



**BOARD OF DIRECTORS
DECEMBER 15, 2006**

**AGENDA ITEM NO. 06-12-15
ACTION REQUESTED - APPROVE**

PROPOSED AMENDMENTS TO BOARD POLICIES

File Number 8000100

Introduction

Staff annually reviews all of the Board Policies to determine if changes or updates are needed. The proposed amendments attached to this report were reviewed by the Executive Committee at its November and December meetings.

Recommendation

The Executive Committee recommends that the Board of Directors approve the proposed amendments to the Board Policies (Attachments 1 to 13).

Discussion

Highlights of the proposed amendments are discussed below. Changes proposed to the policies that are grammatical in nature are not discussed, but are tracked for reference in the attachments.

Board Policy No. 001 Operations Policy

Staff has requested that delegation of duties be modified for two of the Policy Advisory Committees (PACs) in this policy. Several duties are proposed for delegation to the Transportation Committee. With these changes the Transportation Committee would be given authority to approve State Transit Assistance claim amendments. Staff recommends that the Transportation Committee also be given authority to give approvals for fare changes and amendments to the comprehensive fare ordinance. Since the Transportation Committee already has authority to approve certain projects, staff additionally recommends that it be given authority to hold public hearings and approve environmental documents for these projects. The Transportation Committee currently has authority to approve Regional Transportation Improvement Program (RTIP) amendments. From time to time, a member agency proposes an RTIP amendment that calls for a loan of *TransNet* funds in exchange for funds from another source. In order to expedite the RTIP amendment approval process, staff recommends that the Transportation Committee be authorized to approve *TransNet* loans that are part of an RTIP amendment.

Finally, in order to formalize new responsibilities given by the Board to the Transportation and Borders Committees earlier this year, staff also proposes to add to the Transportation Committee's authority the oversight functions for the Coordinated Transportation Services Agency (CTSA) and to the Borders Committee the authority to review and comment on regionally significant projects in adjoining counties.

Board Policy No. 002 Policies and Procedures for Policy Advisory Committees

Section 1.5 of this policy has been updated to show changes approved earlier this year to the membership of the Public Safety Committee. Staff proposes amendments to Sections 4 and 6 of the policy to clarify that even though there are deadlines for appointments of members and officers for the PACs, the appointments are effective as soon as they are made by the member agency or the Board Chair; there is no need to wait for the January 31 deadline to pass for the appointees to take their positions.

Board Policy No. 004 Rules of Procedure for the Board of Directors, PACs, and Other Legislative Bodies

Changes are proposed throughout Section 1 of this policy to effectuate anticipated changes to Board Policy No. 001 concerning the Transportation Committee's authority to adopt amendments to the comprehensive fare ordinance. Staff also is recommending changes to Section 6.6 of this policy concerning creation of new committees by staff. Under the Brown Act, committees that are approved by formal action of the Board or a PAC are presumptively also covered by the Brown Act. Although many SANDAG committees are appropriately open to the public, there is sometimes a need to create a new committee that will not have a level of responsibility that merits the extra staff time needed to prepare and post agendas and comply with all of the provisions of the Brown Act. Staff does, however, recognize the need to have a check and balance process for creating new committees in order to ensure the committee structure at SANDAG does not become too cumbersome. Therefore, staff is proposing that formation of new committees be approved by the Board or a PAC, or if the application of the Brown Act would not otherwise be triggered, approved by the Executive Director with the concurrence of the Board Chair.

Board Policy No. 007 Equal Employment Opportunity Program

The only change requested to this policy is an update requested by the Human Resources Manager, who is in the process of reorganizing and renaming SANDAG administrative manuals and policies. Instead of referring specifically to a document entitled "SANDAG's Administrative Rules and Regulations," the provision would instead generally reference "SANDAG administrative manuals, policies, and procedures."

Board Policy No. 008 Legal Matters

Because of its increased responsibilities, particularly in the area of construction, SANDAG is more likely to be named as a party to litigation. The Office of General Counsel requests that Section 5 of the policy be added to clarify that the Office of General Counsel, the Executive Director, and staff designated by the Executive Director are authorized to sign pleadings, discovery, and other litigation-related documents on behalf of SANDAG.

