AGENDA HIGHLIGHTS

- DRAFT 2010 LEGISLATIVE PROGRAM
- AMENDMENT TO THE FY 2010 BUDGET: 2050 REGIONAL TRANSPORTATION PLAN
- ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS

PLEASE TURN OFF CELL PHONES DURING THE MEETING

MISSION STATEMENT
The 18 cities and county government are SANDAG serving as the forum for regional decision-making. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, plans, engineers, and builds public transit, and provides information on a broad range of topics pertinent to the region’s quality of life.
Welcome to SANDAG. Members of the public may speak to the Executive Committee on any item at the time the Committee is considering the item. Please complete a Speaker’s Slip, which is located in the rear of the room, and then present the slip to Committee staff. Also, members of the public are invited to address the Committee on any issue under the agenda item entitled Public Comments/Communications/Member Comments. Speakers are limited to three minutes. The Executive Committee may take action on any item appearing on the agenda.

This agenda and related staff reports can be accessed at www.sandag.org under meetings on SANDAG’s Web site. Public comments regarding the agenda can be forwarded to SANDAG via the e-mail comment form also available on the Web site. E-mail comments should be received no later than noon, two working days prior to the Executive Committee meeting.

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SANDAG offices are accessible by public transit. Phone 511 or see 511sd.com for route information.
## EXECUTIVE COMMITTEE
Friday, December 4, 2009

<table>
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<tr>
<th>ITEM #</th>
<th>RECOMMENDATION</th>
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<tbody>
<tr>
<td>+1.</td>
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<td>2.</td>
<td>APPROVAL OF NOVEMBER 13, 2009, MEETING MINUTES</td>
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### +1. APPROVAL OF NOVEMBER 13, 2009, MEETING MINUTES

### +2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public will have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Committee that is not on this agenda. Speakers are limited to three minutes each and shall reserve time by completing a “Request to Speak” form and giving it to the Clerk prior to speaking. Committee members also may provide information and announcements under this agenda item.

### CONSENT ITEM (3)

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### +3. DRAFT 2010 LEGISLATIVE PROGRAM (Genevieve Morelos)

Each year, the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the ensuing calendar year. Consistent with past programs, the 2010 program includes policies and proposals for possible federal and state legislation and local activities. At its November 13, 2009, meeting, the Public Safety Committee recommended a minor change to one of the public safety-related goals. The Executive Committee is asked to recommend that the Board of Directors approve the 2010 SANDAG Legislative Program, as amended.

### REPORTS (4 through 6)

<table>
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### +4. AMENDMENT TO THE FY 2010 BUDGET: 2050 REGIONAL TRANSPORTATION PLAN (Heather Werdick)

SANDAG is the first major metropolitan planning organization that is developing a Regional Transportation Plan (RTP) according to provisions of Senate Bill 375 (Steinberg, 2008). At its June 26, 2009, meeting, the Board of Directors discussed a detailed work program and schedule for the RTP, which includes preparing an environmental impact report, conducting an economic analysis of alternative transportation scenarios, and additional modeling work. The Executive Committee is asked to approve (1) use of $225,000 in Contingency Reserve funds and (2) an increase of $225,000 to the Long-Range Regional Plans and Forecast work element #31005 of the FY 2010 Overall Work Program for additional modeling and consultant services for the 2050 RTP.
ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS
(Julie Wiley)

Staff is proposing amendments to Board Policies and Bylaws, as well as one new Board Policy, as part of the annual review of these governing documents. The Executive Committee is asked to recommend that the Board of Directors approve the proposed changes to SANDAG Board Policies and Bylaws.

REVIEW OF DECEMBER 18, 2009, DRAFT BOARD AGENDA

UPCOMING MEETINGS

The next meeting of the Executive Committee is scheduled for Friday, January 8, 2010, at 9 a.m.

ADJOURNMENT

+next to an agenda item indicates an attachment
EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
NOVEMBER 13, 2009

Chair Lori Holt Pfeifer (North County Inland) called the Executive Committee meeting to order at 9:01 a.m. The attendance sheet for the meeting is attached.

1. APPROVAL OF MINUTES

Upon a motion by Mayor Mary Sessom (East County) and a second by First Vice Chair Jerome Stocks (North County Coastal), the minutes of the October 9, 2009, Executive Committee meeting were unanimously approved.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS

Melchor Gandaru, a member of the public, spoke regarding availability of safe lock boxes at transit stations for larger-sized bicycles.

Jim Schmidt, a member of the public, distributed two guest commentaries published in The Daily Transcript on October 30, and July 3, 2009, respectively. One article was related to his support of the Carlsbad desalination plant, and the second article was in opposition to the possibility of returning tolls to the Coronado Bridge.

REPORTS (3 through 8)

3. FY 2010 BUDGET AMENDMENTS: CALIFORNIA TRANSPORTATION PLANNING AND SPECIAL STUDY GRANTS (APPROVE)

Daniel Veeh, Assistant Regional Planner, reported that in September 2009, Caltrans announced transportation planning grant awards to SANDAG totaling $920,034 to fund five projects. He described each of the projects, the local match requirements, and the sources of the matching funds. The proposed amendment to the FY 2010 Budget and Overall Work Program (OWP) will allocate awarded funds and the local match into existing work elements.

Action: Upon a motion by Supervisor Pam Slater-Price (County of San Diego), and a second by Mayor Ron Morrison (South County), the Executive Committee voted to amend the FY 2010 Budget and OWP to accept Caltrans Transportation Planning Grant funds totaling $920,034, and to provide the required matching funds as shown in Attachments 1 through 6 to the agenda report.
4. CALIFORNIA HIGH-SPEED TRAIN SYSTEM: LOS ANGELES TO SAN DIEGO VIA INLAND EMPIRE CORRIDOR PROJECT-LEVEL ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL IMPACT STATEMENT (APPROVE)

Linda Culp, Principal Planner, reported that the California High-Speed Rail Authority (CHSRA) is the state agency charged with planning and constructing an intercity, high-speed train system that will connect San Diego with the state's other metropolitan areas. The CHSRA has issued a Notice of Preparation for a project-level Environmental Impact Report/Environmental Impact Statement for our corridor. She provided a summary of the SANDAG comments. The Transportation Committee recommended that the Executive Committee approve the initial comments on the Notice of Preparation for the Los Angeles to San Diego via Inland Empire High-Speed Train Corridor.

Jose de Jesus Martinez, CHSRA Corridor Director, provided information on the project-level environmental process.

Chair Pfeiler noted that there were a number of requests to speak on this item.

Jesse Mays, representing the Offices of San Diego City Councilmembers Sherri Lightner and Donna Frye, presented a letter on behalf of the Councilmembers requesting additional comments be included in the SANDAG letter to the CHSRA.

Brian Hausknecht, CHRSA Environmental Lead, provided additional information regarding routing evaluations conducted during the program-level environmental review in 2005.

Deanna Spehn, Policy Director for State Senator Christine Kehoe, commented that the purpose and intent of high-speed rail should be followed in our county, with one stop in Escondido and another at Lindbergh Field. Ms. Spehn added that Senator Kehoe favors investigation of alternative routes and a possible extension to the border.

Supervisor Slater-Price asked Ms. Spehn if Senator Kehoe approves of the alternative to QUALCOMM Stadium. Ms. Spehn responded that the Senator feels the addition of too many stations will defeat the purpose of high-speed rail.

Ariane Jansma, a member of the public, spoke in favor of deleting any route through Rose Canyon.

Janay Kruger, University City Planning Group, expressed concern about the impacts of this project on the University City community. She asked that the Committee consider studying the Interstate 15 (I-15) corridor instead of the one through University City to downtown San Diego.

Deborah Knight, Executive Director of Friends of Rose Canyon, spoke against the University City and Rose Canyon routing. She said that this environment is incompatible with high-speed rail for a number of reasons, especially the close proximity to several area schools. She spoke in favor of the I-15 QUALCOMM routing.
Paul Goldstein, a member of the public, spoke about the process for the Notice of Preparation and the scoping. He felt that alternative routings should have equal standing with the current corridors shown in the CHSRA Notice of Preparation.

Linda Geldner, Mira Mesa Community Planning Group, noted that this group has not yet taken a position on the project alignments. Both routes cut through the Mira Mesa community. She wondered why existing rail/transit routes are not being considered.

Executive Committee member discussion ensued. The Committee agreed with revising the letter to the CHSRA to highlight two main points from SANDAG: having only two stops in the San Diego region, one at the Escondido Transit Center and one in downtown San Diego; and ensuring there is a high-speed rail connection to Lindbergh Field.

**Action**: Upon a motion by First Vice Chair Stocks and second by Mayor Morrison, the Executive Committee approved initial comments on the Notice of Preparation for the Los Angeles to San Diego via Inland Empire High-Speed Train Corridor, which will be provided to the CHSRA. The motion included highlighting the two main points of having only two stops in the San Diego region, one at the Escondido Transit Center and another in downtown San Diego, and a high-speed rail connection to Lindbergh Field.

5. **DRAFT 2010 LEGISLATIVE PROGRAM (DISCUSSION/POSSIBLE ACTION)**

Genevieve Morelos, Senior Legislative Analyst, stated that each year the Executive Committee recommends a legislative program in a priority order to the Board of Directors for the ensuing calendar year. She reviewed the draft Legislative Program indicating its consistency with past programs, and noting the inclusion of policies and proposals for possible federal and state legislation, and local activities.

**Action**: Upon a motion by Supervisor Slater-Price, and a second by Second Vice Chair Jack Dale (East County), the Executive Committee recommended that the Board of Directors approve the 2010 Legislative Program.

Items 7 and 8 were taken out of order.

7. **UPDATE ON FEDERAL CLIMATE CHANGE LEGISLATION (INFORMATION)**

Victoria Stackwick, Legislative Analyst, provided a summary of key federal climate change bills that have been introduced and their potential effects on transportation. She also provided an oral update on the status of FY 2010 appropriations and the next federal surface transportation authorization.

**Action**: This item was presented for information only.

8. **REVIEW OF NOVEMBER 20, 2009, DRAFT BOARD AGENDA (APPROVE)**

Renee Wasmund, Chief Deputy Executive Director, reviewed this draft agenda and noted proposed changes.
**Action**: Upon a motion by Supervisor Slater-Price, and a second by First Vice Chair Stocks, the Executive Committee voted to approve the agenda for the November 20, 2009, Board of Directors meeting, as revised.

6. **ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS (DISCUSSION/POSSIBLE ACTION)**

   Second Vice Chair Dale suggested that we make changes to our Board policies related to the conduct of fare hearings, to allow these hearings to be conducted by the transit operators, similar to the process for service changes. First Vice Chair Stocks agreed with this approach, and asked General Counsel Julie Wiley to bring back possible options for review.

   Ms. Wiley clarified that this topic would need to be a separate discussion item from the annual amendments to the Board Policies and Bylaws. However, she agreed to prepare the materials and options and bring them back to the Committee.

   **Action**: This item was continued to the December Executive Committee meeting.

9. **UPCOMING MEETINGS (INFORMATION)**

   The next meeting of the Executive Committee is scheduled for Friday, December 4, 2009, at 9 a.m. **Please note that the December Executive Committee meeting will be held on the first Friday of the month.**

   Gary Gallegos, Executive Director, introduced the new Caltrans District 11 Director, Laurie Berman.

10. **ADJOURNMENT**

    Chair Pfeiler adjourned the meeting at 10:29 a.m.

Attachment: Attendance Sheet
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<tr>
<th>GEOGRAPHICAL AREA</th>
<th>JURISDICTION</th>
<th>NAME</th>
<th>MEMBER/ALTERNATE</th>
<th>ATTENDING</th>
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<tr>
<td>North County Inland</td>
<td>City of Escondido</td>
<td>Lori Holt Pfeiler, Chair</td>
<td>Member</td>
<td>Yes</td>
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<td></td>
<td>City of Poway</td>
<td>Don Higginson</td>
<td>Alternate</td>
<td>Yes</td>
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<td>North County Coastal</td>
<td>City of Encinitas</td>
<td>Jerome Stocks, 1st Vice Chair</td>
<td>Member</td>
<td>Yes</td>
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<td></td>
<td>City of Carlsbad</td>
<td>Matt Hall</td>
<td>Alternate</td>
<td>Yes</td>
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<td>South County</td>
<td>City of National City</td>
<td>Ron Morrison</td>
<td>Member</td>
<td>Yes</td>
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<td>City of Imperial Beach</td>
<td>Jim Janney</td>
<td>Alternate</td>
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<td>East County</td>
<td>City of Santee</td>
<td>Jack Dale, 2nd Vice Chair</td>
<td>Member</td>
<td>Yes</td>
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<td></td>
<td>City of Lemon Grove</td>
<td>Mary Sessom</td>
<td>Alternate</td>
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<td>Jerry Sanders</td>
<td>Member</td>
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<td></td>
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<td>Ben Hueso</td>
<td>Alternate</td>
<td>Yes</td>
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<td>Tony Young</td>
<td>Alternate</td>
<td>No</td>
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<td>City of San Diego</td>
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<td>Dianne Jacob</td>
<td>Member</td>
<td>No</td>
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<td>Pam Slater-Price</td>
<td>1st Alternate</td>
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<td>County of San Diego</td>
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<td>Ron Roberts</td>
<td>2nd Alternate</td>
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DRAFT 2010 LEGISLATIVE PROGRAM

Introduction

Each year, the Executive Committee recommends a legislative program in priority order to the Board of Directors for the upcoming calendar year. Consistent with past programs, the draft 2010 Legislative Program (Attachment 1) includes policies and proposals for federal and state legislation as well as local activities.

Recommendation

The Executive Committee is asked to recommend that the Board of Directors approve the 2010 Legislative Program, as amended.

At its November 13, 2009, meeting, the Executive Committee recommended approval of the 2010 Legislative Program, and asked that it be brought back to the Executive Committee only if the Public Safety Committee (PSC) recommended any additional changes. At its November 13, 2009, meeting, the PSC recommended that the 2010 Legislative Program include the same three public safety-related goals as last year’s program (Goals No. 7B, 8B, and 16B), with the exception of one minor modification to Goal No. 16B. The PSC recommended including support for funding opportunities for 211 services, which has played a vital role in providing public safety information on the H1N1 vaccination in the San Diego region. The modified Goal No. 16B would read as follows:

- Goal No. 16B – Support funding opportunities for prevention and intervention programs that address substance abuse and youth and gang violence, and for public safety initiatives including 211 services.

Discussion

The SANDAG Legislative Program serves as a road map for Board members and staff to follow as legislation is introduced and activities occur during the federal and state legislative sessions. The program is organized into three distinct sections that relate to the level of effort needed to support corresponding legislative activities: (1) Sponsor, (2) Support/Oppose, and (3) Monitor. Within each section, individual goals are assigned a priority level, ranging from highest priority to lower priority. The program also lists the Board position, position year, which Policy Advisory Committee is involved, and whether the goal includes federal, state, and/or local efforts.
The draft 2010 Legislative Program (Attachment 1) includes 30 separate legislative goals. A summary of the major changes from the 2009 program is included as Attachment 2. Action on the 2010 Legislative Program is scheduled for the December Board of Directors meeting.

KIM KAWADA
Policy and Legislative Affairs Program Manager

Attachments: 1. Draft 2010 Legislative Program
2. Summary of Proposed Legislative Program Changes

Key Staff Contact: Genevieve Morelos, (619) 699-1994, gmo@sandag.org
DRAFT 2010 LEGISLATIVE PROGRAM

OVERARCHING GOAL: Pursue policy and legislative changes that enable SANDAG to better implement its adopted plans and programs

### (A) SPONSOR

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<th>PRIORITY</th>
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<th>B</th>
<th>JURISDICTION</th>
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<tr>
<td>1A</td>
<td>Pursue SANDAG priorities for the next federal surface transportation reauthorization, including appropriate funding levels, goods movements/border funding programs, transit investment and reforms, process improvements, climate change, non-motorized transportation, and tribal transportation planning. (2007)</td>
<td>Highest</td>
<td>Sponsor</td>
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<td>Federal/State</td>
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<td>2A</td>
<td>Pursue funding from the statewide infrastructure bond measures; participate in development of guidelines and other activities to maximize the availability and flexibility of funding for the San Diego region to support the Regional Transportation Plan (RTP) and the Regional Comprehensive Plan (RCP) implementation. (2006)</td>
<td>Highest</td>
<td>Sponsor</td>
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<td>3A</td>
<td>Expand access to resources and technical tools that will enable SANDAG to prepare an RTP in compliance with SB 375. (2009)</td>
<td>Highest</td>
<td>Sponsor</td>
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<td>Federal/State</td>
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<td>4A</td>
<td>Pursue FY 2011 federal appropriation requests and potential economic stimulus funding. (2005)</td>
<td>Highest</td>
<td>Sponsor</td>
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<td>Federal</td>
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<td>5A</td>
<td>Pursue statutory authority for a subregional funding mechanism dedicated to public transit. (2009)</td>
<td>Highest</td>
<td>Sponsor</td>
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<td>State/Local</td>
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<td>6A</td>
<td>Participate in discussions with stakeholders and develop SANDAG priorities for federal climate change legislation. (2009)</td>
<td>Higher</td>
<td>Sponsor</td>
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<td>Federal/State</td>
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<td>7A</td>
<td>Pursue policy and/or legislative changes to enable comprehensive state environmental process to fulfill federal environmental requirements. (2008)</td>
<td>High</td>
<td>Sponsor</td>
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<td>Federal</td>
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<tr>
<td>8A</td>
<td>Pursue policy and/or legislative changes to enable the use of freeway shoulders as transit lanes on major corridors in the San Diego region. (2006)</td>
<td>High</td>
<td>Sponsor</td>
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Legend - T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
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<tr>
<td>1B</td>
<td>Legislation that provides incentives to jurisdictions that provide opportunities for more housing including affordable and transit-oriented developments; supports regional fair-share allocation of housing funds; and provides additional affordable housing funding with greater local/regional control. (2002)</td>
<td>Highest</td>
<td>Support</td>
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<td>Federal/State</td>
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<td>2B</td>
<td>Support policies and/or legislation implementing climate change plans and programs that are consistent with the RCP and RTP. (2007)</td>
<td>Highest</td>
<td>Support</td>
<td></td>
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<td>Federal/State/Local</td>
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<td>3B</td>
<td>Efforts consistent with financial strategies adopted in the RTP such as, but not limited to, increase revenues for transportation and other related purposes through measures that would increase gas tax or equivalent revenue sources, bond measures, developer fees, and public/private partnerships, and maximize flexibility of federal and state funds. (2002, 2005)</td>
<td>Highest</td>
<td>TBD (based on activity)</td>
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<td>5B</td>
<td>Legislation assisting in the implementation of the RCP, including dedicated ongoing funding source for regional blueprint planning and funding incentives for smart growth (mixed-use projects, transit-oriented development, walkable communities, etc.). (2002)</td>
<td>Highest</td>
<td>Support</td>
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<td>6B</td>
<td>Efforts to expand available methods of transportation project delivery including design-build, design sequencing, construction manager/general contractor, and other alternative methods that expedite project delivery. (2005)</td>
<td>Highest</td>
<td>Support</td>
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<td>7B</td>
<td>Efforts to pursue resources to improve regional public safety voice and data communications and interoperability, including connectivity with state and federal systems. (2005)</td>
<td>Highest</td>
<td>Support</td>
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<td>8B</td>
<td>Efforts to pursue Homeland Security funding at both the state and federal levels to improve public safety, enhance border security and improve security in the San Diego region, through Automated Regional Justice Information System (ARJIS) operations and enhancements, regional transportation system improvements, and activities related to regional emergency preparedness, prevention, and response to catastrophic events. (2003, 2005)</td>
<td>Highest</td>
<td>Support</td>
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<td>9B</td>
<td>Fiscal reform initiatives that enable regions to develop their own fiscal strategies and oppose unfunded mandates on local governments. Pursue initiatives that balance the fiscal influence that sales tax revenues have upon local land use decisions. (2002)</td>
<td>Highest</td>
<td>Support</td>
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<td>10B</td>
<td>Lower the current two-thirds voter requirement for special purpose taxes, such as transportation and quality of life improvements, to a simple majority vote. (2002)</td>
<td>Highest</td>
<td>Support</td>
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<td>11B</td>
<td>Efforts assisting in the implementation of key environmental issues, including habitat conservation, planning, beach restoration and replenishment, and water quality-related issues. (2002)</td>
<td>Higher</td>
<td>Support</td>
<td></td>
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<tr>
<td>12B</td>
<td>Mechanisms providing for the implementation of the RTP, including value pricing,</td>
<td>Higher</td>
<td>Support</td>
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<td>managed lanes, high occupancy toll (HOT) lanes, the alleviation of current constraints</td>
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<td>on transponder technology, transit priority treatments, and other efforts that promote</td>
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<tr>
<td></td>
<td>efficient use of highways and local roads. (2003)</td>
<td></td>
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</tr>
<tr>
<td>13B</td>
<td>Support energy-related legislation that is consistent with the Regional Energy Strategy.</td>
<td>Higher</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td></td>
<td>(2002)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14B</td>
<td>Support legislation and/or policies that promote governmental efficiencies and cost</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>savings. (2009)</td>
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<td></td>
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<tr>
<td>15B</td>
<td>Transit boards’ legislative programs where consistent with SANDAG policy. (2002)</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td>16B</td>
<td>Support funding opportunities for prevention and intervention programs that address</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
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<tr>
<td></td>
<td>substance abuse and youth and gang violence, and for public safety initiatives including</td>
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<td></td>
<td>211 services. (2005, 2009)</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>17B</td>
<td>Participate in efforts related to legislative and administrative reform of the state</td>
<td>High</td>
<td>Support</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>State</td>
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<tr>
<td></td>
<td>housing element law and ensure adequate state funding for the Regional Housing Needs</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Assessment (RHNA) process. (2002)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18B</td>
<td>Other organizations’ legislative programs where consistent with SANDAG policy, i.e.,</td>
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<td>Support</td>
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<tr>
<td></td>
<td>California Association of Councils of Governments (CALCOG), American Public</td>
<td></td>
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<td></td>
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<tr>
<td></td>
<td>Transportation Association (APTA), National Association of Regional Councils (NARC),</td>
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<td></td>
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<tr>
<td></td>
<td>California Transit Association (CTA), Self-Help Counties Coalition, League of California</td>
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<tr>
<td></td>
<td>Cities, California State Association of Counties, Caltrans, International Association of</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Chiefs of Police, National Sheriffs’ Association, California Police Chiefs Association,</td>
<td></td>
<td></td>
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(C) MONITOR

<table>
<thead>
<tr>
<th>NO.</th>
<th>GENERAL DESCRIPTION OF GOAL</th>
<th>PRIORITY</th>
<th>BOARD POSITION</th>
<th>T</th>
<th>R</th>
<th>P</th>
<th>B</th>
<th>JURISDICTION</th>
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<tbody>
<tr>
<td>1C</td>
<td>Proposals that limit the use of eminent domain for public infrastructure projects. (2005)</td>
<td>Lower</td>
<td>Monitor/Respond</td>
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<td>2C</td>
<td>Legislation affecting solid waste, water supply, and storm water, and support of funding</td>
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<td>Monitor/Respond</td>
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<td></td>
<td></td>
<td></td>
<td>State/Local</td>
</tr>
<tr>
<td></td>
<td>opportunities to assist in these areas. (2003)</td>
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<td></td>
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<tr>
<td>3C</td>
<td>Legislation relating to personnel matters, i.e., workers’ compensation, Public Employee</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal/State/Local</td>
</tr>
<tr>
<td>4C</td>
<td>Legislation requiring local agencies to implement new administrative compliance measures.</td>
<td>Lower</td>
<td>Monitor/Respond</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Federal/State</td>
</tr>
<tr>
<td></td>
<td>(2005)</td>
<td></td>
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</tbody>
</table>

Legend - T: Transportation; R: Regional Planning; P: Public Safety; B: Borders
Summary of Proposed Legislative Program Changes

The 2009 Legislative Program, approved by the Board of Directors in December 2008, includes 29 separate legislative goals. Staff modified the 2009 program as a starting point to initiate Executive Committee discussion regarding the 2010 program. Goals that have been completed or that are no longer relevant have been deleted; modifications have been made to some existing goals; and new goals for 2010 are proposed.

Proposed Deletions

Three legislative goals are proposed to be deleted because the legislative work was completed during 2009 or legislative action is no longer required.

- **Goal No. 3A** – Pursue technical clean-up legislation to SB 375 to align the timing of the implementation of the RTP and RHNA requirements
  
  On October 11, 2009, the Governor signed into law Senate Bill 575 (Chapter 354, Statutes of 2009). The measure eliminated an “interim” housing element cycle for all 19 local jurisdictions, under which housing elements would be due in 2010 based on the requirements of Senate Bill 375 (Steinberg, 2008). Senate Bill 575 aligns the schedule for the next Regional Housing Needs Assessment (RHNA) with the preparation of the 2050 Regional Transportation Plan (RTP). The deadline for completion of the next housing elements by the local jurisdictions would be December 31, 2010.

- **Goal No. 5A** – Work with Governor’s administration and other stakeholders to implement SB 1486
  
  SANDAG and Caltrans continue our collaborative work on the State Route 11 (SR 11) and Otay Mesa East Port of Entry (POE) project. Last year when Governor Schwarzenegger signed Senate Bill 1486 (Ducheny, 2008), his signing message identified certain issues, including ensuring adequate toll rates and funding of state maintenance and enforcement costs for the SR 11/Otay Mesa East POE project. Staff recommends deleting the current legislative goal, as the issues raised by the Governor will be addressed during the process to develop the project’s financial strategy and as part of ongoing project implementation efforts, without the need for further legislative action.

- **Goal No. 17B** – Full Funding of the Census Bureau’s American Community Survey Program to ensure timely release of critical demographic and economic information for our region
  
  In previous years, this item has been included in our legislative program to advocate for full funding for this Census Bureau program. Currently, the American Community Survey Program is fully funded, and therefore this item could be removed for this upcoming year. Staff will continue to track this issue in future years.
Proposed Modifications

Modifications are proposed for four legislative goals from the 2009 program.

• Goal No. 1A – Pursue SANDAG priorities for the next surface federal transportation reauthorization including appropriate funding levels, goods movement/border funding programs, transit investment and reforms, process improvements, climate change, non-motorized transportation, and tribal transportation planning.

Last year’s goal focused on developing SANDAG priorities for the next federal surface transportation authorization. In March, the Board of Directors endorsed the statewide California Consensus Principles and adopted SANDAG-specific principles for the next authorization. The focus during 2010 would be on working with our Congressional delegation and other stakeholders in the coming months as the next federal authorization is developed. Congress has passed a short-term extension of SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), continuing funding of current programs at FY 2009 levels.

• Goal No. 4A – Pursue FY 2011 federal appropriation requests and potential economic stimulus funding

This goal is proposed to be updated to reflect the FY 2011 federal appropriations process.

• Goal No. 2B – Support policies and/or legislation implementing climate change plans and programs that are consistent with the RCP and the RTP

The 2009 goal focused primarily on the state climate change efforts related to Assembly Bill 32 (Nunez, 2006), which requires California to reduce greenhouse gas emissions to 1990 levels by 2020. This goal is proposed to be broadened to incorporate support for various climate change initiatives that are consistent with SANDAG plans. Several federal climate change proposals have been introduced this year in the 111th Congress.

• Goal No. 13B - Support energy-related legislation that is consistent with the Regional Energy Strategy

In 2009, supporting climate change and energy-related legislation was incorporated into Goal No. 13B. With the proposed change to Goal No. 2B above, staff proposes amending Goal No. 13B to focus it solely on energy-related legislation.

• Goal No. 16B - Support funding opportunities for prevention and intervention programs that address substance abuse and youth and gang violence, and for public safety initiatives including 211 services.

The PSC recommended including support for funding opportunities for 211 services, which has played a vital role in providing public safety information on the H1N1 vaccination in the San Diego region.
Proposed New Goals

Four new legislative goals are proposed for the 2010 program.

- Goal No. 3A – Expand access to resources and technical tools that will enable SANDAG to prepare an RTP in compliance with Senate Bill 375

  SANDAG will be the first major Metropolitan Planning Organization (MPO) in the state to implement the new requirements of Senate Bill 375 with our next RTP update. This proposed legislative goal highlights the importance of adequate funding resources and technical tools to accomplish this expanded effort to develop our 2050 RTP.

- Goal No. 5A – Pursue statutory authority for a subregional funding mechanism dedicated to public transit

  A new goal is proposed in order to address public transit needs in the San Diego region. The state’s recent diversions of State Transit Assistance funds and declining sales tax revenues in our current economy have impacted transit services and fare levels. While SANDAG currently has statutory authority for a sales tax measure at the regional level, this proposed new goal would enable us to seek authority for a possible subregional funding mechanism to support public transportation.

- Goal No. 6A – Participate in discussions with stakeholders and develop SANDAG priorities for federal climate change legislation

  With the recent focus on climate change policy at the national level, this proposed new goal would enable SANDAG to develop priorities for pending federal climate change legislation. Potential issues include funding for transportation and land use initiatives that address climate change (enabling greenhouse gas reductions), and ensuring federal and state climate change and transportation planning requirements are consistent and do not conflict.

- Goal No. 14B – Support legislation and/or policies that promote governmental efficiencies and cost savings

  A new legislative goal is proposed in order to pursue governmental efficiencies and savings, particularly in our current fiscal and economic climate. A potential effort could be to eliminate the requirement for biennial reports on the agency consolidation. As identified in the 2008 report, the agency consolidation efforts that began six years ago concluded with the transition of the last few SPRINTER staff to SANDAG in 2008.
AMENDMENT TO THE FY 2010 BUDGET: 2050 REGIONAL TRANSPORTATION PLAN

Introduction

The FY 2010 Budget includes $795,905 in the Long-Range Regional Plans and Forecasts work element (Overall Work Program #81005) for the development of the 2050 Regional Transportation Plan (RTP). Due to additional activities that have been identified since the FY 2010 Budget was developed, a budget amendment of $225,000 is being requested.

Discussion

SANDAG is the first major metropolitan planning organization that will prepare an RTP in accordance with provisions of Senate Bill 375 (Steinberg, 2008). On June 26, 2009, the Board of Directors discussed a detailed work program and schedule. This proposed budget amendment would add $225,000 to the FY 2010 Budget to undertake additional work not originally budgeted for in the 2050 RTP, which includes initiating an economic analysis of alternative transportation investment scenarios, conducting additional modeling to meet requirements of SB 375, and obtaining legal advice for the preparation of the 2050 RTP Environmental Impact Report (Attachment 1).

Development of the FY 2011 OWP Budget is underway. In addition to the Long-Range Regional Plans and Forecast work element (#81005), there are a number of the other RTP-related work elements in the Budget and OWP (e.g., Urban Core Transit Strategy, RCP and Sustainable Communities Strategy Planning, etc.). It is anticipated that additional consultant services will be needed to complete the 2050 RTP, and these would be included in the draft FY 2011 OWP Budget. Attachment 2 summarizes the draft multi-year consultant needs for the 2050 RTP and related work elements, including the FY 2010 budgeted amounts, proposed additional FY 2010 funding, and preliminary estimated needs for FY 2011 and FY 2012. Staff currently is pursuing grant funding for some of these activities.

Since the development of the 2050 RTP will occur over three fiscal years, it is proposed to change this work element from an annual to multi-year project. Work began in FY 2010 and will continue into FY 2012 with the adoption of the 2050 RTP.
Funding for the $225,000 in additional costs is proposed to be funded from the SANDAG contingency reserve. Use of this reserve is governed by Board Policy No. 030 and is subject to the approval of the Executive Committee. One of the qualifying uses of the reserve is for nonrecurring “unanticipated needs relating to an existing crucial commitment.” The projected contingency reserve balance after this action would be approximately $4 million, or 7 percent of the FY 2010 OWP Budget, which exceeds the target of 5 percent established by Board Policy No. 030.

BOB LEITER
Director of Land Use and Transportation Planning

Attachments: 1. Work Element 31005.2 – 2050 Regional Transportation Plan (RTP) Development
   2. Draft Multi-Year Budget for 2050 RTP Consultant Services

Key Staff Contacts: Heather Werdick, (619) 699-6967, hwe@sandag.org
                  Tim Watson, (619) 699-1966, twa@sandag.org
WORK ELEMENT: 31005.2  2050 Regional Transportation Plan (RTP) Development
FY 2010 BUDGET: $1,020,905  795,905

AREA OF EMPHASIS: Long-Range Regional Plans and Forecasts

<table>
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<tr>
<th>Funds Source</th>
<th>Funds Application</th>
<th>FY 2010 BUDGET</th>
</tr>
</thead>
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<td>FTA MPO Planning (5303)</td>
<td>Salaries, Benefits, Indirect</td>
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<tr>
<td>FTA Transit Planning (5307)</td>
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<td>FHWA Metropolitan Planning</td>
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<td>Federal Other</td>
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<td>State Other-Caltrans STIP PPM Program</td>
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<td><strong>FY 2010 Contingency Reserve</strong></td>
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<td></td>
<td><strong>795,905</strong></td>
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OBJECTIVE

The objective of this work element is to begin the initial work on the 2050 RTP that will lead to the adoption of an updated RTP in 2011. There are several new components in this RTP update, including compliance with Senate Bill (SB) 375 and requirements of the 2030 RTP Environmental Impact Report (EIR) settlement agreement. The results of other studies conducted under separate work elements, such as the Regional Climate Action Plan and Urban Core Transit Plan, will be incorporated into the development of the 2050 RTP in addition to new regional growth forecasts. This work element will be prepared in accordance with state and federal guidelines. Emphasis in FY 2010 will be to finalize the 2050 RTP work program, develop RTP outreach activities and initial transportation investment scenarios, and begin initial work on the EIR.

PREVIOUS ACCOMPLISHMENTS

Previous work includes adoption of the 2030 RTP in November 2007. The 2030 RTP included an updated regional arterial network, project evaluation criteria, performance measures, and incorporated the Smart Growth Concept Map and Independent Transit Planning Review into its development.

