EXECUTIVE COMMITTEE AGENDA

Friday, January 12, 2018
9 to 10 a.m.
SANDAG, 7th Floor Conference Room
401 B Street
San Diego

AGENDA HIGHLIGHTS

• PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS: ASSEMBLY BILL 805 IMPLEMENTATION

• DRAFT 2018 LEGISLATIVE PROGRAM

• FY 2017 AUDITED COMPREHENSIVE ANNUAL FINANCIAL REPORT

• UPDATE ON 2018 ANNUAL BOARD RETREAT

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

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EXECUTIVE COMMITTEE
Friday, January 12, 2018

ITEM NO.  

+1. APPROVAL OF MEETING MINUTES

The Executive Committee is asked to review and approve the minutes from its December 1, 2017, meeting.

+2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Committee that is not on this agenda. Other public comments will be heard during the items under the heading “Reports.” Anyone desiring to speak shall reserve time by completing a “Request to Speak” form and giving it to the Clerk prior to speaking. Public speakers should notify the Clerk if they have a handout for distribution to Committee members. Public speakers are limited to three minutes or less per person. Committee members also may provide information and announcements under this agenda item.

REPORTS

+3. REVIEW OF DRAFT BOARD AGENDA (Victoria Stackwick)

The Executive Committee is asked to approve the draft agenda for the January 26, 2018, Board Business meeting.

+4. PROPOSED AMENDMENTS TO BOARD POLICIES AND BYLAWS: ASSEMBLY BILL 805 IMPLEMENTATION (Julie Wiley)

The Executive Committee is asked to: (1) discuss the proposed amendments to Board Policies and Bylaws and either recommend that the Board of Directors approve the proposed amendments or direct staff to return to the Executive Committee for further discussion or review; and (2) approve the use of up to $42,600 from the Contingency Reserve for Assembly Bill 805 implementation expenses.

+5. DRAFT 2018 LEGISLATIVE PROGRAM (Victoria Stackwick)

The Executive Committee is asked to recommend that the Board of Directors approve the draft 2018 Legislative Program.

+6. UPDATE ON 2018 ANNUAL BOARD RETREAT (David Hicks; Trudy Sopp, The Centre for Organization Effectiveness)

Staff will provide an overview of the agenda for the SANDAG Board of Directors Annual Retreat, scheduled to be held at the Barona Resort on February 7-9, 2018.
+7. FY 2017 AUDITED COMPREHENSIVE ANNUAL FINANCIAL REPORT (Leeanne Wallace; Jennifer Farr, Davis Farr LLP) INFORMATION

Jennifer Farr, Davis Farr, LLP, will provide an overview of the FY 2017 Comprehensive Annual Financial Report and other matters in compliance with the Statement of Auditing Standards No. 114.

+8. LEGISLATIVE STATUS REPORT (Victoria Stackwick) INFORMATION

Periodic status reports on legislative activities are reported to the Executive Committee throughout the year. This report provides a summary of the various federal activities.

9. CONTINUED PUBLIC COMMENTS INFORMATION

If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

10. UPCOMING MEETINGS INFORMATION

Please Note: The next meeting of the Executive Committee, scheduled for Friday, February 9, 2018, at 8 a.m., will be held at the following location:

Barona Resort
1932 Wildcat Canyon Road
Lakeside, CA 92040

11. ADJOURNMENT

+ next to an agenda item indicates an attachment
EXECUTIVE COMMITTEE DISCUSSION AND ACTIONS
DECEMBER 1, 2017

Chair Ron Roberts, Supervisor, County of San Diego, called the meeting of the SANDAG Executive Committee to order at 9 a.m.

1. APPROVAL OF MEETING MINUTES (APPROVE)

Action: Upon a motion by Mayor Steve Vaus (North County Inland), and a second by Council President Myrtle Cole (City of San Diego), the minutes of the November 3, 2017, Executive Committee meeting were approved. Yes: Chair Roberts, Vice Chair Terry Sinnott (North County Coastal), Mayor Vaus, Councilmember Jerry Jones (East County), and Council President Cole. No: None. Abstain: None. Absent: South County.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS (INFORMATION)

There were no public/member comments.

CONSENT

3. LEGISLATIVE STATUS REPORT (INFORMATION)

Periodic status reports on legislative activities are reported to the Executive Committee throughout the year. This report provided a summary of the various federal activities.

Action: Consent Item No. 3 was presented for information.

REPORTS

4. REVIEW OF DRAFT BOARD AGENDAS (APPROVE)

The Executive Committee was asked to approve the draft agenda for the December 15, 2017, Board Business meeting. Staff also provided a verbal update on the January 12, 2018, Board Policy meeting.

Victoria Stackwick, Principal Legislative Analyst, presented the item.

Action: Upon a motion by Mayor Vaus, and a second by Councilmember Jones, the Executive Committee approved the draft agenda for the December 15, 2017, Board Business meeting,
as amended, and approved cancellation of the January 12, 2018, Board Policy meeting if no agenda items are identified. Yes: Chair Roberts, Vice Chair Sinnott, Mayor Vaus, Councilmember Jones, and Council President Cole. No: None. Abstain: None. Absent: South County.

5. ANNUAL REVIEW AND PROPOSED AMENDMENTS TO BOARD POLICIES (DISCUSSION/POSSIBLE ACTION)

The Executive Committee was asked to: (1) discuss the proposed Board Policy amendments, and either recommend that the Board of Directors approve the proposed amendments, or direct staff to return to the Executive Committee for further discussion or review; and (2) recommend that the Board of Directors renew the annual delegation of authority to the Executive Director pursuant to Board Policy No. 003: Investment Policy, and its approval of Board Policy No. 032: San Diego County Regional Transportation Commission Interest Rate Swap Policy.

John Kirk, General Counsel, presented the item.

Kathryn Rhodes, a member of the public, spoke regarding suggested changes to Board policies.

Action: Upon a motion by Mayor Vaus, and a second by Mayor Ron Morrison (South County), the Executive Committee recommended that the Board of Directors approve the proposed amendments, as revised, and renew the annual delegation of authority to the Executive Director pursuant to Board Policy No. 003, and its approval of Board Policy No. 032. Yes: Chair Roberts, Vice Chair Sinnott, Mayor Morrison, Mayor Vaus, Councilmember Jones, and Council President Cole. No: None. Abstain: None. Absent: None.

6. PROPOSED NEW BOARD POLICY NO. 039: AUDIT POLICY ADVISORY COMMITTEE AND AUDIT ACTIVITIES (DISCUSSION/POSSIBLE ACTION)

The Executive Committee was asked to discuss proposed new Board Policy No. 039: Audit Policy Advisory Committee and Audit Activities, and either recommend that the Board of Directors approve the new policy or direct staff to return to the Executive Committee for further discussion or review.

Kim Kawada, Chief Deputy Executive Director, introduced the item.

Diane Eidam, Executive Strategic Advisor, presented the item.

Ms. Rhodes spoke regarding this item.

Action: Upon a motion by Mayor Morrison, and a second by Mayor Vaus, the Executive Committee recommended that the Board of Directors approve Board Policy No. 039: Audit Policy Advisory Committee and Audit Activities. Yes: Chair Roberts, Vice Chair Sinnott, Mayor Morrison, Mayor Vaus, Councilmember Jones, and Council President Cole. No: None. Abstain: None. Absent: None.
7. SERVICE BUREAU: FY 2017 YEAR-END STATUS REPORT (DISCUSSION/POSSIBLE ACTION)

Ray Major, Director of Technical Services and Chief Economist, and Cheryl Mason, Senior Research Analyst, presented highlights from the FY 2017 Service Bureau year-end report, including an update on key projects.

Marco Sessa, Sudberry Properties, spoke in support of this item.

Action: Upon a motion by Mayor Morrison, and a second by Mayor Vaus, the Executive Committee recommended that the Board of Directors approve the following Service Bureau project priorities: first priority, San Diego Forward: The 2019 Regional Plan and other agency priorities; second priority, member and other government agency project requests; and third priority: private-sector development project requests. Yes: Chair Roberts, Vice Chair Sinnott, Mayor Morrison, Mayor Vaus, Councilmember Jones, and Council President Cole. No: None. Abstain: None. Absent: None.

8. CONTINUED PUBLIC COMMENTS

There were no continued public comments.

9. UPCOMING MEETINGS

The next meeting of the Executive Committee is scheduled for Friday, January 12, 2018, at 9 a.m.

10. ADJOURNMENT

Chair Roberts adjourned the meeting at 10:12 a.m.
CONFIRMED ATTENDANCE  
SANDAG EXECUTIVE COMMITTEE MEETING  
DECEMBER 1, 2017

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EXECUTIVE COMMITTEE
JANUARY 12, 2018

AGENDA ITEM NO. 18-01-3
ACTION REQUESTED: APPROVE

JANUARY 26, 2018, DRAFT BOARD BUSINESS AGENDA

ITEM NO. | RECOMMENDATION
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+1. APPROVAL OF MEETING MINUTES | APPROVE
   +1A. December 1, 2017, Board Policy Meeting Minutes
   +1B. December 15, 2017, Board Business Meeting Minutes

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Public comments under this agenda item will be limited to five public speakers. 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. Other public comments will be heard during the items under the heading “Reports.” 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. Public speakers are limited to three minutes or less per person. Board members also may provide information and announcements under this agenda item.

+3. ACTIONS FROM POLICY ADVISORY COMMITTEES (Victoria Stackwick) | APPROVE

This item summarizes the actions taken by the Policy Advisory Committees since the last Board Business Meeting. The Board of Directors is asked to ratify these actions.

CONSENT

+4. APPROVAL OF PROPOSED SOLICITATIONS AND CONTRACT AWARDS (Laura Coté) | APPROVE

The Board of Directors is asked to review and approve the proposed solicitations and contract awards summarized in the attached reports.

   +4A. Solicitations
   +4B. Contract Awards
+5. PERFORMANCE MANAGEMENT SAFETY TARGETS (Rachel Kennedy) APPROVE
   The Transportation Committee recommends that the Board of Directors approve supporting the 2018 statewide safety targets established by Caltrans, in accordance with the Fixing America’s Surface Transportation Act.

+6. PROPOSED 2018 SANDAG LEGISLATIVE PROGRAM (Victoria Stackwick) APPROVE
   The Executive Committee recommends that the Board of Directors approve the proposed 2018 SANDAG Legislative Program.

+7. FY 2017 AUDITED COMPREHENSIVE ANNUAL FINANCIAL REPORT (André Douzdjian)* INFORMATION
   In accordance with SANDAG Bylaws, the FY 2017 Comprehensive Annual Financial Report audit has been completed and is provided for informational purposes. Additionally, in compliance with the Statement of Auditing Standards 114, this report includes communication of certain matters from the independent auditor to the governing body.

+8. REPORT ON MEETINGS AND EVENTS ATTENDED ON BEHALF OF SANDAG (Victoria Stackwick) INFORMATION
   Board members will provide brief reports orally or in writing on external meetings and events attended on behalf of SANDAG since the last Board Business meeting.

+9. REPORT SUMMARIZING DELEGATED ACTIONS TAKEN BY THE EXECUTIVE DIRECTOR (André Douzdjian)* INFORMATION
   In accordance with various SANDAG Board Policies, this report summarizes certain delegated actions taken by the Executive Director since the last Board Business meeting.

**CHAIR’S REPORT**

+10. UPDATE ON THE 2018 SANDAG BOARD OF DIRECTORS ANNUAL RETREAT INFORMATION
   An overview of the agenda for the SANDAG Board of Directors Annual Retreat, scheduled to be held at the Barona Resort on February 7-9, 2018, will be provided.
+11. FIRST TransNet TEN-YEAR COMPREHENSIVE PROGRAM REVIEW  
(Mayor Jim Desmond, Transportation Committee Chair; Ariana zur Nieden; Cathy Brady, Sjoberg Evashenk Consulting, Inc.)*  

The TransNet Extension Ordinance requires that the Board of Directors, acting as the San Diego County Regional Transportation Commission, conduct a comprehensive review to evaluate the performance of the overall TransNet Program. Cathy Brady, Sjoberg Evashenk Consulting, Inc., will present the results of the first TransNet Ten-Year Comprehensive Program Review.

+12. BUENA VISTA LAGOON ENHANCEMENT PROGRAM (Keith Greer)*  

The Board of Directors is asked to adopt Regional Transportation Commission (RTC) Resolution No. RTC-2018-XX pertaining to the Buena Vista Lagoon, approving the Saltwater Alternative as the project if TransNet funds are used, certifying the Final Environmental Impact Report, and adopting the Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program.

+13. INTRAREGIONAL TRIBAL TRANSPORTATION STRATEGY  
(Mayor Serge Dedina, Borders Committee Chair; Erica Pinto, Tribal Working Group Chair; Jane Clough)  

The Borders Committee recommends that the Board of Directors approve the Intraregional Tribal Transportation Strategy.