Board Policy No. 011 Travel Expenses

Staff requests a change to Section 2.1 of this policy to clarify that Board member expense reports must be approved by the Chief Deputy Executive Director. Additionally, Section 2.5.11 needs to be updated to state that SANDAG will use the average exchange rates posted by the Federal Reserve rather than the Wall Street Journal for travel in a foreign country.

Board Policy No. 015 Records Management

SANDAG records are increasingly the subject of public records requests, which include requests for e-mails between staff, contractors, and Board members. Staff requests that language be added to Section 1.1 of this policy as a reminder to treat the use of, and messages included in, e-mails with due care by reviewing them for professionalism, accuracy, and objectivity before distribution. Staff also wishes to add language to Section 3.2 to clarify that the storage periods for public records do not begin until a document is finalized.

Board Policy No. 016 Procurement of Services

Public Utilities Code (PUC) Section 132352.4 (which is part of Senate Bill (SB) 1703) permits SANDAG to utilize a simplified competitive procurement process for procurements of services up to \$100,000. Because SB 1703 only permits use of the simplified procurement method for construction, equipment and supplies up to \$50,000; however, Board Policy No. 016 was originally drafted such that the simplified procurement limit for services also was set at \$50,000 for consistency purposes. Currently, the Executive Director must give special permission under Section 6.1 of the policy to use the simplified method for service procurements in excess of \$50,000. Staff requests that it be granted the maximum authority permitted by the PUC for services procurements in order to improve efficiency and flexibility in the procurement process. Therefore, changes are proposed to Sections 2, 3 and 6.1 of Board Policy No. 016 in order to increase the simplified procurement limit for services from \$50,000 to \$100,000.

Staff also requests changes to Sections 6.4 and 12.2 of this policy to clarify that the Executive Director's authority to approve contract amendments that exceed the project budget is limited to \$100,000. The Executive Committee requested that Section 12.2 be further modified to clarify that approval of unbudgeted amendments by the Chair or a Vice Chair should be avoided if it is feasible to hold a special meeting. Staff further requests changes to Sections 6.5 and 9.1 of this policy to allow use of purchase orders up to the amount of \$50,000 and requiring use of a contract for amounts in excess of \$50,000.

Section 7.7 of this policy currently requires that the Executive Committee review both actual and potential conflicts that arise due to concurrent legal representation of SANDAG and other parties. The Office of General Counsel anticipates that, in most cases, the conflict will be potential, not actual, and that staff can take measures to ensure potential conflicts do not become actual in nature. In order to reduce the number of instances that the Executive Committee is called upon to review these matters, staff requests that it only be required to bring the issues to the Executive Committee where an actual conflict has arisen that staff was unable to resolve.

As the SANDAG staff has grown larger and its use of contractors has broadened, it has become more difficult to ensure conflicts of interest are avoided. The Office of General Counsel therefore requests that the language proposed in new Section 7.1.5 be added to spell out exactly what types of conflicts must be avoided for current employees and persons employed by SANDAG within the previous 12 months.

Board Policy No. 017 Delegation of Authority

The first change requested in this policy would allow the Executive Director to accept reimbursements from member agencies for use of SANDAG on-call contracts. Staff anticipates that the transit operators and other member agencies will want to use the SANDAG on-call contracts from time to time. Currently, if the amount of on-call use exceeds \$100,000, Board or Policy Advisory Committee approval would be needed to accept reimbursement from a member agency. This provision would allow the Executive Director to accept reimbursement from a member agency in any dollar amount. The other change requested is to Section 5. This change is an update requested by the Human Resources Manager who is in the process of reorganizing and renaming SANDAG administrative manuals and policies. Instead of referring to "SANDAG's Administrative Rules and Regulations," the provision would instead reference "SANDAG administrative manuals, policies, and procedures."

Board Policy No. 023 Procurement and Contracting - Equipment & Supplies

Board Policy No. 024 Procurement and Contracting - Construction

The changes requested for these two policies are consistent with the changes requested for Board Policy No. 016. The proposed amendments would allow use of purchase orders up to \$50,000, and would add a new section that spells out exactly what types of conflicts must be avoided for current employees and persons employed by SANDAG within the previous 12 months.