Project Manager: Heather Werdick
Committee(s): Transportation Committee; Regional Planning Committee
Working Groups: Cities/County Transportation Advisory Committee; Regional Planning Technical Working Group; Regional Planning Stakeholders Working Group
PRODUCTS, TASKS, AND SCHEDULES

<table>
<thead>
<tr>
<th>Task No.</th>
<th>Effort</th>
<th>Task Description / Product / Schedule</th>
</tr>
</thead>
</table>
| 1.0      | 5      | Task Description: Finalize the 2050 RTP work program and schedule.  
Product: Final work program  
Completion Date: 09/30/2009 |
| 2.0      | 10     | Task Description: Coordinate and conduct 2050 RTP public outreach activities within the overall agency public participation plan, including requirements of SB 375.  
Product: Outreach activities  
Completion Date: 06/30/2010 |
| 3.0 45 50 |        | Task Description: Develop and analyze initial scenarios for the 2050 RTP, including updating the evaluation criteria, performance measures, cost estimates, revenue projections, and networks.  
Product: Criteria, performance measures, cost/revenue projections  
Completion Date: 06/30/2010 |
| 4.0      | 25     | Task Description: Conduct 2050 RTP modeling, including the development of highway and transit networks for alternative analysis, performance measures, analysis, maps, and supporting data.  
Product: Initial RTP network scenarios  
Completion Date: 06/30/2010 |
| 5.0      | 10     | Task Description: Begin initial work on the 2050 RTP EIR, including provisions of SB 375.  
Product: Contract task order and scoping  
Completion Date: 06/30/2010 |
| 6.0 5     |        | Task Description: Begin initial work on the 2050 RTP Economic Analysis.  
Product: Scope of work, procurement, and development of initial methodology  
Completion Date: 06/30/2010 |

FUTURE ACTIVITIES

The draft 2050 RTP is expected to be completed in FY 2011, with the final 2050 RTP to be adopted in FY 2012.
## Draft Multi-Year Budget for 2050 RTP Consultant Services

<table>
<thead>
<tr>
<th>Task</th>
<th>FY10 Budgeted Amount</th>
<th>Additional FY10 Funding Needed</th>
<th>Preliminary Estimated FY11 &amp; FY12 Budget</th>
<th>Total Multi-Year Budget</th>
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¹ Current multi-year budget is $511,601

² Current multi-year budget is $105,455
San Diego Association of Governments

EXECUTIVE COMMITTEE

December 4, 2009

AGENDA ITEM NO.: 5

Action Requested: RECOMMEND

ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS

File Number 8000100

Introduction

Each year the Office of General Counsel solicits requests from staff for any suggested changes to Board Policies and Bylaws and reviews these documents to determine if updates or changes should be recommended to the Board of Directors. These proposed amendments are attached and are brought to the Executive Committee for discussion and possible recommendation to the Board of Directors.

Discussion

The significant changes for each of the Board Policies proposed for amendment are discussed below. The actual language changes are tracked in the attached draft versions of the Board Policies and Bylaws.

Background Regarding Board Policy Changes That Would Affect Policy Numbers 001, 004, and 025

In December 2008, the Board considered approving changes to these Board Policies, which were intended to allow for greater public outreach and accommodation through a variety of public forums. These policy changes were proposed in order to provide the flexibility to obtain official public testimony at public meetings held in locations other than the Board’s chambers. Input from members of the public supports having the ability to schedule meetings that are close to where the affected residents live or work and holding such meetings at different times of the day. SANDAG has had complaints from the public regarding the difficulty they have attending a public hearing in downtown San Diego during traditional work hours. The law allows SANDAG to utilize “town hall” or “workshop” type meetings rather than formal public hearings to gather official public testimony.

The Board did not approve the proposed revisions to Board Policy Nos. 001: Operations Policy and 004: Rules of Procedure last year because the Board had concerns about delegating authority to take public testimony to nonmembers of the Board or Transportation Committee (TC). Staff is proposing changes to these policies this year that are intended to address the concerns expressed by Board members in December 2008, while also providing flexibility to allow official public testimony to be taken in nontraditional venues and in the evenings in order to encourage more public participation.

Board Policy No. 001 – Operations Policy (Attachment 1)

The first proposed change in this policy is a clarification regarding the authority of the Executive Committee to comment or provide recommendations to the Board regarding all types of third party

Next are proposed changes to the TC’s authority. TC authority regarding “use it or lose it” project funding policies and funding allocations is proposed for removal from this policy due to the proposed addition of new Board Policy No. 035, which would provide for a use it or lose it policy for project funding across various competitive grant programs. The authority of the TC would be extended for approving the Coordinated Human Service and Public Transit Transportation Plan (Section 7).

The TC’s authority regarding approval of the Congestion Management Program (CMP) is proposed for removal since a majority of the region’s jurisdictions representing a majority of the population recently elected to opt out of the state CMP process.

The next group of proposed changes is related to the TC’s authority concerning transit service and fare changes. The TC would make recommendations regarding changes to Board Policy Nos. 018 and 029 (Section 8), and could conduct public hearings and first readings of amendments to the Comprehensive Fare Ordinance, but would no longer have the ability to adopt Fare Ordinance changes (Sections 15 and 16). Staff is proposing new language in Sections 15 and 16 because SANDAG has been criticized by the public for delegating final adoption authority of an ordinance to the TC when changes to the Fare Ordinance are of critical importance and will affect all of the jurisdictions, and because all of the jurisdictions are not represented on the TC. The proposed language would have the additional benefit of shortening the fare ordinance approval process by a week or more, because the first reading and public hearing could be conducted by the TC one week and then the second reading and adoption could occur at the Board meeting the following week instead of waiting until the next TC meeting. Additionally, Sections 15 and 16 would allow the TC the flexibility to conduct public hearings during regular TC meetings as well as to delegate authority to one or more public meeting officers, who would be Board or TC members selected by the appropriate Chair. The flexibility is intended to provide additional opportunities to the public to provide testimony in accordance with the new policy language proposed for Board Policy No. 025.

The authority of the TC would be extended for approving revisions to Federal Transit Administration Section 5311 funding allocations (Section 20), and approving TransNet compliance audits (Section 21). The last changes to the TC’s authority relates to the TransNet Smart Growth Incentive Program (SGIP) and Environmental Mitigation Program (EMP). In recognition of the importance of the Regional Planning Committee’s input regarding these funding programs, the authority of the TC would be revised to clarify that funding allocations for these programs would remain with TC, and the TC input would be requested regarding the project selection criteria, but that the Regional Planning Committee would make the final recommendations regarding the project selection criteria.

Another set of changes is proposed for the Regional Planning Committee. Staff proposes that the Regional Planning Committee be given authority to approve fund distributions from the Beach Sand Mitigation Fund, and to recommend project selection criteria and projects for funding from the SGIP and EMP programs. Finally, a new section is proposed at the end of the policy concerning Board approval for requests for staff to perform more than four hours of work on a project that is not in the Overall Work Program or Budget.

Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees and Other Legislative Bodies (Attachment 2)

A set of new concepts is proposed to be added to Section 3 to set up alternate procedures for public meetings at which formal public testimony is taken. Currently, SANDAG takes formal public
testimony during public meetings by holding public hearings during regularly scheduled meetings of the Board or a Policy Advisory Committee (PAC). Staff sometimes holds scoping meetings, focus groups, open houses and workshops, which qualify as public meetings, but which do not follow the protocols for taking official public testimony. Staff proposes that flexibility be added to Board Policy No. 004 to allow use of public hearings during public meetings as well as these additional types of public meeting forums to request official public testimony. This procedure has worked well for other public entities such as cities and Caltrans. These procedures would make it easier for the public to provide official public testimony, because the testimony could be taken in forums such as workshops, scoping meetings, and open houses in addition to regular meetings of the Board or a PAC. It also means the testimony could be taken in the evenings, on weekends, and in geographic locations more accessible to the public than downtown San Diego. The new procedures would authorize the Board and PAC Chairs, as applicable, to appoint one or members of the relevant legislative body to act as public meeting officer(s) at SANDAG public meetings that are not held during a meeting of a SANDAG legislative body, but at which formal public testimony will be taken. The changes in Section 3 of this policy are tied to the changes proposed for Board Policy Nos. 001 and 025.

Changes to Section 4.5.6.1.5 of Board Policy No. 004 are proposed to clarify that the threshold amount for prohibited gifts is subject to modification by the Fair Political Practices Commission. A new Section 4.15 also is proposed, which would incorporate regulatory changes made by the Fair Political Practices Commission last year concerning record keeping and distribution requirements for gifts to the agency, its employees, and Board members. Lastly, Section 6.4 has a proposed modification that would clarify that the Board can delegate final actions to other legislative bodies when the authority is given by Board action.

Board Policy No. 008 – Legal Matters (Attachment 3)

A new Section 6 is proposed for addition to this policy. From time to time SANDAG receives notice of a court proceeding that requires attendance by SANDAG with one week or less notice prior to the time an appearance or court filing must be made. This provision will give the Office of General Counsel or outside counsel hired by the Office of General Counsel clear authority to appear or file documents on behalf of SANDAG when insufficient time is available to inform the Board in closed session of the matter. The Office of General Counsel would be required to report to the Executive Director regarding the need for and outcome of such appearances or filings and report on the results at the next Board meeting as a delegated action or in a closed session item.

Board Policy No. 009 – Discrimination Complaint Procedures (Attachment 4)

A new Section 9 is proposed for addition to this policy to provide additional information to complainants about their ability to file a complaint regarding discrimination in the provision of services to the public funded by the Federal Transit Administration (FTA) to the FTA Office of Civil Rights.

Board Policy No. 011 – Travel Expenses (Attachment 5)

Changes are proposed to Section 1.7 to ensure the Executive Director or Chief Deputy Executive Director approves all travel requests. Additionally, a sentence is proposed in Section 2.5.7 to make it clear that the maximum reimbursement amount for meals will be calculated by multiplying the applicable per diem rate in IRS Publication 1542 by the number of days of travel.
Board Policy No. 012 – SANDAG Service Bureau (Attachment 6)

This policy was first adopted in 2003 with a requirement that a written contract be utilized when Service Bureau is hired to provide services with a value in excess of $5,000. Since that time staff has determined that many of the Service Bureau jobs are routine and performed at low risk for amounts between $5,000 and $10,000. It would make business sense to save the time and administrative burden associated with preparing a formal contract by raising the threshold requirement for a formal contract to $10,000 for routine projects. The proposed change is found in bullet 6 under the section entitled Fees, Charges, and Pricing Policies.

Board Policy No. 016 – Procurement of Services (Attachment 7)

Staff proposes modifying Section 7.1.3 of this policy. This provision exists due to conflict of interest concerns about having the same engineering firm that prepared the design of a project later evaluate that design work. Years ago, it was thought that the later evaluation or involvement by someone in a position such as Office Engineer, Assistant Resident Engineer, Inspector, or Administrative/Clerical Assistant would not be likely to prejudice SANDAG and that the risk could be mitigated by having intervening review performed by an unbiased party. Staff is no longer comfortable that such an intervening review would sufficiently protect against a potential conflict of interest, and therefore recommends that this exception be removed. Due to heightened awareness of the potential for conflict of interest, staff further proposes removal of the exception for general design and engineering services from Section 7.1.2.

Board Policy No. 024 – Procurement & Contracting – Construction (Attachment 8)

This policy needs to be updated to make it consistent with case law permitting a bidder that is initially determined to be nonresponsible to submit additional evidence relating to its responsibility after receipt of notice of the initial finding of nonresponsibility. Section 1.5.7 contains this change. Staff also recommends modification of Section 6.1.1 to add project management services to the types of services that can create a conflict of interest.

Board Policy No. 025 – Public Participation/Involvement Policy (Attachment 9)

A statement is proposed for addition at the beginning of Section E (Fare Changes) in order to make it clear that this policy is not intended to apply to transit route changes within the purview of the transit operators. Currently, Section E of Board Policy No. 025 contains references in many places to “public hearings,” however, with the proposed changes to Board Policy Nos. 001 and 004 discussed above, the more appropriate term is “public meetings” as this is a broader term that can encompass both a regularly scheduled meeting of the Board or TC at which a public hearing is held, as well as a public meeting in the form of a workshop, open house, focus group meeting, etcetera. These provisions allow for different types of public meetings, including those to take official public testimony (and at which a public meeting officer would be present to oversee the formalities associated with recording the public testimony.) If the Executive Committee or Board does not want to allow the proposed amendments to Board Policy Nos. 001 and 004 to occur, the language in this policy needs to be changed to either remove the requirement that hearings be held after 6:00 p.m., or the Board or TC will need to hold meetings in the evenings for fare changes in the future. Other minor verbiage changes are proposed to Section E to clarify the timing and nature of certain requirements regarding notices and availability of information.

Board Policy No. 033 – Implementation Guidelines for Regional Housing Needs Assessment Memorandum

Pursuant to language within this policy, it is supposed to be reviewed on an annual basis for potential changes. Staff does not recommend that changes be made to this policy at this time. The
Board of Directors approved substantive changes to Board Policy No. 033 in November 2008, including changing how incentive points are awarded, eliminating the prior housing element eligibility requirement, and eliminating the requirement to demonstrate progress made in rezoning. The more appropriate time to review any additional substantive changes to Policy No. 033 would be after the region is assigned new housing goals as part of the upcoming Regional Housing Needs Assessment process.

Board Policy No. 035 – Competitive Grant Program Procedures (Attachment 10)

A new Board Policy is proposed to provide procedures for competitive grant programs. There are never enough government grant funds to pay for all of the projects worthy of funding in the San Diego region. For this reason, SANDAG awards grant funds on a competitive basis that takes the grantees’ ability to perform their proposed project on a timely basis into account. SANDAG intends to hold grantees accountable to the project schedules they have proposed in order to ensure fairness in the competitive process and encourage grantees to get their projects implemented quickly so that the public can benefit from the project deliverables as soon as possible. This new policy is proposed in order to provide for a consistent set of standards to be used for grant programs administered by SANDAG with “use it or lose it” requirements. It also contains provisions regarding required resolutions and execution of the grant agreement. This policy would apply to the following grant programs administered through SANDAG, whether from TransNet or another source: Smart Growth Incentive Program, Environmental Mitigation Program, Bike and Pedestrian Program, Senior Mini Grant Program, Job Access Reverse Commute, New Freedom, and Section 5310 Elderly & Persons with Disabilities Transportation Program.

Bylaws (Attachment 11)

A few substantive changes are proposed for the Bylaws. The first is to change the term “standing committee” to “policy advisory committee” where appropriate throughout the Bylaws since “standing committees” refers to a broader set of committees than just the policy advisory committees. An addition is proposed to Article III, Section 5 to clarify that ethics training and similar classes of an educational nature will not constitute an event for which compensation will be paid to Board members. Verbiage changes are proposed in Section 1 of Article V to allow regular and alternate members of the Board to serve as a chair or vice chair on a policy advisory committee as long as they are a primary member of that policy advisory committee. The next proposed change is in Article V, Section 3(b). This section concerns the duties of the nominating committee for the election of officers. Currently the language requires the committee to interview all candidates for office. Sometimes, however, there is only one candidate for an office and that candidate may be graduating from a lower office. In this situation the committee may feel it is unnecessary to interview the candidate. The language change would provide that the nominating committee shall conduct interviews when there is more than one candidate for an office. A change is proposed to Article VI, Section 3 to update the type and timing of the financial report provided to each Member Agency on an annual basis. Finally, staff recommends adding Section 6 under Article VI, which would make member agency payment of Criminal Justice database dues mandatory.

JULIE D. WILEY
General Counsel

   2. Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees and Other Legislative Bodies
   3. Board Policy No. 008 – Legal Matters
4. Board Policy No. 009 – Discrimination Complaint Procedures
5. Board Policy No. 011 – Travel Expenses
6. Board Policy No. 012 – SANDAG Service Bureau
7. Board Policy No. 016 – Procurement of Services
8. Board Policy No. 024 – Procurement and Contracting – Construction
9. Board Policy No. 025 – Public Participation/Involvement Policy
10. Board Policy No. 035 – Competitive Grant Program Procedures
11. Bylaws

Key Staff Contact: Julie D. Wiley, (619) 699-6966, jwi@sandag.org
OPERATIONS POLICY
Board and Policy Advisory Committees Responsibilities

Shown below are responsibilities for the Board of Directors and each of the five Policy Advisory Committees (Executive, Transportation, Regional Planning, Borders, Public Safety) of the new Agency. Selected responsibilities are delegated by the Board to the Policy Committees to allow the Agency to effectively address key public policy and funding responsibilities. All items delegated to the Policy Advisory Committees are subject to Board action upon request of any member.

All functions not specifically delegated by the Board to a Policy Advisory Committee may be delegated to a Policy Advisory Committee on a one-time basis upon request by the Executive Director and approval by the Chair. Such actions shall be reported to the Board at its next regular meeting.

A. Board Responsibilities

1. Approve Regional Comprehensive Plan (RCP) and plan components and other regional plans (e.g. Regional Energy Plan, MHCP, etc.)
2. Approve Regional Transportation Plan (RTP), Regional Transportation Improvement Program (RTIP) and corridor studies
3. Fulfill responsibilities of SB 1703 as consolidated agency
4. Fulfill the responsibilities of the San Diego Regional Transportation Commission (RTC)
5. Approve programming of funds (TDA, CMAQ, STIP, etc.)
6. Approve project environmental reports
7. Approve Overall Work Program and Program Budget
8. Approve amendments to the Budget and Work Program and authorize contracts with consultants for amounts equal to or greater than the amounts to be determined for administrative and policy committee authorization.
9. Approve the annual legislative agenda
10. Provide policy direction through Policy Development Board meetings
11. Appoint Committees and Board officers
12. Delegate responsibilities to Policy Advisory Committees and approve Committee actions. All items delegated to the five Policy Advisory Committees are subject to direct Board action upon request of any members.
13. Delegate responsibilities to Board Chair consistent with Board criteria. Conference sponsorships and proclamations are hereby delegated subject to current or subsequently approved criteria.

B. Executive Committee Membership and Responsibilities

The Executive Committee shall consist of six voting members with board members representing East County, North County Coastal, North County Inland, South County, and the representative, or the representative’s alternate in their absence, from the City of San Diego and the County. The Chairperson of the consolidated agency shall be one of the six voting members. The First and
Second Vice Chairpersons of the consolidated agency shall serve as voting members if one or both of the Vice Chairpersons represent an area of the region that is different from the area of the region represented by the Chairperson or the other Vice Chairperson.

1. Set agenda for Board
2. Review and recommend annual work program and program budget
3. Approve amendments to the Budget and Overall Work Program and authorize contracts up to amount approved by the Board
4. Review and act on state and federal legislation
5. Comment on behalf of SANDAG or provide recommendations to the Board regarding comments on project EIR/EIS, third party environmental documents
6. Act upon and evaluate dispute resolution
7. Advise on personnel actions
8. Act on behalf of Board when timing requires
9. Make policy recommendations to the Board
10. Perform other duties as assigned by the Board
11. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000, subject to increase by Board action.
12. Annually review a list of all the SANDAG lower-level committees and working groups to determine the need to maintain the committee or working group and approve any revisions in functions or membership.
13. Review all proposed amendments to the Bylaws or Board Policies and make recommendations to the Board regarding those amendments.
14. Conduct expedited reviews and approvals of Energy Working Group actions on an as-needed basis.

C. Transportation Committee Membership and Responsibilities

The Transportation Committee shall consist of nine voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, a member of the Board of the MTS appointed by the Board of the MTS, a member of the Board of the NCTD appointed by the Board of the NCTD, and a member of the San Diego County Regional Airport Authority appointed by the airport authority.

1. Provide oversight for consolidated transit responsibilities
2. Provide policy oversight for transportation plans and corridor and systems studies
3. Establish/approve transportation prioritization criteria
4. Establish/approve policies and monitor “Use it or lose it” project funding
5. Approve TDA and STA claim amendments and RTIP and STIP amendments
6. Recommend funding allocations to the Board
7. Approve transit operator budgets for funding
8. Approve Regional Short Range Transit Plan and Coordinated Human Service and Public Transit Transportation Plan
9. Make recommendations regarding changes to Board Policy No. 018 (Transit Service Policy) and Board Policy No. 029 (Regional Fare Policy and Comprehensive Fare Ordinance) Consistent with the transition plans, approve regional fare policy*
10.9. Conduct public hearings as delegated by Board
11.10. Approve contracts for transit up to amount approved by the Board
12.11. Advise Board on other transportation policy-level issues
13.12. Recommend legislative program for transportation and transit
14.13. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000 for transportation items, subject to increase by Board action
15.14. To convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation.
16. Approve the Congestion Management Program (CMP) and any updates to the CMP.
15. Conduct hearings and authorize additional public meetings when appropriate pursuant to Board Policy No. 025 to hear official testimony from the public regarding fare setting and approve Comprehensive Fare Ordinance amendments
16. Provide recommendations to the Board regarding amendments to the Comprehensive Fare Ordinance
18.17. Accept for distribution, hold public hearings regarding, and adopt/certify environmental documents where items can be approved through actions of the policy committee
19.18. Approve loans of TransNet funds when such loans are incorporated into an RTIP amendment requiring an exchange of TransNet funds for funds from another source
20.19. Provide oversight and approvals for Coordinated Transportation Services Agency (CTSA) matters and appoint Transportation Committee representative to the CTSA board
20. Approve revisions to funding allocations for Federal Transit Administration Section 5311 funding
21. Approve the TransNet compliance audits consistent with Board Policy No. 031 (TransNet Ordinance and Expenditure Plan Rules)
22. Provide input on project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program

D. Regional Planning Committee Membership and Responsibilities

The Regional Planning Committee shall consist of six voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County, and the mayor or a council member from the City of San Diego, and a supervisor from the County of San Diego.

1. Provide oversight for preparation and implementation of the RCP and its components
2. Recommend regional infrastructure financing strategies to the Board

Additionally, the consolidated agency will adopt a Comprehensive Fare Ordinance setting forth all fares for all operators, including their special fares.
3. Represent the Board for outreach and public information on the RCP and its components
4. Advise Board on regional planning policy issues
5. Approve distribution of funds from the California Coastal Commission Beach Sand Mitigation Fund
6. Recommend project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program.

E. Borders Committee Membership and Responsibilities

The Borders Committee shall consist of seven voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, and a mayor, council member, or supervisor from the County of Imperial.

1. Provide oversight for planning activities that impact the borders
2. Provide oversight for the preparation of binational and interregional planning programs
3. Recommend border infrastructure financing strategies to the Board
4. Establish closer SANDAG working relations with surrounding counties and Mexico
5. Advise Board on binational and interregional policy-level issues
6. Review and comment on regionally significant projects in adjoining counties

F. Public Safety Committee Membership and Responsibilities

The membership, authority and responsibilities for this committee are set forth in Board Policy No. 026.

G. Distribution of Meeting Materials

1. All agendas for meetings of the Board of Directors, Policy Advisory Committees, and all other SANDAG legislative bodies covered by the Brown Act (Government Code § 54950 et seq.) shall be posted on the SANDAG Web site and copies of such agendas will be available for viewing by the public in the SANDAG business office reception area.

2. All closed session items shall be provided to appropriate Board and/or Policy Advisory Committee members prior to the closed session. Closed session meeting materials will be sent in sealed envelopes and clearly labeled as confidential. If a representative will not be able to attend a meeting he/she should ensure the closed session materials are given to the appropriate alternate to review prior to the meeting. All closed session meeting materials must be returned to the Office of General Counsel at the end of the closed session.
H. Work Assigned to Staff

Requests for staff to perform work on a project that is not specified in the Overall Work Program or Budget shall only be conducted following approval by the Board if the work is estimated to exceed four hours of staff time.

Adopted January 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2009
RULES OF PROCEDURE FOR BOARD OF DIRECTORS, POLICY ADVISORY COMMITTEES AND OTHER LEGISLATIVE BODIES

This policy is intended to define and clarify Rules of Procedure for the Board and incorporate them in Board policy.

From time to time over the last 30 years the Board has utilized and amended rules of procedure. It is desirable to have these rules contained in Board Policy for ease of reference.

Procedures for the Board and Policy Advisory Committees

1. Ordinances

   1.1 Every ordinance shall be signed by the Chair of the Board, or for the comprehensive fare ordinance the Chair of the Transportation Committee, and attested by the Clerk of the Board.

   1.2 Upon the passage of an ordinance, the votes of the Board members or Transportation Committee members, as appropriate, shall be entered in the minutes.

   1.3 Ordinances shall not be passed within five days of their introduction, nor at any meeting other than a regular meeting. An urgency ordinance may, however, be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Board or Transportation Committee members present, all ordinances shall be read in full at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.

   1.4 The Clerk of the Board shall cause a proposed ordinance or proposed amendment to an ordinance, and any ordinance adopted by the Board or Transportation Committee to be published at least once in a newspaper of general circulation in the SANDAG area of jurisdiction.

   1.5 The publication of an ordinance as required by this policy, may be satisfied by either of the following actions:

       1.5.1 Publication of a summary of a proposed ordinance or proposed amendment to an ordinance. The summary shall be prepared by the Clerk of the Board and the Office of General Counsel. The summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the Clerk of the Board at least
five days prior to the meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, the Clerk of the Board shall publish a summary of the ordinance or amendment with the names of the Board or Transportation Committee members voting for and against the ordinance or amendment and the Clerk of the Board shall post in the office of the clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those members voting for and against the ordinance or amendment; or

1.5.2 If the person designated by the Board determines that it is not feasible to prepare a fair and adequate summary of the proposed ordinance or amendment, and if the Board or Transportation Committee so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the SANDAG area of jurisdiction shall be published at least five (5) days prior to the meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and prove information regarding, the adopted ordinance or amendment including information sufficient to enable the public to obtain a copy of the complete text of the ordinance or amendment, and the name of those members voting for and against the ordinance amendment.

1.6 Ordinances and amendments shall take effect thirty (30) days after their final passage. Exceptions to this effective date are: 1. When the ordinance is for the immediate preservation of the public peace, health or safety, and contains a declaration of facts constituting urgency, and is passed by a two-thirds vote of the Board or Transportation Committee, the ordinance or amendment will take effect immediately; and 2. If otherwise provided by the ordinance or another law.

2. **Board Policies**

2.1 Board policies shall be reviewed to determine if updates are needed no less often than every three years.

2.2 Once updated, policies shall contain a footer identifying the last date they were modified by the Board.

3. **Public Comment & Public Meetings**

3.1 Persons wishing to provide comment or testimony shall be permitted to address the Board or Policy Advisory Committee after submitting a written request to speak, identifying themselves and the agenda item on which they want to be heard. Ordinarily, each speaker will be allowed no more than three minutes. The Chair, however, may extend or limit the time for each presentation or may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony or for other reasons that are in the best interest of the Board or committee in the Chair’s discretion. Testimony must be limited to issues relevant to the agenda item.
3.2 Public comment on matters not on the agenda will be permitted on items of interest to the public that are within the subject matter jurisdiction of the Board or committee. Persons wishing to comment during the general public comment period must submit a written request in advance identifying themselves and the subject matter on which they wish to speak. The Chair may limit the time for each speaker. Ordinarily, each speaker will be allowed no more than three minutes.

3.3 The Board or a Policy Advisory Committee (PAC) Chair, as applicable, will determine with staff’s assistance whether additional public meetings at which formal public testimony will be taken outside of regularly scheduled Board or PAC meetings are appropriate. Such additional public meetings may take the form of scoping meetings, focus group meetings, open houses, workshops or similar alternative formats. The applicable Chair will appoint one or more members of the relevant legislative body to act as public meeting officer(s) at SANDAG public meetings that are not held during a meeting of a SANDAG legislative body. If no Board or PAC members are available to serve as public meeting officers, the Chair may appoint the Executive Director or his/her delegate to serve as the public meeting officer. When a public meeting occurs before a public meeting officer, the public meeting officer or Clerk of the Board shall ensure that all official public testimony given at the public regarding the subject matter of the public meeting are accurately included in the written records, and ensure those written records are forwarded to the Board of Directors or PAC for review prior to the time designated for the relevant legislative body to render its recommendation or final decision.

3.4 The public meeting officer’s written records regarding the public meeting must include, at least, the following elements:

3.4.1 An objective description of the subject matter of the public meeting.

3.4.2 The public comments received by proponents and opponents of the meeting’s subject matter. The records shall indicate the hour and minute when the public meeting was opened and closed.

3.4.3 A list of the notices that were published, mailed, or Internet-posted, including the date of mailing or publication, the name of any newspaper, Internet address or web site, and a list of addresses and entities to which the notice was delivered. If multiple public meetings at which official public testimony is taken regarding the same subject matter are held throughout San Diego County, information regarding the notices and agendas for each public meeting shall be included in the public meeting records.

3.4.4 A copy of the agenda for the public meeting, including the time period during which public testimony was heard. The agenda also shall list contact information for the transcriber attending the public meeting.

3.4.5 A reference to the location where an audio and/or video recording, or transcript of the public meeting is archived, and where all original written comments submitted to the public meeting officer are available for viewing.
3.5 Before the Board of Directors or PAC takes action on the item that was the subject of a public meeting conducted by a public meeting officer, it will allow additional public comment at a regularly scheduled meeting of the legislative body.

3.6 By voting at a meeting where a public meeting officer’s records will be relied upon, each voting member of the legislative body will be affirming that he or she has

3.6.1 Thoroughly reviewed the public meeting officer’s records of any minutes or transcript from, or listened to an audio or watched a sound video recording of, the public meeting(s); and

3.6.2 Given due consideration to any letters, e-mails, voicemails, or other comments submitted by the public that are part of the public meeting record.

3.7 If a voting member of a legislative body cannot attest that he or she has met the criteria listed in Section 3.6, he or she may participate in the discussion regarding the subject matter of the public meeting, and need not leave the legislative body meeting room, but should not vote on the matter.

4. Standards of Conduct & Ethics Applicable to All of SANDAG Legislative Bodies

4.1 This policy shall be supplemental to the SANDAG Conflict of Interest Code and is not intended to supersede such Code or any provisions thereof. All Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including alternates, shall file a Statement of Economic Interests with SANDAG upon request by the SANDAG Office of General Counsel.

4.2 Each Board member and alternate occupies a position of public trust that demands the highest moral and ethical standards of conduct. All references to “Board members” in Section 4 of this Policy shall be read to include all Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including ex officio members and alternates.

4.3 Board members shall not engage in any business or transaction or have a financial or other personal interest, actual, potential, or apparent that is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of such duties. Such business, transaction, or interest shall constitute a conflict of interest.

4.4 Generally, no Board member shall engage in any enterprise or activity that will result in any of the following:

4.4.1 Using the prestige or influence of the Board office for private gain or advantage of the member or another person.

4.4.2 Using time, facilities, equipment, or supplies of the Board for the private gain or advantage of the member or another person.
4.4.3 Receiving or accepting money or other consideration from anyone other than the Board or another government agency for the performance of acts done in the regular course of duty.

4.4.4 Receiving or accepting, directly or indirectly, any gift or favor from anyone doing business with the Board under circumstances from which it could reasonably be inferred that such was intended to influence such person in their duties or as a reward for official action.

4.4.5 Soliciting any gift or favor in the member’s official capacity, either directly or indirectly, when such solicitation might reasonably be inferred as to have a potential effect on the member’s duties or decisions, or when the individual’s position as a Board member would in any way influence the decision of the person being solicited.

4.5 Prohibited Interests

4.5.1 It is unlawful for any current SANDAG Board member to render a decision where a party to the decision has given the SANDAG Board member, promised to give the SANDAG Board member, or acted as an intermediary for the SANDAG Board member to have, an opportunity for compensation. For purposes of this section, opportunities for compensation provided to a SANDAG Board member include opportunities for compensation provided to the SANDAG Board member’s immediate family. When such an opportunity for compensation is provided to a member of the SANDAG Board member’s immediate family, the SANDAG Board member shall not participate in a decision involving a party to the decision unless the SANDAG Board member had no knowledge or involvement in securing the opportunity for compensation.

4.5.2 It is unlawful for any current SANDAG Board member to make, participate in making, or use his or her Board member position to influence a decision involving the interests of a person with whom he or she is seeking, negotiating, or securing an agreement concerning future employment.

4.5.3 It is unlawful for any current SANDAG Board Member to be financially interested in any contract made by them in their Board member capacity. It is also unlawful for any contract to be made by SANDAG or any board or commission established by SANDAG if any individual member of the body has a financial interest in the contract.

4.5.4 Definitions

4.5.4.1 For purposes of the prohibitions set forth in this section, the term “financial interest” means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a noninterest prescribed in California Government Code section 1091.5, that would prevent SANDAG Board members involved from exercising absolute loyalty and undivided allegiance to the best interests of SANDAG.
4.5.4.2 For purposes of this section, "material financial effect" has the same meaning as that term is used in title 2, sections 18705 through 18705.5 of the California Code of Regulations.

4.5.4.3 For purposes of this section, "render a decision" means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using confidential information.

4.5.4.4 For purposes of this section, "project" means any matter where a private business has made an application to SANDAG for discretionary funding or discretionary entitlements, or where SANDAG exercises discretion to enter into a lease, agreement, or contract with a private business.

4.5.5 Any SANDAG Board Member with a remote financial interest in a prospective contract of SANDAG must disclose the existence of the remote interest to the body of the board in which the SANDAG Board member is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the SANDAG Board member must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.

4.5.6 It is unlawful for any SANDAG Board member to knowingly influence a decision of the SANDAG Board if it is reasonably foreseeable that the decision will have a material financial effect on:

4.5.6.1 the SANDAG Board member or a member of his or her immediate family, if the material financial effect is distinguishable from its effect on the public generally; or any of the following economic interests:

   4.5.6.1.1 any business entity in which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and

   4.5.6.1.2 any business entity for which a SANDAG Board member or a member of the SANDAG Board member’s immediate family is a director, officer, partner, trustee, employee, or holds any position of management; and

   4.5.6.1.3 any real property which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and

   4.5.6.1.4 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received (or by whom you have been
promised) $500 or more in income within twelve months prior to the decision; and

4.5.6.1.5 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received gifts that total $420–300 or more within twelve months prior to the decision;

4.5.6.1.6 the personal expenses, income, assets, or liabilities of a SANDAG Board member or a member of SANDAG Board member’s immediate family.