+14. PROPOSED FY 2018 PROGRAM BUDGET AMENDMENTS:  
INTERSTATE 5/VOIGT DRIVE IMPROVEMENTS AND INTERSTATE 5/GENESEE AVENUE AUXILIARY LANE PROJECTS  
(Mayor Jim Desmond, Transportation Committee Chair; Arturo Jacobo, Caltrans)*  

The Transportation Committee recommends that the Board of Directors approve amendments to the FY 2018 Program Budget to: (1) fully fund design of the Interstate 5 (I-5)/Voigt Drive Improvements Project (Capital Improvement Program [CIP] Project No. 1200507) by adding $500,000 of regional funds and $480,000 of UC San Diego funds; and (2) transfer the I-5/Genesee Avenue Auxiliary Lane Project scope and associated budget from the I-5/ Voigt Drive Improvements Project to a new CIP project (No. 1200512) and accept $299,000 in State Highway Operations and Protection Program to fully fund the design phase.
+15. **CALTRANS PLANNING GRANTS: PROPOSED FY 2018 PROGRAM BUDGET AMENDMENTS AND FY 2018-2019 PROJECT SUBMISSIONS**  
(Mayor Mary Salas, Regional Planning Committee Chair; April Petonak)  

The Regional Planning and Transportation Committees recommend that the Board of Directors approve: (1) the proposed FY 2018 Program Budget amendments to accept Caltrans planning grant awards; and (2) the proposed SANDAG project submissions to the FY 2018-2019 Caltrans planning grant cycle.

+16. **PROPOSED FY 2018 PROGRAM BUDGET AMENDMENT: BRIDGE 257.2 REPLACEMENT PROJECT**  
(Mayor Jim Desmond, Transportation Committee Chair; Sharon Humphreys)  

The Transportation Committee recommends that the Board of Directors: (1) approve an amendment to the FY 2018 Program Budget to create a new Capital Improvement Program (CIP) Project No. 1146500 in the amount of $5.5 million for the Bridge 257.2 Replacement project, transferring the related scope and associated $4.3 million in funding from CIP Project No. 1239811, and accepting $3.4 million from North County Transit District (NCTD) to fully fund the project and replace $2.22 million previously allocated by NCTD; and (2) adopt Resolution No. 2018-XX, authorizing the use of the Construction Manager/General Contractor construction delivery method for the project.

+17. **CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (d)(4): POTENTIAL INITIATION OF LITIGATION (SIX POTENTIAL CASES)**  
(John Kirk)  

The Board of Directors will be briefed regarding the potential initiation of condemnation litigation related to the Bus Stopover and Multiuse Facility and related property uses.

18. **CONTINUED PUBLIC COMMENTS**  
If the five-speaker limit for public comments was exceeded at the beginning of this agenda, other public comments will be taken at this time. Subjects of previous agenda items may not again be addressed under public comment.

19. **UPCOMING MEETINGS**  
Please Note: The SANDAG Board of Directors Annual Retreat scheduled for February 7-9, 2018, will be held at the following location:

Barona Resort  
1932 Wildcat Canyon Road  
Lakeside, CA 92040

The next Board Business meeting is scheduled for Friday, February 23, 2018, at 9 a.m.
20. ADJOURNMENT

+ next to an agenda item indicates an attachment

* next to an agenda item indicates that the Board of Directors also is acting as the San Diego County Regional Transportation Commission for that item
PROPOSED AMENDMENTS TO BOARD POLICIES
AND BYLAWS: ASSEMBLY BILL 805 IMPLEMENTATION

Introduction

Assembly Bill 805 (AB 805) (Gonzalez Fletcher), which went into effect on January 1, 2018, requires various modifications to SANDAG Bylaws and Board Policies for consistency. In addition, as part of the annual review of the Bylaws and Board Policies, some changes are proposed as general updates or clarifications to these same governing documents.

Discussion

The significant changes proposed for amendment to the Bylaws and Board Policies are summarized below. The actual language changes are tracked in the attached draft versions of the Bylaws (Attachment 1) and Board Policies (Attachments 2 – 7).

Proposed Bylaw Amendments

Unless otherwise stated, all of the proposed Bylaw amendments are due to mandates in AB 805.

SANDAG Board of Directors and Policy Advisory Committee Leadership

The first substantive amendment proposed is in Article III, Section 3. AB 805 prohibits the Chair and Vice Chair of the Board of Directors from both being from the same subregion. Thus, language that previously referred to situations in which the Chair and Vice Chair would potentially be from the same subregion or agency are stricken. In addition, language referencing this AB 805 prohibition is proposed to be added to Article V, Sections 3 and 3(e).

Amendments in Article III, Sections 3(d), and 3(f) include provisions related to the Chair and Vice Chair of the Audit Committee that were approved by the Board at its December 15, 2017, meeting as part of Board Policy No. 039: Audit Policy Advisory Committee and Audit Activities.

Sections 3 and 3(h) also have been updated to reflect the change in AB 805 for the SANDAG Chair and Vice Chair to serve a two-year term instead of one.

Recommendation

The Executive Committee is asked to: (1) discuss the proposed amendments to Board Policies and Bylaws and either recommend that the Board of Directors approve the proposed amendments or direct staff to return to the Executive Committee for further discussion or review; and (2) approve the use of up to $42,600 from the Contingency Reserve for Assembly Bill 805 implementation expenses.
Finally, language in Article V, Section 3(a) is proposed to be amended so that the SANDAG officer election process begins in or around July of each Board election year to ensure SANDAG officer terms align with election years.

Audit Policy Advisory Committee Compensation

Article III, Section 5(c) of the Bylaws concerns compensation to Policy Advisory Committee (PAC) members (this language also is included in Section 8 of Board Policy No. 002: Policy Advisory Committee Membership). Staff requests input from the Executive Committee regarding whether public members of the Audit Committee should receive the same compensation as Board Members who serve on the committee ($100 per PAC meeting attended). Current SANDAG practice is to pay only the PAC voting members and alternates who represent agencies with a voting seat on the Board of Directors. SANDAG does not pay PAC voting members from the law enforcement agencies on the Public Safety Committee. SANDAG also does not pay the public members who serve on the TransNet Independent Taxpayer Oversight Committee.

Audit Policy Advisory Committee Closed Session

AB 805 does not discuss whether or not the new Audit Committee should have authority to meet in closed session pursuant to the Brown Act. In the past, the Board has limited the ability of the PACs to hold closed sessions to the Executive and Transportation Committees. Staff proposes that the Audit Committee be granted authority in Article IV, Section 3 of the Bylaws to hold closed sessions as it may need to obtain confidential legal advice concerning audit matters or the services of the independent performance auditor.

Vote Distribution and Process

There are a large number of amendments suggested for Article IV, Section 5. The majority of the changes in subsections (a) through (c) are required based on voting method changes in AB 805. In particular, AB 805 requires that the City and County’s weighted votes be allocated equally between their primary and secondary representatives. Previously this split was left to the discretion of the City and County, which meant that all of the City’s or County’s weighted votes could be controlled by one of its representatives when only one representative was present. The new AB 805 provision means that if one of the City or County’s voting members is absent, a weighted vote is called for, and no alternate for that voting member is present to vote, the voting power of the City or County would be diminished by one-half.

In addition, AB 805 provides that a weighted vote may be called by the members of any two jurisdictions following a tally vote. An exception to the requirement for an initial tally vote is the election of SANDAG Chair and Vice Chair, which after January 1 is to be conducted based on a weighted vote. In order for the Board to take action via the weighted vote process, not less than four separate jurisdictions representing not less than 51 percent of the total weighted vote is required to support the motion. In the event that the City or County’s two voting members end up voting at odds with each other, subsection (c) states that the vote of the representative holding control of the tally vote at the time of the vote will determine whether the City or County’s vote will count toward meeting the four-separate jurisdiction minimum. The weighted votes of the representative without control of the tally vote would still count toward the 51 percent weighted vote threshold if that representative votes in favor.

AB 805 does not address how SANDAG should contend with a scenario that involves an election with more than two candidates. Since the weighted vote is required, and it is possible that no candidate
may get the required 51 percent when there are two or more candidates, the language in subsection (b), which is consistent with language currently included in the Bylaws, proposes to provide a method for run-offs by tally vote to narrow down the pool of candidates for the final election vote.

The remaining modifications to Article IV, Section 5 concern the voting formula and must be made for consistency with the language in AB 805.

Independent Performance Auditor

A nonmandatory change is proposed for 4(a) of Article IV so that the faithful performance bond required for the Executive Director also apply to the independent performance auditor.

Proposed Board Policy Amendments

Board Policy No. 001: Operations Policy (Attachment 2)

The name of this policy is proposed to be changed to “Allocation of Responsibilities” so that it more clearly reflects the contents of the policy. Changes proposed within the policy include the addition of the Audit Committee to the introductory section as well as new Sections 2.16 through 2.20, which pertain to Board of Directors’ responsibilities that relate to audit and independent performance auditor activities. The language in these sections is consistent with the language approved by the Board for Board Policy No. 039.

New Sections 2.14 and 2.15 are intended to address the Board’s new AB 805 responsibilities with regard to preparing an administrative policy regarding staff performance, and sending an annual report to the Legislature regarding public transit.

Section 4 of Board Policy No. 001 lists Transportation Committee membership and responsibilities. AB 805 necessitates changes to Section 4.1, which adds the Port District to the Committee’s voting membership and Section 4.1.26, which covers the Transportation Committee’s new responsibility to develop the public transit report for the Board of Directors to approve and send to the Legislature each year. Changes proposed for Sections 4.1.3, 4.1.4, and 4.1.23 are unrelated to AB 805; however, are proposed for clarification regarding the Committee’s responsibilities regarding submittals by SANDAG for transportation project grant funds as well as its authority to make recommendations regarding prioritization criteria, grant approvals, and project selection criteria for the TransNet grant programs.

The Regional Planning Committee’s responsibilities are set forth in Section 5. Proposed updates to Section 5.1.5 would clarify that the Committee has authority to distribute funds from both the California Coastal Commission Beach Sand Mitigation Fund and California Coastal Commission Public Recreational Beach Impact Mitigation Fund. Finally, Section 6 is proposed as an addition to the policy to direct readers to Board Policy No. 039 for information regarding the Audit Committee’s membership and responsibilities.

Board Policy No. 002: Policy Advisory Committee Membership (Attachment 3)

Sections 1.2 and 1.5 of this policy contain amendments needed for consistency with AB 805. They add the Port District to the Transportation Committee as a voting member and add the Audit Committee as a PAC. The change to Section 2 reflects AB 805’s provision to allow Board Members to serve on more than two PACs, when one of them is the Audit Committee. The title of Section 4 would change to clarify that the appointment process used for the Audit Committee varies from the procedures in this policy and would instead be governed by Board Policy No. 39. Section 6 concerns Chair and
Vice Chair appointments for the PACs and requires modifications to reference the process for Audit Committee appointments in Board Policy No. 039. Section 8 addresses compensation for PAC members and may be subject to amendment based on feedback from the Executive Committee (as discussed above under Proposed Bylaw Amendments).

**Board Policy No. 010: Ballot Measures (Attachment 4)**

This Board Policy currently limits SANDAG to taking a position on matters within SANDAG purview that appear on a state or countywide ballot. AB 805 gives authority to the Metropolitan Transit System (MTS) and North County Transit District (NCTD) to place sales tax measures on a ballot; however, due to the jurisdictions of MTS and NCTD their measures may not appear on a countywide ballot, but instead on one or more city ballots. The proposed amendment to Section 1.1 of this policy would allow SANDAG to take a position on MTS and NCTD measures without consideration of the jurisdictional level of those measures.

**Board Policy No. 016: Procurement of Services (Attachment 5)**

Changes are proposed to two sections of this policy. The first of those is language in Section 6.6 that would be added to mandate that SANDAG contract templates include language allowing the independent performance auditor access to contracted entities’ records. At its meeting on November 3, 2017, the Board of Directors directed staff to determine what the cost of adding a reference to the independent performance auditor’s powers to existing contracts would be for SANDAG and whether that action was advisable. Staff estimates that it would take approximately $550 in staff time to make this type of amendment to a SANDAG contract. SANDAG currently has 17 active construction contracts and over 100 active service or equipment contracts that would need to be amended—leading to a cost upwards of $64,000 to carry out the amendments. The Office of General Counsel as well SANDAG’s existing principal internal auditor have compared the language of SANDAG’s existing contract templates with the contract audit requirements of AB 805, and both are of the opinion that the existing language is consistent with AB 805’s contract audit language requirement, and that the existing language has worked effectively over the past years to allow the principal internal auditor access to records necessary to carry out a performance audit on SANDAG consultants and contractors. With this in mind, it is recommended that the contract template language be updated for future contracts to strengthen the language and make express reference to the independent performance auditor and that no amendments be made to existing SANDAG contracts at this time.

The second update is proposed for Section 11.6 of Board Policy No. 016. Currently, that section calls for consultant labor compliance to be guided by the California Labor Code and the “Labor Compliance” section of the Caltrans Construction Manual. Due to changes in practices at SANDAG and completion of a new SANDAG Construction Manual that solely references the Labor Code, this section is proposed to only reference the Labor Code.

