative cap under the initial TransNet Ordinance. Through June 30, 2008, the provisions of the initial TransNet Ordinance will remain in effect with requirements such as the completion of the annual fiscal audits of TransNet recipients being administered by SANDAG using the 1% administrative funds. Staff will work in coordination with the ITOC on key activities that will become ITOC responsibilities after July 1, 2008 and seek ITOC's input as appropriate during this transition period.

## **3. Duration of the ITOC**

Given the forty-year duration of the TransNet tax extension, the ITOC shall continue as long as funds from the current authorization remain available. These activities would include conducting annual fiscal audits of recipients until TransNet funds are fully expended and the development of related project close-out procedures. The ITOC budget for FY 2048 should reflect the estimated funding required to complete the close-out of the TransNet program.

#### **4. Audits of ITOC Expenditures**

The expenditures of the ITOC shall be audited annually as part of the same fiscal audit process used for all other TransNet-funded activities.

#### **5. Annual Budget Process**

An annual ITOC operating budget shall be prepared and submitted to the SANDAG Board of Directors for its approval 90 days prior to the beginning of each fiscal year, starting April 1, 2008 for the 2008-09 Fiscal Year.

#### **6. Open Meeting Requirements**

All ITOC meetings, including any standing subcommittees of the ITOC which may be established, shall be public meetings conducted in full compliance with the Brown Act. The ITOC will meet on a regular basis, at least quarterly, to carry out its roles and responsibilities.

#### **7. Meeting Procedures**

Except as otherwise provided by the TransNet Ordinance or its bylaws, the ITOC shall conduct its business in accordance with generally accepted parliamentary procedures based on the principles of Roberts Rules of Order, as applicable to committees similar to the ITOC.

#### **8. Quorum**

A quorum of the ITOC shall consist of a minimum of four members. To pass a motion, fifty percent plus one of the members present and voting must vote in favor (a minimum of three votes at the minimum quorum level).

#### **9. Access to Records**

ITOC members and their designated auditors shall have full and timely access to all public documents, records and data with respect to all TransNet funds and expenditures.

#### **10. Consultant Selection**

All consultants hired by the ITOC shall be selected on an open and competitive basis with solicitation of proposals from the widest possible number of qualified firms as prescribed by the SANDAG procedures for procurement. The scope of work of all such consultant work shall be adopted by the ITOC prior to any such solicitation.

### **E. Staffing and Support of the ITOC**

#### **1. General Support for ITOC**

At the ITOC's request, SANDAG shall provide reasonable staff support and shall provide meeting space for regularly scheduled meetings at the SANDAG offices (1011 Union Street, Suite 400, San Diego, CA 92101). SANDAG will provide supplies and incidental materials adequate for the ITOC to carry out its responsibilities and conduct its affairs. Such staffing and administrative support shall not be charged against the funds set aside for the administration of the ITOC provided under Section D(1).

## **2. Compliance with Public Meeting Requirements**

SANDAG shall assist the ITOC in terms of compliance with the public meeting laws, including posting meeting notices and agendas. An Internet webpage for the ITOC will be maintained by SANDAG as part of its website containing ITOC agenda materials, reports, and other information related to the ITOC. As a general practice, the agenda and related materials will be distributed to ITOC members one week prior to the scheduled meeting.

## **3. Preserving ITOC Independence**

SANDAG Directors and staff will fully cooperate with and provide necessary support to the ITOC to ensure that it successfully carries out its duties and obligations, but should limit involvement to the provision of information required by the ITOC to ensure the independence of the ITOC as it carries out its review of the TransNet program and develops its recommendations for improvements.

# **F. ITOC Roles and Responsibilities**

The TransNet Ordinance specifies the roles and responsibilities for the ITOC and describes the intent of the ITOC as a functional partner to SANDAG in the ongoing implementation of the TransNet program. As stated in the TransNet Ordinance, in carrying out its responsibilities, the ITOC shall conduct its reviews in such a manner that does not cause unnecessary project delays, while providing sufficient time to ensure that adequate analysis can be completed to allow the ITOC to make objective recommendations and to provide the public with information about the implementation of the TransNet program.

## **1. Intent**

The TransNet Extension Ordinance (pp. 44-45) contained intent language that summarized the foundation of the desired relationship between ITOC and SANDAG. The intent language is included below and provides general guidance for how the ITOC and SANDAG should interact as the ITOC carries out each of the specific roles and responsibilities.

- Resource – it is the intent that the ITOC will serve as an independent resource to assist the SANDAG implementation of TransNet projects and programs. The Committee's membership is designed to provide to SANDAG a group of professionals who, collectively, can offer SANDAG the benefit of their experience to advance the timely and efficient implementation of TransNet projects and programs. The ITOC will work in a public way to ensure all deliberations are conducted in an open manner. Regular reports from the ITOC to the public and to the SANDAG Board of Directors (or policy committees) are expected with regard to program and project delivery, and overall performance.

- Productive – it is the intent that the ITOC will rely upon data and processes available at SNADAG, studies initiated by the ITOC, and other relevant data generated by reputable sources. It is understood, however, that SANDAG will be continuously striving to improve the reliability of data and to update analytical and modeling processed to be consistent with the state-of-the-art, and that the ITOC will be kept abreast of any such efforts, and invited to participate in development of such updates in a review capacity.
- Cost-efficient – it is the intent that the ITOC will not add cost burden to the SANDAG implementation of the TransNet program and projects. Rather, through a cooperative and productive working relationship between ITOC and SANDAG implementation team, it is the objective that costs will be saved.
- Flexible – it is the intent that the ITOC will assist SANDAG to be opportunistic to take advantage of changing situations in the future regard to technologies and transportation developments.

## **2. Implementation Procedures**

A set of implementation procedures for each of the basic ITOC responsibilities established in the Ordinance will be developed by the ITOC and updated from time to time as necessary. These implementation procedures will be based on the basic Ordinance language for each ITOC responsibility with additional background information, a detailed description of the way in which the ITOC is to approach each area of responsibility, and a schedule or general timing for when each activity should be undertaken.

# **G. Effective Data and Amendments**

## **1. Effective Date**

These Bylaws shall become effective upon approval by the SANDAG Board of Directors.

## **2. Amendments:**

These Bylaws may be amended or repealed and new Bylaws adopted by majority vote of the ITOC members in office at that time and subject to SANDAG Board of Directors approval.

- Attachments<sup>1</sup>:
1. Full Text of the TransNet Extension Ordinance and Expenditure Plan (including all amendments)
  2. Board Policy No. 031
  3. Summary of major Brown Act requirements for public meetings
  4. Key provisions of Roberts Rules of Order for conducting meetings
  5. ITOC Guidelines
  6. Memo: Conflicts of Interest Issues Related to Selection of New Members

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<sup>1</sup> Note: Attached materials on Brown Act, Roberts Rules of Order, and related administrative guidelines for conducting meetings were prepared by Julie Wiley, SANDAG General Counsel, and were distributed at the first ITOC meeting on May 18, 2005.