4.5.7 Prohibitions Applicable to Former Board Members

4.5.7.1 It is unlawful for any former SANDAG Board Member who received compensation from SANDAG to render a decision on a particular project during his or her SANDAG service to engage in direct communication with SANDAG, for compensation, with regard to any pending application for discretionary funding or discretionary entitlements before SANDAG relating to that particular project on behalf of any person other than a public agency for a one year period immediately following the last payment from SANDAG to the Board Member.

4.5.7.2 It is unlawful for any former SANDAG Board member, for compensation, to knowingly counsel or assist any person other than a public agency in connection with an appearance or communication in which the former SANDAG Board Member is prohibited from engaging pursuant to subsection 4.5.7.1 for a one year period immediately following termination of service with SANDAG.

4.6 Lobbying and Campaign-Related Activities

4.6.1 It is unlawful for any SANDAG Board Member to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using SANDAG facilities, equipment, supplies, or other SANDAG resources. Nothing in this section, however, shall prohibit the use of SANDAG resources to provide information to the public about the possible effects of any bond issue or other ballot measure relating to SANDAG activities, operations, or policies, provided that:

4.6.1.1 the use of public resources is otherwise legally authorized; and

4.6.1.2 the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

1 This amount is subject to adjustment by the Fair Political Practices Commission.
4.6.2 It is unlawful for any former SANDAG Board Member to engage in direct communication for the purpose of lobbying SANDAG if all of the following circumstances apply:

4.6.2.1 the former SANDAG Board Member served as a SANDAG Board Member within the previous twelve months; and

4.6.2.2 the former SANDAG Board Member received compensation from SANDAG for his or her service as a SANDAG Board Member; and

4.6.2.3 the former SANDAG Board Member is receiving compensation from a private business to engage in the direct communication with SANDAG.

4.6.3 The prohibitions contained in 4.6.2 shall not apply:

4.6.3.1 to prevent a former SANDAG Board Member from making or providing a statement, based on the former SANDAG Board Member’s own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses;

4.6.3.2 to prevent any former SANDAG Board Member from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before SANDAG;

4.4.6.3 to the activities of any former SANDAG Board Member who is an elected or appointed officer or employee of any public agency, or a consultant of any public agency, when that former SANDAG Board Member is solely representing that agency in his or her Board Member capacity as an officer, employee, or consultant of the agency;

4.4.6.4 to any ministerial action. A ministerial action is one that does not require a SANDAG Board Member to exercise discretion concerning any outcome or course of action; or

4.4.6.5 to any individual who terminated status as a SANDAG Board Member prior to July 1, 2003, except that any such individual who returns to service as a SANDAG Board Member on or after July 1, 2003, shall thereafter be subject to the provisions of this section.

4.7 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item, and the Board will be making a decision regarding the agenda item during an open session meeting, the Board member must recuse himself or herself or, in the case of uncertainty, request a binding determination from the Board’s legal counsel. If the Board member has a conflict, he or she may observe, but not participate, in the decision-making process.
4.8 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item to be discussed during a closed session meeting, the Board member must state that he or she has a conflict of interest and shall be disqualified and shall leave the room during such discussion so as not to make, participate in making, or in any way attempt to use his or her official position to influence the decision or discussion. In the case of uncertainty, the Board member must request a binding determination from the Board’s legal counsel. In accordance with the Brown Act, any Board member who is disqualified shall be entitled to any information that is publicly reported. The Board member will not, however, be privy to any confidential or privileged information or communications pertaining to the closed session agenda item.

4.9 No Board member shall disclose to any person, other than members of the Board and other Board staff designated to handle such confidential matters, the content or substance of any information presented or discussed during a closed session meeting unless the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

4.10 No Board member may disclose confidential or privileged information or communication to any person other than a Board member, counsel to the Board, or other Board staff designated to handle such matters, unless disclosure is mandated by law or the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

4.11 Confidential or privileged information concerning threatened, anticipated, or actual litigation or claims will not be disclosed to a Board member if he or she has an actual, potential, or apparent conflict of interest. In the case of uncertainty as whether a conflict of interest exists, the Board’s legal counsel will issue a binding determination.

4.12 No Board member shall represent a position on an issue to be the Board’s position unless the Board has formally adopted such position at a public meeting.

4.13 Any violation of this policy shall constitute official misconduct if determined as such by an affirmative vote of the majority of the Board in an open and public meeting. The Board may elect to censure the Board member and the violation may be subject to criminal and/or civil penalties as provided for by applicable law.

4.14 All SANDAG Board or committee members (including alternates) who may receive any type of stipend, compensation, salary, or reimbursement for travel expenses from SANDAG must attend at least two hours of ethics training every two years. All such persons who hold office with SANDAG as of January 1, 2006, must complete their first course no later than January 1, 2007. The ethics training course materials must be approved by the Fair Political Practices Commission and Attorney General’s Office in compliance with the requirements of Government Code § 53234 et seq. Proof of attendance may be issued by SANDAG or any other local government agency providing an ethics training course that complies with these requirements.
Pursuant to Section 18944.1 and 18944.2 of Title 2 of the California Code of Regulations, certain procedures must be followed in order for a gift (travel, tickets, seats at an event, food, etc.) to be considered a gift to SANDAG instead of to an individual SANDAG public official or designated employee. A document entitled “Guidance Regarding Gifts” shall be posted on the SANDAG Web site to provide information regarding SANDAG practices, which are intended to assist public officials and designated employees in complying with regulations promulgated by the California Fair Political Practices Commission.

5. **Additional Advisory Membership on Board**

5.1 From time to time, the Board may determine it is in best interest of SANDAG to supplement the Board with additional members that can provide beneficial advice and information to the Board on matters of interest to the region.

5.2 The criteria for selection of additional advisory members shall be as follows:

5.2.1 Agency/group has land use or eminent domain authority;

5.2.2 Agency/group has regional authorities and responsibilities important to the SANDAG mission;

5.2.3 Membership by the agency/group would enhance SANDAG regional decision-making;

5.2.4 Agency/group desires representation, submits a written request, and commits to participation; and

5.2.5 Agency/group is able to agree on the form of representation and who will represent it.

6. **Procedures Applicable to SANDAG Legislative Bodies Other Than the Board and Policy Advisory Committees**

The Brown Act is a state law which governs open meetings for local governmental bodies. The Brown Act (also “Act”) is contained in the Government Code at § 54950 et seq., and establishes rules designed to ensure that actions and deliberations of public bodies of local agencies are taken openly and with public access and input. The Brown Act governs the meetings of all local “legislative bodies,” that is, all multi-member committees and the like, of a local governmental agency such as SANDAG. Bodies created by ordinance, resolution, or formal action of the SANDAG Board or one of the Policy Advisory Committees are covered by the Act.

6.1 All of the SANDAG legislative bodies are required to comply with the requirements of the Act, including but not limited to the following:

6.1.1 Agendas for all regular meetings must be posted at least 72 hours in advance of the meeting and all meetings must be open to the public.
6.1.2 The Act applies whenever a majority of the voting members of the legislative body meet to discuss, deliberate or acquire information about a matter within the subject matter of the body.

6.1.3 A public comment period must be provided at each meeting.

6.1.3 The Act prohibits “serial meetings.” Serial meetings are a series of in-person meetings, phone calls, emails, or other types of communication that ultimately involve a majority of the legislative body to develop a consensus as to action to be taken on a matter coming before the body. This prohibition is based on the Act’s goal to ensure that the public’s business is in fact conducted in public. In addition, a third party cannot be used to communicate among the members to obtain a consensus; an intermediary cannot be used to accomplish the actions directly prohibited by the Act.

6.1.4 Secret ballots and anonymous voting are prohibited.

6.1.5 An attendance, registration, or sign-in sheet may be used at public meetings to document the presence of persons other than the members of the legislative body, however, the sheet must clearly state that its completion is voluntary and not a precondition for attendance.

6.1.6 Meetings may not be held in facilities that are inaccessible to disabled persons or in facilities that prohibit the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry or sex.

6.1.7 Meetings must be held within the County of San Diego, unless some exception under the Act applies. Questions regarding the applicability of the Act should be directed to the SANDAG Office of General Counsel.

6.1.8 The agenda must list all items that will be discussed or acted upon by the legislative body. That listing should be described in an informative way so that members of the body as well as members of the public understand the general nature of the agenda item and can make an informed decision whether to attend the meeting or not. The Act provides that this description need not exceed 20 words, but as many words as necessary to give adequate notice should be used.

6.1.9 Members may take action to add an item to the agenda of a regular meeting if, by two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, the body determines that there is a need to act immediately, that the body's consideration of the matter cannot await the next meeting and that the need for immediate action arose after the posting of the agenda. This should only occur in very rare occasions, and the SANDAG Office of General Counsel should be consulted before relying on this exception.

6.2 In addition to the requirements of the Act, SANDAG legislative bodies must also comply with the following requirements:
6.2.1 Only the regular members, or in their absence, a designated alternate, may vote on action items. Seating or placards at meetings should be arranged so that it is clear which persons in the room are voting members, as compared to nonvoting members, alternates, speakers, or members of the public. Nonvoting members and alternates in attendance may participate in the body’s discussion, but may not vote.

6.2.2 The members of a legislative body may only designate an alternate if their service on the legislative body is based on their capacity as a representative of another group; members selected for their individual qualifications do not act as a representative of another group and may not designate an alternate.

6.2.3 A quorum shall be a majority of the voting members of a legislative body. A majority of the quorum must approve all actions taken by the legislative body.

6.2.3 Unless otherwise provided by the Board or Policy Advisory Committee, each legislative body should select a chair and vice chair by a vote of the majority of a quorum on an annual basis.

6.2.4 Roberts Rules of Order should be used by legislative bodies for guidance on procedural matters such as the making of motions and voting.

6.2.5 The chair of a legislative body may direct that comments from the public shall be limited to no more than three minutes per person. Comments from the public should be requested following introduction of each agenda item. Efforts should be made to make it clear to the members of the legislative body and audience when a comment is being made by a member of the public versus a member of the legislative body.

6.2.6 In the event a legislative body is having difficulty taking action on items due to lack of attendance to create a quorum, the legislative body may make a recommendation regarding changes to membership and seek approval of these recommendations from the Board or Policy Advisory Committee that created the legislative body.

6.3 The scope of topics within the jurisdiction of the legislative body shall be limited to those issues delegated to the legislative body by the Board or relevant Policy Advisory Committee.

6.4 Legislative bodies created by the Board or a Policy Advisory Committee do not have authority to take action on behalf of SANDAG, make a final determination on behalf of SANDAG, and/or take a position on behalf of SANDAG, unless that authority has been specifically delegated by an action of the Board.

6.5 The SANDAG Committee and Working Group Guidelines should be used for additional guidance.
6.6 New committees shall not be created by SANDAG staff without approval of either (1) the Board, (2) a Policy Advisory Committee, or (3) the Executive Director with the concurrence of the Chair of the Board. A Policy Advisory Committee or the Board must approve all charter or membership changes for committees that are created by ordinance, resolution, or formal action of the Board or one of the Policy Advisory Committees. An informational report shall be provided to the Board on an annual basis concerning the status of all standing and ad hoc committees and working groups.

6.7 Upon assuming office, the Chair of Board shall be provided with a list of all of the SANDAG legislative bodies that are not Policy Advisory Committees and the Chairs and Vice Chairs of those bodies. The Chair shall determine if a new Chair and/or Vice Chair should be appointed for these bodies and shall report any changes he/she wishes to make at a Board meeting. When making decisions concerning the Chair and Vice Chair appointments to legislative bodies, the potential appointee’s participation at the Policy Advisory Committee reported to by the legislative body shall be taken into consideration.

Adopted June 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2007
Amended December 2009
LEGAL MATTERS

To establish procedures for the filing of claims and institution of claims and lawsuits, for obtaining the review and concurrence or comment from the Office of General Counsel on all requests to the Board for authority to file lawsuits in court, and for handling process servers or individuals serving other legal documents.

Under Public Utilities Code section 132354(a), SANDAG can sue or be sued. All claims for money or damages against SANDAG are governed by Part 3 (commencing with section 900) and Part 4 (commencing with section 940) of the Government Code (the Tort Claims Act). Government Code section 935 authorizes SANDAG to adopt local claims procedures for claims that are not governed by any other statutes or regulations. From time to time it may be necessary for SANDAG to initiate litigation in order to resolve issues of significant concern to SANDAG. The Board desires to have the concurrence or written review from the Office of General Counsel relative to the merits of such lawsuits prior to their consideration by the Board. For these reasons, it is necessary to establish these procedures.

Procedures

1. Claims and Actions Against SANDAG

Any and all claims for money or damages against SANDAG must be presented to, and acted upon, in accordance with the following procedures. Compliance with these procedures is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly free the claimant from the obligation to comply with this policy and the claims procedures set forth in Government Code 900 et seq.

1.1 Form of Claims

All claims must be presented to SANDAG using the form entitled “Claim Against SANDAG” available on the SANDAG Web site as an attachment to this Policy or upon request to the SANDAG Office of General Counsel.

1.2 Time Limitations

1.2.1 Claims for money or damages relating to a cause of action for death, injury to person or personal property, or growing crops, shall be presented to the Board not later than six (6) months after the accrual of the cause of action (Government Codes 905 and 911.2).

1.2.2 Claims for money or damages as authorized in Government Code 905 that are not included in Paragraph 1 above shall be filed not later than one year from the date the cause of action accrues (Government Codes 905 and 911.2).
1.2.3 Claims for money or damages specifically excepted from Government Code 905 shall be filed not later than six (6) months after the accrual of the cause of action (Government Codes 905, 911.2, and 935).

1.3 Late Claims

1.3.1 Claims under "Time Limitations" Paragraphs 1.2.1 and 1.2.3 above, which are filed outside the specified time limitations, must be accompanied by an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action. If a claim is filed later than the specified time limitation and is not accompanied by an application to file a late claim, the Board or Executive Director may, within forty-five (45) days, give written notice that the claim was not filed timely and that it is being returned without further action.

1.3.2 The application shall state the reason for the delay in presenting the claim. The Board or Executive Director shall grant or deny the application within forty-five (45) days after it is presented. By mutual agreement of the claimant and the Board, such forty-five (45) day period may be extended by written agreement made before the expiration of such period. If the Board does not take action on the application within forty-five (45) days, it shall be deemed to have been denied on the forty-fifth (45th) day unless such time period has been extended, in which case it shall be deemed to have been denied on the last day of the period specified in the extension agreement.

1.3.3 If the application to present a late claim is denied, the claimant shall be given notice as required by Government Code section 911.8 (Government Codes 911.3, 911.4, 911.6, 911.8, 912.2, and 935).

1.4 Delivery and Form of Claim

1.4.1 A claim, any amendment thereto, or an application for leave to present a late claim shall be deemed presented when delivered to the office of the Executive Director or deposited in a post office, sub-post office, substation, or mail chute or other like facility maintained by the U.S. Government in a sealed envelope properly addressed to SANDAG’s offices with postage paid (Government Codes 911.4, 915, and 915.2).

1.4.2 Claims must contain the information set forth in Section 910 and 910.2 of the Government Code (Government Codes 910, 910.2, and 910.4).

1.5 Notice of Claim Insufficiency

The Executive Director shall cause all claims to be reviewed for sufficiency of information. The Executive Director or designee may, within twenty (20) days of receipt of claim, either personally deliver or mail to claimant a notice stating deficiencies in the claim presented. If such notice is delivered or sent to claimant, the Board shall not act upon the claim until at least fifteen (15) days after such notice is sent (Government Codes 910.8, and 915.4).
1.6 Amendments to Claim

Claims may be amended within the above time limits or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim.

1.7 Action on Claim

1.7.1 If the Board acts properly to reject the claim, the claimant has only six (6) months from such rejection to institute a lawsuit. If the Board takes no action, the claim is deemed rejected after forty-five (45) days from SANDAG’s receipt of the claim, but the claimant has two (2) years to institute a suit against the SANDAG. The notice of rejection must comply with requirements of Government Code 913 unless the claim has no address on it.

1.7.2 If the claim is filed late and not accompanied by an application for leave to present a late claim, then the Board or its agent must notify the claimant that no action was taken due to the claim being filed late.

1.7.3 Within forty-five (45) days after the presentation or amendment of a claim, or upon such further time as may be allowed pursuant to Government Code 915.2, the Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the forty-five (45) day period or before legal action is commenced or barred by legal limitations. The Executive Director or designee shall transmit to the claimant a notice of action taken. If no action is taken by the Board, the claim shall be deemed to have been rejected (Government Code 945.6).

1.7.4 The Board delegates to the Executive Director the authority to take action on claims under one hundred thousand dollars ($100,000) (Government Code 935.4).

2. Claims & Actions Initiated by SANDAG

It is the policy of the Board that except as may be otherwise determined by the Board, prior to Board authorization and direction to the Office of General Counsel to file a lawsuit in court, the Office of General Counsel shall be consulted as to the merits of such a lawsuit. Any request or recommendation for authorization and direction from the Board to the Office of General Counsel to file a lawsuit in court shall be accompanied by written views of the Office of General Counsel with regard to the merits of the case, provided however, that the Office of General Counsel may, in lieu of such written concurrence or written views, request that the matter be discussed with the Board in Closed Session. As part of this attorney-client review, all requests or recommendations on potential lawsuits will be reviewed for comment by the Executive Director prior to being submitted to the Office of General Counsel.

3. Legal Counsel for SourcePoint and ARJIS

SANDAG shall provide legal counsel to SourcePoint and the Automated Regional Justice Information System Joint Powers Agency (ARJIS) to the extent time allows, and as long as no
potential conflict of interest exists. In general, SANDAG’s Office of General Counsel should ensure consistent legal treatment of all matters. In areas involving a need for special expertise, substantial time commitments, or separate counsel, SANDAG, on behalf of SourcePoint or ARJIS, may contract with an outside firm and SourcePoint or ARJIS will pay for those services out of its own funds. Such contracts shall be reported to the SANDAG Board.

4. Acceptance of Garnishments, Wage Attachments, Summons & Complaints

4.1 The SANDAG Office of General Counsel will accept service of a summons and complaint upon SANDAG and/or any Board members being sued in his or her official capacity as a member of SANDAG’s Board of Directors.

4.2 In compliance with California Civil Code of Procedure 415.20, SANDAG will also accept service of a summons and complaint upon one of its employees at its offices under the substituted services of process method provided for in that statute.

4.3 Whenever SANDAG, as employer, is served with a garnishment and wage attachment, the server should be instructed to present such document to SANDAG’s Office of General Counsel.

5. Execution of Litigation or Alternative Dispute Resolution Documents

5.1 All pleadings, discovery, and other documents that are filed with a court, arbitrator, or other alternative dispute resolution authority on behalf of SANDAG shall be signed by the Office of General Counsel and/or the Executive Director or his/her designee.

6. Appearances on Behalf of SANDAG

6.1 The Office of General Counsel or outside counsel hired by the Office of General Counsel is authorized to appear or file documents on behalf of SANDAG in court proceedings when insufficient time is available to inform the Board in closed session of the matter. The Office of General Counsel shall report to the Executive Director regarding the need for and outcome of such appearances or filings and report on the results at the next Board meeting as either a delegated action or in a closed session item.

Adopted June 2003
Amended November 2004
Amended December 2006
Amended December 2008
Amended December 2009
CLAIM AGAINST SANDAG

TIME & DATE RECEIVED STAMP:

Received by – via _____U.S. Mail _____Interoffice Mail _____Over the Counter

File No.______________________

A claim must be presented to the SANDAG General Counsel not later than six (6) months after the date of the incident or event. Where space is insufficient, please use additional paper and identify information by paragraph number. Completed claims must be presented to: SANDAG, Attention: General Counsel, 401 B Street, Suite 800, San Diego, CA 92101.

TO THE HONORABLE BOARD OF DIRECTORS OF THE SAN DIEGO ASSOCIATION OF GOVERNMENTS:

The undersigned respectfully submits the following claim and information relative to damage to persons and/or personal property:

1. NAME OF CLAIMANT: __________________________________________
   ADDRESS OF CLAIMANT: _________________________________________
                          _________________________________________
   PHONE NO.: HOME WORK

2. Name, telephone and post office address to which claimant desires notices to be sent if other than above:

3. Occurrence or event from which the claim arises:
   a. DATE: ________________
   b. TIME: ________________
   c. PLACE (exact and specific location): ________________
   d. Specify the circumstances of the occurrence, event, act or omission which you claim caused the injury, damage or loss (use additional paper if necessary):
   e. State how or in what manner SANDAG or its employees were at fault:

4. Give a description of the injury, property damage or loss incurred so far as is known at the time of this claim. If there were no injuries, state "no injuries." (If your claim involves a vehicle, include license, year, make and model.)
5. Give the name(s) of the SANDAG employee(s) causing the injury, damage or loss, if known:

6. Name and address of any other person injured:

7. Name and address of the owner of any damaged property:

8. Damages claimed:
   a. Amount claimed as of this date: $ ____________________
   b. Estimated amount of any future costs: $ ____________________
   c. Total amount claimed: $ ____________________
   d. Basis for computation of amounts claimed (include copies of all bills, invoices, estimates, etc.):

9. Names and addresses of all witnesses, hospitals, doctors, etc.

10. Any additional information that might be helpful in considering claim:

WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM (Penal Code § 72; Insurance Code § 556.1)

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this _____ day of ____________________ 20__,
at_________________________________________________

Claimant’s Signature:_________________________________________________________________________
DISCRIMINATION COMPLAINT PROCEDURES

This policy is intended to establish a procedure under which complaints alleging discrimination in SANDAG’s provision of services or SANDAG activities can be made by persons who are not employees of SANDAG.

Background

It is SANDAG policy to comply with state and federal laws and regulations including the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964 (Title VI) and other federal and state discrimination laws. SANDAG prohibits discrimination by its employees, contractors and consultants. The responsibility for the implementation of the discrimination complaint procedures is assigned to the Office of General Counsel. SANDAG does not discriminate on the basis of race, color, sex, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, or sexual orientation in conducting government business. Persons who believe they have been subjected to discrimination or have been denied access to services or accommodations required by law, have the right to use this grievance procedure.

Procedures

1. **Applicability**

   This complaint procedure is applicable to all persons who are not employees of SANDAG. This includes, but is not limited to, visitors to SANDAG, members of the public viewing SANDAG publications, Board, committee, and working group members, vendors, or any other person transacting business with SANDAG or using SANDAG’s services. In general, it is designed to address disputes concerning the following:

   1.1 Disagreements regarding a requested service, accommodation, or modification of a SANDAG practice or requirement;

   1.2 Inaccessibility of a program, publication, or activity;

   1.3 Harassment or discrimination on the basis of disability;

   1.4 Violation of privacy in the context of disability.

2. **Compliance Officer**

   SANDAG’s Office of General Counsel is the Compliance Officer and is responsible for administering this complaint procedure as well as ensuring compliance with applicable laws.
3. Preliminary Review Process

3.1 Informal Resolution - Prior to initiating the formal complaint procedure set forth below, and as a prerequisite to it, the complaining party shall contact the Compliance Officer for assistance in resolving the matter informally within fifteen (15) calendar days of the time the grievant became aware of the SANDAG act or omission that is the subject of the complaint. If the Compliance Officer is not successful in quickly achieving a satisfactory resolution (that is, generally within approximately thirty (30) calendar days), the Compliance Officer will take the steps described in subparagraph 3.2.

3.2 Review Panel - The Compliance Officer will convene an ad-hoc review panel to review the issue(s) raised. The panel will consist of the following (or their designees): the Compliance Officer, a member of the management staff, a Deputy Executive Director, and (depending upon the issues) such other personnel as may be appropriate. This panel will review the request, investigate and attempt to resolve the issues within approximately thirty (30) calendar days of the request for or initiation of a second review. No formal report need be issued by the panel, but the panel will document the outcome of its review in a letter to the complaining party. If the complaining party is not satisfied with the panel's disposition of the matter, the complaining party may file a formal complaint in accordance with the procedure described below.

4. Formal Complaint

If the procedure set forth above for preliminary review does not yield a successful resolution, then the complaining party may file a formal complaint in the following manner:

4.1 When To File Complaint - Complaints must be in writing and must be filed within ten (10) calendar days of the end of the preliminary review process described above.

4.2 What To File - A complaint must be in writing and include the following:

4.2.1 The complaining party's name, address, e-mail address and phone number;

4.2.2 A full description of the problem;

4.2.3 A statement of the remedy requested; and

4.2.4 A copy of the letter from the Review Panel setting forth the outcome of the preliminary review procedure described above.

4.3 Where To File Complaint - The complaint shall be filed with the Compliance Officer at SANDAG, 401 B Street, Suite 800, San Diego, CA 92101; Fax number (619) 595-5625.

4.4 Notice of Receipt - Upon receipt of the complaint, the Compliance Officer will review the complaint for timeliness and appropriateness for this grievance procedure, and will provide the complaining party with written notice acknowledging its receipt.
4.5 Investigation - The Compliance Officer or his or her designee shall promptly initiate an investigation. In undertaking the investigation, the Compliance Officer may interview, consult with and/or request a written response to the issues raised in the complaint from any individual the Compliance Officer believes to have relevant information, including staff and members of the public. The Compliance Office also may hold an informal hearing at his or her discretion.

4.6 Representation - The complaining party and any party against whom the grievance is directed shall have the right to have a representative. The party shall indicate whether he or she is to be assisted by a representative and, if so, the name of that representative. For purposes of this procedure, an attorney is not an appropriate representative.

4.7 Findings And Notification - Upon completion of the investigation, the Compliance Officer will prepare and transmit to the complaining party, and to any party against whom the complaint is directed, a final report containing a summary of the investigation, written findings and a proposed disposition. This transmission will be expected within forty-five (45) calendar days of the filing of the formal complaint. The deadline may be extended by the Compliance Office for good cause. The final report shall also be provided, where appropriate, to any person whose authority will be needed to carry out the proposed disposition or to determine whether any personnel action is appropriate.

4.8 Final Disposition - The disposition proposed by the Compliance Officer shall be put into effect promptly. The complaining party or any party against whom the complaint or the proposed disposition is directed may appeal. The appeal to the Executive Director (as set forth below) will not suspend the implementation of the disposition proposed by the Compliance Officer, except in those circumstances where the Executive Director decides that good cause exists making the suspension of implementation appropriate.

5. Urgent Matters

Whenever the application of any of the time deadlines or procedures set forth in this complaint procedure creates a problem due to the nature of the complaint, the urgency of the matter, or the proximity of the upcoming event, the Compliance Officer will, at the request of the complaining party, determine whether an appropriate expedited procedure can be fashioned.

6. Remedies

Possible remedies under this complaint procedure include corrective steps, actions to reverse the effects of discrimination or to end harassment, and measures to provide a reasonable accommodation or proper ongoing treatment. As stated above, a copy of the Compliance Officer's report may, where appropriate, be sent to appropriate persons to determine whether any personnel action should be pursued.
7. **Appeal**

7.1 Within ten (10) calendar days of the issuance of the final report, the complaining party or any party against whom the complaint is directed may appeal to the Executive Director the Compliance Officer's determination.

7.2 An appeal is taken by filing a written request for review with the SANDAG Executive Director, 401 B Street, Suite 800, San Diego, CA 92101.

7.3 The written request for review must specify the particular substantive and or procedural basis for the appeal, and must be made on grounds other than general dissatisfaction with the proposed disposition. Furthermore, the appeal must be directed only to issues raised in the formal complaint as filed or to procedural errors in the conduct of the complaint procedure itself, and not to new issues.

7.4 The review by the Executive Director or his or her designee normally shall be limited to the following considerations: Were the proper facts and criteria brought to bear on the decision? Were improper or extraneous facts or criteria brought to bear on the decision that substantially affected the decision to the detriment of the complaining party? Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the complaining party? Given proper facts, criteria, and procedure, was the decision one that a person in the position of the decision-maker might reasonably have made?

7.5 A copy of the Executive Director's written decision will be expected within thirty (30) calendar days of the filing of the appeal and shall be sent to the parties, the Compliance Officer and, if appropriate, to persons whose authority will be needed to carry out the disposition. The deadline may be extended by the Executive Director for good cause. The decision of the Executive Director on the appeal is final.

8. **Title VI Complaints**

SANDAG operates programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients of Federal Transit Administration funding such as SANDAG are required to develop procedures for investigating and tracking Title VI complaints and to make the procedures for filing a complaint available to members of the public upon request. This policy contains the procedures that members of the public should follow in order to request additional information regarding SANDAG’s nondiscrimination obligations or file a discrimination complaint against SANDAG. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the FTA. A complaint must be filed no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA. Title VI complaints regarding FTA funded programs at SANDAG can be sent to:
8.9 Confidentiality

SANDAG will take reasonable measures to protect the privacy of the complaining party and those individuals who may be the subject of a complaint. SANDAG cannot guaranty privacy, however, particularly if disclosure is necessary for a complete investigation or is required by law.

Adopted June 2003
Amended November 2004
Amended December 2009
TRAVEL EXPENSES

This policy is intended to establish a basis for budgeting Board member and employee attendance at conferences, training, seminars, or other meetings and provide guidelines for Board members and employees who have been approved to travel on behalf of SANDAG.

It is desirable and beneficial to SANDAG and its constituents to have Board members and employees participate in state and national activities, training, and conferences related to SANDAG’s subject matter jurisdiction.

Procedures

1. **Budgeting**

   1.1 Each year the Executive Director will survey the Board and committee (Board) members to ascertain their interest in attending upcoming conferences and meetings. These conferences may include legislative and annual meetings for the California Transit Association, the American Public Transit Association, and the National Association of Regional Councils, as well as California Transportation Commission meetings and legislative hearings. The Chair of the Board will make the final decision regarding who should attend all conferences and meetings. Upon return, Board members will be asked to present their experiences to the Board in order to share the knowledge obtained from their attendance.

   1.2 Employees also may attend conferences related to their respective disciplines. The Executive Director will make the final decision regarding which employees should attend conferences and meetings within the adopted budget. Upon return, employees will submit a report to their director in order to share the knowledge obtained from their attendance.

   1.3 Board member and employee attendance will be funded in the annual budget subject to the availability of funds and based on the results reported by previous attendees. As part of the budgeting process, the Executive Director or his/her designee will set objectives to ensure minimum representation at key conferences, and to make sure that cumulative attendance by Board members and employees at any one conference is not excessive.

   1.4 The number of Board members or committee members attending any conference or meeting should not exceed a quorum unless this provision is specifically waived by the Board after seeking advice from legal counsel.

   1.5 Basic travel arrangements for flights, hotels, and rental cars will be made by the Clerk of the Board or other designated staff. Board members and employees are responsible for contacting the Clerk of the Board or the designated staff if itinerary...
changes are needed. Board members or employees desiring different travel arrangements will contact the Clerk of the Board or other designated staff to place her/him on notice and will be financially responsible for any costs over and above those determined by SANDAG’s travel agent for the basic trip.

1.6 If a Board member or employee initiates a change in travel plans that is not due to a medical/death emergency by the Board member or employee, or his/her immediate family, then the Board member or employee will be responsible for the cost impacts of those changes.

1.7 Employees must fill out a travel request form prior to traveling out of San Diego County on SANDAG business. The project code, purpose of travel, and trip budget must be filled in on the form. The form must be approved by a department director or Chief Deputy Executive Director prior to the time of travel, unless a department director is the traveler, in which case the Chief Deputy Executive Director must approve the travel. The Clerk of the Board or Executive Assistant will fill out the top portion of the travel request form for Board members and the Executive Director or Chief Deputy Executive Director shall determine whether to approve it. The expense report must document that expenses meet existing SANDAG policy. All documents related to reimbursable expenditures are public records subject to disclosure under state and federal law.

1.8 Penalties for falsifying expense reports include, but are not limited to the following:

1.8.1 Loss of reimbursement privileges
1.8.2 Restitution to SANDAG
1.8.3 Civil penalties for misuse of public resources
1.8.4 Prosecution for misuse of public funds
1.8.5 Disciplinary action for employees

2. Out-of-Town Travel Expense Reimbursement

2.1 The lower portion of the travel request form must be used by Board members and employees to record actual trip expenses. The report must be completed within one week from the return date. For employees, the actual expenses must be approved by a department director unless a department director is the traveler, in which case the Chief Deputy Executive Director must approve the expenses. For Board members, the actual expenses must be approved by the Chief Deputy Executive Director. The form should then be forwarded to the Finance Department for processing, with a personal check attached for any funds due to SANDAG. Failure to submit expense reports within the required time frame may result in the traveler not being reimbursed or collection action being taken if money is owed to SANDAG. Late expense reports must be approved by the Chief Deputy Executive Director.

2.2 All expenses should be itemized, including items SANDAG may have paid for in advance so that the report provides a complete record of expenses. It is the traveler’s responsibility to submit a completed report in order to receive prompt reimbursement.
2.3 Receipts for expenditures must be attached to the expense report for all expenses where a receipt is practicably attainable. A receipt is mandatory for all expenses in excess of $10 unless a written satisfactory explanation is provided. Such written explanations are subject to approval by the Finance Department.

2.4 Travel advances may be requested. Any travel advance shall not exceed the total estimated amount of the trip, minus any items prepaid by SANDAG, such as airfare and registration.

2.5 Board members and employees will be reimbursed for reasonable travel expenses up to the reimbursement amounts stated in IRS Publication 1542, as updated by the IRS. The expenditure guidelines in IRS Publication 1542 should be observed as upper limits unless the circumstances dictate otherwise and the expense is approved by a department director or the Chief Deputy Executive Director. Notwithstanding the foregoing, travel to Sacramento, California and Washington, D.C. will be reimbursed up to a maximum daily rate of $300 per day for lodging and food expenses instead of the amounts listed in IRS Publication 1542.

2.5.1 Air Travel – Air travel is to be coach class for the most direct route. Travelers are encouraged to book at least 21 to 14 days in advance to qualify for the lowest airfares. SANDAG will cover the cost if it is more cost-effective (i.e., difference in airfare as compared to the additional cost for hotel and meals) to include a Saturday stay. Travelers should consider this option, when practical.