**Board Policy No. 023: Procurement and Contracting - Equipment & Supplies (Attachment 6)**

The only proposed change to this policy is the addition of a new Section 9 that mandates SANDAG contract templates include language allowing the independent performance auditor access to contracted entities’ records.
Sections 2.1.5 and 2.1.9 of this policy contain the same proposed changes in Board Policy No. 016 concerning removal of the cross-reference to the Caltrans Construction Manual and the addition of the internal performance auditor provision in SANDAG contract templates. Section 2.1.6 reflects the requirement in AB 805 that any entity contracting with SANDAG commit that it and its subcontractors at every tier will use a skilled and trained workforce to perform all construction work on the project consistent with Public Utilities Code Section 132354.7, unless one of the exceptions in Section 132354.7(a) are met. This requirement applies to construction contracts SANDAG issues in excess of $1 million after January 1, 2018.

Next Steps

Pending action by the Executive Committee, the Board of Directors is scheduled to consider the proposed Bylaw and Board Policy amendments for approval at its February 23, 2018, meeting.

At its November 3, 2017, meeting, the Board of Directors authorized an initial infusion of $50,000 in contingency funds to cover AB 805 implementation until a more refined budget could be prepared and brought to the Executive Committee. As discussed at that meeting, efforts needed to carry out AB 805 implementation through the remainder of the fiscal year exceed what is included in the FY 2018 budget. Attachment 8 provides information regarding the proposed amendment. It calls for FY 2018 to include a total of 1,706 staff hours at a cost of $166,508, which can be funded by reallocating staff hours from other general administration projects and planning efforts. Existing funding sources for general administration expenses can be used for this work. In addition, approximately $42,600 is needed from contingency reserves to pay for consultant services and other direct costs. It is anticipated that consultant assistance will be needed for additional reports, elements to be included in the Regional Plan, a compensation study, and potentially a recruitment firm for the independent performance auditor. Other direct costs are budgeted for public notices and publications.

The Executive Committee is authorized to approve use of the contingency reserves in an amount up to $500,000 by Board Policy No. 001. Use of contingency reserves for unanticipated needs relating to a crucial existing commitment is permitted by Board Policy No. 030: Contingency Reserve Policy. The alternative of using other funds was considered for the consultant services and direct costs; however, use of contingency reserves is recommended in order to keep existing projects fully funded and to separately track AB 805 implementation expenses in the event SANDAG elects to make a state mandate claim. Pending approval, use of approximately $42,600 in contingency reserves would leave SANDAG with a 13 percent reserve balance.

JOHN F. KIRK
General Counsel

Attachments: 1. SANDAG Bylaws
2. Board Policy No. 001
3. Board Policy No. 002
4. Board Policy No. 010
5. Board Policy No. 016
6. Board Policy No. 023
7. Board Policy No. 024

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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 the San Diego Regional Transportation Consolidation Act (the “Act”)), 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. “Board Member” shall mean a voting member of the Board of Directors.

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

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

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

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

e. “Subregion” shall mean one of the following six geographic areas: San Diego County; the City of San Diego-County; "North County Coastal," which includes the cities of Del Mar, Solana Beach, Encinitas, Carlsbad, and Oceanside; "North County Inland," which includeds the cities of Vista, San Marcos, Escondido, and Poway; “South County,” which includes the cities of Chula Vista, National City, Imperial Beach, and Coronado; and "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.

\[^{1}\text{Public Utilities Code §132350 et seq.}\]
ARTICLE III

MEMBERSHIP AND ORGANIZATION

Section 1

Membership in this organization shall be as provided in state law, Board Policies, and these Bylaws.

Section 2

a. All powers of this Organization SANDAG 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 SANDAG Clerk of the Board 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 the Act 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 and 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 and Audit Committee, annually in or around February.

e. The Board Chair shall serve as the chair of the Executive Committee. The Board Vice Chair shall
serve as the Vice Chair, of the Executive Committee, **unless both**

e.f. The Chair and Vice Chair are from the same subregion, in which case the Vice Chair shall serve as the alternate for that subregion, and the Chair shall select a non-overlapping primary member of the Executive Audit Committee as its Vice Chair shall be selected as set forth in Board Policy No. 039.

**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 if permitted by a Board Policy.

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 **Board** 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. The Vice Chair 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 of SANDAG shall forward written notice of the meetings of the Board of Directors and each Policy Advisory Committee, stating the time, location, and the agenda of business to each Board Member's agency and to the respective members and alternates of the Board of Directors or the Policy Advisory 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 a SANDAG legislative body, 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. The Audit Committee may hold closed sessions on matters within its purview. 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 SANDAG offices of the Organization or at other locations within San Diego County, unless otherwise provided by the Board. Special meetings of
b. Other committees shall meet whenever called by their respective Chair.

Section 5 (Sections 132351.2 and 132352.1 of the Public Utilities Code)

a. There are 19 Member Agencies on the Board and a majority of the Member Agencies constitutes a quorum for the transaction of business. In order to take final action on any item, except consent items the final vote(s) electing the Chair and Vice Chair of the Board, which only shall require use of the weighted vote specified procedure as described below in paragraph (1), the following voting formula in both paragraphs (1) and (2) shall apply: subsection b, a majority vote of the Board Members present on the basis of one vote per agency (tally vote) is required. After the tally vote of the Board Members is taken, a weighted vote may be called by the Board Members of any two Member Agencies unless otherwise required by law. Approval under the weighted vote procedure requires the vote of not less than four Board Members representing separate Member Agencies and not less than 51 percent of the total weighted vote to supersede the original action of the Board.

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

b. The election of the Chair and Vice Chair of the Board shall require use of the weighted vote procedure set forth in Public Utilities Code Section 132352.1(e) without a prior tally vote requirement. In the event a majority vote pursuant to approval using the procedure in Public Utilities Code Section 5(a132352.1(e) cannot be obtained to allow final action on an item the election, one or more preliminary votes may be taken using the tally vote method in Section 5 (a)(1) in order to narrow the options sufficiently to obtain a majority vote approval on the final action as required by Public Utilities Code Section 132351.2.132352.1(e).

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

c. The City and County of San Diego shall each determine how to allocate their tally vote between their two members by resolution and shall provide their resolutions to the SANDAG Clerk of the Board. The City and County of San Diego shall allocate their weighted votes equally. In the event of a split vote between either the two City of San Diego or two County of San Diego voting representatives under the weighted vote process, the determination of whether that Member Agency’s vote will count for purposes of meeting the requirement that at least four Board Members representing separate Member Agencies vote in favor of the action, will be based on the vote of the Board Member who was designated by its Member Agency as the Board Member in control of the tally vote at the time the vote was taken.

d. For the weighted vote, there shall be a total of 100 votes, except additional votes shall be allowed pursuant to subdivision (gh). Each representative Member Agency 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 4050 votes, and there shall be no fractional votes.
in the allocation of votes to each Member Agency:

(1) If any agency has 4050 percent or more of the total population of the San Diego County region, allocate 4050 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 6050 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 6050, drop all fractions and the whole numbers are the votes for each Member Agency.

(D) If the answer to subparagraph (B) is less than 6050, the remaining vote(s) is allocated one each to that agency(s) the Member Agency having the highest fraction(s) excepting those whose vote was increased to one inpursuant to subparagraph (B) above.

(E) If the answer to subparagraph (B) is more than 6050, the excess vote(s) is taken one each from the agency(s) Member Agency with the lowest fraction(s). In no case shall a Member Agency’s vote be reduced to less than one.

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

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

(D) If the answer to subparagraph (A) is more than 100, the excess vote(s) is taken one each from the agency(s) with the lowest fraction(s). In no case shall a Member Agency’s 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 formula shall be recomputed in the above manner every July 1.

g. For purposes of subsection d, the population of the County of San Diego is the population in the unincorporated area of the county. In those years when the primary representative of the San Diego County Board of Supervisors to the SANDAG Board of Directors is from a district that is substantially an incorporated area, a supervisor who represents a district that is substantially an unincorporated area shall be appointed to the Board as the secondary representative.
Alternatively, in those years when the primary representative of the San Diego County Board of Supervisors is from a district that is substantially an unincorporated area, a supervisor who represents a district that is substantially an incorporated area shall be appointed to the Board as the secondary representative.

h. 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 formula, at which time the new agency shall receive votes in accordance with the recomputed 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 and Vice Chair who are primary members of the Board. Policy Advisory 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 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 Vice Chair shall perform the duties of the Chair in his or her absence and perform any duties that the Chair may require.

c. In the event of the absence of both officers of the Board of Directors at a meeting or otherwise, a Chair of a Policy Advisory Committee shall serve as Chair Pro Tempore and perform the duties of the Chair according to the following schedule: first quarter of calendar year – Chair of Borders Committee; second quarter of calendar year – Chair of Public Safety Committee; third quarter of calendar year – Chair of Regional Planning Committee; fourth quarter of calendar year: Chair of Transportation Committee.

d. In the event of the absence of both officers of a Policy Advisory Committee, or in the case of a Board of Directors or Executive Committee meeting, the absence of all officers including the then-current Chair Pro Tempore as designated above, 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 every two years during a regular meeting in or around December. A majority of the Board Members may approve variations to the schedule in this Section in the event of a vacancy or other exigency. The Chair and Vice Chair shall not be from the same subregion. Officers for the Board of Directors shall be elected in the following manner:

a. In or around July of each election year, application forms will be made available on the Board of Directors page of the SANDAG website for persons interested in applying for the Chair or 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 Vice Chair position on the Board of Directors.

c. If more than one candidate has applied for a particular office, the nominating committee shall interview the candidates. The nominating committee shall submit a slate of nominees for the two 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.

d. In the event that the nominating committee is unable to recommend any of the applicants for any or all chair positions, either because an applicant is or is reasonably expected to be unavailable to serve, or for any other reason, the nominating committee may recommend a supplemental process, subject to Board approval. The constraints set forth in the normal nomination process, apart from the prohibition of a jurisdiction of a candidate for office serving on the nominating committee, shall not be mandated to apply to the supplemental process.

e. 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 Vice Chair succeed the outgoing Chair. The nominating committee also shall take into account the prohibition against both officers being from the same subregion in determining which nominees to present to the Board.

f. The officers shall be elected by a majority of pursuant to the votes including weighted votes of those Board members present vote process set forth in Article IV, Section 5(b) of these Bylaws.

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

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

i. Any vacated office of Chair or Vice Chair shall be filled at the next regular Board meeting by nominations from the floor, and the election shall be carried out pursuant to the weighted vote process set forth in Article IV, Section 5(b) of these Bylaws. 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 SANDAG. The Executive Director 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.

b. The Executive Director will be responsible to the SANDAG Board of Directors as set out in Board Policies and administrative policies and manuals 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; and (6) development of a recommended administrative policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and which is brought to the Board for review on an annual basis. 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.

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

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

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 after the close of each fiscal year and a copy shall be provided to each 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. SANDAG. 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, or as may be modified in Board Policy No. 017 concerning delegation of authority to the Executive Director.

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, SANDAG 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 SANDAG 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
INFORMATION AND EVALUATION

Section 1

a. The OrganizationSANDAG 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 public 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'sSANDAG's goals, purpose, structure, and performance, directed toward continually improving the planning, coordination, and implementation process.

ARTICLE IX
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 SecretaryClerk of the Board to the official representative of each Member Agency, his or her alternate and the Member 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 using the voting process described in Article IV, Section 5(a) of these Bylaws.
ALLOCATION OF RESPONSIBILITIES OPERATIONS POLICY

1. Board and Policy Advisory Committees Responsibilities

Shown below are responsibilities for the Board of Directors and each of the six five Policy Advisory Committees (Executive, Transportation, Regional Planning, Borders, and Public Safety, and Audit). Selected responsibilities are delegated by the Board to the Policy Advisory Committees to allow SANDAG to effectively address key public policy and funding responsibilities. All items delegated to the Policy Advisory Committees are subject to Board ratification.

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.

2. Board Responsibilities

2.1 Approve the Regional Plan, which merges the Regional Comprehensive Plan (RCP), the Regional Transportation Plan, and the Sustainable Communities Strategy as well as plan components and other regional plans (e.g., Regional Energy Plan, MHCP, etc.).

2.2 Approve Regional Transportation Improvement Program (RTIP) and corridor studies

2.3 Fulfill responsibilities of SB 1703 as the consolidated agency as set forth in the San Diego Regional Transportation Consolidation Act (Public Utilities Code §132350 et seq.)

2.4 Fulfill the responsibilities of the San Diego Regional Transportation Commission (RTC)

2.5 Approve programming of funds (TDA, CMAQ, STIP, etc.)

2.6 Certify/adopt Approve project environmental documents reports pursuant to the National Environmental Policy Act or the California Environmental Quality Act

2.7 Approve Overall Work Program and Program Budget

2.8 Approve amendments to the Program Budget and Overall 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.

2.9 Approve the annual legislative agenda

2.10 Provide policy direction through Policy Development Board meetings

2.11 Appoint Committees and Board officers
2.12 Delegate responsibilities to Policy Advisory Committees and ratify Committee actions. All items delegated to the five Policy Advisory Committees are subject to direct Board action upon request of any members.

2.13 Delegate responsibilities to Board Chair consistent with Board criteria. Conference sponsorships and proclamations are hereby delegated subject to current or subsequently approved criteria.

2.14 Develop and adopt an administration policy that includes a process to conduct staff performance evaluations on a regular basis to determine if the knowledge, skills, and abilities of staff members are sufficient to perform their respective functions, and monitor the evaluation process on a regular basis.