Board Policy No. 030 Contingency Reserve Policy

Staff requests that the language in Section 2 under "Qualifying Uses of the Reserve Fund" be reorganized to clarify that the reserve fund should only be used for one-time, nonrecurring purposes unless approved by the Executive Committee.

Board Policy No. 031 TransNet Ordinance and Expenditure Plan Rules

Many of the tracked changes in this policy simply show a change of the word "Policy" to "Rule" in order to make reference to the provisions of this policy less confusing. The first substantive change is to Rule 7 concerning the "Program of Projects Approval Process and Amendments." Due to issues that arose with timing and sufficiency of documentation during the last Regional Transportation Improvement (RTIP) update, staff requests that the changes in this section be implemented to prevent future problems. The new language clarifies that SANDAG will not approve a member agency's project list until the member agency has held a clearly noticed public hearing and its governing body has passed a resolution approving the specific list of projects and provided the resolution to SANDAG. The proposed changes also would apply to RTIP amendments.

The other substantive changes to this policy are in new Rules 18 and 19. Rule 18 codifies the 70 percent/30 percent split applicable to member agency use of *TransNet* funds for local street and road maintenance projects. Rule 19 is proposed to clarify the Board's interpretation of the conflict of interest requirement in the document entitled "Statement of Understanding Regarding the Implementation of the Independent Taxpayer Oversight Committee (ITOC) for the *TransNet* Program," which is an attachment to the *TransNet* Extension Ordinance. That document states in part, "ITOC members shall not have direct commercial interest or employment with any public or private entity, which receives *TransNet* sales tax funds authorized by this Ordinance." Staff would like the Board to clarify that it interprets this language to impose the same level of restrictions on

the ITOC representatives as those that apply to SANDAG Board members pursuant to California state law found at Government Code Sections 87100 *et seq.* and 1090, rather than some stricter standard than that required by state law. This change will assist the Office of General Counsel in applying a legal analysis of conflict of interest matters to ITOC members, reduce confusion for ITOC members regarding their responsibilities, and potentially prevent the unnecessary loss of ITOC members.

GARY L. GALLEGOS
Executive Director

Attachments: Proposed Amendments in Track Changes Mode

1. Board Policy No. 001 Operations Policy
2. Board Policy No. 002 Policies and Procedures for Policy Advisory Committees
3. Board Policy No. 004 Rules of Procedure for the Board of Directors, Policy Advisory Committees, and Other Legislative Bodies
4. Board Policy No. 007 Equal Employment Opportunity Program
5. Board Policy No. 008 Legal Matters
6. Board Policy No. 011 Travel Expenses
7. Board Policy No. 015 Records Management
8. Board Policy No. 016 Procurement of Services
9. Board Policy No. 017 Delegation of Authority
10. Board Policy No. 023 Procurement and Contracting - Equipment & Supplies
11. Board Policy No. 024 Procurement and Contracting – Construction
12. Board Policy No. 030 Contingency Reserve Policy
13. Board Policy No. 031 *TransNet* Ordinance and Expenditure Plan Rules

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No Budget Impact



BOARD POLICY No. **031**

***TransNet* ORDINANCE AND EXPENDITURE PLAN RULES**

The following [rules/policies](#) have been adopted and amended by the SANDAG Board of Directors in its role as the San Diego County Regional Transportation Commission (RTC). The purpose of these [rules/policies](#) is to implement the provisions of the original *TransNet* Ordinance (87-1) and the *TransNet* Extension Ordinance (04-01).

RulePolicy #1: Procedure for Distribution of Revenues for Transportation Services for Seniors and the Disabled

Adoption Date: February 26, 1988 (Resolution RC88-2)

Amendment: Repealed at November 18, 2005, Board Meeting. This [rule/policy](#) was superseded by [RulePolicy](#) No. 11.

RulePolicy #2: Loan of Funds for Privately-Funded Projects

Adoption Date: April 22, 1988 (Resolution RC88-5)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: The Commission may approve a loan of sales tax funds to a city or county from its formula-based share of Local Street and Road funds to finance a project which is prohibited from receiving funding under Section 9 of Commission Ordinance 87-1 or Section 8 of Ordinance 04-01 if the following terms and conditions are met.