2.5.2 Personal Auto Use – In the event that a private auto is used for the trip, mileage shall be paid at the currently established Internal Revenue Service rate. Maximum reimbursement shall not exceed the cost of using a rental car, train, or commercial airline to reach the same destination.

2.5.3 Ground Transportation – In using surface transportation, the least expensive alternative must be utilized where practical. For example, an airport shuttle should be used instead of a taxi. Such transportation should be used for travel to and from the airport and for reasonable business-related trips at the location.

2.5.4 Parking – SANDAG will reimburse the lesser of the parking cost for a personal auto left at the airport or the cost of a shuttle service or cab to and from the airport.

2.5.5 Personal Travel – If a traveler wishes to combine SANDAG travel with personal travel, or to travel with family members, the traveler may do so, provided that it does not exceed the cost equivalent of a single-person trip.

2.5.6 Rental Car – Use of rental cars must be pre-approved. SANDAG will only reimburse for the cost of renting the least expensive size vehicle necessary for the number of people traveling. SANDAG will not reimburse for rental car insurance coverage because employees are included under SANDAG general automobile insurance coverage.
2.5.7 Meals - SANDAG will pay for meals while the traveler is in travel status. The maximum reimbursement amount for meals will be calculated by multiplying the applicable per diem rate in IRS Publication 1542 by the number of days of travel.

2.5.8 Business Meals - Reasonable business meals involving outside persons or when necessary to conduct SANDAG-related business are permitted. All such meals must be itemized with justification on the Expense Report to determine if eligible for reimbursement.

2.5.9 Hotel - Travelers will be reimbursed for the cost of a moderate and reasonably priced single occupancy hotel room. Travelers should request the “government rate” when making hotel reservations. If a hotel stay is needed in connection with a conference or other education activity, lodging costs shall not exceed the maximum group rate published for the conference. If the group rate is not available, the traveler must use comparable lodging.

2.5.10 Other Business-Related Expenses - Other business-related expenses that arise when traveling such as supplies, equipment rental, reprographics, facsimiles, and other documented business-related expenses may be reimbursed when traveling on SANDAG business and used for SANDAG purposes.

2.5.11 Travel Outside of the U.S. - Reimbursement for travel to a foreign country will be calculated at the average exchange rate during the trip as posted by the Federal Reserve. All reimbursement for any Value Added Taxes (VAT) charged for hotel accommodations must be reimbursed to SANDAG.

2.5.12 Telephone Calls - Reimbursement for telephone calls made while traveling are permitted, provided that such calls are directly related to SANDAG business. Personal calls are permitted to a maximum of $10 per day. Calls charged to personal calling cards or wireless phone accounts may be submitted for reimbursement no later than thirty days for the time that the expense report is submitted.

2.5.13 Registration - Travelers requesting to attend a conference or training that requires registration should do so in sufficient time to take advantage of any discounts.

2.5.14 Cancellation Penalties - In the event that registration, airfare, hotel deposit, or similar items that require prepayment are paid and nonrefundable and the traveler is unable to attend, then the traveler will be responsible for reimbursing SANDAG for all prepaid amounts, unless the inability to attend is for valid medical reasons or personal emergencies, as approved by the Executive Director for employees or the Executive Committee for Board members.

2.5.15 Nonallowable Expenses - SANDAG will not provide any reimbursement for personal entertainment expenses, travel expense for family members, movies
in hotels, personal items, charitable contributions, alcohol, air travel insurance, or any other expenses not deemed necessary for business purposes. SANDAG also will not provide reimbursement for the purpose of attending political events or for expenses incurred with any private club that discriminates on the basis of race, gender, religion, sexual orientation, disability, or any other discriminatory criteria in its membership policy.

3. **Local Expense Reimbursement**

3.1 Expense reports must be submitted that record any potentially eligible expenses. The form must be submitted together with all receipts and should be submitted within thirty days of the expense being incurred. The report must describe the item or the destination (if mileage reimbursement is requested) and the purpose. The traveler should indicate which project number each item should be charged to.

3.2 Expenses are eligible for reimbursement if they are related to and necessary to carrying out SANDAG business. They may include, but are not limited to: phone calls, business meals or meetings, mileage, parking, and miscellaneous out-of-pocket expenses. The Director of Finance or Executive Director may disallow any extraordinary or inappropriate expense. Whenever possible, travel should be by public transportation.

3.3 All necessary approvals must be obtained in advance and the form must be submitted to the Finance Department for processing. Reimbursement will ordinarily occur within thirty days.

Adopted June 2003
Amended January 2006
Amended December 2006
Amended December 2008
Amended December 2009
SANDAG SERVICE BUREAU

The SANDAG Service Bureau provides informational and technical services to member agencies, nonmember government agencies, and private organizations and individuals. It is the purpose of the Service Bureau to offer products and services that meet the needs of decision makers in the public and private sectors while enhancing the quality and extent of demographic, economic, transportation, land use, criminal justice, and other information maintained in our Regional Information System (RIS). The Service Bureau may provide services through SANDAG and the SourcePoint Corporation.

The SANDAG Executive Committee serves as the Service Bureau’s governing body and the Board of Directors of SourcePoint.

Project Priorities and Procedures

1. In the event that the Service Bureau is unable to respond to the number of requests for service with the available staff and other resources, the Executive Committee will be asked to set project priorities.

2. Should the meeting schedule for the Service Bureau Board cause delay that might be detrimental to the request, SANDAG’s Executive Director will direct project priorities and report back to the Executive Committee at its next meeting.

3. The Service Bureau may respond to Requests for Proposals from public and private sources. Where appropriate, the Service Bureau may subcontract with consulting firms, following established fair business practices and SANDAG’s procurement procedures.

4. Other policies and procedures of SANDAG, including the Records Retention Schedule and the California Public Records Act, also will be followed.

Fees, Charges, and Pricing Policies

1. It is the Board’s policy that the Service Bureau will seek compensation for the direct and indirect costs necessary to provide services and to maintain and enhance the Regional Information System (RIS).

2. SANDAG’s Executive Director will be responsible for establishing a fee schedule for all services provided by the Service Bureau.

3. SANDAG’s Executive Director will review the fee schedule annually and revise as necessary to ensure full cost recovery of services rendered.
4. Fees will be based upon competitive market rates. The elements that will be used to calculate the cost of any service provided through the Service Bureau will include, but are not limited to, the following:

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<thead>
<tr>
<th>Direct Costs</th>
<th>Indirect Costs</th>
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<tbody>
<tr>
<td>Direct Labor</td>
<td>General and Administrative Overhead</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>Program Management</td>
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<tr>
<td>Materials and Supplies</td>
<td>Program Marketing</td>
</tr>
<tr>
<td>Printing and Graphics</td>
<td>Regional Information System Maintenance and</td>
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<td>Enhancement Fee</td>
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5. Service Bureau clients will be provided with a cost estimate for all requested products and services. This estimate will be acknowledged and accepted by the client in writing or via e-mail prior to commencing any work.

6. All requests for service in excess of $105,000 will be in writing and implemented in the form of an agreement signed by an authorized officer of the client and SANDAG or SourcePoint.

7. There will be appropriate charges made to cover costs for administration of all contracts or services that pass through funds to other organizations.

**SANDAG Member Agencies**

For voting member agencies of the SANDAG Board of Directors, projects requiring three hours or less of SANDAG staff time will be completed at no charge. All projects requiring more than three hours of SANDAG staff time will be fully reimbursed by the requesting agency.

**Conflicts**

1. Nothing in these policy guidelines is intended to prevent or delay the efficient and effective delivery of service to any client. SANDAG’s Executive Director has the responsibility of interpreting the policy in as fair and practical a manner as possible.

2. The Service Bureau will deny all requests for services directly dealing with legislative matters, propositions, or candidates for public office.

3. The Service Bureau reserves the right to refuse any request for service that it determines is, or may be, in conflict with SANDAG and SourcePoint policies and bylaws.

**SourcePoint: Nonprofit Arm of the Service Bureau**

SourcePoint was created by SANDAG in 1982 as a nonprofit corporation. SourcePoint operates within the Service Bureau as an option for those who are required or prefer to contract with a nonprofit agency. Maintaining a nonprofit status also provides flexibility for SANDAG in applying for and accepting certain grants.
1. SourcePoint fees, services, and project priorities will be identical to those for other Service Bureau projects.

2. By mutual agreement, SANDAG will provide staff and other services to SourcePoint on a project-by-project basis, subject to full cost reimbursement for said services.

3. SourcePoint will provide SANDAG any service, assistance, or information requested by SANDAG at no cost to SANDAG.

**Progress Reports**

The Executive Director will periodically provide progress reports on the project activities and financial status of the Service Bureau to the Executive Committee. The Executive Committee will provide an annual progress report to the SANDAG Board of Directors.

Adopted June 2003
Amended May 2005
Amended December 2009
PROCUREMENT OF SERVICES

Pursuant to Public Utilities Code section 132352.4, the following statutory requirements apply to procurements of services. If the estimated total cost of required services exceeds one hundred thousand dollars ($100,000), the services will not be performed by another government entity, and the services are not within the category of services defined in Section 4525 of the Government Code, SANDAG must solicit bids in writing and award the work in a competitive procurement process that is in the best interest of SANDAG. Services defined in Section 4525 include: architectural, landscape architectural, engineering, environmental, land surveying services, and construction project management services, as those terms are defined in Government Code section 4525 (hereinafter “Section 4525 Services”). If Section 4525 Services with a contract value in excess of $50,000 must be procured or the contract will be funded with federal money SANDAG will make the procurement pursuant to the provisions of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. SANDAG must use the procedures of the Brooks Act if federal funds are used and the services are architectural or engineering in nature (hereinafter “A&E Services”). Contracts that do not exceed these statutory limitations may be procured using simplified procedures. All references to the Executive Director in this policy also apply to the Executive Director’s designee.

Procedures

1. Micro Purchase Agreements ($3,000 or less). These procedures apply to the procurement of all services.
   1.1 For purchases below $3,000 a micro purchase procurement method may be used. A micro purchase is a noncompetitive purchase technique; however, the price of the item must still be fair and reasonable.
   1.2 There should be equitable distribution among qualified service providers in the local area and no splitting of procurements to avoid competition.
   1.3 A bid is only required from the vendor of choice and a purchase order, invoice, or simple letter agreement may be used instead of the standard services agreements.

2. Small Purchase Agreements ($3,001 - $100,000). These procedures apply to the procurement of all services excluding Section 4525 Services.
   2.1 If the estimated value of the contract is $100,000 or less, staff may select a qualified proposer whose proposal is most advantageous to the Board, price and all other factors considered, with the approval of their division director or department director.
   2.2 The Executive Director shall determine the selection procedure for contracts valued between $3,001 and $100,000 to distribute work in a fair and equitable manner. Prior approval of the selection procedure shall be obtained from the applicable level
of management. An informal competitive process shall be followed with price, rate quotations or best value obtained from an adequate number of qualified sources to ensure that SANDAG is obtaining a fair and reasonable price. The informal competitive process must be documented by staff. In obtaining price or rate quotations, a scope of work shall be developed and supplied to all bidders.

3. Major Service Agreements ($100,001 and greater). These procedures apply to the procurement of all services, except Section 4525 Services, of $100,001 or more and procurement of Section 4525 Services in excess of $3,001.

3.1 Normally, a "one-step" selection procedure will be used for service contracts in excess of $100,000. The "one-step" competitive process is as follows:

3.1.1 Firms shall submit a response to a SANDAG Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP/RFQ shall include:

3.1.1.1 Pass/fail criteria to be used as an initial screening of responses. Such criteria shall include, but not be limited to, insurance requirements, licensing, and any other consideration which would make the proposer ineligible to perform the work.

3.1.1.2 All evaluation factors and their relative importance.

3.1.1.3 The standard contract language that the successful proposer will be required to comply with, including applicable federal clauses and certifications.

3.1.2 Notice of the professional services required shall be published at least once in a newspaper of general circulation in San Diego County and in one or more Disadvantaged Business Enterprises (DBE)/Small business directed newspapers and in such other minority or community newspapers as appropriate in San Diego County, at least three weeks before the proposal due date. The notice shall state that SANDAG is interested in receiving responses from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

3.1.3 Notice shall also be sent to firms or individuals previously known to be interested in providing the required services, including small and emerging businesses on SANDAG various interested party lists, and to appropriate DBE firms or individuals listed in the SANDAG vendor database and the California Unified Certification Program (CUCP) Database.

3.1.4 Responses to an RFP/RFQ shall list all proposed subconsultants and subcontractors, their area of the work, and identify which of them are certified DBEs.

3.1.5 Responses to an RFP/RFQ shall include a detailed cost estimate.

3.1.5.1 For Section 4525 Services, separately bound or sealed cost proposals shall be submitted as part of the process and shall not be opened
until after the evaluation committee has ranked the proposers. Cost proposals shall be excluded as an evaluation factor and will only be used by the Executive Director, when negotiating within the prescribed budget, except as provided in 3.1.5.2 below.

3.1.5.2 For all other services, the cost proposal shall be submitted along with the technical proposal and will be used as an evaluation factor by the evaluation committee.

3.1.6 The responses shall be evaluated by an evaluation committee. The evaluation committee should consist of SANDAG staff and at least one person from outside the agency.

3.2 The top-ranked firm(s) shall then be interviewed, if deemed necessary. The final list of qualified firms shall be based on the response to the RFP/RFQ, references, the interview, and other relevant factors. Selection may be based on a best value determination. “Best value” means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by SANDAG. The project manager will summarize the findings of the evaluation committee in a recommendation memo to the Executive Director. The memo shall include the evaluation committee’s recommendation for negotiations with one or more firms in the competitive range.

3.2.1 The Executive Director will approve or reject the recommendation based upon information provided by the evaluation committee, and other factors as deemed appropriate, including, but not limited to, qualifications, ability to meet schedule and budget, cost of work, meeting insurance requirements, and DBE participation for federally funded projects. The Executive Director may also interview one or more of the firms prior to making a selection.

3.2.2 Approval by the Executive Director of the recommendation shall be deemed approval to enter into negotiations with one or more firms in the competitive range.

3.2.2.1 For contracts for Section 4525 Services, the separately submitted cost proposal shall be used as a basis for negotiation. Negotiations will be conducted by the Executive Director, and can include factors other than cost, such as staffing levels, project schedule, etc. Should negotiations fail, the Executive Director, will enter into negotiations with the next ranked firm. Once negotiations are complete, a contract incorporating the negotiated terms and conditions will be prepared for the approval of the Executive Director. Only the cost proposal of the firm in negotiations shall be opened. At the end of the process, all unopened cost proposals shall be disposed of or returned unopened to the respective companies via certified mail. Alternatively, companies may, at their option, arrange to pick up their sealed cost proposals in person by contacting the SANDAG Contract Administrator.
3.2.2.2 For all other service contracts, the cost proposals from the firm(s) in the competitive range shall be used as a basis for negotiation. Negotiations will be conducted by the Executive Director, and can include factors other than cost, such as staffing levels, project schedule, etc. If negotiations are only conducted with one firm and those negotiations fail, staff will enter into negotiations with the next ranked firm. If negotiations are conducted with more than one firm in the competitive range, then staff may attempt to obtain the most favorable terms by negotiating with all of the firms. Once negotiations are complete, a contract incorporating the negotiated terms and conditions will be prepared for the approval of the Executive Director.

3.3 For those services that are able to be defined with a very explicit scope of work containing detailed, straight-forward specifications that will allow consistent responses (i.e., freeway service patrol services contracts), proposers will be considered qualified or not qualified based on predetermined criteria. Cost proposals will then be opened for those proposers considered qualified and the consultant with the lowest bid will be awarded the contract. The department directors will determine whether the nature of any of the services within their purview lend themselves to using this low bid procedure.

3.4 If desired, a “two-step” selection process may be followed, as follows:

3.4.1 Letters of Interest/Statements of Qualifications (LOIs/SOQs) shall be solicited from the current SANDAG consultant list for the particular services specialty.

3.4.2 Notice of the professional services required shall be published at least once in a newspaper of general circulation in San Diego County and in one or more DBE/Small business directed newspapers and in such other minority or community newspapers as appropriate in San Diego County, at least three weeks before the proposal due date. The notice shall state that SANDAG is interested in receiving LOIs/SOQs from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

3.4.3 Requests for LOIs/SOQs may be sent to firms or individuals previously known to be interested in or capable of providing the required services. Reasonable effort shall be made to send requests to minority firms known to be capable of providing the required services.

“Pass/fail” criteria will be established by staff and clearly stated in the LOI/SOQ to be used as a screening of responses. Such criteria shall include, but not be limited to: adherence to project budget, insurance requirements, and DBE participation.

3.4.4 An evaluation committee will be formed, which should consist of SANDAG staff and at least one person from outside the agency.

3.4.5 The evaluation committee will evaluate the SOQs and the project manager will prepare a memo to the Executive Director summarizing the evaluation.
committee’s findings and recommending one or more qualified firms to be invited to receive an RFP. Following approval by the Executive Director, staff shall then issue an RFP to the qualified firm(s). The RFP shall include all evaluation factors and their relative importance and the contract that the successful proposer will be expected to execute (including all applicable federal clauses and certifications).

3.4.6 From this point, the steps above for a one-step procurement should be followed.

4. Compliance with Brooks Act Provisions for Federally Funded Contracts. If federal funds are used and the services are A&E in nature, SANDAG shall comply with the provisions of the Brooks Act.

5. Other Than Full and Open Competition

Normally, SANDAG will utilize a full and open competition when soliciting bids or proposals for procurements in excess of $100,000. Under certain circumstances, however, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. When less than full and open competition is used, SANDAG shall solicit offers from as many potential sources as is practicable under the circumstances. Noncompetitive procurement is known as sole source procurement. Noncompetitive and limited competition procurements shall only be permitted when the conditions below are met.

5.1 When the project will be paid for in whole or in part by federal funds one of the conditions set forth below must be met:

5.1.1. Unique Capability or Availability. The services are only available from one source. Services are only available from one source if one of the conditions described below is present:

5.1.1.1. Unique or Innovative Concept. Staff can demonstrate that the service consists of a unique or innovative concept or capability not available from another source. Unique or innovative concept means either a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to SANDAG only from one source and has not in the past been available to the recipient from another source; or

5.1.1.2. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.

5.1.2 Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
5.1.3 Unacceptable Delay. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling SANDAG’s needs.

5.1.4 Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, if staff determines that competition was adequate based on a review of the specifications for undue restrictiveness and/or a survey of potential sources that chose not to submit a bid or proposal.

5.1.5 Unusual and Compelling Urgency. SANDAG may limit the number of sources from which it solicits bids or proposals if staff documents that such an unusual and urgent need for the services exists that SANDAG would be seriously injured unless it were permitted to limit the solicitation. SANDAG also may limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the services.

5.1.6 Contractual Agreement. With some exceptions, when an agency awards a grant agreement or enters into a cooperative agreement with SANDAG for a project in which the funding agency has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements.

5.1.7 Circumstances authorized by Federal Acquisition Regulation Part 6.3 or the federal Common Grant Rules. Examples include a statutory authorization or requirement, compliance with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.

5.1.8 National Emergency. To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.

5.1.9 Research. To establish or maintain an educational or other nonprofit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.

5.1.10 Protests, Disputes, Claims, Litigation. To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.

5.1.11 International Arrangements. When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by the written directions of a foreign government reimbursing the recipient for the cost of the acquisition of the supplies or services for that government.

5.1.12 National Security. When the disclosure of SANDAG’s needs would compromise the national security.
5.1.13 Public Interest. When SANDAG staff documents that full and open competition in connection with a particular acquisition is not in the public interest.

5.1.14 When Prohibited. Less than full and open competition is not justified under any circumstance based on:

5.1.14.1 Failure to Plan. Lack of advance planning.
5.1.14.2 Limited Availability of Federal Assistance. Concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance previously available for award).

5.2 When there are no federal funds involved one of the following additional factors may be utilized to justify a limited competition or sole source procurement:

5.2.1 There is only one consultant capable of providing the services because the services are unique or highly specialized.

5.2.2 The services should be purchased from a particular consultant in the interest of economy or efficiency as a logical follow-on to services already in progress under a competitively awarded contract.

5.2.3 The cost to prepare for a competitive procurement exceeds the cost of the services.

5.2.4 The services are essential to maintain research or operational continuity.

5.2.5 The service is one with which staff members who will use the deliverables have specialized training and/or expertise and retraining would incur substantial cost in time and/or money.

6. General Conditions

6.1 In the event that circumstances dictate other than the processes indicated above for procurements that will exceed $100,000, prior Board concurrence shall be obtained following submittal of a written statement by staff setting forth the reasons for not pursuing all or part of any of the processes.

6.2 Where proposals received are deemed inadequate by the Executive Director, the Board may authorize a negotiated contract with a recommended firm based on a newly approved scope of services, performance schedule, and/or instructions and conditions.

6.3 The Executive Director is not required to make a contract award if he/she determines that the proposals received or contract terms negotiated by SANDAG staff are not in the best interests of SANDAG.
6.4 The Executive Director may approve contract amendments that exceed the project budget totaling up to $100,000 that are necessary to complete services originally contemplated subject to the limitations set forth in Section 12.2 of this policy. The Board will be notified of all such amendments. Contract amendments that will cause the project budget to be exceeded by more than $100,000 or those contemplating a significant change in the original scope of services must be processed in accordance with the SANDAG procurement manual and policies.

6.5 For purchases in excess of $3,000 involving federal funds, all applicable federal requirements and certifications must be attached to the purchase order or contract. For purchases that exceed $50,000, a contract may be used in order to ensure provisions are included to protect the interests of SANDAG.

6.6 The Board’s Equal Employment Opportunity Program will be incorporated by reference in all services contracts. The Board’s Disadvantaged Business Enterprise (DBE) Program shall be incorporated by reference in all services contracts that are federally funded. DBEs shall have every possible opportunity to participate in the procurement of services as set forth in the Board’s DBE program.

7. Conflicts of Interest

7.1 A consultant is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when a firm is or may be unable to render impartial, objective assistance or advice to SANDAG or where a firm would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations:

7.1.1 Any firm that provides design services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract to construct the improvements, which are the subject of the design services.

7.1.2 Any firm, except for General design/Engineering Consultants, for a design-bid-build project that provides design services to SANDAG will be ineligible for award of any contract to provide construction management services resulting from the specific project for which design services were provided.

7.1.3 Any General design/Engineering Consultant for a project is eligible for award of a contract to provide the following general construction management services for that project so long as a SANDAG employee will oversee the project and make all final decisions and approvals: Office Engineer, Assistant Resident Engineer, Inspector, and Administrative/Clerical Assistant. General design/engineering consultants for a project are not eligible for award of a contract to provide the following construction management services for that project: Project Manager and Resident Engineer.

7.1.4 Any firm that provides construction management services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract for which construction management services were or will be provided.
7.1.4.1 **SANDAG shall not contract with, and will reject any bid or proposal submitted by,** the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:

- **7.1.4.1.1** Persons employed by SANDAG;

- **7.1.4.1.2** Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

- **7.1.4.1.3** Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or

- **7.1.4.1.4** Profit-making firms or businesses in which the former employees described in subsection 7.1.4.1 serve as officers, principals, partners or major shareholders.

7.2 General consultants or subconsultant firms may provide services on other SANDAG projects. A consultant shall not, however, participate in the review and analysis of, or render opinions regarding, its work performed on other SANDAG projects or as limited in this section. Unless otherwise defined by the Executive Director, a general consultant is a consultant whose procurement is typically for a two-year period with an option for one or more one-year option extensions to provide services as needed for various assigned projects from time to time on a work order or task order basis, rather than for one specific predefined project. General consultants support SANDAG staff in managing other SANDAG consultants. General consultants are prime consultants to SANDAG. Subconsultants to general consultants are not classified as general consultants. General consultant procurements are identified as such during the RFP process.

7.3 A Notice of Potential for Conflict of Interest shall be included within any RFP for services issued by SANDAG. The Notice shall be the policy of the Board as listed herein. Any major service agreement issued in accordance with this policy shall include or make reference to the policy listed herein.

7.4 A “firm” shall be defined as any company or family of companies where there is a single parent board of directors or staff of officers who can influence the policies and actions of the design company, construction management company, and the construction company.

7.5 “Ineligible” firms shall include the prime consultant for the services, subcontractors for portions of the services, and affiliates of either. An affiliate is a firm that is subject to the control of the same persons through joint ownership or otherwise.
7.6 If there is any doubt by a firm regarding a potential conflict of interest for a specific project or function, the appropriate member of management staff, depending on type of project, will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of proposals or bids. In the event a conflict of interest is determined to exist, a written appeal may be made by the affected firm to the Executive Director within five calendar days of notice from SANDAG the conflict. The Executive Director shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.

7.7 The Executive Committee shall review and, if appropriate, waive any actual or apparent conflict of interest that may exist or arise as a result of concurrent legal representation of SANDAG and parties whose interests may conflict.

7.8 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG administrative policies concerning Standard of Conduct and all relevant Board Policies.

8. Protests to Solicitation, Bid, or Award

8.1 SANDAG shall include in all contracts a procedure to be followed by interested parties who wish to protest a specification or procedure. The procedure shall include the following:

8.1.1 A requirement that protest submittals shall be in writing, be specific to the specification being protested, state the grounds for protest, and include all documentation needed to enable SANDAG to reach a decision.

8.1.2 A statement that the protest shall be submitted within clearly defined time limits prior to receiving proposals or opening bids or prior to award of contracts.

8.1.3 A statement specifying the review and determination process by SANDAG, including time limits for response.

8.1.4 Requirements for submittal of protest reconsideration.

8.1.5 A statement that the initial protest will be reviewed by a protest review committee and that protest reconsiderations will be reviewed by the Executive Director.

9. Procedure for Consultants with Claims Against SANDAG on Service Contracts

9.1 On all SANDAG services contracts estimated to cost more than $50,000, a section shall be included in the contract provisions that specifies how a consultant should file a "Notice of Potential Claim" and the procedures for review and disposition thereof.

9.2 Written notice of the potential claim must be given to the project manager prior to the time the consultant shall have performed the work giving rise to the potential claim, if based upon an act or failure to act of the project manager; or in all other
cases, within 15 calendar days of the happening of the event, thing or occurrence giving rise to the potential claim.

9.3 It is the intention of this requirement that differences between the parties arising under and by virtue of the contract be brought to the attention of the project manager at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The consultant shall agree to have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed. A claim must be presented and acted upon as a prerequisite to suit thereon.

9.4 If a consultant files an appropriate "Notice of Potential Claim," the administrative procedure shall be as follows:

9.4.1 SANDAG staff shall respond in writing within 25 calendar days with an appropriate decision. It is expected that SANDAG staff shall investigate the area of claim thoroughly and shall issue a decision that is fair to all parties. It is further expected that every effort will be made to resolve the claim at the job level.

9.4.2 If it appears to staff that the claim cannot be settled, the project manager and contracts staff shall, as soon as practicable, forward the details of the claim to the Executive Director and shall so notify the consultant of the action.

9.4.3 The Executive Director shall direct the appropriate department director to obtain all pertinent information, including any oral or written presentation, concerning the claim the consultant might wish to present. The department director shall provide all information to the Executive Director, including any recommendations.

9.4.4 The Executive Director shall report a final decision in writing to the consultant. The written decision shall notify the consultant that this action completes the consultant’s administrative remedies and any further dispute would have to be resolved by either a nonbinding Dispute Resolution Board or binding arbitration if provided for in the provisions of the contract and agreed to by both parties, or litigation.

9.4.5 The final recommendation of the Dispute Resolution Board or arbitration shall be presented to the Executive Director for approval before going to the Board for action.

9.4.6 Any claim disputes not resolved by the Executive Director shall be reported to the Board at one of the Board's regular meetings.

9.5 If a contract amendment proposed for the settlement of a claim causes a budget impact over $100,000, the amendment must be sent to the Board for approval.
9.6 Federal Transit Administration review and concurrence may be required for claim settlements that exceed $100,000 if federal funds are involved.

9.7 A list of all outstanding claims exceeding $100,000 which involve the use of federal funds shall be included in the federal grants quarterly report.

10. Debarment Procedures for Service Contracts

10.1 In addition to all other remedies permitted by law, SANDAG may, upon advice of the Executive Director and Office of General Counsel, by resolution declare a proposer or consultant ineligible to bid on SANDAG contracts for a period not to exceed three years for any of the following grounds:

10.1.1 unjustified failure or refusal to timely provide or properly execute contract documents;

10.1.2 unsatisfactory performance of contract;

10.1.3 excessive and/or unreasonable claims while performing work for SANDAG;

10.1.4 two or more occasions within a two year period of failure to submit bond or insurance documents acceptable to SANDAG in the time periods required;

10.1.5 unjustified refusal to properly perform or complete contract work or warranty performance;

10.1.6 unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;

10.1.7 conviction under a state or federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;

10.1.8 any offense or action which indicates a lack of business integrity and which could directly affect the reliability and credibility of performance of the consultant on future contracts with SANDAG;

10.1.9 any debarment of the consultant by another governmental agency; and

10.1.10 two or more claims of computational, clerical, or other error in cost proposal submission within a two-year period.

10.2 SANDAG may permanently debar a firm for a conviction under federal or state antitrust statutes involving public contracts or the submission of bid proposals, for any corrupt practices involving the administration or award of a contract with SANDAG, or permanent debarment of the bidder or consultant by another governmental agency, as permitted by law.
10.3 The proposer or consultant shall be provided notice and an opportunity to present evidence and show cause before the Board why such ineligibility should not be declared after the Executive Director has established a factual basis for debarment.

10.4 A consultant’s debarment shall be effective amongst SANDAG and any of its subsidiary entities. Debarment prohibits SANDAG and subsidiary entities from executing contracts with the debarred consultant.

10.5 Debarment constitutes debarment of all divisions or other organizational elements of the consultant, unless the development decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarment decision may be extended to include any affiliate of the consultant if the affiliate is (1) specifically named, and (2) given written notice of the proposed debarment and an opportunity to respond.

10.6 Notwithstanding the debarment of the consultant, the Board may continue contracts in existence at the time the consultant is debarred, unless the Board directs otherwise, after receiving advice from the Executive Director as to the effects of termination of an existing agreement.

11. Contract Administration and Consultant Assurances

11.1 SANDAG consultants must meet all applicable laws concerning labor law, labor rates, EEO and licenses.

11.2 SANDAG shall ensure that all services requiring a licensed consultant shall be performed by licensed consultants.

11.3 Consultants will be responsible for complying with the provisions of the Fair Labor Standards Act of 1938 as amended.

11.4 Consultants must provide the minimum scope of insurance as stipulated in the contract.

11.5 Consultants shall be required to provide Workers' Compensation Insurance to their employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the consultant shall be required to provide a certificate of compliance to SANDAG.

11.6 The SANDAG requirements for consultant labor compliance shall be guided by the California Labor Code and the “Labor Compliance” section of the California Department of Transportation's Construction Manual.

11.7 Consultants shall comply with the EEO requirements set forth by Title VI of the 1964 Civil Rights Act on any project where federal funds are included, and any other requirements established by the Federal Transit Administration.

11.8 Consultants shall comply with Sections 1431 and 1735 of the Labor Code and Sections 300 and 317 through 323 of Title 8 of the California Administrative Code, which prohibits labor discrimination and requires the consultant to submit an Equal
Opportunity Program and certification fee to the Fair Employment Practice Commission for contracts over $200,000.

12. Amendments to Service Contracts

12.1 All contracts may be amended by a suitable amendment processed in accordance with SANDAG procurements manual and policies.

12.2 The Executive Committee or Transportation Committee or, if not practical, the Chairperson of the Board or either Vice Chairperson in the absence of the Chairperson, are hereby authorized to approve amendments that will cause the project budget to be changed in an amount exceeding $100,000 when waiting for Board approval could potentially delay a project or increase the cost of the change. Approval of such items by the Chairperson or a Vice Chairperson is not the preferred practice and should only be used if a regular or special meeting of an authorized legislative body is infeasible or impractical. In such an instance, the Executive Director shall notify the Board of the Committee's action or Chairperson/Vice Chairperson's action at the next regular Board meeting.

12.3 All amendments that impact or potentially impact Board-adopted policies shall be brought before the Board for decision.

12.4 All amendments which utilize federal funds shall conform to the Code of Federal Regulations, Volume 49, Part 18 and Federal Transit Administration Circular 4220.1 E and any successors thereof that are applicable by law.

Adopted October 2003
Amended November 2004
Amended December 2006
Amended December 2007
Amended December 2008
Amended December 2009
PROCUREMENT AND CONTRACTING – CONSTRUCTION

Purpose

To establish a method for administering SANDAG construction contracts.

Background

Public Utilities Code section 132352.4 states that if the estimated total cost of any construction project or public works project will exceed fifty thousand dollars ($50,000), SANDAG must solicit bids in writing and award the work to the lowest responsible bidder or reject all bids. Section 132352.4 further mandates that SANDAG establish rules for procurement of construction of public works projects. Additionally, Government Code section 14085 et seq. requires that any public entity receiving state funds for a guideway project adopt policies and procedures for contract administration. Code of Federal Regulations, Volume 49, Part 18, and Federal Transit Administration Circular 4220.1E also establish procedures which SANDAG must be follow when administering contracts using federal funds. All references to the Executive Director in this policy also apply to the Executive Director’s designee.

Policy

1. Bidding Process

A competitive bidding process shall be utilized to the greatest extent possible for all construction contracts.

1.1. Bid Procedure for Small Contracts

1.1.1 For construction contracts estimated to cost $3,000 or less, the work may be awarded without competition so long as the price is determined to be fair and reasonable. Otherwise, staff shall seek a minimum of three bids which may be either written or oral to permit prices and other terms to be compared.

1.1.2 For construction contracts estimated to cost more than $3,000 but not more than $50,000, the following procedures shall be followed:

1.1.2.1 Written Notices Inviting Bids (NIBs) will be sent to a minimum of three qualified bidders by mail or facsimile on the same date. The bid period will be a minimum of three calendar days. When possible, NIBs should be sent to at least two certified Disadvantaged Business Enterprise (DBE) firms. The NIB will contain the time and location for receiving and opening bids.
1.1.2.2 The contract will be awarded to the lowest responsive and responsible bidder after a Notice of Intent to Award has been issued to all bidders and a protest period of five working days has expired.