2.15 Provide a report, developed by the Transportation Committee, to the Legislature consistent with Government Code section 9795 on or before July 1 of each year that outlines the public transit needs, transit funding criteria, recommended transit funding levels, and additional work on public transit, as delegated to the Transportation Committee by the Board, and specifying the funds spent explicitly on public transportation.

2.16 Develop and adopt internal control guidelines based on recommendations from the Audit Committee to prevent and detect financial errors and fraud based on the internal control guidelines developed by the state Controller pursuant to Government Code section 12422.5 and the standards adopted by the American Institute of Certified Public Accountants.

2.17 Vote on whether to remove the independent performance auditor for cause, such removal being subject to an approving vote by two-thirds of the Audit Committee and the Board.

2.18 Approve which firm to contract with to conduct the annual financial statement audits.

2.19 Approve the individual or firm to hire to carry out independent performance auditor responsibilities.

2.20 Approve the budget needed to carry out the annual audit plan of the independent performance auditor.

3. Executive Committee Membership and Responsibilities

3.1 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 Board Chair shall be one of the six voting members. The Chair and Vice Chair of the Board shall serve as voting members of the Executive Committee, unless both of these Board Officers are from the same subregion, in which case only the Chair shall serve as a voting member, the Vice Chair shall serve as an alternate, and the Chair shall select a non-overlapping primary member of the Executive Committee as its Vice Chair. Additionally, any Chair of any
other Policy Advisory Committee who is not otherwise a member of the Executive Committee shall serve as an advisory, non-voting member of the Executive Committee.

3.1.1 Set agenda for Board. Any Board member requesting that an item be considered for inclusion on the agenda must present such request in writing to the Chairperson prior to the Executive Committee’s consideration of such agenda.

3.1.2 Review and recommend Overall Work Program and Program Budget

3.1.3 Approve amendments to the Program Budget and Overall Work Program and authorize contracts up to amount approved by the Board

3.1.4 Review and act on state and federal legislation

3.1.5 Comment on behalf of SANDAG or provide recommendations to the Board regarding comments on third party environmental documents

3.1.6 Act upon and evaluate dispute resolution

3.1.7 Advise on personnel actions

3.1.8 Act on behalf of Board when timing requires

3.1.9 Make policy recommendations to the Board

3.1.10 Perform other duties as assigned by the Board

3.1.11 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.

3.1.12 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.

3.1.13 Review all proposed amendments to the Bylaws or Board Policies and make recommendations to the Board regarding those amendments.

3.1.14 Conduct expedited reviews and approvals of Energy Working Group actions on an as-needed basis.

4. Transportation Committee Membership and Responsibilities

4.1 The Transportation Committee shall consist of ten 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 board of the San Diego County Regional Airport Authority appointed by the board of the Airport Authority, and a member of the board of the San Diego Unified Port District appointed by the board of the Port District.

4.1.1 Provide oversight for consolidated transit responsibilities

4.1.2 Provide policy oversight for transportation plans and corridor and systems studies

4.1.3 Establish/approve transportation prioritization criteria for SANDAG programs.

4.1.4 Approve of SANDAG submitting grant applications for SANDAG transportation projects.

4.1.5 Approve TDA and STA claim amendments and RTIP and STIP amendments

4.1.6 Recommend funding allocations to the Board

4.1.7 Approve transit operator budgets for funding

4.1.8 Approve Regional Short Range Transit Plan and Coordinated Human Service and Public Transportation Plan

4.1.9 Make recommendations regarding changes to Board Policy No. 018: (Transit Service Policy) and Board Policy No. 029: (Regional Fare Policy and Comprehensive Fare Ordinance)

4.1.10 Conduct public hearings as delegated by Board

4.1.11 Approve contracts for transit up to amount approved by the Board

4.1.12 Advise Board on other transportation policy-level issues

4.1.13 Recommend legislative program for transportation and transit

4.1.14 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

4.1.15 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

4.1.16 Conduct hearings and authorize additional public meetings when appropriate pursuant to Board Policy No. 025 to hear official testimony from the public regarding Comprehensive Fare Ordinance amendments
4.1.17 Approve amendments to the Comprehensive Fare Ordinance

4.1.18 Accept for distribution, hold public hearings regarding, and adopt/certify environmental documents where items can be approved through actions of the policy committee.

4.1.19 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.

4.1.20 Provide oversight and approvals for Coordinated Transportation Services Agency (CTSA) matters and appoint Transportation Committee representative to the CTSA board.

4.1.21 Approve revisions to funding allocations for Federal Transit Administration Section 5311 funding.

4.1.22 Approve the TransNet compliance audits consistent with Board Policy No. 031: (TransNet Ordinance and Expenditure Plan Rules).

4.1.23 Provide input on project selection criteria for, and recommend projects for funding under, the statewide and TransNet active transportation programs, and other TransNet grant programs such as the Smart Growth Incentive Program and Environmental Mitigation Program.

4.1.24 Provide oversight for Service Authority for Freeway Emergencies (SAFE) responsibilities and related motorist aid programs.

4.1.25 Provide coordinated oversight with the Regional Planning Committee for recommendations on the preparation and implementation of components of the Regional Plan.

4.1.26 Develop a report by July 1 of each year that specifies the funds spent explicitly on public transportation, outlines the public transit needs, transit funding criteria, recommended transit funding levels, and additional work on public transit, and recommend acceptance of such report to the Board.

5. **Regional Planning Committee Membership and Responsibilities**

5.1 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.

5.1.1 Provide coordinated oversight with the Transportation Committee for recommendations on the preparation and implementation of components of the Regional Plan.

5.1.2 Recommend regional infrastructure financing strategies to the Board.
5.1.3 Represent the Board for outreach and public information on the Regional Plan and its components

5.1.4 Advise Board on regional planning policy issues

5.1.5 Approve distribution of funds from the California Coastal Commission Beach Sand Mitigation Fund and California Coastal Commission Public Recreational Beach Impact Mitigation Fund.

5.1.6 Recommend project selection criteria for, and recommend projects for funding under, the TransNet Smart Growth Incentive Program and Environmental Mitigation Program

6. **Borders Committee Membership and Responsibilities**

6.1 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.

6.1.1 Provide oversight for planning activities that impact the borders

6.1.2 Provide oversight for the preparation of binational and interregional planning programs

6.1.3 Recommend border infrastructure financing strategies to the Board

6.1.4 Establish closer SANDAG working relations with surrounding counties and Mexico

6.1.5 Advise Board on binational and interregional policy-level issues

6.1.6 Review and comment on regionally significant projects in adjoining counties

7. **Audit Committee Membership and Responsibilities**

7.1 The membership, authority and responsibilities for this committee are set forth in Board Policy No. 039.

7.8 **Public Safety Committee Membership and Responsibilities**

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

8.9 **Distribution of Meeting Materials**

9.1 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.

9.2 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 by a secure method 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 forwarded to the appropriate alternate to review prior to the meeting. All closed session meeting materials must be deleted or returned to the Office of General Counsel at the end of the closed session.

9.10. Work Assigned to Staff

Requests for staff to perform work on a project that is not specified in the Overall Work Program or Program 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 January 2010
Amended December 2012
Amended October 2013
Amended March 2014
Amended November 2014
Amended December 2015
Amended January 2017
Amended 2018
POLICY ADVISORY COMMITTEE MEMBERSHIP

1. Membership

1.1 Executive Committee: Six members to include the City and County of San Diego Board members, and a Board member from each subregion (South County, East County, North County Coastal, North County Inland, City of San Diego, County of San Diego).

1.1.1 Alternates may be the second City of San Diego Board member or alternate, the second County of San Diego Board member or alternate, and alternates elected from each subregion who shall be primary members of the Board.

1.1.2 Any Chair of any other Policy Advisory Committee (PAC) who is not otherwise a member of the Executive Committee shall serve as an advisory, non-voting member of the Executive Committee.

1.2 Transportation Committee: Ten-nine members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion, and a member of NCTD, MTS, and the Airport Authority and San Diego Unified Port District appointed by the governing body of those agencies. There may be ten-nine alternates chosen in the same manner.

1.3 Regional Planning Committee: Six members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, and a Board member or alternate from each subregion. There may be six alternates chosen in the same manner.

1.4 Borders Committee: Seven members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion, and a mayor, councilmember, or supervisor from the County of Imperial. There may be seven alternates chosen in the same manner.

1.4.1 Audit Committee: Five voting members appointed by the Board of Directors. Two of the members shall be board members or alternates and three shall be members of the public. There may be alternates chosen as described in Board Policy No. 039: Audit Policy Advisory Committee and Audit Activities.

1.5 Public Safety Committee: Six members to include the mayor or a councilperson from the City of San Diego, a member of the County of San Diego Board of Supervisors, a Board member or alternate from each subregion. The six Associate Member organizations taking part in this committee shall have the following representation: two members from the Chiefs'/Sheriff's Management Committee, a member selected by the County Sheriff, a member representing the San Diego County District Attorney's Office, a member from regional Fire/Emergency Medical Services, and a member representing the City of San Diego.
Police Chief. In addition, there will be eight nonvoting Advisory Members selected as follows: two persons selected by the Federal Justice Agency Association, one person selected from San Diego County Criminal Justice Association, a member of the Regional Homeland Security Committee, a member selected by the State Public Safety Agency Association, one person selected by the Department of Defense, and one representative of the Southern California Tribal Chairmen’s Association. There may be alternates chosen in the same manner.

2. Limitation on Committee Memberships

No Board member or alternate may serve as the primary member of more than two PACs at any one time, except those Board members serving on the Audit Committee. Committee membership may be expanded by the Board.

3. Ex Officio Members

A PAC may include ex officio members if appropriate to roles and responsibilities of the committee. The Board Chair and Vice Chair may serve as ex officio members on any of the PACs. Unless otherwise stated in a Board Policy or Board action applicable to a particular committee, all ex officio members on SANDAG’s Board or committees shall be nonvoting members.

4. Appointments for PACs Other Than the Audit Committee

4.1 Public Agencies

4.1.1 The mayor and council of the City of San Diego and the governing body of each of the other member agencies will make their appointments to the Board annually by January 10, and when vacancies occur. Each member agency shall confirm the appointment of its primary and alternate Board members by sending a written letter to the SANDAG Clerk of the Board. All such appointments shall go into effect immediately following approval by the member agency’s governing body.

4.1.2 The SANDAG Chair will provide notice requesting that Board members from each of the subregions appoint a Board member or alternate as authorized to serve as a primary member on each PAC and one to serve as an alternate to each PAC. At the time this notice is given, all primary and alternate Board members will be provided with an attendance record for all primary and alternate members currently serving on the Board or a PAC. Each subregion shall ensure that SANDAG staff is notified of the date, time and location for that subregion’s meeting. After the meeting is set by the primary members of each subregion, 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. An alternate member may vote in the absence of the primary member. The Chair shall be sent a letter from the subregion’s representatives informing him/her of the names of the persons who have been selected for appointment to each PAC. Appointments will be made by January 31 or as vacancies occur. Appointments shall go into effect immediately upon approval by the subregion.
4.2  Associate Members

In addition to the members appointed pursuant to Section 4.1, the Public Safety Committee shall have voting members appointed from the organizations listed below by their respective appointing authorities by January 31 of each year:

4.2.1 Chiefs'/Sheriff's Management Committee – 2 voting members

4.2.2 County Sheriff – 1 voting member

4.2.3 San Diego County District Attorney's Office – 1 voting member

4.2.4 Regional Fire/Emergency Medical Services – 1 voting member

4.2.5 City of San Diego Police Chief – 1 voting member

4.3  Advisory Members

In addition to the voting members appointed pursuant to Sections 4.1 and 4.2, the Public Safety Policy Advisory Committee shall have the following nonvoting members appointed from the following organizations by their respective appointing authorities by January 31 of each year:

4.3.1 County Criminal Justice Association – 1 advisory member

4.3.2 Federal Justice Agency Association – 2 advisory members

4.3.3 Regional Homeland Security Committee – 1 advisory member

4.3.4 State Public Safety Agency Association – 1 advisory member

4.3.5 Regional Transit Services – 1 advisory member

4.3.6 Department of Defense – 1 advisory member

4.3.7 Southern California Tribal Chairmen’s Association – 1 advisory member.

4.4  Failure to Appoint

If any subregion fails to make an annual appointment to a PAC by January 31 or within three weeks of mailing of the notice to proceed to appoint to fill a vacancy, the Chair of SANDAG shall make the appointment. If any organization referred to in Sections 4.1, 4.2 or 4.3 fails to make an appointment to the Public Safety Policy Advisory Committee, the current representative shall continue to serve until a replacement appointment is made by his/her organization.