1. A finding is made by the Commission that absent private sector funding, the project would be an eligible street and road project.
2. The City or County agrees to enter into an agreement to repay the loan plus interest (at a rate determined by the Commission) prior to the termination of the sales tax in accordance with Section 3 of Commission Ordinance 87-1 or Section 3 of Ordinance 04-01.
3. That the City or County agrees to guarantee repayment of the loan if private developer funding is determined to be inadequate to repay the loan prior to termination of the sales tax.

RulePolicy # 3: Reimbursement of Local Funds to Advance Approved Projects

Adoption Date: May 27, 1988 (Resolution RC88-6)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: A city or county may advance improvements on a project(s) which is included in the approved transportation sales tax Program of Projects with local agency funds (other than private developer funds as set forth in Section 9 of Ordinance 87-1 or Section 8 of Ordinance 04-01) prior to sales tax funds being available and receive reimbursement including interest from sales tax funds if it is determined by the Commission that the following terms and conditions are met.

1. The project(s) is included in the approved transportation sales tax Program of Projects, and no other financing technique is found to be more desirable or cost effective to utilize in order to advance the improvement.
2. The city or county shall be reimbursed for the local funds expended as soon as sales tax funds become available, or on a schedule agreed to between the local agency and the Commission.
3. That no more than 30 percent of the funds will be used for maintenance projects if the funds are borrowed from *TransNet* revenues pursuant to Section 2(C)(1) of Ordinance 04-01.

RulePolicy #4: SR 78 Corridor Reserve Fund Allocation Policies

Adoption Date: Originally Adopted May 26, 1989 (Resolution R-89-82)
Wording changed December 14, 1990 (Resolution RC91-10)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: For purposes of allocating funds under Section 2(a)(3) in Ordinance 87-1:

1. Only those projects designated as "funded" on the SR 78 Corridor project list approved on December 13, 1990 by the SR 78 Corridor Policy Committee are eligible to receive SR 78 Corridor Reserve Funds.
2. The list of SR 78 Corridor projects and their priority and funding eligibility may be revised by a majority vote of the SR 78 Corridor Policy Committee and the approval of the Board of Directors.
3. The basic contribution for a non-Caltrans project on the SR 78 Corridor Reserve funded list is 50 percent of the estimated right-of-way, engineering, and construction costs. However, the total amount of Corridor Reserve Funds designated for projects within one jurisdiction may be allocated to vary from the basic 50 percent for any given project as long as the cumulative total for programmed projects at any point in time does not exceed 50 percent.

4. The basic contribution for a Caltrans project on the SR 78 Corridor Reserve funded list is 100 percent of the estimated right-of-way, engineering, and construction costs.
5. Contributions from the SR 78 Corridor Reserve Fund to any one jurisdiction cannot exceed 50 percent (100 percent for Caltrans) of the project cost estimates shown on the approved funded list of December 13, 1990. If actual project costs are less than estimated, a maximum contribution of 50 percent (100 percent for Caltrans) of the new costs shall be in effect.
6. A project that for any reason is removed from the funded list can only be replaced by the next highest ranked unfunded project (or projects), regardless of jurisdiction and only if the funded list of projects does not exceed the total Corridor Reserve dollars available. As with other funded projects, Corridor Reserve funds can only be used to improve the replacement project(s) to minimal four-lane standards (six lanes at freeway interchanges).

Added June 22, 1990 (Resolution RC90-40):

7. SR 78 Corridor Reserve funds for right-of-way will not be encumbered until a project has environmental clearance and the first 25 percent of the total value of the right-of-way is acquired. When a total of 75 percent of the right-of-way has been acquired, the construction funds will be encumbered at the request of the agency.

Added December 14, 1990 (Resolution RC91-10):

8. All agencies submitting projects from the SR 78 Corridor Funded Project List for programming are encouraged to pursue matching funds from the State's SB 300 program.

Added February 22, 1991 (Resolution RC91-13):

9. Any new source of state highway funds for the San Diego region should be considered for allocation to the *TransNet* SR 78 Corridor Reserve to offset local funds which were used for projects which are normally the responsibility of the State, such as freeway-freeway interchange improvements and ramp metering systems.