1.1.2.3 Bid bonds will only be required on bids that are $50,000 or less when requested by the Director of Mobility Management & Project Implementation or his or her designee.

1.2. Bid Procedure for Contracts in Excess of $50,000

1.2.1 Public notice of a construction contract estimated to cost more than $50,000 shall be given by publication once a week for at least two consecutive weeks, at least three weeks before the day set for receiving bids, as follows:

1.2.1.1 In a newspaper of general circulation, published in San Diego County;

1.2.1.2 In a trade paper of general circulation published in Southern California devoted primarily to the dissemination of contract and building news among contractors and building materials supply firms (optional for projects estimated to cost less than $100,000); and

1.2.1.3 In at least one DBE/Small business directed newspaper or trade publication and in such other minority or community newspapers as appropriate.

1.2.2 Advertisements may also be placed in other minority and community newspapers, as appropriate. Appropriate DBEs listed in the current SANDAG vendor database will be notified of any work advertised under this policy.

1.2.3 The notice shall state the time and place for receiving and opening sealed bids and shall describe, in general terms, the work to be done.

1.3. Contractor's Qualifications

1.3.1 SANDAG may, for prospective contractors whose bid could exceed $500,000, adopt and apply a uniform prequalification system for rating bidders, on the basis of a standard experience questionnaire and financial statement verified under oath in respect to the contracts upon which each bidder is qualified to bid. A contractor may request to be prequalified for a predetermined contract amount prior to bidding.

1.3.2 In no event shall any bidder be awarded a contract if such contract award would result in the bidder having under contract(s), work cumulatively in excess of that authorized by its qualification rating.
1.4. Form of Bids

1.4.1 SANDAG shall furnish each bidder with a standard proposal form, to be filled out, executed, and submitted as its bid.

1.4.2 All bids shall be submitted in a sealed envelope accompanied by one of the following forms of bidder's security: cash, a cashier's check, certified check, or a bidder's bond executed by an admitted surety insurer and made payable to SANDAG. A bid shall not be considered unless accompanied by one of the forms of bidder's security. Bidder's security shall be at least 10 percent of the amount bid. Bidder's bonds must be issued by bonding companies registered in the State of California.

1.4.3 Late bids shall not be accepted after the time and date designated in the notice.

1.4.4 Any bid may be withdrawn any time prior to the time fixed in the notice for bid opening only by written request to the SANDAG Executive Director. The request shall be executed by the bidder or its designated representative. Bids shall not be withdrawn after the time fixed for public opening.

1.4.5 On the day specified in the notice, staff shall publicly open sealed bids and announce the apparent lowest bidder(s).

1.5. Review of Bids

1.5.1 After the bids are publicly opened, the Director of Mobility Management & Project Implementation or his or her designee (hereinafter "Director"), shall review all bids in order to determine which bidder is the lowest responsive and responsible bidder. The term "lowest responsive and responsible bidder" shall mean the lowest monetary bidder (excluding taxes) whose bid is responsive and who is responsible to perform the work required by the solicitation and contract documents.

1.5.2 SANDAG may investigate the responsibility and qualifications of all bidders to whom the award is contemplated for a period not to exceed 90 days after the bid opening. The 90-day review period may be extended upon the written request by the Director and written approval by the affected bidders.

1.5.3 SANDAG reserves the right to reject any or all bids and to waive any immaterial irregularity. No bid shall be binding upon SANDAG until after the contract is signed by both the contractor and SANDAG.

1.5.4 The lowest monetary bidder's bid will be evaluated by the Director in order to determine whether or not that bid is responsive. The term "responsive" is not defined by California law, but generally means that the bid has been
prepared and submitted in accordance with the requirements of the solicitation and bid documents. These requirements shall generally include, but will not be limited to, the following:

1.5.4.1 Proposal and Cost Proposal - with bid amounts filled in.
1.5.4.2 Designation of Subcontractors - including dollar amounts.
1.5.4.2 Designation of Suppliers and Subcontractors - including dollar amounts.
1.5.4.3 Acknowledgment of Addenda.
1.5.4.4 Contractor’s License Requirements.
1.5.4.5 Ability to Meet Minimum Insurance Requirements.
1.5.4.6 Public Contract Code 10162 Questionnaire.
1.5.4.7 Bidder’s Bond.
1.5.4.8 Noncollusion Affidavit.
1.5.4.9 Certification of Restrictions on Lobbying.
1.5.4.10 Disclosure of Lobbying Activities.
1.5.4.11 Certification Regarding Debarment

1.5.5 If the lowest monetary bidder’s bid is responsive, then the bidder’s qualifications will be evaluated by the Director to determine whether or not the bidder is responsible to perform the work required by the contract documents. The term “responsible” is defined by California law, but generally means that the bidder is able to demonstrate that it possess: (1) the capacity to perform the work required by the contract documents with respect to financial strength, resources available, and experience; and (2) the integrity and trustworthiness to complete performance of the work in accordance with the contract documents. The Director shall review “responsibility” of bidders based upon factors set forth below.

1.5.6 For all contracts in excess of $500,000, the following uniform system of determining whether or not a bidder is “responsible” shall be applied. The Director will consider the following non-exclusive list of factors in relation to the work to be performed for this project:

1.5.6.1 Financial Requirements:

1.5.6.1.1 Contractors shall have evidence of the availability of sufficient working capital;

1.5.6.2 The largest value of all work any bidding contractor has had under contract over a previous similar time frame as the subject contract shall meet or exceed the total amount of the bid;

1.5.6.3 The dollar value of at least one of the previous individual contracts listed shall be at least 50 percent of the dollar value bid on the SANDAG contract; and
1.5.6.1.4 The contractor shall have successfully completed contracts during the previous five years that together exceed five times the annual value of the SANDAG contract.

1.5.6.2 Experience Requirements:

1.5.6.2.1 The contractor must demonstrate organization experience on work similar to the SANDAG contract by submitting a list, covering at least the previous five years, of all projects of any type that have been completed or are under construction. The list shall contain a name, title, address, and phone number for staff to contact to verify the contract details;

1.5.6.2.2 The contractor shall demonstrate individual experience by submitting a list of all officers, superintendents, and engineers who will be involved in the SANDAG contract. These key personnel shall have at least three years experience on contracts where the work is similar to the SANDAG contract. The individuals listed shall have been involved at the same level of responsibility on successfully completed contracts during the previous five years that together exceeds the value of the SANDAG contract. A resume for each individual listed shall include the name, title, address, and phone number of an individual or organization who can verify the individual's experience;

1.5.6.2.3 The contractor shall submit a summary of all claims made in the last five years arising out of previous contracts listed (this summary shall include all claims by owner against bidder or bidder against owner, and the final status of each claim);

1.5.6.2.4 The contractor shall state whether or not it has defaulted on a construction project within the last two years;

1.5.6.2.5 The contractor shall list any violation of the Apprenticeship Requirements under a State Business and Professions Code of Labor Code found by an appropriate authority within the last two years;

1.5.6.2.6 The contractor shall state whether they have been found guilty of failure to pay required prevailing wages on a public contract within the last two years;
1.5.6.2.7 The contractor shall state whether they have been formally found to be a nonresponsible bidder, for reason other than being nonresponsive, by a public agency within the last two years;

1.5.6.2.8 The contractor shall list how many construction projects the bidder will be working on concurrently with the SANDAG project;

1.5.6.2.9 The contractor shall state whether they have ever been terminated by an owner or client, or rejected from bidding in a public works project in the last five years;

1.5.6.2.10 The contractor shall state whether a surety ever completed any portion of the work of the bidder's project within the last five years;

1.5.6.2.11 The contractor shall state whether the bidder, any officer of such bidder, or any employee of such bidder who has a proprietary interest in such bidder, has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of a law or safety regulation, and if so, explain the circumstances; and

1.5.6.2.12 For all items identified under 1.5.6.2.1 through 1.5.6.2.11 above, the contractor shall provide name of owner, title of project, contract amount, location of project, date of contract, and name of bonding company.

1.5.6.3 Reporting Forms: In order to demonstrate that the SANDAG financial and experience requirements are met, the contractor shall submit, when requested by SANDAG, a standard experience questionnaire and financial statement verified under oath that shall meet the requirements adopted herein.

1.5.6.4 Failure to provide accurate information relative to its financial status or experience may result in the debarment of the contractor from future SANDAG work.

1.5.6.5 Questionnaires and financial statements shall not be considered public records nor open for public inspection.

1.5.7 SANDAG will make its determination of responsibility based upon information submitted by bidders, and, if necessary, interviews with previous owners, clients, design professionals, or subcontractors with whom the bidder has worked. If a bidder is initially determined to be
nonresponsible, it may submit additional evidence relating to its responsibility not later than five working days after receipt of notice of the initial finding of nonresponsibility. No additional evidence bearing on the bidder’s responsibility may be submitted after that point. Any additional evidence submitted in accordance with this policy, then that additional evidence shall be considered by the Director in making the recommendation to the Executive Director regarding determination of the lowest responsive and responsible bidder and award of the contract.

1.6 Award or Rejection of Bids

1.6.1 If the Director finds that the lowest monetary bidder submitted a responsive bid and that the bidder is responsible, then that bidder shall be deemed the apparent lowest responsive and responsible bidder, and the Director shall report the findings as recommendation to the Executive Director.

1.6.2 If the Director finds that the lowest monetary bidder’s bid is not responsive or that the lowest monetary bidder is not responsible, then the Director may review the responsiveness and responsibility of the next low monetary bidder. If the Director finds that the next low monetary bidder is responsive and responsible, then that next low bidder shall be deemed the apparent lowest responsive and responsible bidder, and the Director shall report the findings as recommendations to the Executive Director. The Director may continue to review the responsiveness and responsibility of the next low monetary bidders until he/she finds the lowest monetary bidder that is also responsive and responsible, and deemed lowest responsive and responsible bidder. In the event that one or more low monetary bidders are found by the Director to be nonresponsive or nonresponsible, those bidders will be given notice and a reasonable opportunity to present additional evidence to the Director within five working days after the bidder receives the notice.

1.6.3 The Executive Director may authorize a Limited Notice to Proceed (LNTP) to the apparent lowest responsive and responsible bidder for an amount not to exceed $250,000 prior to the award of the construction contract if the Executive Director determines that the award of an LNTP is justified.

1.6.4 If it is for the best interest of SANDAG, the Executive Director may, on refusal or failure of the successful bidder to execute the contract, award it to the second-lowest responsive and responsible bidder.

1.6.5 If the second-lowest responsive and responsible bidder fails to execute the contract, the Executive Director may likewise award it to the third-lowest responsible bidder.

1.6.6 On the failure or refusal of any bidder to execute the contract, its bidder’s security shall be forfeited to SANDAG.
1.6.7 For all contract awards in excess of $25,000, the successful bidder must furnish a performance bond equal to at least one-half of the contract price and a payment bond equal to one hundred percent of the contract price. Federally funded contract awards shall require a performance bond equal to one hundred percent of the contract price. Notwithstanding the foregoing, depending upon authorization from the funding source(s), the performance and payment bond requirements may be modified within the Invitation for Bids with prior approval of the Director.

1.6.8 Failure to furnish the required bonds shall constitute failure to execute the contract.

1.7 Return of Bidder's Security

1.7.1 SANDAG may withhold the bidder's security of the second- and third-lowest responsive and responsible bidders until the contract has been finally executed. SANDAG shall, upon request, return cash, cashier's checks, and certified checks submitted by all other unsuccessful bidders within 30 days after the bid opening, and the bidder's bonds shall be of no further effect.

1.8 Protests to Solicitation, Bid, or Award

1.8.1 SANDAG shall include in all contracts a procedure to be followed by interested parties who wish to protest a specification or procedure. The procedure shall include the following:

1.8.1.1 A requirement that protest submittals shall be in writing, be specific to the specification or procedure being protested, state the grounds for protest, and include all documentation needed to enable SANDAG to reach a decision.

1.8.1.2 A statement that the protest shall be submitted within clearly defined time limits prior to receiving proposals or opening bids or prior to award of contracts.

1.8.1.3 A statement specifying the review and determination process by SANDAG, including time limits for response.

1.8.1.4 Requirements for submittal of a protest reconsideration.

1.8.1.5 A statement that the initial protest will be reviewed by a protest review committee and that protest reconsiderations will be reviewed by the Executive Director.

1.8.1.6 A statement that protests will be rejected if they are not complete.
1.9 Procedure for Subcontractor Substitution Protest

1.9.1 Subcontractor substitutions shall be made only pursuant to the provisions of the Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq., as it may be amended from time to time. Notwithstanding the foregoing, nothing in this policy is intended to require SANDAG to strictly comply with the Subcontracting Fair Practices Act. The Executive Director is hereby designated to carry out the functions of the awarding authority under Section 4100 et seq., including the authority to conduct a hearing in the event of a protest to the substitution. The Executive Director shall make a written recommendation to the Board, the Board may adopt the recommendation without further notice or hearing, or may set the matter for a de novo hearing before the Board.

1.10 Procedure for Contractors with Claims Against SANDAG on Construction Contracts

1.10.1 On all SANDAG construction contracts estimated to cost more than $25,000, a section shall be included in the contract provisions that specifies how a contractor should file a "Notice of Potential Claim" and the procedures for review and disposition thereof.

1.10.2 Federal Transit Administration review and concurrence is required for claim settlements that exceed $1 million if FTA funds are involved.

1.10.3 A list of all outstanding claims exceeding $100,000 which involve the use of federal funds shall be included in the federal grants quarterly report.

1.11 Debarment Procedures for Procurement and Construction Contracts

1.11.1 In addition to all other remedies permitted by law, SANDAG may, upon advice of the Executive Director and Office of General Counsel, by resolution declare a bidder or contractor ineligible to bid on SANDAG procurement and construction contracts for a period not to exceed three years for any of the following grounds:

1.11.1.1 two or more claims of computational, clerical, or other error in bid submission within a two year period;

1.11.1.2 unjustified failure or refusal to timely provide or properly execute contract documents;

1.11.1.3 unsatisfactory performance of contract;

1.11.1.4 false, excessive and/or unreasonable claims while performing work for SANDAG;

1.11.1.5 two or more occasions within a two year period of failure to submit bond or insurance documents acceptable to SANDAG in the time periods required;
1.11.1.6 unjustified refusal to properly perform or complete contract work or warranty performance;

1.11.1.7 unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;

1.11.1.8 conviction under a state or federal statute or municipal ordinance for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime;

1.11.1.9 any offense or action which indicates a lack of business integrity and which could directly affect the reliability and credibility of performance of the contractor on future contracts with SANDAG;

1.11.1.10 any debarment of the contractor by another governmental agency; and

1.11.1.11 false statements or certifications in documents submitted as part of a bid or any supplementary documentation thereto.

1.11.2 SANDAG may permanently debar such bidder or contractor for a conviction under federal or state antitrust statutes involving public contracts or the submission of bid proposals, for any corrupt practices involving the administration or award of a contract with SANDAG, or permanent debarment of the bidder or contractor by another governmental agency.

1.11.3 The bidder or contractor shall be provided notice and an opportunity to present evidence and show cause before the Board why such ineligibility shall not be declared after the Director has established a factual basis for debarment.

1.11.4 A contractor’s debarment shall be effective amongst SANDAG and any subsidiary entity. Debarment prohibits SANDAG and any subsidiary entity from executing contracts with the debarred contractor.

1.11.5 Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarment decision may be extended to include any affiliate of the contractor if the affiliate is (1) specifically named, and (2) given written notice of the proposed debarment and an opportunity to respond.

1.11.6 Notwithstanding the debarment of the contractor, the Board may continue contracts in existence at the time the contractor is debarred, unless the Board directs otherwise, after receiving advice from the Executive Director as to the effects of termination of an existing agreement.
2. Contract Administration and Contractor Assurances

2.1 SANDAG contractors must meet all applicable laws concerning labor law, labor rates, EEO and licenses. SANDAG shall ensure that the following requirements are carried out:

2.1.1 All bidders and contractors shall be licensed in accordance with the laws of California. Additionally, contractor requirements shall be guided by the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of contractors.

2.1.2 The contractor may not, in any case, pay workers less than the stipulated prevailing rates paid for such work or craft in the San Diego area by the contractor or any of its subcontractors, unless it is otherwise authorized by law.

2.1.3 The contractor will be responsible for complying with the provisions of the Fair Labor Standards Act of 1938 as amended.

2.1.4 SANDAG contractors shall be required to provide Workers' Compensation Insurance to their employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the contractor shall sign and file with SANDAG a certification of compliance.

2.1.5 Contractors must comply with the SANDAG contractor labor compliance program, which is based on the California Labor Code and the “Labor Compliance” section of the California Department of Transportation's Construction Manual.

2.1.6 The contractor shall comply with the EEO requirements set forth by Title VI of the 1964 Civil Rights Act on any project where Federal funds are included.

2.1.7 The contractor shall also comply with Sections 1431 and 1735 of the Labor Code and Sections 300 and 317 through 323 of Title 8 of the California Administrative Code, which prohibits labor discrimination and requires the contractor to submit an Equal Opportunity Program and certification fee to the Fair Employment Practice Commission for contracts over $200,000.

3. Construction Contract Change Orders

3.1 All construction and procurement contracts may be amended by a suitable change order. The contract change orders shall be processed in accordance with SANDAG procurement and construction manual(s).

3.2 Construction contract change orders shall be approved by the Executive Director in accordance with SANDAG Board policies, administrative policies, and procedural manuals.
3.3 Except in an emergency, or in the case of a justifiable sole source procurement, a change order shall not be awarded without competitive bidding where the amount of such change order exceeds 25 percent of the price of the original or altered contract, or the change order is out of the original contract scope.

3.3.1 For purposes of this section, an emergency is defined as a sudden or unforeseen situation in which, in the Executive Director's opinion, injury to persons, or significant injury to property or interruption of a public service will occur if immediate action is not taken.

3.4 All change orders that conflict or potentially conflict with Board-adopted policies shall be brought before the Board for decision.

3.5 All change orders which utilize federal funds shall conform to the Code of Federal Regulations, Volume 49, Part 18 and Federal Transit Administration Circular 4220.1E and any successors thereof, that are applicable by law.

4. Other Than Full and Open Competition

Normally, SANDAG will utilize a full and open competition when soliciting bids or proposals for procurements in excess of $50,000. Under certain circumstances, however, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. When less than full and open competition is used, SANDAG shall solicit offers from as many potential sources as is practicable under the circumstances. Noncompetitive procurement is known as sole source procurement. Noncompetitive and limited competition procurements shall only be permitted when the conditions below are met.

4.1 When the project will be paid for in whole or in part by federal funds one of the conditions set forth below must be met:

4.1.1. Unique Capability or Availability. The services are only available from one source. Services are only available from one source if one of the conditions described below is present:

4.1.1.1. Unique or Innovative Concept. Staff can demonstrate that the service consists of a unique or innovative concept or capability not available from another source. Unique or innovative concept means either a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to SANDAG only from one source and has not in the past been available to the recipient from another source; or

4.1.1.2. Patents or Restricted Data Rights. Patent or data rights restrictions preclude competition.

4.1.2. Substantial Duplication Costs. In the case of a follow-on contract for the continued development or production of highly specialized equipment and
major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

4.1.3. Unacceptable Delay. In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling SANDAG’s needs.

4.1.4. Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, if staff determines that competition was adequate based on a review of the specifications for undue restrictiveness and/or a survey of potential sources that chose not to submit a bid or proposal.

4.1.5. Unusual and Compelling Urgency. SANDAG may limit the number of sources from which it solicits bids or proposals if staff documents that such an unusual and urgent need for the services exists that SANDAG would be seriously injured unless it were permitted to limit the solicitation. SANDAG may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the services.

4.1.6. Contractual Agreement. With some exceptions, when an agency awards a grant agreement or enters into a cooperative agreement with SANDAG for a project in which the funding agency has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements.

4.1.7. Circumstances authorized by Federal Acquisition Regulation Part 6.3 or the federal Common Grant Rules. Examples include a statutory authorization or requirement, compliance with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.

4.1.8. National Emergency. To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.

4.1.9. Research. To establish or maintain an educational or other nonprofit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.

4.1.10. Protests, Disputes, Claims, Litigation. To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.

4.1.11. International Arrangements. When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by
the written directions of a foreign government reimbursing the recipient for the cost of the acquisition of the supplies or services for that government.

4.1.12. National Security. When the disclosure of SANDAG’s needs would compromise the national security.

4.1.13. Public Interest. When SANDAG staff documents that full and open competition in connection with a particular acquisition is not in the public interest.

4.1.14. When Prohibited. Less than full and open competition is not justified under any circumstance based on:

4.1.14.2. Limited Availability of federal Assistance. Concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance previously available for award).

4.2 When there are no federal funds involved, additional factors may be used to justify a limited competition or sole source procurement as being within the best interest of SANDAG. For these types of procurements one of the conditions in this section (4.2) or section 4.1 must be met:

4.2.1. There is only one contractor capable of providing the work because the work is unique or highly specialized.

4.2.2. The work should be carried out by a particular contractor in the interest of economy or efficiency as a logical follow-on to work already in progress under a competitively awarded contract.

4.2.3. The cost to prepare for a competitive procurement exceeds the cost of the work.

5. Relief from Maintenance and Responsibility and Acceptance of Work

5.1 SANDAG will, upon written application by the contractor, consider granting relief from maintenance and responsibility on major elements of each major construction project as permitted in the contract specifications. The Executive Director is hereby delegated authority to grant said relief in writing to the contractor and shall report actions on contracts over $25,000 to the Board.

5.2 SANDAG will, upon written application by the contractor, accept the entire work on major construction contracts, provided that the work has been completed, in all respects, in accordance with the contract plans and specifications. The Executive Directors is hereby delegated the authority to accept contracts on behalf of the Board and shall report to the Board all contract acceptances over $25,000.
5.2.1. In determining whether to accept the entire work on major construction projects, these procedures should be followed:

5.2.1.1 The contractor shall request acceptance in writing.

5.2.1.2 Concurrence with the request by the SANDAG Resident Engineer shall be in writing to the Executive Director and include these findings: (1) that the contract has been completed in accordance with the plans and specifications, (2) a statement as to the financial condition of the contract, and (3) a statement as to whether the contract was completed on time or with an apparent overrun.

5.2.1.3 The Executive Director shall accept the action and report the findings to the Board.

6. Conflict of Interest

6.1 A contractor is eligible for award of service contracts by SANDAG so long as the contract in question does not create an actual, potential, or apparent conflict of interest. A prohibited conflict of interest exists when a firm is or may be unable to render impartial, objective assistance or advice to SANDAG or where a firm would receive an unfair competitive advantage. Prohibited conflicts of interest include, but are not limited to, the following situations:

6.1.1 Any firm that provides design services or project management services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract to construct the improvements, which are the subject of the design services.

6.1.2 Any firm, except for General design/Engineering Consultants, for a design-bid-build project that provides design services to SANDAG will be ineligible for award of any contract to provide construction management services resulting from the specific project for which design services were provided.

6.1.3 Any General design/Engineering Consultant for a project is eligible for award of a contract to provide the following general construction management services for that project so long as a SANDAG employee will oversee the project and make all final decisions and approvals: Office Engineer, Assistant Resident Engineer, Inspector, and Administrative/Clerical Assistant. General design/engineering consultants for a project are not eligible for award of a contract to provide the following construction management services for that project: Project Manager and Resident Engineer.

6.1.4 Any firm that provides construction management services to SANDAG for a design-bid-build project will be ineligible for award of a construction contract for which construction management services were or will be provided.
6.2 SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:

6.2.1 Persons employed by SANDAG;

6.2.2 Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners, or major shareholders;

6.2.3 Persons who, within the immediately preceding twelve (12) months, were employed by SANDAG and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; or

6.2.4 Profit-making firms or businesses in which the former employees described in subsection 6.2.3 serve as officers, principals, partners or major shareholders.

6.3 SANDAG staff and third parties with whom SANDAG does business shall comply with SANDAG administrative policies concerning Standard of Conduct and all relevant Board Policies.

6.4 A Notice of Potential for Conflict of Interest shall be included when relevant in any procurement issued by SANDAG. The Notice shall be the policy of the Board as listed herein. Any agreement issued in accordance with this policy shall include or make reference to the policy listed herein.

6.5 A “firm” shall be defined as any company or family of companies where there is a single parent board of directors or staff of officers who can influence the policies and actions of the design company, construction management company, and the construction company.

6.6 “Ineligible” firms shall include the prime consultant for the services, subcontractors for portions of the services, and affiliates of either. An affiliate is a firm that is subject to the control of the same persons through joint ownership or otherwise.

6.7 If there is any doubt by a firm regarding a potential conflict of interest for a specific project or function, the appropriate member of management staff, depending on type of project, will, upon written request, provide a written ruling. This procedure is encouraged prior to submittal of proposals or bids. In the event a conflict of interest is determined to exist, a written appeal may be made by the affected firm to the Executive Director within five calendar days of notice from SANDAG the conflict. The Executive Director shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.
7. **Job Order Contracting**

A Job Order Contract (JOC) is a competitively bid, firm fixed price, indefinite quantity contract that is based upon specific unit pricing contained in a unit price book (prepared by the public agency or by independent commercial sources) setting forth detailed repair and construction items of work, including descriptions, specifications, units of measurement and individual unit prices for each item of work. The JOC includes unit pricing for work at time of award, but not the specified quantity and location of the work to be performed. At the time a Job Order (JO) is issued, the scope of work will identify the quantity and specific location of the work to be performed. JOC may be used when it will result in a cost savings through economies of scale or expedite the delivery of work.

7.1 **General Requirements**

7.1.1 Job Order Contracts shall be awarded under written agreement subject to the following limitations:

7.1.1.1 The specifications were advertised in accordance with Board Policy No. 024, Section 1, “Bidding Process” based on the maximum potential value of the Job Order Contract.

7.1.1.2 The specifications provided for sealed competitive bidding on unit-cost terms for all labor, material, and equipment necessary to perform all work contemplated for individual Job Orders.

7.1.1.3 The Job Order Contract does not exceed a term of three years in duration.

7.1.1.4 The Job Order Contract shall only be used for the performance of minor routine or recurring construction, or for the renovation, alteration, or repair of existing public facilities.

7.1.2 A Job Order Contract may not contain any provision which would guarantee the contractor cumulative Job Orders in excess of $50,000.

7.2 **Issuance of Job Orders**

7.2.1 Following award of a JOC, JOs may be issued by the Executive Director in accordance with SANDAG Board Policies, administrative polices, and procedural manuals upon certification by that individual that it is not in conflict with other Board Policies and it is the best interest of SANDAG to use the JOC procurement process because one or more of the following criteria have been met:

7.2.1.1 Use of the JOC process will result in a cost savings through economies of scale or expedite the delivery of work; or

7.2.1.2 Compliance with the traditional competitive bidding requirements will not produce an advantage to SANDAG; or
7.2.1.3 Advertising for bids is undesirable because it will be practically impossible to obtain what is needed or required by an unforeseen deadline if the traditional competitive bidding method is used; or

7.2.1.4 The entity or entities providing funds for the project have authorized use of the JOC process.

7.2.2 An individual Job Order may not exceed the sum of $2,000,000, except in the case of an emergency as defined in Section 3.3.1 of this Policy, or as specifically authorized by the Executive Director, whose authorization shall not be delegated.

7.2.3 No public work that logically should be performed as a single contractual transaction requiring the expenditure of more than $2,000,000 shall be separated into separate Job Orders for purposes of avoiding this limitation.

7.2.4 Non-prepriced items of work may be included in JOs provided that the non-prepriced items are within the scope and intent of the JOC and are priced reasonably and in conformity all applicable laws, regulations and policies.

7.3 Job Order Contract Intergovernmental Agreements

7.3.1 The SANDAG Executive Director may permit, subject to requirements of this section and subject to such terms and conditions that the Executive Director may prescribe, any public entity, including the California Department of Transportation, or any municipal corporation, school or other special district within San Diego County, to participate via the Service Bureau in JOCs entered into by SANDAG, and may enter into any agreements necessary to do so.

8. Design Build Contracting

“Design build” is a contract procurement process in which both the design and construction of a project are procured from a single entity. Notwithstanding Section 1 of this Policy, SANDAG is permitted to use the design build contracting method on transit projects in accordance with Public Contracts Code section 20209.5 et seq. A competitive negotiation process will be used to procure design build services.

Adopted November 2003
Amended December 2006
Amended December 2007
Amended December 2008
Amended December 2009
PUBLIC PARTICIPATION/INVOLVEMENT POLICY

Purpose

This policy establishes a process for obtaining input from and providing information to the public concerning agency programs, projects, and program funding in order to ensure the public is informed and has the opportunity to provide SANDAG with input so plans can reflect the public’s desire. SANDAG will review and update this plan every three years. Various federal and state laws and regulations require that an agency such as SANDAG conduct public participation programs to ensure that the public is involved and that community concerns are addressed. For example, planning of mass transit capital projects, development of short range service policies and plans, and fare policy and structure changes to public transportation require public participation. The California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) also have public information components that require an agency such as SANDAG to conduct public participation programs to ensure that the public is involved and that community concerns are addressed. A significant component of the SANDAG mission is a strong commitment to public participation and involvement to include all residents and stakeholders in the regional planning process.

The public participation policy is consistent with the requirements of Public Utility Code Section 132360.1 established with the passage of Assembly Bill 361 which reads as follows:

(c) The agency shall engage in a public collaborative planning process; recommendations from that process shall be made available and considered for integration into the plan. A procedure to carry out this process including a method of addressing and responding to recommendations from the public shall be adopted.

Social Equity and Environmental Justice

Ensuring the meaningful involvement of low income, minority, disabled, senior, and other traditionally underrepresented communities is a key component of SANDAG public participation activities. SANDAG policies, procedures, and programs are consistent with federal and state environmental justice laws, regulations, and requirements, Title VI, related nondiscrimination requirements, and reflect the principles of social equity and environmental justice. Social equity means ensuring that all people are treated fairly and are given equal opportunity to participate in the planning and decision-making process, with an emphasis on ensuring that traditionally disadvantaged groups are not left behind. Environmental justice means ensuring that plans, policies, and actions do not disproportionately affect low income and minority communities.

Scope

The policy addresses public participation policies and public information efforts in the following areas:
A. Overall Public Participation Process
B. Short Range Program – Regional Transportation Improvement Program
C. Development Planning
D. Design and Construction
E. Fare Changes
F. Short Range Transit Planning
G. Native American Consultation

A. Overall Public Participation Process -- Unless otherwise noted or required, these are SANDAG general policies for public participation for major planning initiatives such as the Regional Transportation Plan, Regional Comprehensive Plan, Regional Short Range Transit Plan, and other planning and programming projects

1. The SANDAG Public Participation/Involvement Program is designed to inform and involve the region’s residents in the decision-making process on issues such as growth, transportation, environmental management, housing, open space, air quality, energy, fiscal management, economic development, and public safety.

2. The Public Participation/Involvement Program seeks to involve all citizens, including but not limited to low income households, limited English proficient individuals, Hispanic, African American, Asian, Native American, senior, and other communities, persons with disabilities, as well as community and civic organizations, public agencies, business groups and associations, environmental organizations, and other stakeholders.

3. SANDAG Board meetings provide the public forum and decision point for significant regional issues. SANDAG Directors usually hold one or two Board meetings each month: a Board Policy Meeting the second Friday of each month and a Board Business Meeting the fourth Friday of each month. Meetings held at the SANDAG office are accessible by public transit. During these meetings, Directors adopt plans, allocate transportation funds, approve transit construction plans, approve transit fare changes, and establish policies and develop programs that are used by local governments as well as other public and private organizations.

4. The SANDAG Public Participation/Involvement Program shall comply with the Americans with Disabilities Act (ADA). SANDAG shall hold public meetings in buildings, rooms, or locations that are accessible to persons with disabilities. SANDAG shall provide public meeting information in alternate formats and shall provide special accommodations at public meetings with three business days notice.

5. The SANDAG Public Participation/Involvement Program is carried out as an integrated work element of the agency’s Overall Work Program and Budget and as part of other programming, development, and implementation processes such as the Regional Transportation Plan, the Regional Comprehensive Plan, Regional Short Range Transit Plan, Regional Transportation Improvement Program, Environmental Impact Reports, transit capital project development, project construction, transit fare changes, corridor studies, and other projects.
6. **SANDAG shall proactively seek and promote public participation in SANDAG workshops and public hearings, as well as participation and attendance at committees, working groups, and task forces. SANDAG shall follow local, state, and federal guidelines for posting public meeting and hearing notices. Depending upon the specific project, SANDAG shall endeavor to hold meetings at times that can attract as many participants as possible, including evenings and weekends and at locations in communities throughout the region. SANDAG shall endeavor to hold these meetings in locations that are accessible by public transit.**

7. **SANDAG shall inform the public in a timely manner about regional issues, actions, and pending decisions through a number of efforts. As needed or required, SANDAG shall post public notices in newspapers of general circulation for publication of legal notices. Other publication and distribution efforts can include mail distribution to residents, agencies, and city/county governments, the SANDAG Web site, e-mail lists, and region – the SANDAG monthly electronic newsletter. As needed, SANDAG also shall distribute press releases and media alerts to local, regional, and Mexico border area print and broadcast media.**

8. **SANDAG shall regularly inform local print and broadcast media about SANDAG decisions, events, research, and other issues. SANDAG shall regularly distribute press releases to County News Service, Daily Transcript, East County Californian, El Latino, La Prensa, Los Angeles Times, North County Times, San Diego Business Journal, San Diego Metropolitan, San Diego Union-Tribune, San Diego Voice & Viewpoint, The Star News, and numerous community newspapers. SANDAG shall also distribute information to local and Mexico radio and television stations.**

9. **SANDAG shall use its Web site to provide the public with useful and timely information including meeting schedules and agendas; plans and environmental documents; reports and other publications; demographic profiles and data downloads; and interactive database and mapping applications.**

10. **As appropriate and as required by local, state, and federal guidelines, SANDAG shall translate into Spanish, and other languages, publications, announcements, and Web content. In addition, numerous staff members are bilingual Spanish-English speakers and participate in public outreach and conduct presentations in Spanish. Translators shall be hired as needed and as required by local, state, and federal guidelines to provide services in Spanish and other languages as appropriate.**

11. **SANDAG conducts periodic public opinion surveys as part of the outreach and citizen participation component of the SANDAG work program. These surveys shall be designed to include the San Diego region’s residents in the regional planning process and to keep SANDAG officials aware of issues that are of concern to the people who live here.**

12. **SANDAG will endeavor to respond to general comments received by phone, fax, letter, or e-mail within five (5) business days of receipt. Comments shall be routed to the SANDAG staff person who is responsible for that issue. Comments may be responded to in writing (e-mail or letter) or may be resolved with the initial phone call. Some comments may need to be resolved by another agency or jurisdiction so
the customer is referred to the appropriate entity. When a comment is submitted as part of a public review process (e.g., a plan or environmental report) the comment and response is logged into a database. Comments, concerns, and responses received as part of a public review process shall be included in the final plan or report.