5.  Vacancies

Vacancies on PACs shall be filled as they occur in the same manner as appointments.
6. **Chair/Vice Chair**

The Chair and Vice Chair of the PACs, other than the Executive Committee and Audit Committee, shall be appointed by the Board Chair in February or as vacancies occur. The officers of the PACs (except for the Executive Committee, whose officers are dictated by the Bylaws, and the Audit Committee, whose officers are dictated in Board Policy No. 039) can be primary or alternate members of the Board, but must be primary members of the PAC they will chair. The appointments shall go into effect immediately unless otherwise directed by the Board Chair. The Board Chair and Vice Chair when serving as a voting member of the Executive Committee, shall serve as the Chair and Vice Chair of the Executive Committee. The Vice Chair conducts the meetings in the absence of the Chair. In the event of the absence of the Chair and Vice Chair for the Executive Committee, a Chair of a PAC shall serve as Chair Pro Tempore and perform the duties of the Chair according to the following schedule: first quarter of calendar year – Chair of Borders Committee; second quarter of calendar year – Chair of Public Safety Committee; third quarter of calendar year – Chair of Regional Planning Committee; fourth quarter of calendar year – Chair of Transportation Committee. In the event of the absence of both the Chair and Vice Chair for any other PAC or other standing committee, the Immediate Past Chair may preside or the quorum of members present shall elect a chairperson pro tempore to preside for that meeting. The Executive Director or a Chief Deputy Executive Director, with a quorum present, shall call the meeting to order and preside during such election of chairperson pro tempore; he/she shall immediately relinquish the chair upon completion of the election.

7. **Attendance**

7.1 Primary and alternate members are strongly encouraged to attend all Committee meetings. Roll call shall be taken by the Chair at the beginning of the meeting to determine the voting members present at that time. The voting members shall be seated collectively in order for the public to recognize them as such. Other nonvoting alternates in attendance may participate in Committee discussion but shall not be authorized to act on any item.

7.2 Board alternates selected to chair a Policy Advisory Committee are strongly encouraged to attend all Board meetings to represent their committee and provide information to the Board concerning actions taken at the committee meetings.

7.3 If an organization with voting rights or a subregion is unrepresented at three Committee meetings during the term described in Section 4 of this Policy, a letter will be sent to the applicable appointing body or group, as well as to the Chair and Vice Chair of the Committee concerning the absences.

7.4 In order to ensure a quorum, full participation, fairness, and comprehensive knowledge of the items discussed at SANDAG meetings, members who are eligible for compensation for attendance at a SANDAG meeting 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 in accordance with Article III, Section 5 of the Bylaws.

8. **Compensation**

Primary and alternate members of the PACs will be compensated $100 per meeting attended subject to the limitations on number of meetings per month set forth in the SANDAG Bylaws.
9. Meetings

PAC meetings should normally be held on Fridays or when called by the committee Chair. Parliamentary procedure at all meetings shall be governed by Roberts Rules of Order, Newly Revised.

Adopted January 2003
Amended December 2003
Amended November 2004
Amended December 2005
Amended December 2006
Amended July 2007
Amended November 2010
Amended March 2014
Amended September 2014
Amended December 2015
Amended January 2017
Amended_________ 2018
BALLOT MEASURES

The purpose of this policy is to provide criteria for use by the Board and Executive Committee to determine what position SANDAG should take on ballot measures and to describe the Board’s ability to place measures on the ballot.

It is difficult to categorize or predict what propositions will be placed on the ballot at future elections. Such measures are highly varied in their content, scope and impacts. It is easier, however, to determine which propositions relate to SANDAG’s roles and responsibilities.

Procedures

1. The following criteria shall be applied to ballot propositions to be considered by the Board and Executive Committee:
   
   1.1 The proposition should be on a statewide or countywide ballot, or be a measure placed on a ballot by the San Diego Metropolitan Transit System or the San Diego North County Transit District;

   1.2 The proposition should not result in usurpation of the authority of any member agency, unless such member agency is on record in support of the proposition;

   1.3 The subject matter of the proposition should be within SANDAG’s purview; and

   1.4 The subject matter of the proposition should have potential for substantial regional impact.

2. The Board or Executive Committee shall review the proposition for compliance with these criteria. Then, if the criteria are satisfied, the Board or Executive Committee may consider whether a position should be taken. The Board or Executive Committee may direct staff to provide an analysis of the impacts of the measure and information on pro and con positions prior to taking any action.

3. Pursuant to Public Utilities Code section, if SANDAG provides compensation to San Diego County for the cost of including an ordinance or measure on the ballot, the Board may call an election, including an advisory election, in San Diego County on any ordinance or measure regarding SANDAG’s governance or matters related to its powers, privileges, or duties, including, but not limited to, merger or complete consolidation of transit boards.

Adopted June 2003
Amended ________ 2018
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 allowing a limited competition or sole source procurement set forth in the latest version of Federal Transit Administration Circular 4220.1, or the equivalent from other federal funding agencies, must be met.

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 and adequate audit provisions to allow the SANDAG independent performance auditor access to the contracted entity's records needed to verify compliance with the terms specified in the contract will be incorporated by reference in all SANDAG services contracts templates. 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 because of other activities, relationships, or contracts, a firm is or may be unable to render impartial, objective assistance or advice to SANDAG; or a firm’s objectivity in performing the contract
work is or might be otherwise impaired; 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 Except in cases of design-build contracting, any firm that provides design services to SANDAG 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 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 firm that provides construction management services to SANDAG will be ineligible for award of a construction contract for which construction management services were or will be provided.

7.1.4 Any firm that assists SANDAG or any of its member or affiliated agencies in the preparation of a construction RFP or RFQ document will not be allowed to participate as an offeror or join a team submitting a proposal in response to the that RFP or RFQ. SANDAG may in its sole discretion, however, determine there is not an organizational conflict of interest for a prospective firm where:

7.1.4.1 The role of the firm was limited to provision of preliminary design, reports, or similar “low-level” documents that will be incorporated into the construction RFP or RFQ, and did not include assistance in development of instructions to offerors or evaluation criteria; or

7.1.4.2 Where all relevant documents and reports delivered to the agency by the firm are made available to all offerors; or

7.1.4.3 The role of the firm was limited to preparation of a California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) document related to the project where the CEQA and NEPA processes have been completed prior to issuance of the RFP and RFQ.

7.1.5 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:

7.1.5.1 Persons employed by SANDAG;

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

7.1.5.3 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

7.1.5.4 Profit-making firms or businesses in which the former employees described in subsection 7.1.5.3 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. A “firm” also shall include any partnership, corporation, association, or other legal entity or any member of a joint venture that meets the above-stated definition.

7.5 “Ineligible” firms shall include the prime consultant for the services, subconsultants 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 procurements 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 regarding review of the initial protest by a protest review committee and review of protest reconsiderations by the Executive Director, as appropriate.

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 Labor compliance requirements on SANDAG contracts shall be consistent with the California Labor Code. 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 Board Chair, Vice Chair, or the Policy Advisory Committee Chair currently acting as the Chair Pro Tempore in the absence of the Chair, 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 Board Chair, Vice Chair, or Chair Pro Tempore, 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 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 the most recent version of Federal Transit Administration Circular 4220.1 or the equivalent from other federal funding agencies.

Adopted October 2003
Amended November 2004
Amended December 2006
Amended December 2007
Amended December 2008
Amended January 2010
Amended November 2010
Amended March 2014
Amended November 2014
Amended December 2015
Amended January 2017
Amended _________ 2018
PROCUREMENT AND CONTRACTING – EQUIPMENT & SUPPLIES

Purpose

To establish procedures for acquiring supplies, equipment, and materials.

Background

When purchasing equipment, supplies, and materials, SANDAG staff is required to use a competitive procurement process. Pursuant to Public Utilities Code section 132352.4(5), SANDAG is required to select the lowest responsible bidder meeting specifications for awards of $50,000 or more, not including sales tax. This section also states two exceptions to this requirement. First, if an article of a specified brand or trade name is the only article that will properly meet the needs of SANDAG, competitive procurement is not required. Second, the Board may approve a purchase of equipment, supplies, or materials that exceeds $50,000 without utilizing competitive procurement methods if it is in the best interest of SANDAG to do so. All references to the Executive Director in this policy also apply to the Executive Director’s designee.

Policy

1. Supplies, equipment, and materials not otherwise provided for in a contract for construction or services, and estimated to cost more than $50,000, shall be listed separately in the budget or otherwise provided for by Board action or Executive Director approval before suppliers are asked to submit any binding offers.

2. 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 purchase order or a contract must be used in order to ensure provisions are included to protect the interests of SANDAG.

3. 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.

3.1 When there are no federal funds involved the following additional factors may make limited competition or sole source procurement within the best interest of SANDAG. Therefore, a limited competition or sole source for these types of procurements may be permitted when one of the conditions in this section (3.1) is met:
There is only one vendor capable of providing the item because the item is unique or highly specialized.

The item should be purchased from a particular vendor in the interest of economy or efficiency as a logical follow-on to an order already issued under a competitively awarded contract.

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

The item is an integral repair part or accessory compatible with existing equipment.

The item is essential in maintaining research or operational continuity.

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

The procurement is of the type that may be made as a sole source procurement pursuant to the Public Contracts Code.

When the project will be paid for in whole or in part by federal funds one of the conditions allowing a limited competition or sole source procurement set forth in the latest version of FTA Circular 4220.1, or the equivalent from other federal funding agencies, must be met.

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. There should be equitable distribution among qualified suppliers in the local area and no splitting of procurements to avoid competition. A bid is only required from the vendor of choice and no contract is required.

For purchases between $3,001 and $50,000, a simplified competitive procurement method may be used:

Staff shall obtain written bids or document oral bids from at least three suppliers in a manner that permits prices and other terms to be compared.

Staff shall recommend the supplier that will provide the best value to SANDAG, taking into account the possible range of competing product and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price.

Staff shall obtain approval as required in the administrative delegation of authority policy and the small procurement procedures for use of the recommended supplier.

For purchases of $50,000 or more, an invitation for bids (IFB) shall be issued and the award will be made to lowest responsible bidder submitting a responsive bid:
6.1 The IFB will be posted on the SANDAG Web site. In addition, notice of the IFB will be sent to suppliers previously known to be interested in providing the needed article(s).

6.2 Notice of the IFB will be published in at least one newspaper of general circulation in San Diego County. The IFB may also be published in one or more Disadvantaged Business Enterprise (DBE)/Small business directed newspapers and in such other minority or community newspapers and trade publications as appropriate at least two weeks before the bid opening date. The notice shall state that SANDAG is interested in receiving bids from qualified firms, and indicate how additional information can be obtained, the date, location and time for receiving and opening the sealed bids. For federally funded projects, the IFB must also be published in one or more Disadvantaged Business Enterprise-certified publications.

7. For purchases of $50,000 or more that are better suited for a Request for Proposals (RFP) (negotiated purchase) or purchase on the open market, instead of an IFB (low bidder), approval may be sought from the Contracts Manager to utilize a different procurement process. An alternate procurement process to the IFB may be in the best interest of SANDAG in the following example situations:

7.1 The purchase may be made at a lower price on the open market.

7.2 Competitive bidding is an inadequate method of procurement because it is necessary to purchase prototype equipment or modifications in order to conduct and evaluate operational testing.

7.3 The article(s) to be procured is undergoing rapid technological changes and it is in the public's interest to issue an RFP so that the broadest possible range of competing product and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price, can be taken into consideration.

8. If staff seeks authorization to utilize an alternate procurement process under section 7, documentation setting forth the reasons a deviation from the typical competitive bidding process is warranted, and a technical evaluation of the articles, prices, and suppliers shall be submitted in the requisition packet.

9. The Board's Equal Employment Opportunity Program and adequate audit provisions to allow the SANDAG independent performance auditor access to the contracted entity's records needed to verify compliance with the terms specified in the contract will be incorporated by reference in all SANDAG equipment and supplies contract templates.

10. Conflicts of Interest

10.1 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:

10.1.1 Persons employed by SANDAG;
10.1.2 Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

10.1.3 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

10.1.4 Profit-making firms or businesses in which the former employees described in subsection 9.1.3 serve as officers, principals, partners or major shareholders.

10.2 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.

10.3 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.

10.4 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.

10.5 “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.

10.6 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.

Adopted November 2003
Amended December 2006
Amended December 2007
Amended December 2008
Amended November 2014
Amended ________ 2018
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 4220.1F 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, with the first publication occurring 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 minority or community newspapers as appropriate to best meet SANDAG’s DBE goals.

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 Prequalifications

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 as a sealed bid, which shall mean either submission in a sealed envelope or electronically through the use of SANDAG’s web-based solicitation system. All bids shall be 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, which may be in either hard copy or electronic format. 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), and if electronic bids are accepted then also immediately post the bid results on the SANDAG web-based solicitation system.

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” 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 Bid Booklet - with all bid amounts filled in

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" generally means that the bidder is able to demonstrate that it possesses: (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;

1.5.6.1.2 For design-bid-build projects, 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; or in the case of a Job Order Contract, the value of the maximum amount of the Job Order Contract; and

1.5.6.1.3 For design-bid-build projects, 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, or in the case of a Job Order Contract, at least 50 percent of the maximum amount of the Job Order Contract; and
1.5.6.1.4 For design-bid-build projects, 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 that the contractor provides to be considered in determining its requisite experience. The list shall contain a name, title, email 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 key personnel, including project managers, who will be involved in the SANDAG contract. These key personnel shall have at least three years of 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. For each individual listed, the contractor 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 determined to be nonresponsible, it shall be afforded an administrative hearing upon the submission of a timely protest of such issue. Any additional evidence submitted in the course of the protest procedure shall be considered 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, Responsibility, Bid, or Award

1.8.1 SANDAG shall include in all procurements a procedure to be followed by interested parties who wish to protest a specification, procedure, or finding of nonresponsibility. 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 regarding review of the initial protest by a protest review committee, or in the case of a protest regarding a finding of nonresponsibility by an administrative hearing officer or panel, and review of protest reconsiderations by the Executive Director, as appropriate.