**B. Short Range Program - Regional Transportation Improvement Program (RTIP) -**

document updated every two years outlining major transportation projects to be implemented during a five-year period.

1. SANDAG shall follow the latest federal and state regulations regarding participation by interested parties.

2. As the document that implements the long range plan, the RTIP shall be incorporated as part of the Board adopted public involvement process established for the Regional Transportation Plan (October 27, 2006) including participating in public outreach efforts, providing adequate public notice (legal notice publications), employing visualization techniques, holding public meetings at convenient and accessible locations.

3. SANDAG shall respond to any significant public input or comment received during the development of the biennial update and/or during the amendment cycle as part of its report to the Board or Transportation Committee (as appropriate).

4. The biennial RTIP update will be noticed in newspapers of general circulation including in alternate languages and a public hearing shall be held prior to final adoption by the Board of Directors.

5. During the amendment cycle, SANDAG will provide a draft of the amendment to all interested parties for a 15-day comment period.

**C. Development Planning -**

Planning, environmental, preliminary engineering activities on major capital projects.

1. SANDAG shall follow current federal and state regulations regarding public involvement processes and procedures. SANDAG shall develop public involvement programs tailored to meet specific project needs which address the unique challenges presented by each project. Programs shall be developed using the joint Federal Highway Administration and Federal Transit Administration (FHWA/FTA) guidelines titled “Public Involvement Techniques for Transportation Decision-Making.”

2. The public involvement program shall set objectives, identify people to be reached, develop public involvement strategy, and define specific outreach techniques.

3. The public involvement program shall be developed so that critical community concerns and technical issues are identified in the study. The issues need to address the engineering, environmental, economic, and financial analyses that respond effectively to community needs and preferences and satisfy local, state, and federal environmental clearance requirements.
4. To facilitate community participation, lists of individuals, agencies, and organizations shall be developed for distribution of agency materials. These lists will include persons who have indicated an interest in transportation planning projects during previous public information efforts and/or focused on the specific project. Project information would be distributed to the persons on this list in conjunction with public meetings and workshops, to solicit comments and recommendations.

5. Environmental documents shall be prepared in accordance with California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), as appropriate, and in coordination and consultation with various federal, state, and local agencies, and with elected officials, community leaders, organizations, and other individuals from the neighborhoods and communities potentially affected by the proposed action. Coordination and public involvement shall be achieved through a variety of means, such as formal public hearings and meetings, circulation of draft documents, mailings, focus group meetings, workshops, and individual/group contacts.

6. Formal scoping meetings, public hearings, and/or other meetings during the comment period and environmental document certification shall be held in accordance with the requisite environmental document. As required, meetings shall be announced in the Federal Register, local publications, and on the SANDAG Web site. Persons and organizations on the project mailing list also will be notified. SANDAG shall endeavor to hold public meetings in locations accessible by public transit.

7. SANDAG shall prepare and distribute appropriate notices and communications to comply with CEQA and NEPA requirements.

8. A public information program shall be developed to inform the community of factors related to the project. The information program may include briefings for the news media, informational meetings, presentations to include community and professional associations and educational institutions, business groups and associations, environmental organizations, and other public forums.

9. A project working group may be organized to review and comment on the project to build understanding and identify support for feasible alternatives. This group may consist of various elected officials/staff, community and neighborhood organizations, business organizations, property owners, and other stakeholders and interested parties. This group would be formed to provide comment and guidance regarding technical issues, review study alternatives and evaluation results, and provide community input regarding the alternatives. This iterative process would allow for identified issues and concerns to receive follow-up responses. Meeting summaries of project working group activities shall be produced. Meeting notices, agendas, and/or other information shall be posted to the SANDAG Web site.

10. Other public input opportunities include SANDAG Board of Directors meetings and meetings of SANDAG policy committees: Executive, Transportation, Regional Planning, Borders, and Public Safety. Other opportunities for public participation are at working group meetings, general public meetings, and presentations to planning and community groups.
D. **Design and Construction** - Design and construction of capital projects.

1. For all capital improvement projects with significant community impacts, SANDAG shall provide opportunities for members of the public to provide input and express concerns. SANDAG also shall implement a program designed to inform the public of progress, as well as safety and community impacts in the event of construction.

2. SANDAG shall hold publicly noticed meetings at key stages of project development and implementation in the area(s) being impacted. The location of the meetings shall depend upon the geographic location of the project. Meetings concerning projects exclusively within the North County Transit District (NCTD) service area shall be held in North County locations, and if appropriate, at SANDAG offices. Meetings concerning projects exclusively within the Metropolitan Transit System (MTS) service area shall be held in MTS service areas affected, and if appropriate, at SANDAG offices. Meetings concerning all other projects shall be held at SANDAG offices or other locations specified in SANDAG agendas. SANDAG, MTS, and NCTD offices are accessible by public transit. SANDAG shall endeavor to hold off-site public meetings at locations accessible by public transit.

3. SANDAG shall solicit input from the representatives of interest groups of the local population, such as community groups, planning groups, business groups and associations, business improvement districts, environmental organizations, neighborhood associations, and senior and disabled riders. These stakeholders will be consulted during the design and construction of capital projects.

4. SANDAG shall work to advise the public regarding actual and perceived disruption during construction of capital projects by distributing informational, educational, and public information materials, and by using other traditional community relations tools.

5. SANDAG shall endeavor to meet citizen concerns as they arise and attempt to resolve those concerns.

6. For all projects requiring environmental review under CEQA and NEPA, such as major capital improvement projects, SANDAG shall provide opportunities for members of the public to provide input and comply with all related legal requirements.

   6.1 SANDAG shall solicit input from the representatives of interest groups of the local population, such as community groups, planning groups, business groups and associations, and neighborhood associations.

   6.2 SANDAG shall incorporate public input into project planning and development where practical and feasible.

   6.3 SANDAG shall hold a public hearing to seek public comment whenever required under CEQA and/or NEPA.
6.3.1 Published notifications for such hearings shall be published in newspapers of general circulation for publication of legal notices. Notices also may be published in regional, community, or Spanish-language newspapers to reach the affected area.

6.3.2 Any item subject to a public hearing will be listed and described in the Board’s published agenda, which shall be posted at least 72 hours in advance of the meeting at the Board’s meeting place and on the SANDAG Web site.

6.3.3 Public hearings shall be conducted by SANDAG at the published date, time, and place. The public hearing will allow for interested parties to be heard. The Board also will consider any written comments that were forwarded to the Board prior to the hearing.

E. Fare Changes

1. SANDAG has adopted Board Policy No. 029 to provide policy guidance for fare changes. This section of this policy is designed to inform and involve public transit riders, stakeholders, and the general public about proposed changes in transit fares. It is not intended to apply to transit route changes within the purview of the transit operators.

   1.1 Consistent with Board Policy No. 004, SANDAG staff shall hold one or more public meetings, which could consist of an open house or workshop, to provide the public an opportunity to comment on proposed fare changes. A minimum of two public meetings shall be held prior to the first reading of any proposed fare change that affects services operating in both the MTS and NCTD service areas. At least one public meeting shall be held in the MTS service area, and at least one public meeting shall be held in the NCTD service area. If one or more public meetings are conducted by a public meeting officer pursuant to Board Policy No. 004, at least one of the public meetings shall be held with a starting time no earlier than 6:00 p.m. A public meeting for proposed fare changes that do not affect the entire region may be held exclusively within the general geographic area that is being affected by the fare change. Such public meeting shall be held at a time convenient for users and potential users of the affected service. Public meetings at which formal public testimony will be taken shall be held at locations that are accessible by users of public transit. An official transcriber or other means of recording all public input received shall be utilized at all public hearings, meetings, workshops or open-houses at which formal public testimony is taken. A record of the input received shall be provided to the Transportation Committee or Board of Directors at the time of the first and second readings of amendments to the fare ordinance for the purpose of adjusting fare prices.

   1.2 Public comments on proposed fare changes also shall be accepted at the SANDAG Board or Transportation Committee meeting before any final action is taken.
1.3 Take One, Rider Alerts, or other public notices in both English and Spanish will be posted on all affected public transit vehicles within the affected area at least 15 calendar days prior to the public hearing and will include a description of the proposed fare change, the date, time, intent and location of the public meeting, and the deadline for written, e-mail and phone comments from the public. The notices will be posted to the SANDAG and Transit Agency Web site(s).

1.4 Print notice of public meetings at which formal public testimony will be taken hearings will be provided at least 15 calendar days prior to the public meeting date in newspapers of general circulation in the affected area(s), including appropriate minority and community publications. Public notices will be printed in Spanish in Spanish-language newspapers. Such public hearing meeting notices will include a description of proposed fare changes, the date, time, intent, and location of the public meeting(s), and the deadline for written, e-mail, and phone comments from the public.

1.5 An open phone line will be made available to take public comments at least 15 calendar days prior to adoption of fare changes public hearing.

1.6 A SANDAG—Transportation Policy Committee and/or Board report (as appropriate) will be completed and available for public review at least 72 hours prior to the public meeting at which the fare changes are proposed for adoption and posted to the SANDAG Web site(s).

2. After a fare change is approved by SANDAG:

2.1. The public will be notified via news release(s)

2.2. Take One, Rider Alerts, or other public notices in both English and Spanish will be posted on all affected transit vehicles at least 15 calendar days prior to changes going into effect and posted to the SANDAG and Transit Agency Web site(s).

3. SANDAG shall follow federal Title VI and environmental justice requirements when implementing transit fare changes.

3.1. Residential, employment, and transportation patterns of low-income and minority populations shall be identified so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed. SANDAG shall endeavor to involve the affected communities in evaluating the benefits and burdens of transportation investments.

3.2. SANDAG shall evaluate and - where necessary - improve the public involvement processes to eliminate participation barriers and engage minority and low-income populations in transportation decision making.
F. **Short Range Transit Planning**

1. Public information and involvement programs for the Regional Short Range Transit Plan and the Coordinated Human Resources and Public Transit Transportation Plan shall be the responsibility of SANDAG.

2. Public information and involvement programs for transit service changes will fall under adopted policies of MTS and NCTD.

G. **Native American Consultation**

1. SANDAG shall establish and adhere to government-to-government relationships when interacting with Tribal Governments, acknowledging these tribes as unique and separate governments within the United States.

2. SANDAG shall recognize and respect important California Native American rights, sites, traditions, and practices.

3. SANDAG engages in “consultation” with Tribal Governments prior to making decisions, taking actions, or implementing programs that may impact their communities.

4. To facilitate effective consultation with Tribal Governments, SANDAG has established a Tribal Government Liaison. The Liaison shall serve as an initial contact for Tribal Governments and communicates with tribal governments regarding SANDAG activities.

4.1. “Consultation” is the active, affirmative process of: (1) identifying and seeking input from appropriate American Indian government bodies, community groups, and individuals; and (2) considering their interests as a necessary and integral part of the decision-making process.

Adopted March 2005
Amended January 2006
Amended December 2007
Amended December 2008
Amended December 2009
COMPETITIVE GRANT PROGRAM PROCEDURES

Applicability and Purpose of Policy

This Policy applies to the following grant programs administered through SANDAG, whether from TransNet or another source: Smart Growth Incentive Program, Environmental Mitigation Program, Bike and Pedestrian Program, Senior Mini Grant Program, Job Access Reverse Commute, New Freedom, and Section 5310 Elderly & Persons with Disabilities Transportation Program.

Nothing in this Policy is intended to supersede federal or state grant rules, regulations, statutes, or contract documents that conflict with the requirements in this Policy. There are never enough government grant funds to pay for all of the projects worthy of funding in the San Diego region. For this reason, SANDAG awards grant funds on a competitive basis that takes the grantees’ ability to perform their proposed project on a timely basis into account. SANDAG intends to hold grantees accountable to the project schedules they have proposed in order to ensure fairness in the competitive process and encourage grantees to get their projects implemented quickly so that the public can benefit from the project deliverables as soon as possible.

Procedures

1. Project Milestone and Completion Deadlines

   1.1. When signing a grant agreement for a competitive program funded and/or administered by SANDAG, grant recipients must agree to the project delivery objectives and schedules in the agreement. In addition, a grantee’s proposal must contain a schedule that falls within the following deadlines. Failure to meet the deadlines below may result in revocation of all grant funds not already expended. The final invoice for capital, planning, or operations grants must be submitted prior to the applicable deadline.

      1.1.1. Funding for Capital Projects. If the grant will fund a capital project, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary construction contract must be awarded within two years following execution of the grant agreement, and construction must be completed within eighteen months following award of the construction contract. Completion of construction for purposes of this policy shall be when the prime construction contractor is relieved from its maintenance responsibilities. If no construction contract award is necessary, the construction project must be complete within eighteen months following execution of the grant agreement.

      1.1.2. Funding for Planning Grants. If the grant will fund planning, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary consultant contract must be awarded within one year following execution of the grant agreement, and the planning project must be complete within two years following award of the consultant contract. Completion of planning for purposes of this policy shall be when grantee approves the final planning project deliverable. If no consultant contract award is necessary, the
planning project must be complete within two years of execution of the grant agreement.

1.1.3 Funding for Operations Grants. If the grant will fund operations, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary services contract for operations must be awarded within one year following execution of the grant agreement, and the operations must commence within six months following award of the operations contract. If no services contract for operations is necessary, the operations project must commence within one year of execution of the grant agreement.

1.1.4 Funding for Equipment or Vehicles Grants. If the grant will fund equipment or vehicles, the project must be completed according to the schedule provided in the grant agreement, but at the latest, any necessary purchase contracts for equipment or vehicles must be awarded within one year following execution of the grant agreement, and use of the equipment or vehicles for the benefit of the public must commence within six months following award of the purchase contract.

2. Project Milestone and Completion Deadline Extensions

2.1. Schedules within grant agreements may include project scopes and schedules that will identify interim milestones in addition to those described in Section 1 of this Policy. Grant recipients may receive extensions on their project schedules of up to six months for good cause. Extensions of up to six months aggregate that would not cause the project to miss a completion deadline in Section 1 may be approved by the SANDAG Executive Director. Extensions beyond six months aggregate or that would cause the project to miss a completion deadline in Section 1 must be approved by the Policy Advisory Committee that has been delegated the necessary authority by the Board. For an extension to be granted under this Section 2, the following conditions must be met:

2.1.1. For extension requests of up to six months, the grantee must request the extension in writing to the SANDAG Program Manager at least two weeks prior to the earliest project schedule milestone deadline for which an extension is being requested. The Executive Director or designee will determine whether the extension should be granted. The Executive Director’s action will be reported out to the Board in following month’s report of delegated actions.

2.1.2. A grantee seeking an extension must document previous efforts undertaken to maintain the project schedule, explain the reasons for the delay, explain why the delay is unavoidable, and demonstrate an ability to succeed in the extended time frame the grantee proposes.

2.1.3. If the Executive Director denies an extension request under this Section 2, the grantee may appeal within ten business days of receiving the Executive Director’s response to the responsible Policy Advisory Committee by sending the appeal to the SANDAG Program Manager.

2.1.4. Extension requests that are rejected by the Policy Advisory Committee will result in termination of the grant agreement and obligation by the grantee to return to SANDAG any unexpended funds within 30 days. Unexpended funds are funds for project costs not incurred prior to rejection of the extension request by the Policy Advisory Committee.
3. Project Delays and Extensions in Excess of Six Months

3.1. Requests for extensions in excess of six months, or that will cause a project to miss a completion deadline in Section 1 (including those projects that were already granted extensions by the Executive Director and are again falling behind schedule), will be considered by the Policy Advisory Committee upon request to the SANDAG Program Manager.

3.2. A grantee seeking an extension must document previous efforts undertaken to maintain the project schedule, explain the reasons for the delay, explain why the delay is unavoidable, and demonstrate an ability to succeed in the extended time frame the grantee proposes. The grantee must provide the necessary information to SANDAG staff to place in a report to the Policy Advisory Committee. If sufficient time is available, and the grant utilized TransNet funds, the request will first be taken to the Independent Taxpayer Advisory Committee (ITOC) for a recommendation. The grantee should make a representative available at the meeting to present the information to, and/or answer questions from, the ITOC and Policy Advisory Committee.

3.3. The Policy Advisory Committee will only grant an extension under this Section 3 for extenuating circumstances that the grantee could not have reasonably foreseen.

4. Resolution and Execution of the Grant Agreement

4.1. Two weeks prior to the review by the Policy Advisory Committee of the proposed grants, prospective grantees must submit a resolution from their authorized governing body that includes the provisions in this Subsection 4.1. Failure to provide a resolution that meets the requirements in this Subsection 4.1 will result in rejection of the application and the application will be dropped from consideration with funding going to the next project as scored by the evaluation committee. In order to assist grantees in meeting this resolution deadline, when SANDAG issues the call for projects it will allow at least 90 days for grant application submission.

   4.1.1. Grantee governing body commits to providing the amount of matching funds set forth in the grant application.

   4.1.2. Grantee governing body authorizes staff to accept the grant funding and execute a grant agreement if an award is made by SANDAG.

4.2. Grantee’s authorized representative must execute the grant agreement within 45 days from the date SANDAG presents the grant agreement to the prospective grantee for execution. Failure to meet the requirements in this Subsection 4.2 may result in revocation of the grant award.

5. Increased Availability of Funding Under this Policy

5.1. Grant funds made available as a result of the procedures in this Policy may be awarded to the next project on the recommended project priority list from the most recent project selection process, or may be added to the funds available for the next project funding cycle, at the responsible Policy Advisory Committee’s discretion. Any project that loses funding due to failure to meet the deadlines specified in this Policy may be resubmitted to compete for funding in a future call for grant applications.

Adopted: December 2009
SAN DIEGO ASSOCIATION OF GOVERNMENTS

BYLAWS

ARTICLE I

NAME AND PURPOSE

Section 1

The name of this Organization shall be the San Diego Association of Governments (hereinafter referred to as SANDAG).

Section 2

The purposes of this Organization are as set forth in SB 1703 (Chapter 743 of the Statutes of 2002), as established by state and federal law, and as approved by the Board of Directors. The primary purpose for which this organization is created is to engage in regional cooperative comprehensive planning, programming and where authorized, implementation thereof, and to assist the Member Agencies.

ARTICLE II

DEFINITIONS

The following terms shall have the meanings ascribed to them within this section unless the content of their use dictates otherwise:

a. “Region” shall mean that territory physically lying within the boundaries of San Diego County.

b. “Population” of any Member Agency shall mean that population as defined in SB 1703.

c. “Fiscal Year” shall mean that year beginning July 1, and ending June 30.

e. “Member Agencies” shall mean the cities within San Diego County and the County of San Diego collectively.

f. “Subregion” shall mean one of the five following portions of San Diego County: "North county coastal," which includes the Cities of Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside; "North county inland," which included the Cities of Vista, San Marcos, Escondido, and Poway; "South county," which includes the Cities of Chula Vista, National City, Imperial Beach, and Coronado; "East county," which includes the Cities of El Cajon, Santee, La Mesa, and Lemon Grove; and “San Diego region," which includes the territory located within the boundaries of San Diego County.
ARTICLE III

MEMBERSHIP AND ORGANIZATION

Section 1

Membership in this Organization shall be as provided in state law and these Bylaws.

Section 2

a. All powers of this Organization shall be exercised by the Board of Directors. The Board of Directors may choose to delegate several of its responsibilities from time to time in accordance with Board policy.

b. Only the duly selected official representative(s), or in his or her absence, his or her duly selected alternate or alternates, shall be entitled to represent his or her Member Agency in the deliberations of the Board of Directors.

c. When changes occur, names of the official representatives and alternates shall be communicated in writing to the Organization by each participating Member Agency.

Section 3

There shall be at least five standing committees which shall be known as policy advisory committees with the membership set forth in SB 1703 or Board Policy.

a. The procedure for City and County of San Diego and subregional appointments to the policy advisory committees shall be established by Board policy. In the case of the subregional appointments, the policy shall ensure a noticed, formal process wherein all Board members (including alternates) from each subregion are provided an opportunity to participate in the selection process. Each subregion shall ensure that SANDAG staff is notified of the date, time, and location for that subregion’s meeting. After the meeting for each subregion is set by the primary Board members, SANDAG staff shall provide Board alternates from each subregion advance notice of the meeting. A majority of the primary members present at the subregion meeting shall make a selection by January 31. An alternate member may vote in the absence of the primary member. In appointing persons to the Transportation Committee, to the extent possible, the subregions and other agencies should avoid duplication of representation from any city other than the City of San Diego.

b. Procedures for policy advisory committee attendance and voting shall be established by Board policy. The policy shall ensure the formal delineation of the voting membership at each meeting.

c. The Board Chair, First Vice Chair, and Second Vice Chair may serve as ex-officio non-voting members of the policy advisory committees.
d. The Board Chair shall select the chair and vice chair of all policy advisory committees except the Executive Committee, annually in February. When serving on the Executive Committee, the Board Chair, First Vice Chair, and Second Vice Chair shall serve as the Chair, First Vice Chair and Second Vice Chair of the Executive Committee. The First and Second Vice Chairs of the Board shall serve as voting members of the Executive Committee if one or both of the Vice Chairs represent an area of the region that is different from the area of the region represented by the Chairperson or other Vice Chair. If such an overlap occurs, a Vice Chair that cannot be the primary member shall be the alternate.

Section 4

The Board of Directors or a policy advisory committee with delegated authority shall have the authority to appoint all additional committees or working groups and may provide for the appointment of alternates to these committees.

a. Additional policy advisory committees may be appointed by the Board of Directors as may be required to carry out general and continuing functions and may be abolished only upon specific action by the Board of Directors.

b. Ad hoc specialized subcommittees or working groups may be appointed by the Board of Directors as the need arises to accomplish specific tasks. The policy advisory committees may appoint working groups to advise them. Upon completion of its assignment, each ad hoc subcommittee or working group shall disband.

Section 5

In addition to any compensation mandated by state law for Board meetings, the rates below shall apply. Persons must be present for at least 1/2 of the time set for the meeting or the duration of the meeting, whichever is less, in order to be eligible for compensation.

a. For attendance by Board members, or alternates in their absence, at Board meetings, $150 per meeting.

b. For meetings or events attended by Board members, other than committee meetings of SANDAG, where the members are officially representing the Board, $150 per meeting or event. The Board may adopt and amend from time to time a list of such meetings and events. Ethics training and similar classes of an educational nature shall not constitute an event for which compensation will be paid.

c. For members and alternates of policy advisory committees, $100 per meeting.

d. The limit on the total number of paid meetings for Board and policy advisory committee members or alternates per individual is six meetings per month.

e. The Chair of the Board shall receive additional monthly compensation of $500 per month.

f. Both the Vice Chairs of the Board shall receive additional monthly compensation of $250 per month.
ARTICLE IV

MEETINGS

Section 1

a. A quorum for a meeting of the Board of Directors shall be as provided for in Section 5 of this Article.

b. A quorum shall be required for the conduct of any business of a committee. No business shall be conducted by a committee without a quorum. A simple majority of the appointed members of a committee shall constitute a quorum. All decisions by a committee shall be by simple majority of the quorum.

Section 2

Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order except as otherwise modified by state law, Board policy, or these Bylaws. The Secretary shall forward written notice of the meetings of the Board of Directors and each policy advisory standing committee, stating the time, location, and the agenda of business to each member’s agency and to the respective members and alternates of the Board of Directors or the policy advisory standing committees, at the earliest time possible, but in no event less than 72 hours prior to meetings, except that such written notice of regular Board of Directors’ meetings may be forwarded by first class mail or other appropriate means not less than seven days prior to such meeting.

Section 3

All meetings of SANDAG, including without limitation regular, adjourned regular, and special meetings of the Board of Directors, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code). Closed session items should be heard by the Board of Directors unless timeliness requires consideration by the Executive Committee or, for transportation matters the Transportation Committee. In any event, the Transportation Committee is authorized to convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation. The Transportation Committee will report real property transaction purchase amounts at the next regular meeting of the Board occurring after final execution of the purchase documents.

Section 4

The Board and committees shall meet according to the following schedule:
a. The Board of Directors and policy advisory committees shall hold their regular meetings on Fridays unless otherwise determined from time to time by the Board of Directors or policy advisory committee. Regular meetings of the Board of Directors shall be held on the second and fourth Friday mornings of the month at the offices of the Organization or at other locations within San Diego County, unless otherwise provided by the Board. Special meetings of the Board of Directors or policy advisory committees may be called from time to time by their respective Chair.

b. Other committees shall meet whenever called by their respective Chair.

Section 5 (Section 132351.2 of the Public Utilities Code)

a. A majority of the Member Agencies constitute a quorum for the transaction of business. In order to take final action on any item, except consent items which only require the vote specified in paragraph (1), the following voting formula in both paragraphs (1) and (2) shall apply:

(1) A majority vote of the members present on the basis of one vote per agency.

(2) A majority of the weighted vote of the Member Agencies present.

b. In the event a majority vote pursuant to Section 5(a) cannot be obtained to allow final action on an item, one or more preliminary votes may be taken using the method in Section 5 (a)(1) in order to narrow the options sufficiently to obtain a majority vote on the final action as required by Public Utilities Code Section 132351.2.

c. The City and County of San Diego shall determine how to allocate their single agency vote and weighted votes between their two members.

d. For the weighted vote, there shall be a total of 100 votes, except additional votes shall be allowed pursuant to subdivision (g). Each representative shall have that number of votes determined by the following apportionment formula, provided that each agency shall have at least one vote, no agency shall have more than 40 votes, and there shall be no fractional votes:

(1) If any agency has 40 percent or more of the total population of the San Diego County region, allocate 40 votes to that agency and follow paragraph (2), if not, follow paragraph (3).

(2) Total the population of the remaining agencies determined in paragraph (1) and compute the percentage of this total that each agency has.

   (A) Multiply each percentage derived above by 60 to determine fractional shares.

   (B) Boost fractions that are less than one, to one and add the whole numbers.

   (C) If the answer to subparagraph (B) is 60, drop all fractions and the whole numbers are the votes for each agency.
(D) If the answer to subparagraph (B) is less than 60, the remaining vote(s) is allocated one each to that agency(s) having the highest fraction(s) excepting those whose vote was increased to one in subparagraph (B) above.

(E) If the answer to subparagraph (B) is more than 60, the excess vote(s) is taken one each from the agency(s) with the lowest fraction(s). In no case shall a vote be reduced to less than one.

(3) Total the population determined in paragraph (1) and compute the percentage of this total that each agency has.

(A) Boost fractions that are less than one, to one and add the whole numbers.

(B) If the answer to subparagraph (A) is 100, drop all fractions and the whole numbers are the votes for each agency.

(C) If the answer to subparagraph (A) is less than 100, the remaining vote(s) is allocated one each to that agency(s) having the highest fraction(s) excepting those whose vote was increased to one in subparagraph (A) above.

(D) If the answer to subparagraph (A) is more than 100, the excess vote(s) is taken one each from that agency(s) with the lowest fraction(s). In no case shall a vote be reduced to less than one.

e. When a weighted vote is taken on any item that requires more than a majority vote of the board, it shall also require the supermajority percentage of the weighted vote.

f. The weighted vote shall be recomputed in the above manner every July 1.

g. Any other newly incorporated city shall receive one vote under the single vote procedure and one vote under the weighted vote procedure specified above until the next recomputation of the weighted vote, at which time the new agency shall receive votes in accordance with the formula specified in subdivision (b). Until this recomputation, the total weighted vote may exceed 100.

ARTICLE V

OFFICERS AND THEIR DUTIES

Section 1

The Board of Directors shall have as officers a Chair, First Vice Chair, and Second Vice Chair, who are primary members of the Board. Policy advisory standing committees shall have as officers a Chair and Vice Chair, who are primary or alternate members of the Board and primary members of their respective committees. The Executive Director shall be the Secretary of the Board and each policy advisory standing committee.
a. The Chair shall preside over Board and committee meetings, and have general supervision of Board and committee affairs. The Chair shall sign all official documents when directed to do so by the Board and committees respectively.

b. The First Vice Chair shall perform the duties of the Chair in his or her absence and perform any duties that the Chair may require. The Second Vice Chair shall perform the duties of the First Vice Chair in his or her absence and perform any duties that the Chair may require.

c. In the event of the absence of the three officers of the Board of Directors or both officers of a policy advisory or other standing committees, the Immediate past Chair may preside or the quorum of members present shall elect a Chair Pro Tempore to preside for that meeting. The Secretary, with a quorum present, shall call the meeting to order and preside during such election of a Chair Pro Tempore; he or she shall immediately relinquish the chair upon completion of the election.

Section 2

The Board may delegate authority to the Board Chair for action consistent with Board approved criteria on categories of items.

Section 3

Election of officers of the Board of Directors shall be held annually during a regular December meeting. Officers for the Board of Directors shall be elected in the following manner:

a. In or around July of each year, application forms will be made available on the Board of Directors page of the SANDAG Web site for persons interested in applying for the Chair or a Vice Chair position on the Board of Directors. Applications shall be structured to screen for the best regional leaders from among the primary members and shall include questions concerning the candidate’s vision statement for SANDAG and his/her qualifications. Applications shall be due within 30 days after the application forms are posted. Only candidates who submit an application by the deadline or who are primary members nominated from the floor on the day of election will be considered for office.

b. The Chair shall appoint up to a six-person nominating committee, who shall be members of the Board from each of the subregions and a Board member from the City and the County of San Diego. The nominating committee appointments shall be announced at a regular meeting in or around September of each year. The nominating committee shall not, however, include Board members from jurisdictions that have applicants for the Chair or a Vice Chair position on the Board of Directors. If more than one candidate has applied for a particular office, the nominating committee shall interview the candidates. The nominating committee shall and submit a slate of nominees for the three Board offices in writing for mailing to Board members in or around November. Additional nominations for any office may be made by Board members at the election meeting.

c. In choosing the nominees from the Board membership, the nominating committee shall take into account the nominee’s availability, experience, skills, geographic diversity, and the benefits associated with having the First Vice Chair succeed the outgoing Chair and the Second Vice Chair succeed the outgoing First Vice Chair.
d. The officers shall be elected by a majority of the votes including weighted votes of those Board members present.

e. All officers shall be elected for a term(s) of one year and shall serve until their successors are elected. They shall begin their term of office on January 1.

f. In the event that the Board member who has been elected Chair, First Vice Chair, or Second Vice Chair is no longer a primary member of the Board of Directors, the office shall be considered vacant.

g. Any vacated office of Chair, First Vice Chair, or Second Vice Chair shall be filled at the next regular Board meeting by nominations from the floor, and a majority of votes from the members present. A member must be a primary member to be nominated from the floor.

Section 4

a. The Board of Directors shall appoint an Executive Director who shall hold office until he or she resigns or is removed by the Board of Directors. The Executive Director shall be the chief executive officer of SANDAG. The Executive Director shall have charge of all projects and property of the Organization and shall file with the Director of Finance of SANDAG an official bond in the minimum amount of $100,000 or such larger amount as the Board of Directors specifies, guaranteeing faithful performance of his or her duties. The Executive Director will be responsible to the SANDAG Board of Directors as set out in the Administrative Rules and Regulations for the administration of SANDAG’s business, including: (1) development of program objectives, definition, directions and priorities; (2) management of SANDAG programs and coordination of staff and support services; (3) the development of financial support programs for SANDAG activities; (4) the recommendation and submission of an annual SANDAG program budget to the Board of Directors; and (5) execution of the adopted personnel, purchasing, and budgetary systems. The Executive Director shall perform such other and additional duties as is necessary to carry out the objectives and function of SANDAG and as directed by the Board of Directors.

b. Any additional staff support services provided by Member Agencies or others shall be coordinated by the Executive Director.

c. The Executive Director is hereby enabled to promulgate an administrative manual, as well as all other administrative policies governing the administrative procedures of the Organization.

ARTICLE VI

FINANCIAL

Section 1

The Board of Directors shall approve a preliminary budget no later than April 1 of each year. The Board of Directors shall adopt a final budget no later than June 30 of each year. A copy of the preliminary budget when approved and a copy of the final budget when adopted shall be filed with each Member Agency.
Section 2

Responsibility for supplying funds for that portion of the budget for SANDAG which is to be supplied by the Member Agencies, as adopted by the Board of Directors, shall be divided among the Member Agencies based on their population with each Member Agency including within its budget as funds to be supplied to SANDAG that sum of money determined by taking the ratio its population bears to the total population of the region and multiplying it by that portion of the approved budget to be supplied by the Member Agencies. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

Section 3

The Director of Finance of SANDAG shall establish and maintain such funds and accounts as may be required by good accounting practice, state and federal law, and these Bylaws. The books and records of SANDAG in the hands of the Director of Finance shall be open to inspection at all reasonable times by representatives of the Member Agencies. The Director of Finance of SANDAG shall issue a Comprehensive Annual Financial Report (CAFR) by December 31 within 120 days after the close of each fiscal year and a copy shall be provided to each give a complete written report of all financial activities for each fiscal year to of the Member Agencies.