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 all functions of the awarding authority under Section 4100 et seq.

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 Executive 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. Labor compliance requirements on SANDAG contracts shall be consistent with the California Labor Code.

2.1.52.1.6 Contracts including construction services in excess of $1 million shall include a provision requiring the entity contracting with SANDAG to commit that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all construction work on the project consistent with Public Utilities Code Section 132354.7 unless one of the exceptions in Section 132354.7(a) are met.

2.1.62.1.7 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.

2.1.8 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.

2.1.9 The Board’s Equal Employment Opportunity Program and adequate audit provisions to allow the SANDAG independent performance auditor access to the contracted entity’s records needed to verify compliance with the terms specified in the contract will be incorporated by reference in all SANDAG construction contract templates.

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 4220.1F 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 allowing a limited competition or sole source procurement set forth in the latest version of FTA Circular 4220.1, or the equivalent from other federal funding agencies, must be met.

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 such work on behalf of the Board and shall report to the Board all 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, because of other activities, relationships, or contracts, a firm is or may be unable to render impartial, objective assistance or advice to SANDAG; or a firm's objectivity in performing the contract work is or might be otherwise impaired; 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 Except in the case of design-build contracting, any firm that provides design services or project management services to SANDAG 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 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 firm that provides construction management services to SANDAG will be ineligible for award of a construction contract for which construction management services were or will be provided.

6.1.4 Any firm that assists SANDAG or any of its member or affiliated agencies in the preparation of a construction procurement document will not be allowed to participate as a bidder/offeror or join a team submitting a bid/offer in response to that procurement document except under the provisions in Section 7.1.4 of Board Policy No. 016.

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; 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

6.2.3 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 is issued, the scope of work will identify the quantity and specific location of the work to be performed. A 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 JOCs 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 JOC.

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 JOC does not exceed a term of three years in duration.

7.1.1.4 The JOC 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 JOC 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, Job Orders 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 Job Orders provided that the non-prepriced items are within the scope and intent of the JOC and are priced reasonably and in conformity with 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” contracting is a project delivery method 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 similar to the process described in Board Policy No. 016 for the procurement of services will be used to procure design build services. Selection criteria for design-build procurements shall be subject to Board approval.

9. Construction Manager/General Contractor Contracting

Construction Manager/General Contractor (CM/GC) contracting is a project delivery method using a best value procurement process in which a construction manager is procured to provide pre-construction services during the design phase of the project and construction services during the construction phase of the project. Notwithstanding Section 1 of this Policy, SANDAG is permitted to use the CM/GC contracting method on transit projects in accordance with Public Contracts Code 6950-6958. A competitive negotiation process similar to the process described in Board Policy No. 016 for the procurement of services will be used to procure CM/GC services. Selection criteria for CM/GC procurements shall be subject to Board approval.

10. Design Sequencing Contracting

Design sequencing” contracting is a method of project delivery that enables the sequencing of design activities to permit each construction phase to commence when the design for that phase is complete, instead of requiring design for the entire project to be completed before commencing construction. This is a variation of the design-bid-build project delivery method. SANDAG is permitted to use the design sequencing contracting method on transit projects in accordance with Public Contracts Code 6950-6958.

Adopted November 2003
Amended December 2006
Amended December 2007
Amended December 2008
Amended January 2010
Amended November 2010
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**Amendment Title:** Supplement to FY 2018 Budget to Implement AB 805

### Funds Application

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**TOTAL** $50,000 $259,074 $50,000 $259,074

**Staff Hours:** 386-1,706

### OBJECTIVE

Implement provisions of Assembly Bill 805.

### PREVIOUS ACCOMPLISHMENTS

- Voting system changes mapped out and reviewed for quality control purposes.
- Contract negotiated and issued to vendor to make voting system changes.
- Draft changes made to contract boilerplate.
- Draft changes prepared for Bylaws and five other Board Policies.
- New Board Policy No. 039 concerning audit committee and performance auditor activities drafted and approved by Board.

**Project Manager:** Wiley, Julie

**Committee(s):** Public Safety Committee

**Working Group(s):** Executive Committee, Transportation Committee
## PRODUCTS, TASKS, AND SCHEDULES FOR FY 2018

<table>
<thead>
<tr>
<th>Task No.</th>
<th>% of Effort</th>
<th>Task Description / Product / Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100</td>
<td>Task Description: Update Bylaws and Board Policies to include AB 805 elements. Product: Amended Bylaws and Board Policies. Completion Date: 6/29/2018-2/28/2018</td>
</tr>
<tr>
<td>2</td>
<td>0</td>
<td>Task Description: Make changes to voting system Product: Voting software updates Completion Date: 4/1/1900-3/9/2018</td>
</tr>
<tr>
<td>3</td>
<td>0</td>
<td>Task Description: Assist Board members in determining how to meet their new requirement to report SANDAG activities to their home agencies. Product: Materials for discussion at Board Retreat. Completion Date: 4/1/1900-6/29/2018</td>
</tr>
<tr>
<td>4</td>
<td>0</td>
<td>Task Description: Implement changes to Regional Plan to incorporate additional disadvantaged populations and transit strategies. Product: Expanded Regional Plan Completion Date: 4/1/1900-6/29/2018</td>
</tr>
<tr>
<td>5</td>
<td>0</td>
<td>Task Description: Prepare and obtain Transportation Committee and Board approval for annual public transit status report for Legislature. Product: Public Transit Status Report Completion Date: 4/1/1900-6/29/2018</td>
</tr>
<tr>
<td>6</td>
<td>0</td>
<td>Task Description: Make changes to contract documents to implement new skilled and trained labor requirements. Implement mechanisms to track contractor use of skilled and trained labor. Research issues associated with potential use of project labor agreements. Product: Updated contract templates and procurement manual. Contractor survey results. Completion Date: 4/1/1900-6/29/2018</td>
</tr>
<tr>
<td>7</td>
<td>0</td>
<td>Task Description: Recruit and provide approvals and training for Audit Committee members. Provide staff support for Audit Committee. Product: Audit Committee member recruitment materials; Audit Committee training and agenda materials. Completion Date: 4/1/1900-6/29/2018</td>
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<tr>
<td>8</td>
<td>0 25</td>
<td><strong>Task Description:</strong> Determine method of selection for, recruit, and obtain approval of new Independent Performance Auditor. Prepare, obtain approval for, and implement new internal control guidelines. Prepare and implement changes to contract templates to incorporate independent performance auditor provisions. <strong>Product:</strong> Solicitation materials for independent performance auditor Internal Control Guidelines Updated templates <strong>Completion Date:</strong> 1/1/1900-6/29/2018</td>
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**FUTURE ACTIVITIES**

Obtain and test changes to voting system made by vendor.
Implement changes to Regional Plan.
Implement changes to contract documents.
Obtain approval of proposed amendments to Bylaws and Board Policies from the Board of Directors.
Recruit and select Audit Committee members.
Schedule and carry out Audit Committee meetings
Prepare recruitment materials for a Performance Auditor

Note: In November 2017, the Board of Directors authorized an initial budget of $50,000 for AB 805 implementation efforts occurring in November and December 2017. This amendment will supplement the initial budget to cover expenses for the remainder of the implementation expenses for FY 2018.
EXECUTIVE COMMITTEE
JANUARY 12, 2018

DRAFT 2018 LEGISLATIVE PROGRAM

File Number 7300400

Introduction

Each year, the Executive Committee recommends a Legislative Program to the Board of Directors for the next calendar year. Consistent with past programs, the draft 2018 Legislative Program (Attachment 1) includes policies and programs for possible federal and state legislation as well as local activities.

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 sections that relate to the level of effort needed to support corresponding legislative activities: (A) Sponsor, (B) Support/Oppose, and (C) Monitor. The program also lists the Board position and whether the goals include federal, state, and/or local efforts.

The 2017 Legislative Program (Attachment 2), approved by the Board of Directors on January 27, 2017, includes 28 separate goals. Staff has modified the 2017 Legislative Program as a starting point to initiate Executive Committee discussion regarding the draft 2018 Legislative Program. Included in Attachment 1 are the proposed changes, which are shown in red text. The changes are discussed below.

Proposed Modification

Last year, Legislative Goal No. 13B related to autonomous vehicles was added to the Legislative Program under the (B) Support/Oppose section to address emerging technologies and their potential impacts on the regional transportation system. SANDAG was one of the first Metropolitan Planning Organizations in the United States to include Connected Vehicles in its Regional Transportation Plan. Likewise, in January 2017, the San Diego region was selected by the U.S. Department of Transportation as one of ten proving grounds for autonomous vehicles in the nation. Seeking to position the region to take advantage of possible future testing opportunities, staff recommends elevating Legislative Goal No. 13B from the (B) Support/Oppose Section to the (A) Sponsor section of the program.
• Goal No. 9A – Efforts to advance Connected and Autonomous Vehicle technology to enhance transportation safety, sustainable and efficient mobility, a healthier environment, and economic growth and job creation (2018).

Next Steps

Pending Executive Committee action, the draft 2018 Legislative Program is scheduled for review at the January 19, 2018, Public Safety Committee meeting for input related to the public safety-related legislative goals. It is anticipated that the Board of Directors would consider this item for approval at its January 26, 2018, meeting.

VICTORIA STACKWICK
Principal Legislative Analyst

Attachments: 1. Draft 2018 Legislative Program
              2. 2017 Legislative Program

Key Staff Contact: Victoria Stackwick, (619) 699-6926, victoria.stackwick@sandag.org
2018 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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(B) SUPPORT/OPPose

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# 2017 LEGISLATIVE PROGRAM

**Overarching Goal:** Pursue policy and legislative changes that enable SANDAG to better implement its adopted plans and programs.

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ANNUAL
BOARD OF DIRECTORS RETREAT
2018 STRATEGIC PLANNING
February 7 – 9, 2018
Barona Resort
Golf Events Center
1932 Wildcat Canyon Road
Lakeside, CA 92040
(619) 443-2300
(Retreat atmosphere and dress are casual)

DRAFT AGENDA

Members of the public may address the Board of Directors on any issue not related to agenda items during Public Comment/Communications. Members of the public wishing to speak to the Board on an item on the agenda will be called on at the end of that session. Please complete a speaker’s slip and present the slip to a SANDAG staff member.

WEDNESDAY, FEBRUARY 7

ORIENTATION: PARTS 1 TO 5

2:30 p.m. PART 1: WELCOME
(Creek Ballroom)
Hon. Edwin "Thorpe" Romero, Chairman, Barona Band of Mission Indians

2:45 to 3:15 p.m. PART 2: “SANDAG 101” FOR NEW AND EXISTING BOARD MEMBERS
(Creek Ballroom)
Kim Kawada, Chief Deputy Executive Director, SANDAG
New additions to the SANDAG Board of Directors will learn the basics of their roles as members of the regional decision-making body. All members are encouraged to attend and share their valued experiences and insight.
PART 3: INTRODUCTION TO THE CHALLENGES AHEAD

(Creek Ballroom)

Seasoned Board members will offer a quick look ahead at the challenging issues SANDAG will likely wrestle with during the coming year, including the topics listed below.

Please take note of the letters in front of each topic, and look further in the agenda for those letters to see sessions that are intended to address these issues in more detail.

Ⓐ Meeting SANDAG’s obligations under TransNet
Ⓑ The continuing debate over highways/roads and transit
Ⓒ Issues of transparency and communications
Ⓓ The organization’s planning and forecasting efforts
Ⓔ The need to compete for funding

PART 4: LIGHTNING LEARNING: HOW SANDAG WORKS (Challenges A, D, and E – see Orientation Part 3)

(Oak I Ballroom)

Kim Kawada, Chief Deputy Executive Director, SANDAG

After the general orientation, participate in a round of speed briefings with technical experts to get the basics and ask questions in small group settings on the fundamentals of some of the key work performed by the agency. Topics will include:

- Project prioritization, cost estimation, and funding
- Financial health of SANDAG/TransNet
- Forecasting
- SANDAG products and services
- Climate and energy planning

PART 5: REPORT OUT & ORIENTATION WRAP UP

(Oak I Ballroom)

Hon. Terry Sinnott, SANDAG Chair

Gather to report out about the orientation process, what was learned, what was missed, and a quick preview of Thursday’s schedule.
WEDNESDAY, FEBRUARY 7

5:30 p.m.  PUBLIC COMMENT/COMMUNICATIONS

6:30 p.m.  DINNER

(Italian Cucina)

Mike Madrid, Principal, GrassrootsLab

The demographics of our region are changing. Mike Madrid, an expert on how those demographics influence how decisions are made at the ballot box, will offer his thoughts on what the future might hold.
THURSDAY, FEBRUARY 8

Thursday’s sessions will be moderated by Trudy Sopp, Founder & Consulting Partner, The Centre for Organization Effectiveness

7:30 a.m.  
BUFFET BREAKFAST  
(Fairway Foyer)

8:45 to 10 a.m.  
THE KEYS TO SUCCESSFUL REGIONALISM (Challenges A, B, and E – see Orientation Part 3)  
(Oak I Ballroom)  
Garry Bonelli, Commissioner, Port of San Diego (Introduction)  
James Corless, Chief Executive Officer, Sacramento Area Council of Governments  
Steve Heminger, Executive Director, Metropolitan Transportation Commission/Association of Bay Area Governments  
Hasan Ikhrata, Executive Director, Southern California Association of Governments  
Join a facilitated discussion with the leaders of the other major regional planning organizations in the state—Sacramento, the Bay Area, and Southern California. Explore some fundamental questions about the role of these organizations, including what exactly regionalism is, what are the key elements to a successful regional approach, and what benefits does regionalism bring to a community. Bottom line: How can SANDAG be more effective as a regional planning organization?

10 to 11 a.m.  
PLANNING A TRANSPORTATION NETWORK AMID UNCERTAINTY (Challenges B and D – see Orientation Part 3)  
(Oak I Ballroom)  
Charles “Muggs” Stoll, Director of Land Use and Transportation Planning, SANDAG  
Ronald Milam, Director of Evolving the Status Quo, Fehr & Peers  
The Board and staff have begun the process of building the next edition of the agency’s long-range planning document, San Diego Forward: The 2019-2050 Regional Plan. A fiscally constrained vision for the region’s future transportation network will form the core of that plan. In addition to traditional transportation choices, the network could include innovative new technologies—some of which will be explained by Ronald Milam, a specialist in the field. Discuss how you would like to go about developing that network. What options should be considered? Amid uncertainties about funding and deploying innovations, discuss what reasonable assumptions and decisions can be made about the future network.
THURSDAY, FEBRUARY 8

11 a.m. to 12 noon  COMMUNICATIONS AND TRANSPARENCY (Challenge C – see Orientation Part 3)
(Oak I Ballroom)
Matt Hall, Editorial and Opinion Director, The San Diego Union-Tribune
Haney Hong, President and Chief Executive Officer, San Diego County Taxpayers Association
Colin Parent, Executive Director, Circulate San Diego
Hear from a panel of knowledgeable and engaged stakeholders on the subject of SANDAG communications and transparency. Take part in a facilitated discussion about communications between SANDAG, its member agencies, and the public, as well as issues revolving around transparency and public trust. What needs to be improved and how best can that be accomplished?

12 noon to 1:15 p.m.  LUNCH
(Lake Terrace Patio)

1:15 to 1:45 p.m.  2017 BEGINNINGS, COMPLETIONS, AND MILESTONES
(Oak I Ballroom)
Video
During this session, take a look all around the county at accomplishments made in 2017 on behalf of the region’s citizens and quality of life.

1:45 to 3 p.m.  LIFE AFTER MEASURE A: FUNDING THE FUTURE (Challenges A and E – see Orientation Part 3)
(Oak I Ballroom)
What comes next after Measure A was unable to win the two-thirds majority needed to bring a new source of local funding for infrastructure to the region? To fully realize the Board’s vision for the future, SANDAG will need additional funds to match state and federal dollars. What are the options after Measure A? Subregional measures? Senate Bill 1? Measures sponsored by Metropolitan Transit System and/or North County Transit District? Something else? Nothing at all?

3 to 3:45 p.m.  TIME TO STRETCH: GRAB A CLUB AND HIT SOME BALLS
(Putting Green and Driving Range)
Grab a snack from the Fairway Foyer and take a three-minute stroll to Barona’s putting green and driving range. Hit some balls or kick back and watch your colleagues. One Barona golf pro will circulate through the group with tips on how to improve your swing on the range, and a second will give pointers on putting at the green. (Range balls and clubs provided. Flat shoes are required on putting green.)
THURSDAY, FEBRUARY 8

3:45 to 5 p.m.  MOVING FORWARD
   (Oak I Ballroom)

Discuss how the Board moves forward in a changing environment. How best can the Board continue to work effectively given the region’s evolving conditions, including such things as the implementation of Assembly Bill 805, funding needs, and the region’s changing demographics.

5 p.m.  PUBLIC COMMENT/COMMUNICATIONS

6 p.m.  DINNER
   (Fairway Foyer)

Steve Breen, Editorial Cartoonist, The San Diego Union-Tribune

Pulitzer Prize winning editorial cartoonist Steve Breen will offer some interesting and fun insights about goings on in our region, the state, and the nation.
FRIDAY, FEBRUARY 9

7:30 a.m.  BUFFET BREAKFAST
(Fairway Foyer)

8 to 8:45 a.m.  SANDAG EXECUTIVE COMMITTEE MEETING
(Creek Ballroom)
The agenda for the SANDAG Executive Committee meeting will be posted separately in accordance with SANDAG policy and Brown Act requirements.

8:45 to 9:45 a.m.  RIDE TO THE FUTURE: TAKE A SPIN IN AN AUTONOMOUS VEHICLE
(Golf Events Center)
Sanjiv Nanda, VP Engineering, Corporate Research & Development, Qualcomm Corporation
Take a two-minute spin around Barona’s parking lot in an autonomous vehicle. Innovators at Qualcomm will explain the technology, as well as what will be needed from a practical perspective to deploy these vehicles on San Diego County roads.

9:45 to 10:45 a.m.  LOOKING FORWARD: THE NEXT EXECUTIVE DIRECTOR
(Oak I Ballroom)
Pamela Derby, Executive Recruiter, CPS HR Consulting
Your executive search firm will present results from recent community engagement activities that gathered public and stakeholder input about key attributes desired for the next SANDAG Executive Director. What experience, skills, and leadership characteristics do you think are most important? What should our next Executive Director’s goals and objectives be for 2018?

10:45 a.m.  PUBLIC COMMENTS/COMMUNICATIONS

10:50 to 11 a.m.  RETREAT WRAP-UP

11 a.m.  RETREAT CONCLUDES

Following the retreat, please take a moment to give us your feedback by completing a brief survey at sandag.org/2018RetreatSurvey. Thank you.
FY 2017 AUDITED COMPREHENSIVE ANNUAL FINANCIAL REPORT

Introduction

The independent certified public accounting audit firm of Davis Farr, LLP has concluded the annual audit of SANDAG for the fiscal year ended June 30, 2017. The Comprehensive Annual Financial Report (CAFR) can be downloaded on the SANDAG website at sandag.org/2017CAFR. Hard copies are available by contacting the Public Information Office at (619) 699-1950 or pio@sandag.org.

Discussion

The CAFR presents the financial position and activity of SANDAG and the three component units, which include the San Diego County Regional Transportation Commission, SourcePoint, and the Automated Regional Justice Information System. The auditors have expressed an unqualified (clean) opinion on these basic financial statements.

In compliance with Statement of Auditing Standards (SAS) No. 114, the auditor is required to communicate certain matters to the governing body (Attachment 1). These matters include significant audit findings related to qualitative aspects of accounting practices, difficulties encountered in performing the audit, corrected and uncorrected misstatements, disagreements with management, management representations, management consultations with other independent accountants, and other audit findings or issues.

In summary, the required communications letter states that no difficulties or disagreements were encountered by the auditors in dealing with management, and there was no corrected or uncorrected material misstatement in SANDAG’s financial statements.

The Government Finance Officers Association (GFOA) of the United States and Canada awarded a Certificate of Achievement for Excellence in Financial Reporting to SANDAG for its CAFR for the fiscal year ended June 30, 2016. This was the tenth consecutive year that SANDAG received this prestigious award. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized CAFR. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement only is valid for a period of one year. We believe that the FY 2017 CAFR will continue to meet the Certificate of Achievement Program requirements, and have therefore submitted it to the GFOA to determine its eligibility for another certificate.

ANDRÉ DOUZDJIAN
Director of Finance
Attachments:  1. SAS No. 114 Required Audit Communications Letter

Key Staff Contact:  André Douzdjian, (619) 699-6931, andre.douzdjian@sandag.org
Leanne Wallace, (619) 699-0728, leanne.wallace@sandag.org
We have audited the financial statements of the governmental activities, the business-type activities, the blended component unit, the aggregate discretely presented component units, and each major fund of the San Diego Association of Governments (SANDAG) for the year ended June 30, 2017. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards, Government Auditing Standards and the Uniform Guidance, as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated August 24, 2017. Professional standards also require that we communicate to you the following information related to our audit.

**Significant Audit Findings**

**Qualitative Aspects of Accounting Practices**

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by SANDAG are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during 2017. We noted no transactions entered into by SANDAG during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management’s knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates and judgments affecting the SANDAG’s financial statements were:

- Management’s estimate of the fair market value of derivative instruments is based on a consultant’s report. We evaluated the key factors and assumptions used to develop the fair value of the derivative instruments, including recalculating the fair value of the instruments, in determining that it is reasonable in relation to the financial statements taken as a whole.

- Management’s judgments related to recording capital assets, including which expenses to capitalize, appropriate useful lives, which capital assets to transfer as contributed capital to other government agencies. We evaluated the key factors and assumptions used by management in making these decision in determining that capital assets are reasonable in relation to the financial statements taken as a whole.

- Management’s estimate of transactions related to net pension liabilities and other post-employment benefits based on actuarial information.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements were:

- The disclosure of Cash and Investments in Note II A to the financial statements.
The disclosure of Derivative Activity in Note II F to the financial statements.

The disclosure of Defined Benefit Pension Plan information in Note II M to the financial statements.

The financial statement disclosures are neutral, consistent, and clear.

**Difficulties Encountered in Performing the Audit**

We encountered no significant difficulties in dealing with management in performing and completing our audit.

**Corrected and Uncorrected Misstatements**

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit’s financial statements taken as a whole.

**Disagreements with Management**

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor’s report. We are pleased to report that no such disagreements arose during the course of our audit.

**Management Representations**

We have requested certain representations from management that are included in the management representation letter dated December 15, 2017.

**Management Consultations with Other Independent Accountants**

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to SANDAG’s financial statements or a determination of the type of auditor’s opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

**Other Audit Findings or Issues**

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as SANDAG’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

**Other Matters**

We applied certain limited procedures to management’s discussion and analysis, budgetary comparison information of the general fund and major special revenue funds, the schedule of funding progress, the schedule of change in net pension liability and the schedule of plan contributions which are required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management’s responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.
We were engaged to report on combining and individual nonmajor fund statements and the budget and actual schedules, which accompany the financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on introductory section and statistical section, which accompany the financial statements but are not RSI. We did not audit or perform other procedures on this other information and we do not express an opinion or provide any assurance on it.

**Restriction on Use**

This information is intended solely for the use of Board of Directors and management of SANDAG and is not intended to be, and should not be, used by anyone other than these specified parties.

Irvine, California
December 15, 2017
EXECUTIVE COMMITTEE
JANUARY 12, 2018

LEGISLATIVE STATUS REPORT

Introduction

Monthly status reports on legislative activities are provided to the Executive Committee. Attachment 1 includes a summary from Peyser Associates LLC on federal legislative activity related to SANDAG.

VICTORIA STACKWICK
Principal Legislative Analyst

Attachments: 1. Report from Peyser Associates LLC

Key Staff Contact: Victoria Stackwick, (619) 699-6926, victoria.stackwick@sandag.org
Transportation Update from Peyser Associates

December 1, 2017

Tax Measure Poised for Passage Next Week

As this is written, the Senate is nearing passage of the “Tax Cuts and Jobs Act,” setting the stage for the first major legislative accomplishment of the Trump Administration and the 116th Congress.

Just a week ago, it appeared there might be enough Senators wavering on the bill to cause it to be defeated or significantly restructured. However, some skillful maneuvering this week by Senate leaders appears to have assuaged the concerns of key Members. Senators like Ron Johnson (R-WI), who were concerned the bill doesn’t do enough for “pass-through” small business owners, are being satisfied by incentives for those companies. Senator Susan Collins (R-ME), who was concerned about the repeal of the individual mandate to purchase health insurance, is gaining comfort because of the promised inclusion of provisions to provide for subsidy payments to insurance companies to shore up the healthcare marketplaces. A number of Senators concerned about the impact of the bill on the federal deficit have been pushing for a “trigger” that will automatically raise certain taxes if revenue targets are not met.

The trigger approach appeared to be gaining support until the Senate Parliamentarian late Thursday indicated the procedural hurdles to getting that done could be insurmountable. Because of the Parliamentarian’s ruling, leaders are seeking a new approach to dealing with the deficit concerns of Senators. If they can’t find one, passage of the bill may once again be called into question.

Another change made in the bill with regard to the state and local tax deduction is the inclusion of a deduction for property taxes paid up to $10,000. This is similar to a provision in the House version of the bill. Senator Collins sought this change along with the health insurance subsidy provision.

After the Senate passes the bill, the weekend will be consumed with discussions among House and Senate leaders to work out a final version for passage by next week. Most House Majority Members expect to be told they must accept the Senate bill virtually as passed. This will leave only minimal room for maneuver for them. This may bode well for preserving the tax deduction for interest paid on Private Activity Bonds (PABs) and on advanced refunding bonds.