Section 4

The Director of Finance of SANDAG shall receive, have the custody of, and disburse SANDAG funds upon the warrant or check-warrant of the Finance Manager pursuant to the accounting procedures developed under Section 3 above, and shall make the disbursements required to carry out any of the provisions or purposes of the Organization. The Director of Finance of SANDAG may invest SANDAG funds in accordance with state and federal law. All interest collected on SANDAG funds shall be accounted for and posted to the account of such funds.

Section 5

Delegation of authority from the Board of Directors for final financial/contracting approvals, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment to serve as a limitation applicable to a particular job or program (not to be exceeded on a serial basis), shall be as follows:

a. Up to $100,000 to the Executive Director, subject to increase by Board action.

b. Up to $500,000 to the Executive Committee for any item, subject to increase by Board action.

c. Up to $500,000 to the Transportation Committee for transportation items, subject to increase by Board action.
d. Up to $500,000 to the Public Safety Committee for ARJIS and Criminal Justice Division items, subject to increase by Board action.

e. The Executive Director, Executive Committee, Public Safety Committee, and Transportation Committee shall report approvals under this section to the Board of Directors at least quarterly.

Section 6

The amount budgeted for Member Assessments related to Criminal Justice database access shall be as adopted by the Board of Directors, and divided among the Member Agencies using a formula based on population. Payment of this determined sum of money shall be made by each Member Agency by July 15 of each year. If payment by a Member Agency has not been made by September 1 of each year, that Member Agency shall no longer vote as a member of the Board of Directors. A delinquent Member Agency will be allowed to vote when full payment has been made, including interest computed from July 15 at the established legal rate.

ARTICLE VII

RELATIONSHIPS AND RULES OF PROCEDURE

Section 1

The functions of the Board of Directors and policy advisory committees shall be established by Board policy. The Board of Directors may delegate functions to the policy advisory committees as it deems appropriate.

Section 2

The Board of Directors shall provide guidance to committees and working groups. The Board may advise Member Agencies on the coordination of general plans, or on the resolution of conflicts between the general plans of agencies in the San Diego region.

Section 3

Conflicts between governmental agencies should be resolved among the affected agencies. In matters affecting more than one local government, and where requested by the affected agencies, the Organization shall have the authority to hear and make recommendations if the conflicts are not resolved to the satisfaction of each affected agency. Regional plans should serve as the guideline for the resolution of conflicts.

Section 4

Each action taken by the Organization which requires implementation should include designation of the agency or agencies directly responsible for such implementation.
Section 5
The general and specific references to the construction authority of SANDAG in SB 1703 shall be interpreted as applicable solely to its responsibilities for project development and construction of transit projects which were previously within the purview of the transit development boards and are consolidated under the authority of SANDAG.

ARTICLE VIII
REGIONAL COMPREHENSIVE PLAN

In addition to the purposes and powers set forth by law and these Bylaws, pursuant to Public Utilities Code Section 132360 et seq., the Organization shall be responsible for preparing and adopting a regional comprehensive plan based on the local general and regional plans that integrates land uses, transportation systems, infrastructure needs, and public investment strategies, within a regional framework, in cooperation with member agencies and the public.

ARTICLE IX
INFORMATION AND EVALUATION

Section 1
a. The Organization shall disseminate information concerning its work program and activities. The required information system should be organized and categorized so that it will continue to allow full and efficient use of information by the public and private sectors.

b. Adequate provision for citizen participation shall be provided as required by law and as directed by the Board of Directors.

c. The Board shall perform an annual evaluation of the Organization’s goals, purpose, structure, and performance, directed toward continually improving the planning, coordination, and implementation process.

ARTICLE X
AMENDMENTS

Section 1
The Board of Directors shall be responsible for making all amendments to these Bylaws.

a. Proposed amendments may be originated by the Board of Directors, the Executive Committee, or any member of the Board of Directors.

b. Prior to being taken to the Board of Directors for approval, proposed amendments should be taken to the Executive Committee preliminarily for review and discussion and then
brought to the Executive Committee at a subsequent meeting for a recommendation for approval to the Board.

c. A copy of any proposed amendments shall be forwarded by the Secretary to the official representative of each Member Agency, his or her alternate and the Agency itself, at the same time as the proposed amendments are mailed as a report attachment to the agenda for the preliminary Executive Committee meeting referred to in subsection b of this section.

d. Amendments to these Bylaws (except those provisions mandated by state law) shall require the vote of a majority of the Member Agencies which also represents at least 51 percent of the weighted vote of Member Agencies.

Adopted July 2003 by the SANDAG Board of Directors
Revised November 2003 by the SANDAG Board of Directors
Amended November 2004 by the SANDAG Board of Directors
Amended January 2006 by the SANDAG Board of Directors
Amended June 2007 by the SANDAG Board of Directors
Amended December 2008 by the SANDAG Board of Directors
Amended December 2009 by the SANDAG Board of Directors
San Diego Association of Governments

EXECUTIVE COMMITTEE

December 4, 2009

AGENDA ITEM NO.: 6

Action Requested: APPROVE

REVIEW OF DECEMBER 18, 2009, DRAFT BOARD AGENDA

1. APPROVAL OF NOVEMBER 20, 2009, MEETING MINUTES

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Members of the public shall have the opportunity to address the Board on any issue within the jurisdiction of SANDAG that is not on this agenda. Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk of the Board prior to speaking. Public speakers should notify the Clerk of the Board if they have a handout for distribution to Board members. Speakers are limited to three minutes. Board members also may provide information and announcements under this agenda item.

3. ACTIONS FROM POLICY ADVISORY COMMITTEES

This item summarizes the actions taken by the Borders Committee on November 20, the Executive and Regional Planning Committees on December 4, and the Transportation and Public Safety Committees on December 11, 2009.

CONSENT ITEMS (4 through XX)

+4. REVISION TO THE CITY OF SAN DIEGO MAINTENANCE OF EFFORT (MOE) AUDIT (Lisa Kondrat-Dauphin)*

The TransNet Extension Ordinance requires the setting of new Maintenance of Effort (MOE) levels. The City of San Diego requires an amendment to their previously approved base level to include a correction to the local discretionary funds used for transit pass subsidies. The Transportation Committee recommends that the Board of Directors approve the revised City of San Diego MOE level.

+5. FY 2010 BUDGET AND OVERALL WORK PROGRAM AMENDMENT: ACCEPTING ADDITIONAL FUNDS FOR PROJECT SAFE NEIGHBORHOODS (Cynthia Burke)

Since 2003, a national effort called Project Safe Neighborhoods (PSN) has been coordinated through the local U.S. Attorney’s Office to target gun- and gang-related violence. In June 2009, the Board of Directors approved SANDAG assuming the role of fiscal agent for this effort, executing a Memorandum of Understanding between SANDAG and the Southern District of California’s PSN
Task Force, and accepting $669,866 in initial funding. The U.S. Department of Justice (DOJ) has awarded $118,760 in additional funding, and it is anticipated that this may occur on a periodic basis. The Public Safety Committee recommends that the Board of Directors approve an amendment to the FY 2010 Budget and Overall Work Program to accept this additional funding and authorize the Executive Director to accept future funding provided by DOJ for the PSN program during this budget year.

+6. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY EXECUTIVE DIRECTOR (Lauren Warrem)

In accordance with SANDAG Board Policy Nos. 003 (Investment Policy), 017 (Delegation of Authority), and 024 (Procurement and Contracting-Construction), this report summarizes certain delegated actions taken by the Executive Director since the last Board meeting.

+7. REPORTS ON MEETINGS AND EVENTS ATTENDED ON BEHALF OF SANDAG (Kim Kawada)

Board members will provide brief reports orally or in writing on external meetings and events attended on behalf of SANDAG since the last Board of Directors meeting.

8.

9.

CHAIR’S REPORT (10 through 11)

10. RECOGNITION OF SANDAG LAND USE AND TRANSPORTATION PLANNING DIRECTOR BOB LEITER ON HIS RETIREMENT

INFORMATION

+11. ELECTION OF 2010 SANDAG BOARD OFFICERS (National City Mayor Ron Morrison, Nominating Committee Chair)

APPROVE

The Nominating Committee recommends the attached slate of candidates for SANDAG Chair, First Vice Chair, and Second Vice Chair for calendar year 2010. Additional nominations for any officer may be made by Board members at the December meeting. The Board of Directors is asked to elect SANDAG Board Officers for the upcoming year.
REPORTS (14 through XX)

+14. FOURTH ANNUAL REPORT FROM THE TransNet INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE (Hamid Bahadori, ITOC Chair; Charles "Muggs" Stoll)*  

Hamid Bahadori, Chair of the Independent Taxpayer Oversight Committee (ITOC), will present the Committee's annual report for FY 2009.

+15. SANDAG PUBLIC PARTICIPATION PLAN (First Vice Chair Jerome Stocks; Anne Steinberger)  

The Board of Directors is asked to approve the updated SANDAG Public Participation Plan for distribution to our federal funding agencies.

+16. 2010 LEGISLATIVE PROGRAM (First Vice Chair Jerome Stocks; Genevieve Morelos)  

Consistent with past programs, the proposed legislative program for calendar year 2010 includes policies and proposals for possible federal and state legislation and local activities. The Executive Committee recommends that the Board of Directors approve the 2010 SANDAG Legislative Program.

+17. PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS (First Vice Chair Jerome Stocks; Julie Wiley)  

In December, the Executive Committee reviewed proposed amendments to Board Policies and Bylaws. The Executive Committee recommends that the Board of Directors approve the proposed amendments to the Board Policies and Bylaws.

+18. 2009-2013 COORDINATED PUBLIC TRANSIT AND HUMAN SERVICES TRANSPORTATION PLAN (Second Vice Chair Jack Dale, Transportation Committee Chair; Phil Trom)  

The 2009-2013 Coordinated Public Transit and Human Services Transportation Plan (Coordinated Plan) provides a blueprint for the development of transit and human services transportation in San Diego for the next five years. The draft Coordinated Plan was presented and circulated for public comment, and the Transportation Committee held a public hearing on the plan on December 11, 2009. The Transportation Committee recommends that the Board of Directors approve Resolution No. 2010-06 approving the 2009-2013 Coordinated Plan.
+19. **LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO (LOSSAN) RAIL CORRIDOR MEMBER AGENCY MEMORANDUM OF UNDERSTANDING FOR RAIL SERVICE INTEGRATION** (Second Vice Chair Jack Dale, Transportation Committee Chair; Linda Culp)

The LOSSAN Rail Corridor Agency seeks to increase ridership, revenue, capacity, reliability, and safety on the coastal rail line from San Diego to Los Angeles to San Luis Obispo. Known as Amtrak's Pacific Surfliner corridor, it is the second busiest intercity passenger rail corridor nationwide and Amtrak's fastest growing corridor. Since August 2008, SANDAG, NCTD, MTS, and the other LOSSAN member agencies have been working on ways to better integrate the corridor's three passenger rail services. The Transportation Committee recommends that the Board of Directors authorize the SANDAG Executive Director to sign an interagency Memorandum of Understanding, in substantially the same form as attached to the report, which outlines the next steps in this process.

+20. **FINAL REGIONAL ENERGY STRATEGY UPDATE** (Imperial Beach Mayor Jim Janney, Regional Planning Committee Chair; Andrew Martin)

The Regional Energy Strategy (RES) serves as the energy policy guide for SANDAG. At its October 9 meeting, the Board of Directors provided comments on a preliminary draft of the RES Update. The Final RES Update is the product of an extensive review and input process that, in addition to the Board, has included the Transportation, Regional Planning, and Borders Committees, the Regional Energy Working Group, local planning directors on the Regional Planning Technical Working Group, staff at the California Energy Commission, and members of the public. Staff will present an overview of the final document, including how Board member comments have been addressed. The Regional Planning Committee recommends that the SANDAG Board of Directors accept the Final Regional Energy Strategy Update.

+21. **COMPASS CARD STATUS UPDATE** (James Dreisbach-Towle)

Staff will provide the Board of Directors with an update on recent Compass Card project activities.

22. **FINANCIAL MARKET STATUS** (Lauren Warrem and Marney Cox)

This monthly briefing is designed to keep the Board of Directors informed about the latest developments in the financial markets, the economy, and revenue forecasts, and the strategies we are exploring and implementing to minimize possible impacts to SANDAG.

26. UPCOMING MEETINGS

The next Board Policy meeting is scheduled for Friday, January 8, 2010, at 10 a.m. The next Board Business meeting of the SANDAG Board of Directors is scheduled for Friday, January 22, 2010, at 9 a.m.

27. ADJOURNMENT

+ next to an agenda item indicates an attachment
* next to an agenda item indicates a San Diego Regional Transportation Commission item
ANNUAL PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS

Introduction

Each year the Office of General Counsel solicits requests from staff for any suggested changes to Board Policies and Bylaws and reviews these documents to determine if updates or changes should be recommended to the Board of Directors. These proposed amendments are attached and are brought to the Executive Committee for discussion and possible recommendation to the Board of Directors.

Discussion

The significant changes for each of the Board Policies proposed for amendment are discussed below. The actual language changes are tracked in the attached draft versions of the Board Policies and Bylaws.

Background Regarding Board Policy Changes That Would Affect Policy Numbers 001, 004, and 025

In December 2008, the Board considered approving changes to these Board Policies, which were intended to allow for greater public outreach and accommodation through a variety of public forums. These policy changes were proposed in order to provide the flexibility to obtain official public testimony at public meetings held in locations other than the Board’s chambers. Input from members of the public supports having the ability to schedule meetings that are close to where the affected residents live or work and holding such meetings at different times of the day. SANDAG has had complaints from the public regarding the difficulty they have attending a public hearing in downtown San Diego during traditional work hours. The law allows SANDAG to utilize “town hall” or “workshop” type meetings rather than formal public hearings to gather official public testimony.

The Board did not approve the proposed revisions to Board Policy Nos. 001: Operations Policy and 004: Rules of Procedure last year because the Board had concerns about delegating authority to take public testimony to nonmembers of the Board or Transportation Committee (TC). Staff is proposing changes to these policies this year that are intended to address the concerns expressed by Board members in December 2008, while also providing flexibility to allow official public testimony to be taken in nontraditional venues and in the evenings in order to encourage more public participation.

Recommendation

The Executive Committee is asked to discuss the proposed amendments to the Board Policies and Bylaws (Attachments 1 to 1112), and either provide feedback to staff regarding requested changes or recommend that the Board of Directors approve the proposed amendments.
The first proposed change in this policy is a clarification regarding the authority of the Executive Committee to comment or provide recommendations to the Board regarding all types of third party environmental documents, not just Environmental Impact Report/Environmental Impact Statement (EIR/EIS) documents.

Next are proposed changes to the TC’s authority. TC authority regarding “use it or lose it” project funding policies and funding allocations is proposed for removal from this policy due to the proposed addition of new Board Policy No. 035, which would provide for a use it or lose it policy for project funding across various competitive grant programs. The authority of the TC would be extended for approving the Coordinated Human Service and Public Transit Transportation Plan (Section 7).

The TC’s authority regarding approval of the Congestion Management Program (CMP) is proposed for removal since a majority of the region’s jurisdictions representing a majority of the population recently elected to opt out of the state CMP process.

The next group of proposed changes is related to the TC’s authority concerning transit service and fare changes. Section 8 would allow the TC to make recommendations regarding changes to Board Policy Nos. 018 and 029 (Section 8), and could conduct public hearings and first readings of amendments to the Comprehensive Fare Ordinance, but would no longer have the ability to adopt Fare Ordinance changes (Sections 15 and 16). Staff is proposing new language in Sections 15 and 16 because SANDAG has been criticized by the public for delegating final adoption authority of an ordinance to the TC when changes to the Fare Ordinance are of critical importance and will affect all of the jurisdictions, and because all of the jurisdictions are not represented on the TC. The proposed language would have the additional benefit of shortening the fare ordinance approval process by a week or more, because the first reading and public hearing could be conducted by the TC one week and then the second reading and adoption could occur at the Board meeting the following week instead of waiting until the next TC meeting. Additionally, Sections 15 and 16 would allow the TC the flexibility to conduct public hearings during regular TC meetings as well as to delegate authority to one or more public meeting officers, who would be Board or TC members selected by the appropriate Chair. The flexibility is intended to provide additional opportunities to the public to provide testimony in accordance with the new policy language proposed for Board Policy No. 025. The original version of this report also called for changes to the TC’s authority with regard to final approval authority for amendments to the Comprehensive Fare Ordinance, however, the Chair of the TC has requested that staff explore process improvements with regard to Fare Ordinance amendment procedures. Over the coming months staff will be meeting with transit operators’ staffs and analyzing whether the process could be improved and made easier for the public to understand. Until staff is ready to return with options in this regard, no changes to the TC’s authority to approve amendments will be proposed.

The authority of the TC would be extended for approving revisions to Federal Transit Administration Section 5311 funding allocations (Section 20), and approving TransNet compliance audits (Section 21). The last changes to the TC’s authority relates to the TransNet Smart Growth Incentive Program (SGIP) and Environmental Mitigation Program (EMP). In recognition of the importance of the Regional Planning Committee’s input regarding these funding programs, the authority of the TC would be revised to clarify that funding allocations for these programs would remain with TC, and the TC input would be requested regarding the project selection criteria, but
that the Regional Planning Committee would make the final recommendations regarding the project selection criteria.

Another set of changes is proposed for the Regional Planning Committee. Staff proposes that the Regional Planning Committee be given authority to approve fund distributions from the Beach Sand Mitigation Fund, and to recommend project selection criteria and projects for funding from the SGIP and EMP programs. Finally, a new section is proposed at the end of the policy concerning Board approval for requests for staff to perform more than four hours of work on a project that is not in the Overall Work Program or Budget.

Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees and Other Legislative Bodies (Attachment 2)

A set of new concepts is proposed to be added to Section 3 to set up alternate procedures for public meetings at which formal public testimony is taken. Currently, SANDAG takes formal public testimony during public meetings by holding public hearings during regularly scheduled meetings of the Board or a Policy Advisory Committee (PAC). Staff sometimes holds scoping meetings, focus groups, open houses and workshops, which qualify as public meetings, but which do not follow the protocols for taking official public testimony. Staff proposes that flexibility be added to Board Policy No. 004 to allow use of public hearings during public meetings as well as these additional types of public meeting forums to request official public testimony. This procedure has worked well for other public entities such as cities and Caltrans. These procedures would make it easier for the public to provide official public testimony, because the testimony could be taken in forums such as workshops, scoping meetings, and open houses in addition to regular meetings of the Board or a PAC. It also means the testimony could be taken in the evenings, on weekends, and in geographic locations more accessible to the public than downtown San Diego. The new procedures would authorize the Board and PAC Chairs, as applicable, to appoint one or members of the relevant legislative body to act as public meeting officer(s) at SANDAG public meetings that are not held during a meeting of a SANDAG legislative body, but at which formal public testimony will be taken. The changes in Section 3 of this policy are tied to the changes proposed for Board Policy Nos. 001 and 025.

Changes to Section 4.5.6.1.5 of Board Policy No. 004 are proposed to clarify that the threshold amount for prohibited gifts is subject to modification by the Fair Political Practices Commission. A new Section 4.15 also is proposed, which would incorporate regulatory changes made by the Fair Political Practices Commission last year concerning record keeping and distribution requirements for gifts to the agency, its employees, and Board members. Lastly, Section 6.4 has a proposed modification that would clarify that the Board can delegate final actions to other legislative bodies when the authority is given by Board action.

Due to the process improvements analysis relating to the Comprehensive Fare Ordinance in the Board Policy No. 001 discussion above, the deletion of the reference to the TC in Section 1.4 is no longer recommended.
Board Policy No. 008 – Legal Matters (Attachment 3)

A new Section 6 is proposed for addition to this policy. From time to time SANDAG receives notice of a court proceeding that requires attendance by SANDAG with one week or less notice prior to the time an appearance or court filing must be made. This provision will give the Office of General Counsel or outside counsel hired by the Office of General Counsel clear authority to appear or file documents on behalf of SANDAG when insufficient time is available to inform the Board in closed session of the matter. The Office of General Counsel would be required to report to the Executive Director regarding the need for and outcome of such appearances or filings and report on the results at the next Board meeting as a delegated action or in a closed session item.

Board Policy No. 009 – Discrimination Complaint Procedures (Attachment 4)

A new Section 9 is proposed for addition to this policy to provide additional information to complainants about their ability to file a complaint regarding discrimination in the provision of services to the public funded by the Federal Transit Administration (FTA) to the FTA Office of Civil Rights.

Board Policy No. 011 – Travel Expenses (Attachment 5)

Changes are proposed to Section 1.7 to ensure the Executive Director or Chief Deputy Executive Director approves all travel requests. Additionally, a sentence is proposed in Section 2.5.7 to make it clear that the maximum reimbursement amount for meals will be calculated by multiplying the applicable per diem rate in IRS Publication 1542 by the number of days of travel.

Board Policy No. 012 – SANDAG Service Bureau (Attachment 6)

This policy was first adopted in 2003 with a requirement that a written contract be utilized when Service Bureau is hired to provide services with a value in excess of $5,000. Since that time staff has determined that many of the Service Bureau jobs are routine and performed at low risk for amounts between $5,000 and $10,000. It would make business sense to save the time and administrative burden associated with preparing a formal contract by raising the threshold requirement for a formal contract to $10,000 for routine projects. The proposed change is found in bullet 6 under the section entitled Fees, Charges, and Pricing Policies.

Board Policy No. 016 – Procurement of Services (Attachment 7)

Staff proposes modifying Section 7.1.3 of this policy. This provision exists due to conflict of interest concerns about having the same engineering firm that prepared the design of a project later evaluate that design work. Years ago, it was thought that the later evaluation or involvement by someone in a position such as Office Engineer, Assistant Resident Engineer, Inspector, or Administrative/Clerical Assistant would not be likely to prejudice SANDAG and that the risk could be mitigated by having intervening review performed by an unbiased party. Staff is no longer comfortable that such an intervening review would sufficiently protect against a potential conflict of interest, and therefore recommends that this exception be removed. Due to heightened awareness of the potential for conflict of interest, staff further proposes removal of the exception for general design and engineering services from Section 7.1.2.
Board Policy No. 024 – Procurement & Contracting – Construction (Attachment 8)

This policy needs to be updated to make it consistent with case law permitting a bidder that is initially determined to be nonresponsible to submit additional evidence relating to its responsibility after receipt of notice of the initial finding of nonresponsibility. Section 1.5.7 contains this change. Staff also recommends modification of Section 6.1.1 to add project management services to the types of services that can create a conflict of interest.

Board Policy No. 025 – Public Participation/Involvement Policy (Attachment 9)

A statement is proposed for addition at the beginning of Section E (Fare Changes) in order to make it clear that this policy is not intended to apply to transit route changes within the purview of the transit operators. Currently, Section E of Board Policy No. 025 contains references in many places to “public hearings,” however, with the proposed changes to Board Policy Nos. 001 and 004 discussed above, the more appropriate term is “public meetings” as this is a broader term that can encompass both a regularly scheduled meeting of the Board or TC at which a public hearing is held, as well as a public meeting in the form of a workshop, open house, focus group meeting, etcetera. These provisions allow for different types of public meetings, including those to take official public testimony (and at which a public meeting officer would be present to oversee the formalities associated with recording the public testimony.) If the Executive Committee or Board does not want to allow the proposed amendments to Board Policy Nos. 001 and 004 to occur, the language in this policy needs to be changed to either remove the requirement that hearings be held after 6:00 p.m., or the Board or TC will need to hold meetings in the evenings for fare changes in the future. Other minor verbiage changes are proposed to Section E to clarify the timing and nature of certain requirements regarding notices and availability of information.

Board Policy No. 033 – Implementation Guidelines for Regional Housing Needs Assessment Memorandum

Pursuant to language within this policy, it is supposed to be reviewed on an annual basis for potential changes. Staff does not recommend that changes be made to this policy at this time. The Board of Directors approved substantive changes to Board Policy No. 033 in November 2008, including changing how incentive points are awarded, eliminating the prior housing element eligibility requirement, and eliminating the requirement to demonstrate progress made in rezoning. The more appropriate time to review any additional substantive changes to Policy No. 033 would be after the region is assigned new housing goals as part of the upcoming Regional Housing Needs Assessment process.

Board Policy No. 035 – Competitive Grant Program Procedures (Attachment 10)

A new Board Policy is proposed to provide procedures for competitive grant programs. There are never enough government grant funds to pay for all of the projects worthy of funding in the San Diego region. For this reason, SANDAG awards grant funds on a competitive basis that takes the grantees’ ability to perform their proposed project on a timely basis into account. SANDAG intends to hold grantees accountable to the project schedules they have proposed in order to ensure fairness in the competitive process and encourage grantees to get their projects implemented quickly so that the public can benefit from the project deliverables as soon as possible. This new policy is proposed in order to provide for a consistent set of standards to be used for grant programs administered by SANDAG with “use it or lose it” requirements. It also contains provisions regarding required resolutions and execution of the grant agreement. This policy would apply to the following grant programs administered through SANDAG, whether from TransNet or another
source: Smart Growth Incentive Program, Environmental Mitigation Program, Bike and Pedestrian Program, Senior Mini Grant Program, Job Access Reverse Commute, New Freedom, and Section 5310 Elderly & Persons with Disabilities Transportation Program.

Bylaws (Attachment 11)

A few substantive changes are proposed for the Bylaws. The first is to change the term “standing committee” to “policy advisory committee” where appropriate throughout the Bylaws since “standing committees” refers to broader set of committees than just the policy advisory committees. An addition is proposed to Article III, Section 5 to clarify that ethics training and similar classes of an educational nature will not constitute an event for which compensation will be paid to Board members. Verbiage changes are proposed in Section 1 of Article V to allow regular and alternate members of the Board to serve as a chair or vice chair on a policy advisory committee as long as they are a primary member of that policy advisory committee. The next proposed change is in Article V, Section 3(b). This section concerns the duties of the nominating committee for the election of officers. Currently the language requires the committee to interview all candidates for office. Sometimes, however, there is only one candidate for an office and that candidate may be graduating from a lower office. In this situation the committee may feel it is unnecessary to interview the candidate. The language change would provide that the nominating committee shall conduct interviews when there is more than one candidate for an office. A change is proposed to Article VI, Section 3 to update the type and timing of the financial report provided to each Member Agency on an annual basis. Finally, staff recommends adding Section 6 under Article VI, which would make member agency payment of Criminal Justice database dues mandatory.

Board Policy No. 031 – TransNet Ordinance and Expenditure Plan Rules (Attachment 12)

A few weeks ago an issue that has been pending for the last several months came to a critical decision point for National City with regard to enforcement of the Regional Transportation Congestion Improvement Program (RTCIP) provisions in the TransNet Ordinance as applied to an assisted living (convalescent care) development. National City has requested that the Executive Committee and Board consider interpreting the Ordinance such that the RTCIP would not apply to assisted living units.

The first issue to address is whether National City's request would be in conflict with the purpose and intent of the RTCIP provisions in the Ordinance. The relevant portion of the Ordinance (Section 9) states:

Starting on July 1, 2008, each local agency in the San Diego region shall contribute $2,000 in exactions from the private sector, for each newly constructed residential housing unit in that jurisdiction to the RTCIP. These exactions shall ensure future development contributes its proportional share of the funding needed to pay for the Regional Arterial System and related regional transportation facility improvements, as defined in San Diego Association of Governments' (SANDAG's) most recent, adopted Regional Transportation Plan. . . . This action is predicated on the desire to establish a uniform mitigation program that will mitigate the regional transportation impacts of new development on the Arterial system.

The Ordinance attachment regarding the RTCIP provides additional details regarding the RTCIP and contains a list of specified exemptions to the applicability of the exaction/fee. None of the
exemptions clearly applies to assisted living units. The RTCIP attachment also states, “The purpose of each jurisdiction’s Funding Program is to provide additional revenue to fund those facility and service improvements on the Regional Arterial System necessitated by development of newly constructed residences.”

Based on the language regarding purpose and intent in the Ordinance, the RTCIP was intended to address the impact of residential units on regional arterials. If a particular type of unit causes a lower level of impact on regional arterials than a typical residence, it would not be inconsistent with the intent of the Ordinance for the Board to ultimately decide the RTCIP was not intended to apply to this type of unit.

Should the Executive Committee decide this type of development should not be subject to the RTCIP exaction requirement imposed by SANDAG, it could be made clear in an amendment to Board Policy No. 031. Language that could accomplish this is shown in tracked changes in Attachment 12, which is an excerpt from the policy. The proposed amendment to this Board Policy, unlike the other amendments discussed in this report, will require review by the Independent Taxpayer Oversight Committee (ITOC). The ITOC will not be meeting in December. Therefore, if the Executive Committee directs staff to pursue this amendment, it will be brought to the ITOC in January prior to the Board’s meeting on January 22.

Even if the proposed amendment to Board Policy No. 031 is approved, a city or the County would not be precluded from applying the RTCIP exaction to assisted living units or any other type of development, whether residential or commercial. It would just mean that the city or County would not be potentially jeopardizing its TransNet funding by not charging the exaction for these types of units. In other words, the Ordinance and policy would still be the minimum standard the cities and the County need to meet to maintain TransNet eligibility, but they would still be free to apply the fee to a broader spectrum of new development.

JULIE D. WILEY
General Counsel

2. Board Policy No. 004 – Rules of Procedure for Board of Directors, Policy Advisory Committees and Other Legislative Bodies (revised)
3. Board Policy No. 008 – Legal Matters
4. Board Policy No. 009 – Discrimination Complaint Procedures
5. Board Policy No. 011 – Travel Expenses
6. Board Policy No. 012 – SANDAG Service Bureau
7. Board Policy No. 016 – Procurement of Services
8. Board Policy No. 024 – Procurement and Contracting – Construction
9. Board Policy No. 025 – Public Participation/Involvement Policy
10. Board Policy No. 035 – Competitive Grant Program Procedures
11. Bylaws
12. Board Policy No. 31 – TransNet Ordinance and Expenditure Plan Rules (excerpt)

Key Staff Contact: Julie D. Wiley, (619) 699-6966, jwi@sandag.org
OPAERATIONS POLICY
Board and Policy Advisory Committees Responsibilities

Shown below are responsibilities for the Board of Directors and each of the five Policy Advisory Committees (Executive, Transportation, Regional Planning, Borders, Public Safety) of the new Agency. Selected responsibilities are delegated by the Board to the Policy Committees to allow the Agency to effectively address key public policy and funding responsibilities. All items delegated to the Policy Advisory Committees are subject to Board action upon request of any member.

All functions not specifically delegated by the Board to a Policy Advisory Committee may be delegated to a Policy Advisory Committee on a one-time basis upon request by the Executive Director and approval by the Chair. Such actions shall be reported to the Board at its next regular meeting.

A. Board Responsibilities

1. Approve Regional Comprehensive Plan (RCP) and plan components and other regional plans (e.g. Regional Energy Plan, MHCP, etc.)
2. Approve Regional Transportation Plan (RTP), Regional Transportation Improvement Program (RTIP) and corridor studies
3. Fulfill responsibilities of SB 1703 as consolidated agency
4. Fulfill the responsibilities of the San Diego Regional Transportation Commission (RTC)
5. Approve programming of funds (TDA, CMAQ, STIP, etc.)
6. Approve project environmental reports
7. Approve Overall Work Program and Program Budget
8. Approve amendments to the Budget and Work Program and authorize contracts with consultants for amounts equal to or greater than the amounts to be determined for administrative and policy committee authorization.
9. Approve the annual legislative agenda
10. Provide policy direction through Policy Development Board meetings
11. Appoint Committees and Board officers
12. Delegate responsibilities to Policy Advisory Committees and approve Committee actions. All items delegated to the five Policy Advisory Committees are subject to direct Board action upon request of any members.
13. Delegate responsibilities to Board Chair consistent with Board criteria. Conference sponsorships and proclamations are hereby delegated subject to current or subsequently approved criteria.

B. Executive Committee Membership and Responsibilities

The Executive Committee shall consist of six voting members with board members representing East County, North County Coastal, North County Inland, South County, and the representative, or the representative’s alternate in their absence, from the City of San Diego and the County. The
Chairperson of the consolidated agency shall be one of the six voting members. The First and Second Vice Chairpersons of the consolidated agency shall serve as voting members if one or both of the Vice Chairpersons represent an area of the region that is different from the area of the region represented by the Chairperson or the other Vice Chairperson.

1. Set agenda for Board
2. Review and recommend annual work program and program budget
3. Approve amendments to the Budget and Overall Work Program and authorize contracts up to amount approved by the Board
4. Review and act on state and federal legislation
5. Comment on behalf of SANDAG or provide recommendations to the Board regarding comments on project EIR/EIS/third party environmental documents
6. Act upon and evaluate dispute resolution
7. Advise on personnel actions
8. Act on behalf of Board when timing requires
9. Make policy recommendations to the Board
10. Perform other duties as assigned by the Board
11. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000, subject to increase by Board action.
12. Annually review a list of all the SANDAG lower-level committees and working groups to determine the need to maintain the committee or working group and approve any revisions in functions or membership.
13. Review all proposed amendments to the Bylaws or Board Policies and make recommendations to the Board regarding those amendments.
14. Conduct expedited reviews and approvals of Energy Working Group actions on an as-needed basis.

C. Transportation Committee Membership and Responsibilities

The Transportation Committee shall consist of nine voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, a member of the Board of the MTS appointed by the Board of the MTS, a member of the Board of the NCTD appointed by the Board of the NCTD, and a member of the San Diego County Regional Airport Authority appointed by the airport authority.

1. Provide oversight for consolidated transit responsibilities
2. Provide policy oversight for transportation plans and corridor and systems studies
3. Establish/approve transportation prioritization criteria
4. Establish/approve policies and monitor “Use it or lose it” project funding
5. Approve TDA and STA claim amendments and RTIP and STIP amendments
6. Recommend funding allocations to the Board
7. Approve transit operator budgets for funding
8. Approve Regional Short Range Transit Plan and Coordinated Human Service and Public Transit Transportation Plan
9.8. Make recommendations regarding changes to Board Policy No. 018 (Transit Service Policy) and Board Policy No. 029 (Regional Fare Policy and Comprehensive Fare Ordinance) Consistent with the transition plans, approve regional fare policy.