House Majority Leader Kevin McCarthy (R-CA) said Thursday he expects to have the House take the formal vote to go to conference with the Senate on Monday. With that formality set aside, the House could be able to take up a conference report as early as Wednesday, assuming a deal is reached over the weekend. This would assume a conference report is ready on Tuesday. If the House sticks to that schedule, the Senate should be able to complete work before the end of next week—or at the very least before the December 12 special election in Alabama, which could diminish by one the number of Republicans in the Senate, thereby making the bill more difficult to pass.

New York – Washington, DC
Further Continuing Resolution Looks Likely

With Congress focused on tax legislation (not to mention sexual harassment revelations) this week and next, there is little talk of how to deal with the issues surrounding the appropriations process for Fiscal Year 2018. With next Friday’s expiration of spending authority looming, talk now is about a further continuing resolution. The main issue for discussion in the next few days will be the length of the extension. Some Majority Members are urging leaders to pass an extension until February. Others are pushing for an extension only until December 22. This would give them leverage to seek a resolution on immigration issues before the end of the year—a key goal for Democrats.

Walking around Capitol Hill this week one could feel momentum building for a departure from Washington for Members sooner rather than later. If that momentum continues to build and Congress goes home for the holidays without passing a spending package for Fiscal Year 2018, projects in the Federal Transit Administration (FTA) Capital Investment Grant program pipeline will not benefit from congressional direction to the Administration to advance Full Funding Grant Agreements. That will likely mean the pipeline will remain frozen for the time being. Next week will be key to the resolution of this issue.

Infrastructure May be Slipping Further Down the Legislative Agenda

Infrastructure advocates continue to share their concerns that the momentum behind an infrastructure package in Washington is ebbing. This week, Senate Commerce Committee Chair John Thune (R-SC) said he thinks that Congress may make another attempt to legislate on health care in 2018 before turning to infrastructure. The President, while indicating early this week that infrastructure would come “soon” after tax legislation, took the opportunity on Wednesday in Missouri to say he is anxious to turn to welfare reform as an issue as well.

The difficulty with taking up an infrastructure package, as opposed to health care and welfare reform, is it must be paid for. Even at the relatively modest $200 billion over ten years level of spending the Administration is suggesting, it will be difficult to find the way to pay for that in the current budget and tax environment.

The concern over the fate of the infrastructure issue is not just felt by outside advocates. In a small meeting on Thursday with a bipartisan group of California House Members, all of them expressed skepticism that an infrastructure package of any meaningful size could move in 2018.

Perhaps the new year and a push from the White House will bring more optimism, but there has been a noticeable decrease in optimism in recent weeks.

December 8, 2017

Trump Infrastructure Plan Slated for January Release

In two meetings with senior White House officials in the past week, we discussed the upcoming release of President Trump’s Infrastructure Plan. The main news is that the current plan is to release the detailed concept paper on infrastructure before the President gives his State of the Union Address on January 30. Most of the other information gleaned from the meetings was not particularly new.

While details are hard to come by, it does appear the $200 billion over ten years will be placed in four major buckets. First, would be competitive grants to states and localities with a preference to those
who generate their own funding. It is unclear whether the actions to raise funds would need to be prospective or whether states and regions would get credit for having previously taxed themselves. Second, would be formula block grants for rural areas. Third, would be a major boost for federal lending programs such as Transportation Infrastructure Finance and Innovation Act, Railroad Rehabilitation and Improvement Financing, and others outside the transportation area. Fourth, there would be a national grant program for “transformational” projects. One example of such a project often cited by Administration officials is Hyperloop.

The question hovering over all of this discussion is “How will this plan be paid for?” Repatriated foreign profits are now off the table because they are used to keep the tax reform package within the revenue loss limits stipulated in the Budget Resolution. All reasonable revenue growth due to economic growth has been claimed for the same purpose. It would appear that some other revenue increase or fiscal sleight-of-hand (remember “pension smoothing”) would have to be found to cover the cost of the program. If Congress wants to consider a gas tax increase as a revenue raiser, they would need to increase it by about 8 cents per gallon to raise $10 billion per year. Enacting such an increase would almost certainly require Presidential leadership.

**Continuing Resolution Sets Stage for Major Decisions on Fiscal 2018 Spending**

The House and Senate both cleared on Thursday a Continuing Resolution extending spending authority for government agencies through December 22. This gives congressional leaders two weeks to reach agreement on top line spending amounts for defense and domestic discretionary spending. Few observers believe Congress will be able to complete action on an omnibus appropriation bill before the end of the year.

Getting to agreement for an extension beyond December 22 may require congressional leaders to either attach to the package or agree on a clear timetable for dealing with at least two key legislative policy issues. One is a resolution of the status of “dreamers” under immigration law. Dozens of House Majority Members and several Majority Senators are joining Democrats in seeking an early resolution to this issue. Another policy issue is legislation to authorize subsidy payments to health insurance companies participating in the Obamacare exchanges. A Senate leadership pledge to push for action on this was key to getting Senator Susan Collins (R-ME) to support the tax legislation in the Senate.

**Tax Bill Conference Formally Underway – Deal Brewing on State and Local Taxes**

Both the House and Senate this week took the formal step of agreeing to go to conference and appointing conferees to resolve the differences between the two bodies on the pending tax bill. It is unclear whether there will be a formal meeting of the conference committee, as behind-the-scenes discussions are most likely to resolve the issues between the two chambers.

Oddly, one issue on which a new solution is emerging is one on which the two bills are in harmony—the individual deduction for taxes paid to state and local governments. After the Senate amended its bill on the floor to allow taxpayers to deduct up to $10,000 of property tax paid, it appeared that policy would stand in the final product since the House bill had the same provision. However, continuing pressure from high-tax states and companies in them has resulted in a softening of the GOP position on this issue. It now appears a deal will be struck to allow taxpayers to deduct up to $10,000 of property and/or income tax paid to a state or locality. This may make the bill less politically damaging for House Majority members representing high-tax states like New York, New Jersey, and California.
On the issue of deductibility of interest paid on PABs, it appears the lobbying by public authorities and private entities who support PABs is having an effect. Rumor has it the Senate position to retain deductibility for PABs is likely to prevail in the final deal.

Congressional leaders are pressing for final action on the tax bill by the end of the year. It will be a sprint to the finish, but that target appears reachable.

**Deal on Tax Bill Appears to Preserve Private Activity Bonds Interest Deductibility**

House and Senate negotiators announced Wednesday they have reached agreement on the key provisions of the pending “Tax Cuts and Jobs Act.” A complete version of the compromise measure has yet to be produced, but votes are expected next week on the package.

Reports emerging from leadership offices say that the deductibility of interest paid on Private Activity Bonds for infrastructure, affordable housing and other purposes will be preserved. On another issue of interest to a number of major transportation agencies, the final package includes severe limitations on the deductibility of state and local tax payments. The compromise version of the bill will allow taxpayers to deduct up to $10,000 of property, income, or sales taxes paid to state and local governments. This is a small improvement from the earlier provisions that would have allowed only property tax to be deductible up to $10,000.

Overall, the deal stuck to the major goals of the Administration and GOP leaders. It cuts the corporate tax rate almost to 20 percent—settling on 21 percent. It raises the standard deduction, cuts the top tax rate and reduces the number of tax brackets. It is still unclear that the conference product will meet the target of losing “only” $1.5 trillion in revenue over ten years. Some last-minute tweaks may still be needed once the Joint Committee on Taxation completes its analysis of the bill.

All things considered, it appears likely the bill will be cleared for the President’s signature next week.

**Contours of New Continuing Resolution in Doubt**

In order to satisfy its more conservative members, House leaders are preparing for consideration next week a continuing resolution that would include a full year of spending for the Defense Department and a continuing resolution for all other agencies through January 19.

Conservative House Members favor this plan because they feel it would take away the Democrats’ leverage to demand domestic spending increases as the price for defense increases. While such a measure could pass the House, it is virtually impossible that it would garner the 60 votes needed to pass in the Senate. If the House advances that bill next week, the Senate is likely to answer with a “clean” continuing resolution into January.

Democratic Senators are pushing for agreement on “top line” spending numbers for defense and domestic spending before supporting another continuing resolution. That means leaders have a week to work out that high level deal. The Senate is likely to get there but then the question is whether or not the House Majority will accept it. Democratic votes could be needed in the House for the continuing resolution to pass in final form next week. The guess here is that a clean continuing resolution into mid-January will pass in the Senate with some Democratic votes and likewise in the House.
President Meets with Chairman Shuster to Continue Infrastructure Plan Momentum

President Trump on Monday met with U.S. Department of Transportation Secretary Elaine Chao, House T&I Committee Chair Bill Shuster (R-PA) and other Administration officials to discuss the infrastructure plan the Administration plans to release in January. In a meeting with Secretary Chao and her senior team on Tuesday, they shared that the document that emerges in January would be a detailed 70-page plan, not just a thin outline of principles.

A firm date for the release of the plan has not been set, but it is promised before the President’s State of the Union speech on January 30.

December 22, 2017

Stopgap Funding Bill Sent to President as Congress Recesses for the Year

The House and Senate on Thursday cleared for the President’s signature a continuing resolution to fund government agencies through January 19.

After final passage of the tax bill, the momentum for a speedy recess was unstoppable. Members in both chambers dropped demands for things like a year-long defense spending measure, a solution for “dreamers,” and enactment of subsidy payments for insurance companies participating in health insurance exchanges. All of those issues were pushed aside for resolution in the New Year.

The bill does take care of some urgent needs in addition to funding. It extended authority three key programs: the Children’s Health Insurance Program, National Flood Insurance, and the Veterans’ Choice health program. The bill also extended authorities under the Foreign Intelligence Surveillance Act so that the special court can continue to authorize government surveillance on certain targets.

The rush to recess left many issues on the table for action early in 2018.

Agenda for January and February is Crowded – Where Does Infrastructure Fit In?

As noted above, the January 19 deadline for extending funding for government programs through Fiscal Year 2018 and commitments made by House and Senate leaders to deal with other legislative issues mean the New Year will get off to a very fast start on Capitol Hill. In light of that, a key question for infrastructure advocates is “When is it our turn?”

In addition to resolving the questions surrounding annual spending for Fiscal Year 2018, Congress is expected to take up legislation to resolve the immigration status of “dreamers” and to provide for subsidy payments to insurance companies who participate in health care exchanges. House and Senate leaders have both committed to dealing with the dreamers, while the subsidy payment issue was the subject of a Senate leadership commitment. The debt ceiling is also back in play as an issue to be resolved.

None of these issues is going to be easy to resolve, and they will consume time on the congressional calendar. It is unlikely all three of them can be taken care of before the President’s State of the Union Address on January 30. That date is important to infrastructure advocates because the White House has announced it will release its infrastructure plan by then. It is hoped that release will kick-off congressional action shortly thereafter.
President Trump gave a push to the infrastructure issue in a tweet at 5:05 a.m. this morning:

“At some point, and for the good of the country, I predict we will start working with the Democrats in a Bipartisan fashion. Infrastructure would be a perfect place to start. After having foolishly spent $7 trillion in the Middle East, it is time to start rebuilding our country!”

While this tweet expresses the level of priority the President is placing on the issue of infrastructure this morning, Democrats are likely to point out that the desire for bipartisanship comes a little late after a bruising year of partisan warfare between the Administration and Democrats on Capitol Hill. The infrastructure bill will be a good measure of the level of goodwill left between Democrats and Republicans on Capitol Hill and between Democrats and the White House. That reservoir is very low at present, and it remains to be seen if it is sufficient to produce bipartisan cooperation on the infrastructure package.

Activity Report for SANDAG
December 2017
Peyser Associates LLC

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<tr>
<th>Date</th>
<th>Activity</th>
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<tbody>
<tr>
<td>12/1</td>
<td>Prepare transportation update and send to SANDAG and Metropolitan Transit System (MTS)</td>
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<tr>
<td>12/3</td>
<td>Email exchanges with V. Stackwick on December 4-5 meetings in DC</td>
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<tr>
<td>12/4</td>
<td>Dinner meeting with V. Stackwick and M. Kulis (San Diego Airport)</td>
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<td>12/5</td>
<td>Meeting with V. Stackwick and P. Boutelier (City of San Diego) with H. Buchanan and B. Robinson (FTA)</td>
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<tr>
<td>12/8</td>
<td>Prepare transportation update and send to SANDAG and MTS</td>
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<td></td>
<td>Breakfast meeting with P. Jablonski; meetings at SANDAG with K. Kawada, V. Stackwick, et.al; lunch meeting with K. Kawada and V. Stackwick; meeting with P. Jablonski and S. Cooney</td>
</tr>
<tr>
<td>12/15</td>
<td>Prepare transportation update and send to SANDAG and MTS</td>
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<tr>
<td>12/19</td>
<td>DC Update call with V. Stackwick and R. Wapner</td>
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<tr>
<td>12/20</td>
<td>Email exchanges with J. Linthicum and V. Stackwick on response to FTA requests for information on the Mid-Coast Corridor Transit Project (Mid-Coast)</td>
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<tr>
<td>12/21</td>
<td>Draft response to FTA on information requested on Mid-Coast</td>
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<tr>
<td>12/22</td>
<td>Prepare transportation update and send to SANDAG and MTS</td>
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