10.9. Conduct public hearings as delegated by Board
11.10. Approve contracts for transit up to amount approved by the Board
12.11. Advise Board on other transportation policy-level issues
13.12. Recommend legislative program for transportation and transit
14.13. Approve financial/contracting transactions, including selection of vendors, acceptance of funding, stipulations of any nature, and any resulting budget amendment up to $500,000 for transportation items, subject to increase by Board action
15.14. To convene closed sessions and make final decisions with regard to real property transactions related to transportation projects, however, this delegation does not include the authority to make a Resolution of Necessity or to commence litigation.
16. Approve the Congestion Management Program (CMP) and any updates to the CMP.
15. Conduct hearings and authorize additional public meetings when appropriate pursuant to Board Policy No. 025 to hear official testimony from the public regarding fare setting and approve Comprehensive Fare Ordinance amendments
16. Approve recommendations to the Board regarding amendments to the Comprehensive Fare Ordinance
18.17. Accept for distribution, hold public hearings regarding, and adopt/certify environmental documents where items can be approved through actions of the policy committee
19.18. Approve loans of TransNet funds when such loans are incorporated into an RTIP amendment requiring an exchange of TransNet funds for funds from another source
20.19. Provide oversight and approvals for Coordinated Transportation Services Agency (CTSA) matters and appoint Transportation Committee representative to the CTSA board
20. Approve revisions to funding allocations for Federal Transit Administration Section 5311 funding
21. Approve the TransNet compliance audits consistent with Board Policy No. 031 (TransNet Ordinance and Expenditure Plan Rules)
22. Provide input on project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program

D. Regional Planning Committee Membership and Responsibilities

The Regional Planning Committee shall consist of six voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County, and the mayor or a council member from the City of San Diego, and a supervisor from the County of San Diego.

To ensure seamless transit service for the transit users of the region the consolidated agency, in consultation with the transit agencies, will be responsible for the development of a Regional Fare Policy. The Regional Fare Policy will incorporate a uniform fare structure, a transfer policy, and agreement for revenue sharing of regional tickets, tokens, and passes, while also allowing the consolidated agency to adopt specialized fare procedures for travel within each operator’s service area. Additionally, the consolidated agency will adopt a Comprehensive Fare Ordinance setting forth all fares for all operators, including their special fares.
1. Provide oversight for preparation and implementation of the RCP and its components
2. Recommend regional infrastructure financing strategies to the Board
3. Represent the Board for outreach and public information on the RCP and its components
4. Advise Board on regional planning policy issues
5. Approve distribution of funds from the California Coastal Commission Beach Sand Mitigation Fund
6. Recommend project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program.

E. Borders Committee Membership and Responsibilities

The Borders Committee shall consist of seven voting members with board members or alternates representing East County, North County Coastal, North County Inland, South County and the mayor or a council member from the City of San Diego, a supervisor from the County of San Diego, and a mayor, council member, or supervisor from the County of Imperial.

1. Provide oversight for planning activities that impact the borders
2. Provide oversight for the preparation of binational and interregional planning programs
3. Recommend border infrastructure financing strategies to the Board
4. Establish closer SANDAG working relations with surrounding counties and Mexico
5. Advise Board on binational and interregional policy-level issues
6. Review and comment on regionally significant projects in adjoining counties

F. Public Safety Committee Membership and Responsibilities

The membership, authority and responsibilities for this committee are set forth in Board Policy No. 026.

G. Distribution of Meeting Materials

1. All agendas for meetings of the Board of Directors, Policy Advisory Committees, and all other SANDAG legislative bodies covered by the Brown Act (Government Code § 54950 et seq.) shall be posted on the SANDAG Web site and copies of such agendas will be available for viewing by the public in the SANDAG business office reception area.

2. All closed session items shall be provided to appropriate Board and/or Policy Advisory Committee members prior to the closed session. Closed session meeting materials will be sent in sealed envelopes and clearly labeled as confidential. If a representative will not be able to attend a meeting he/she should ensure the closed session materials are given to the appropriate alternate to review prior to the meeting. All closed session meeting materials must be returned to the Office of General Counsel at the end of the closed session.
H. Work Assigned to Staff

Requests for staff to perform work on a project that is not specified in the Overall Work Program or Budget shall only be conducted following approval by the Board if the work is estimated to exceed four hours of staff time.

Adopted January 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2009
RULES OF PROCEDURE FOR BOARD OF DIRECTORS, POLICY ADVISORY COMMITTEES AND OTHER LEGISLATIVE BODIES

This policy is intended to define and clarify Rules of Procedure for the Board and incorporate them in Board policy.

From time to time over the last 30 years the Board has utilized and amended rules of procedure. It is desirable to have these rules contained in Board Policy for ease of reference.

Procedures for the Board and Policy Advisory Committees

1. Ordinances

1.1 Every ordinance shall be signed by the Chair of the Board, or for the comprehensive fare ordinance the Chair of the Transportation Committee, and attested by the Clerk of the Board.

1.2 Upon the passage of an ordinance, the votes of the Board members or Transportation Committee members, as appropriate, shall be entered in the minutes.

1.3 Ordinances shall not be passed within five days of their introduction, nor at any meeting other than a regular meeting. An urgency ordinance may, however, be passed immediately upon introduction and either at a regular or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Board or Transportation Committee members present, all ordinances shall be read in full at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section.

1.4 The Clerk of the Board shall cause a proposed ordinance or proposed amendment to an ordinance, and any ordinance adopted by the Board or Transportation Committee to be published at least once in a newspaper of general circulation in the SANDAG area of jurisdiction.

1.5 The publication of an ordinance as required by this policy, may be satisfied by either of the following actions:

1.5.1 Publication of a summary of a proposed ordinance or proposed amendment to an ordinance. The summary shall be prepared by the Clerk of the Board and the Office of General Counsel. The summary shall be published and a certified copy of the full text of the proposed ordinance or proposed
amendment shall be posted in the office of the Clerk of the Board at least five days prior to the meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, the Clerk of the Board shall publish a summary of the ordinance or amendment with the names of the Board or Transportation Committee members voting for and against the ordinance or amendment and the Clerk of the Board shall post in the office of the clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those members voting for and against the ordinance or amendment; or

1.5.2 If the person designated by the Board determines that it is not feasible to prepare a fair and adequate summary of the proposed ordinance or amendment, and if the Board or Transportation Committee so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the SANDAG area of jurisdiction shall be published at least five (5) days prior to the meeting at which the proposed ordinance or amendment is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and prove information regarding, the adopted ordinance or amendment including information sufficient to enable the public to obtain copy of the complete text of the ordinance or amendment, and the name of those members voting for and against the ordinance amendment.

1.6 Ordinances and amendments shall take effect thirty (30) days after their final passage. Exceptions to this effective date are: 1. When the ordinance is for the immediate preservation of the public peace, health or safety, and contains a declaration of facts constituting urgency, and is passed by a two-thirds vote of the Board or Transportation Committee, the ordinance or amendment will take effect immediately; and 2. If otherwise provided by the ordinance or another law.

2. Board Policies

2.1 Board policies shall be reviewed to determine if updates are needed no less often than every three years.

2.2 Once updated, policies shall contain a footer identifying the last date they were modified by the Board.

3. Public Comment and Public Meetings

3.1 Persons wishing to provide comment or testimony shall be permitted to address the Board or Policy Advisory Committee after submitting a written request to speak, identifying themselves and the agenda item on which they want to be heard. Ordinarily, each speaker will be allowed no more than three minutes. The Chair, however, may extend or limit the time for each presentation or may permit additional time to speakers representing a group of individuals or organizations to avoid duplicative testimony or for other reasons that are in the best interest of the
Board or committee in the Chair’s discretion. Testimony must be limited to issues relevant to the agenda item.

3.2 Public comment on matters not on the agenda will be permitted on items of interest to the public that are within the subject matter jurisdiction of the Board or committee. Persons wishing to comment during the general public comment period must submit a written request in advance identifying themselves and the subject matter on which they wish to speak. The Chair may limit the time for each speaker. Ordinarily, each speaker will be allowed no more than three minutes.

3.3 The Board or a Policy Advisory Committee (PAC) Chair, as applicable, will determine with staff’s assistance whether additional public meetings at which formal public testimony will be taken outside of regularly scheduled Board or PAC meetings are appropriate. Such additional public meetings may take the form of scoping meetings, focus group meetings, open houses, workshops or similar alternative formats. The applicable Chair will appoint one or more members of the relevant legislative body to act as public meeting officer(s) at SANDAG public meetings that are not held during a meeting of a SANDAG legislative body. If no Board or PAC members are available to serve as public meeting officers, the Chair may appoint the Executive Director or his/her delegate to serve as the public meeting officer. When a public meeting occurs before a public meeting officer, the public meeting officer or Clerk of the Board shall ensure that all official public testimony given at the public regarding the subject matter of the public meeting are accurately included in the written records, and ensure those written records are forwarded to the Board of Directors or PAC for review prior to the time designated for the relevant legislative body to render its recommendation or final decision.

3.4 The public meeting officer’s written records regarding the public meeting must include, at least, the following elements:

3.4.1 An objective description of the subject matter of the public meeting.

3.4.2 The public comments received by proponents and opponents of the meeting’s subject matter. The records shall indicate the hour and minute when the public meeting was opened and closed.

3.4.3 A list of the notices that were published, mailed, or Internet-posted, including the date of mailing or publication, the name of any newspaper, Internet address or web site, and a list of addresses and entities to which the notice was delivered. If multiple public meetings at which official public testimony is taken regarding the same subject matter are held throughout San Diego County, information regarding the notices and agendas for each public meeting shall be included in the public meeting records.

3.4.4 A copy of the agenda for the public meeting, including the time period during which public testimony was heard. The agenda also shall list contact information for the transcriber attending the public meeting.
3.4.5 A reference to the location where an audio and/or video recording, or transcript of the public meeting is archived, and where all original written comments submitted to the public meeting officer are available for viewing.

3.5 Before the Board of Directors or PAC takes action on the item that was the subject of a public meeting conducted by a public meeting officer, it will allow additional public comment at a regularly scheduled meeting of the legislative body.

3.6 By voting at a meeting where a public meeting officer’s records will be relied upon, each voting member of the legislative body will be affirming that he or she has:

3.6.1 Thoroughly reviewed the public meeting officer’s records of any minutes or transcript from, or listened to an audio or watched a sound video recording of, the public meeting(s); and

3.6.2 Given due consideration to any letters, e-mails, voicemails, or other comments submitted by the public that are part of the public meeting record.

3.7 If a voting member of a legislative body cannot attest that he or she has met the criteria listed in Section 3.6, he or she may participate in the discussion regarding the subject matter of the public meeting, and need not leave the legislative body meeting room, but should not vote on the matter.

4. Standards of Conduct & Ethics Applicable to All of SANDAG Legislative Bodies

4.1 This policy shall be supplemental to the SANDAG Conflict of Interest Code and is not intended to supersede such Code or any provisions thereof. All Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including alternates, shall file a Statement of Economic Interests with SANDAG upon request by the SANDAG Office of General Counsel.

4.2 Each Board member and alternate occupies a position of public trust that demands the highest moral and ethical standards of conduct. All references to “Board members” in Section 4 of this Policy shall be read to include all Board and Policy Advisory Committee members, and all other members of committees or working groups covered by the Brown Act, including ex officio members and alternates.

4.3 Board members shall not engage in any business or transaction or have a financial or other personal interest, actual, potential, or apparent that is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of such duties. Such business, transaction, or interest shall constitute a conflict of interest.

4.4 Generally, no Board member shall engage in any enterprise or activity that will result in any of the following:
4.4.1 Using the prestige or influence of the Board office for private gain or advantage of the member or another person.

4.4.2 Using time, facilities, equipment, or supplies of the Board for the private gain or advantage of the member or another person.

4.4.3 Receiving or accepting money or other consideration from anyone other than the Board or another government agency for the performance of acts done in the regular course of duty.

4.4.4 Receiving or accepting, directly or indirectly, any gift or favor from anyone doing business with the Board under circumstances from which it could reasonably be inferred that such was intended to influence such person in their duties or as a reward for official action.

4.4.5 Soliciting any gift or favor in the member's official capacity, either directly or indirectly, when such solicitation might reasonably be inferred as to have a potential effect on the member's duties or decisions, or when the individual's position as a Board member would in any way influence the decision of the person being solicited.

4.5 Prohibited Interests

4.5.1 It is unlawful for any current SANDAG Board member to render a decision where a party to the decision has given the SANDAG Board member, promised to give the SANDAG Board member, or acted as an intermediary for the SANDAG Board member to have, an opportunity for compensation. For purposes of this section, opportunities for compensation provided to a SANDAG Board member include opportunities for compensation provided to the SANDAG Board member's immediate family. When such an opportunity for compensation is provided to a member of the SANDAG Board member's immediate family, the SANDAG Board member shall not participate in a decision involving a party to the decision unless the SANDAG Board member had no knowledge or involvement in securing the opportunity for compensation.

4.5.2 It is unlawful for any current SANDAG Board member to make, participate in making, or use his or her Board member position to influence a decision involving the interests of a person with whom he or she is seeking, negotiating, or securing an agreement concerning future employment.

4.5.3 It is unlawful for any current SANDAG Board Member to be financially interested in any contract made by them in their Board member capacity. It is also unlawful for any contract to be made by SANDAG or any board or commission established by SANDAG if any individual member of the body has a financial interest in the contract.
4.5.4 Definitions

4.5.4.1 For purposes of the prohibitions set forth in this section, the term “financial interest” means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a noninterest prescribed in California Government Code section 1091.5, that would prevent SANDAG Board members involved from exercising absolute loyalty and undivided allegiance to the best interests of SANDAG.

4.5.4.2 For purposes of this section, “material financial effect” has the same meaning as that term is used in title 2, sections 18705 through 18705.5 of the California Code of Regulations.

4.5.4.3 For purposes of this section, “render a decision” means to take part personally and substantially in the project by rendering a decision, approval, or disapproval; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using confidential information.

4.5.4.4 For purposes of this section, “project” means any matter where a private business has made an application to SANDAG for discretionary funding or discretionary entitlements, or where SANDAG exercises discretion to enter into a lease, agreement, or contract with a private business.

4.5.5 Any SANDAG Board Member with a remote financial interest in a prospective contract of SANDAG must disclose the existence of the remote interest to the body of the board in which the SANDAG Board member is a member if that board has any role in creating, negotiating, reviewing, or approving the contract; and the SANDAG Board member must abstain from influencing or participating in the creation, negotiation, review, or approval of the contract.

4.5.6 It is unlawful for any SANDAG Board member to knowingly influence a decision of the SANDAG Board if it is reasonably foreseeable that the decision will have a material financial effect on:

4.5.6.1 the SANDAG Board member or a member of his or her immediate family, if the material financial effect is distinguishable from its effect on the public generally; or any of the following economic interests:

4.5.6.1.1 any business entity in which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and
4.5.6.1.2 any business entity for which a SANDAG Board member or a member of the SANDAG Board member’s immediate family is a director, officer, partner, trustee, employee, or holds any position of management; and

4.5.6.1.3 any real property which SANDAG Board member or a member of SANDAG Board member’s immediate family has invested $2,000 or more; and

4.5.6.1.4 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received (or by whom you have been promised) $500 or more in income within twelve months prior to the decision; and

4.5.6.1.5 any person from whom a SANDAG Board member or a member of the SANDAG Board member’s immediate family has received gifts that total $420 or more within twelve months prior to the decision;

4.5.6.1.6 the personal expenses, income, assets, or liabilities of a SANDAG Board member or a member of SANDAG Board member’s immediate family.

4.5.7 Prohibitions Applicable to Former Board Members

4.5.7.1 It is unlawful for any former SANDAG Board Member who received compensation from SANDAG to render a decision on a particular project during his or her SANDAG service to engage in direct communication with SANDAG, for compensation, with regard to any pending application for discretionary funding or discretionary entitlements before SANDAG relating to that particular project on behalf of any person other than a public agency for a one-year period immediately following the last payment from SANDAG to the Board Member.

4.5.7.2 It is unlawful for any former SANDAG Board member, for compensation, to knowingly counsel or assist any person other than a public agency in connection with an appearance or communication in which the former SANDAG Board Member is prohibited from engaging pursuant to subsection 4.5.7.1 for a one-year period immediately following termination of service with SANDAG.

1 This amount is subject to adjustment by the Fair Political Practices Commission.
4.6 Lobbying and Campaign-Related Activities

4.6.1 It is unlawful for any SANDAG Board Member to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using SANDAG facilities, equipment, supplies, or other SANDAG resources. Nothing in this section, however, shall prohibit the use of SANDAG resources to provide information to the public about the possible effects of any bond issue or other ballot measure relating to SANDAG activities, operations, or policies, provided that:

4.6.1.1 the use of public resources is otherwise legally authorized; and

4.6.1.2 the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

4.6.2 It is unlawful for any former SANDAG Board Member to engage in direct communication for the purpose of lobbying SANDAG if all of the following circumstances apply:

4.6.2.1 the former SANDAG Board Member served as a SANDAG Board Member within the previous twelve months; and

4.6.2.2 the former SANDAG Board Member received compensation from SANDAG for his or her service as a SANDAG Board Member; and

4.6.2.3 the former SANDAG Board Member is receiving compensation from a private business to engage in the direct communication with SANDAG.

4.6.3 The prohibitions contained in 4.6.2 shall not apply:

4.6.3.1 to prevent a former SANDAG Board Member from making or providing a statement, based on the former SANDAG Board Member's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses;

4.6.3.2 to prevent any former SANDAG Board Member from representing himself or herself, or any member of his or her immediate family, in their individual capacities, in connection with any matter pending before SANDAG;

4.6.3.3 to the activities of any former SANDAG Board Member who is an elected or appointed officer or employee of any public agency, or a consultant of any public agency, when that former SANDAG Board Member is solely representing that agency in his or her Board
Member capacity as an officer, employee, or consultant of the agency;

4.4.6.4 to any ministerial action. A ministerial action is one that does not require a SANDAG Board Member to exercise discretion concerning any outcome or course of action; or

4.4.6.5 to any individual who terminated status as a SANDAG Board Member prior to July 1, 2003, except that any such individual who returns to service as a SANDAG Board Member on or after July 1, 2003, shall thereafter be subject to the provisions of this section.

4.7 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item, and the Board will be making a decision regarding the agenda item during an open session meeting, the Board member must recuse himself or herself or, in the case of uncertainty, request a binding determination from the Board’s legal counsel. If the Board member has a conflict, he or she may observe, but not participate, in the decision-making process.

4.8 If a Board member has an actual, potential, or apparent conflict of interest in the subject of an agenda item to be discussed during a closed session meeting, the Board member must state that he or she has a conflict of interest and shall be disqualified and shall leave the room during such discussion so as not to make, participate in making, or in any way attempt to use his or her official position to influence the decision or discussion. In the case of uncertainty, the Board member must request a binding determination from the Board’s legal counsel. In accordance with the Brown Act, any Board member who is disqualified shall be entitled to any information that is publicly reported. The Board member will not, however, be privy to any confidential or privileged information or communications pertaining to the closed session agenda item.

4.9 No Board member shall disclose to any person, other than members of the Board and other Board staff designated to handle such confidential matters, the content or substance of any information presented or discussed during a closed session meeting unless the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

4.10 No Board member may disclose confidential or privileged information or communication to any person other than a Board member, counsel to the Board, or other Board staff designated to handle such matters, unless disclosure is mandated by law or the Board authorizes such disclosure by the affirmative vote of a majority of the Board.

4.11 Confidential or privileged information concerning threatened, anticipated, or actual litigation or claims will not be disclosed to a Board member if he or she has an actual, potential, or apparent conflict of interest. In the case of uncertainty as whether a conflict of interest exists, the Board’s legal counsel will issue a binding determination.
4.12 No Board member shall represent a position on an issue to be the Board’s position unless the Board has formally adopted such position at a public meeting.

4.13 Any violation of this policy shall constitute official misconduct if determined as such by an affirmative vote of the majority of the Board in an open and public meeting. The Board may elect to censure the Board member and the violation may be subject to criminal and/or civil penalties as provided for by applicable law.

4.14 All SANDAG Board or committee members (including alternates) who may receive any type of stipend, compensation, salary, or reimbursement for travel expenses from SANDAG must attend at least two hours of ethics training every two years. All such persons who hold office with SANDAG as of January 1, 2006, must complete their first course no later than January 1, 2007. The ethics training course materials must be approved by the Fair Political Practices Commission and Attorney General’s Office in compliance with the requirements of Government Code § 53234 et seq. Proof of attendance may be issued by SANDAG or any other local government agency providing an ethics training course that complies with these requirements.

4.14.15 Pursuant to Section 18944.1 and 18944.2 of Title 2 of the California Code of Regulations, certain procedures must be followed in order for a gift (travel, tickets, seats at an event, food, etc.) to be considered a gift to SANDAG instead of to an individual SANDAG public official or designated employee. A document entitled “Guidance Regarding Gifts” shall be posted on the SANDAG Web site to provide information regarding SANDAG practices, which are intended to assist public officials and designated employees in complying with regulations promulgated by the California Fair Political Practices Commission.

5. Additional Advisory Membership on Board

5.1 From time to time, the Board may determine it is in best interest of SANDAG to supplement the Board with additional members that can provide beneficial advice and information to the Board on matters of interest to the region.

5.2 The criteria for selection of additional advisory members shall be as follows:

5.2.1 Agency/group has land use or eminent domain authority;

5.2.2 Agency/group has regional authorities and responsibilities important to the SANDAG mission;

5.2.3 Membership by the agency/group would enhance SANDAG regional decision-making;

5.2.4 Agency/group desires representation, submits a written request, and commits to participation; and
5.2.5 Agency/group is able to agree on the form of representation and who will represent it.

6. Procedures Applicable to SANDAG Legislative Bodies Other Than the Board and Policy Advisory Committees

The Brown Act is a state law which governs open meetings for local governmental bodies. The Brown Act (also “Act”) is contained in the Government Code at § 54950 et seq., and establishes rules designed to ensure that actions and deliberations of public bodies of local agencies are taken openly and with public access and input. The Brown Act governs the meetings of all local “legislative bodies,” that is, all multi-member committees and the like, of a local governmental agency such as SANDAG. Bodies created by ordinance, resolution, or formal action of the SANDAG Board or one of the Policy Advisory Committees are covered by the Act.

6.1 All of the SANDAG legislative bodies are required to comply with the requirements of the Act, including but not limited to the following:

6.1.1 Agendas for all regular meetings must be posted at least 72 hours in advance of the meeting and all meetings must be open to the public.

6.1.2 The Act applies whenever a majority of the voting members of the legislative body meet to discuss, deliberate or acquire information about a matter within the subject matter of the body.

6.1.3 A public comment period must be provided at each meeting.

6.1.3 The Act prohibits “serial meetings.” Serial meetings are a series of in-person meetings, phone calls, emails, or other types of communication that ultimately involve a majority of the legislative body to develop a consensus as to action to be taken on a matter coming before the body. This prohibition is based on the Act’s goal to ensure that the public’s business is in fact conducted in public. In addition, a third party cannot be used to communicate among the members to obtain a consensus; an intermediary cannot be used to accomplish the actions directly prohibited by the Act.

6.1.4 Secret ballots and anonymous voting are prohibited.

6.1.5 An attendance, registration, or sign-in sheet may be used at public meetings to document the presence of persons other than the members of the legislative body, however, the sheet must clearly state that its completion is voluntary and not a precondition for attendance.

6.1.6 Meetings may not be held in facilities that are inaccessible to disabled persons or in facilities that prohibit the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry or sex.

6.1.7 Meetings must be held within the County of San Diego, unless some exception under the Act applies. Questions regarding the applicability of the Act should be directed to the SANDAG Office of General Counsel.
6.1.8 The agenda must list all items that will be discussed or acted upon by the legislative body. That listing should be described in an informative way so that members of the body as well as members of the public understand the general nature of the agenda item and can make an informed decision whether to attend the meeting or not. The Act provides that this description need not exceed 20 words, but as many words as necessary to give adequate notice should be used.

6.1.9 Members may take action to add an item to the agenda of a regular meeting if, by two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, the body determines that there is a need to act immediately, that the body's consideration of the matter cannot await the next meeting and that the need for immediate action arose after the posting of the agenda. This should only occur in very rare occasions, and the SANDAG Office of General Counsel should be consulted before relying on this exception.

6.2 In addition to the requirements of the Act, SANDAG legislative bodies must also comply with the following requirements:

6.2.1 Only the regular members, or in their absence, a designated alternate, may vote on action items. Seating or placards at meetings should be arranged so that it is clear which persons in the room are voting members, as compared to nonvoting members, alternates, speakers, or members of the public. Nonvoting members and alternates in attendance may participate in the body's discussion, but may not vote.

6.2.2 The members of a legislative body may only designate an alternate if their service on the legislative body is based on their capacity as a representative of another group; members selected for their individual qualifications do not act as a representative of another group and may not designate an alternate.

6.2.3 A quorum shall be a majority of the voting members of a legislative body. A majority of the quorum must approve all actions taken by the legislative body.

6.2.3 Unless otherwise provided by the Board or Policy Advisory Committee, each legislative body should select a chair and vice chair by a vote of the majority of a quorum on an annual basis.

6.2.4 Roberts Rules of Order should be used by legislative bodies for guidance on procedural matters such as the making of motions and voting.

6.2.5 The chair of a legislative body may direct that comments from the public shall be limited to no more than three minutes per person. Comments from the public should be requested following introduction of each agenda item.
Efforts should be made to make it clear to the members of the legislative body and audience when a comment is being made by a member of the public versus a member of the legislative body.

6.2.6 In the event a legislative body is having difficulty taking action on items due to lack of attendance to create a quorum, the legislative body may make a recommendation regarding changes to membership and seek approval of these recommendations from the Board or Policy Advisory Committee that created the legislative body.

6.3 The scope of topics within the jurisdiction of the legislative body shall be limited to those issues delegated to the legislative body by the Board or relevant Policy Advisory Committee.

6.4 Legislative bodies created by the Board or a Policy Advisory Committee do not have authority to take action on behalf of SANDAG, make a final determination on behalf of SANDAG, and/or take a position on behalf of SANDAG, unless that authority has been specifically delegated by an action of the Board.

6.5 The SANDAG Committee and Working Group Guidelines should be used for additional guidance.

6.6 New committees shall not be created by SANDAG staff without approval of either (1) the Board, (2) a Policy Advisory Committee, or (3) the Executive Director with the concurrence of the Chair of the Board. A Policy Advisory Committee or the Board must approve all charter or membership changes for committees that are created by ordinance, resolution, or formal action of the Board or one of the Policy Advisory Committees. An informational report shall be provided to the Board on an annual basis concerning the status of all standing and ad hoc committees and working groups.

6.7 Upon assuming office, the Chair of Board shall be provided with a list of all of the SANDAG legislative bodies that are not Policy Advisory Committees and the Chairs and Vice Chairs of those bodies. The Chair shall determine if a new Chair and/or Vice Chair should be appointed for these bodies and shall report any changes he/she wishes to make at a Board meeting. When making decisions concerning the Chair and Vice Chair appointments to legislative bodies, the potential appointee's participation at the Policy Advisory Committee reported to by the legislative body shall be taken into consideration.

Adopted June 2003
Amended November 2004
Amended January 2006
Amended December 2006
Amended December 2007
Amended December 2009
The following rules have been adopted and amended by the SANDAG Board of Directors in its role as the San Diego County Regional Transportation Commission (RTC). The purpose of these rules is to implement the provisions of the original TransNet Ordinance (87-1) and the TransNet Extension Ordinance (04-01) and amendments thereto.

Rule #23: Application of TransNet Extension Ordinance Regional Transportation Congestion Improvement Program (RTCIP) Requirements

Adoption Date: July 10, 2009; Amended January 22, 2010

A. Section 9 of Ordinance 04-01 provides that starting on July 1, 2008, each local agency in the San Diego region shall contribute $2,000 in exactions from the private sector, for each newly constructed residential housing unit in that jurisdiction to the RTCIP. Each agency is required to establish its own collection program, known as its RTCIP Funding Program. Each jurisdiction is required to either establish a new Fund for the RTCIP or to set up accounts specific to the RTCIP for tracking purposes.

B. Local agencies, SANDAG staff, hired auditors, and the Independent Taxpayers Oversight Committee (ITOC) are subject to the timelines set forth in Rule #17, Section I (Fiscal and Compliance Audit Procedures) in this Board Policy, Ordinance 04-01, and the attachment to Ordinance 04-01 entitled “REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM” (RTCIP Attachment). Section 9 of Ordinance 04-01 states that any local agency that does not provide its “full” RTCIP contribution in a given fiscal year will not be eligible to receive funding for local streets and roads for the immediately following fiscal year. It further provides that any funding not allocated under 4(D)(1) as a result of this requirement shall be reallocated to the remaining local agencies that are in compliance with Section 9. This Rule #23 is intended to provide clarification regarding how this language will be implemented.

1. By June 30 of each year, which is the last day of SANDAG’s fiscal year, each local agency must record as revenue, the full amount of each RTCIP exaction due for any new residential unit subject to the RTCIP within its jurisdiction. This means that if the RTCIP exaction is not yet collected, the local agency should invoice, but does not need to collect all of the RTCIP exactions due in a given fiscal year by June 30. Each local agency may choose when the exaction is due, but in no event can the local agency allow a residential unit subject to the RTCIP to be occupied by a resident prior to receipt of the RTCIP.
exaction. The local agency must record the revenue in the fiscal year the exaction is due according to its Funding Program or when the revenue is received, whichever occurs first.

2. Section G(4) of the RTCIP Attachment states that each local agency shall have up to, but no more than seven years after receipt of the revenue to expend the revenues on Regional Arterial System or regional transportation infrastructure projects. To ensure consistency in implementation, this provision shall mean that the seven year term shall begin on the July 1 following the date on which the local agency recorded the exaction as revenue or received the revenue, whichever occurred first. If it is not spent within seven years it will be subject to the reallocation process in Section G(4) of the RTCIP Attachment.

3. Pursuant to Ordinance 09-01, which amended Ordinance 04-01, the audit reports for all RTCIP Funding Programs are to be completed by June of the fiscal year immediately following the end of the fiscal year being audited. If during the audit process it is determined that a local agency failed to collect the full amount of exactions due under its Funding Program, the local agency may cure the defect by recording the amount due as an account receivable for the fiscal year being audited and avoid losing its TransNet funding. If the local agency has already closed out its books for the fiscal year being audited by the time the RTCIP audit discloses the defect, the local agency may record the revenue and cure the defect in the current fiscal year in order to avoid losing its TransNet funding. The seven year period discussed in Section B(2) of this Rule will commence from the fiscal year in which the revenue is recorded if this latter situation occurs.

4. The following exceptions will be permitted to the requirement that each local agency record as revenue, the full amount of each RTCIP exaction due for any new residential unit subject to the RTCIP within its jurisdiction by the June 30 deadline. These exceptions are permissible because the purpose of the RTCIP exactions is to mitigate residential traffic impacts on the regional transportation infrastructure. If a new unit subject to the RTCIP is not occupied this impact does not occur.

a. If litigation, bankruptcy, or other similar situation occurs that delays occupation of a new residential unit pending resolution by the courts or another body assigned to resolve the dispute, and the local agency has invoiced, but been unable to collect amounts due under its Funding Program, the local agency may delay recording the account receivable until the outcome is known or the unit is occupied, whichever occurs first. The local agency shall provide documentation to the auditor establishing litigation,
bankruptcy, etc. has occurred that has precluded the local agency from collecting the exaction.

b. If a local agency records an RTCIP exaction as revenue and subsequently determines that the amount is uncollectible (i.e., the developer never completes the project or goes bankrupt), the local agency may write-off the RTCIP exaction until such time, if ever, the unit is occupied and subject to the RTCIP. The local agency shall provide documentation to the auditor establishing that the write-off was justified.

5. Due to the timeline for completion of RTCIP audits, it may be up to one year after the fiscal year being audited has ended before ITOC adopts a final report that includes a finding that a local agency failed to provide the full amount of RTCIP exactions due under its Funding Program. During this interim audit period, SANDAG will make the payments due to local agencies for local streets and roads pursuant to Section 4(D)(1) of Ordinance 04-01 in good faith by presuming that the audit will establish each local agency is in compliance. If, however, the audit establishes a local agency did not provide its full monetary contribution under the RTCIP and the local agency does not cure defects of which it was notified by the time the audit is finalized and adopted by the ITOC, then the local agency will have forfeited its Section 4(D)(1) contribution. Any amount paid to the local agency in the fiscal year following the year that was the subject of the audit will be retroactively owed to the Commission. SANDAG will deduct any such amount, with interest at the monthly Local Agency Investment Fund (LAIF) rate. This amount will be deducted from the local agency annual allocation during the next fiscal year in which the local agency is eligible for Section 4(D)(1) funding.

C. The purpose of the RTCIP’s requirement that each local agency have a Funding Program is “to provide additional revenue to fund those facility and service improvements on the Regional Arterial System necessitated by development of newly constructed residences.” If a new unit will have a lower impact on the Regional Arterial System (RAS) than a typical residential unit, then it is unlikely to necessitate facility and service improvements on the RAS. The Board has determined that a nursing home, home for the aged, assisted living facility, or similar institutional unit (“institutional unit”) is not the type of unit the RTCIP was intended to cover as this type of unit is unlikely to generate the same types of trips and impacts on the RAS. Local agencies are not required to charge for a new institutional unit for purposes of compliance with the Ordinance’s RTCIP Funding Program requirements when the following criteria are met:

1. The individual units will not have both a bathroom and permanent built-in kitchen facilities equipped with a cooking range, refrigerator, and sink; and
2. The principal reason a person will live in the unit is because the person needs medical and/or nursing care; and

3. The local agency intends for the units in substance to be used as health care facilities rather than as residences.

Adopted: February, April, and May 1988; August 1989; March, July, and November 1990; October 1992; September and November 2005

Amended: June and December 1990; February 1991; November 2005; December 2006; December 2007; February 2008; March 2008; September 2008; July 2009; January 2010