RulePolicy # 5: Use of Local Street and Road *TransNet* Funds for the Development of Transportation Demand Management Programs

Adoption Date: August 25, 1989 (Resolution RC90-23)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: The development and implementation of a Transportation Demand Management Program shall be an eligible use of Local Street and Road funds pursuant to Section 19(E) of Ordinance 87-1 and Section 21(c) of Ordinance 04-01. Transportation Demand Management shall mean a comprehensive set of strategies designed to influence travel behavior with respect to mode, time, frequency, route, or distance in order to improve the efficiency and effectiveness of local streets and roads. Principal strategy measures involve, but are not limited to, ridesharing, alternative work hours, and parking management.

RulePolicy # 6: Fund Accounting and Interest Allocation

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: For the purposes of determining compliance with Section 12 of Ordinance 87-1 and Section 13 of Ordinance 04-01, each agency shall maintain a separate fund (fund accounting) for *TransNet* revenues, if possible. Where the creation of a separate fund is not possible due to accounting methodology used by the agency, an alternative approach to maintaining separate accountability for *TransNet* revenue and expenditures must be developed and submitted to the Commission staff for concurrence. Interest earned on *TransNet* revenues received by the agency must be allocated to the *TransNet* fund and used only for projects approved by the Commission in the Program of Projects. For accounting purposes, the interest earnings shall be considered to be expended first. Further, the Ordinances allow the agencies to retain any unused *TransNet* funds. Interest accrued should be applied to each active project that carries an outstanding balance. The agency can determine the method of the interest distribution to be validated by the audit.

RulePolicy # 7: Program of Projects Approval Process and Amendments

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendments: Amended at November 18, 2005, and December 15, 2006 Board Meetings.

Text: Each local agency shall develop a five-year list of projects to be funded with *TransNet* revenues under Section 2D of Ordinance 87-1 and Section 4D of Ordinance 04-01 in accordance with the Regional Transportation Improvement Program (RTIP) update schedule. All projects a local agency wishes to include in its Program of Projects must be consistent with the Regional Transportation Plan and approved by the Commission for inclusion in the RTIP. A local agency's projects shall not receive Commission approval until the Commission receives a resolution from the local agency that documents that the local

agency held a clearly noticed public hearing regarding the proposed list of projects prior to approval by the local agency's legislative body of the projects. The language that must be included in the resolution and the deadlines for submission shall be prescribed by the Commission. The resolution shall contain the provisions set forth in Rule #15.

A Program of Projects amendment shall be initiated when a local agency desires to add a new project to the approved Program of Projects, to ~~drop~~ delete an approved project in its entirety, or to change the *TransNet* funds programmed for a project by \$2 million or 10 percent of total project, whichever is less. Projects proposed in the amendment must have been approved by the governing body of the local agency within the preceding 12 months. The local agency shall initiate the amendment process by holding a clearly noticed public hearing and submitting a resolution using the language and deadlines prescribed by the Commission as documentation of governing body approval. The amendment must be approved by the Commission prior to the expenditure of funds on the new or amended projects.

RulePolicy # 8: Determination of New Transit Services

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy Text: For the purpose of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the level of service provided in FY 1988 shall be considered at the base level of service in existence prior to the availability of *TransNet* revenues which must be maintained through other funding sources. Compliance with the "new" service requirement shall be determined using the following procedure:

1. Determine the number of vehicle service miles operated during the fiscal year using *TransNet* revenues for any given operator by dividing the *TransNet* revenues for operations by the total systemwide operating cost for that operator and multiplying the total vehicle service miles operated by the quotient.
2. Subtract the number of miles determined in Step 1 from the total system vehicle service miles operated during the year.
3. If the adjusted number of miles from Step 2 is greater than or equal to they FY 1988 base level, then the compliance test is met.
4. The attached table of base statistics from FY 1988 (Attachment 1) will be used to determine compliance. These figures reflect all publicly funded operators within the MTDB (MTS) and NSDCTDB-North County Transit District (NCTD) service areas (Articles 4, 4.5, and 8) because *TransNet* revenues could potentially be used by the operators to fund service improvements on any of these systems.

RulePolicy # 9: Use of *TransNet* Revenue for Bus Purchases

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: *TransNet* revenues may be used to support the purchase of buses required to operate new services funded with *TransNet* revenues. The number of buses which can be purchased with *TransNet* revenues shall be determined using the following procedures.

1. Determine the number of annual new vehicle service miles service being operated in accordance with [RulePolicy](#) Number 8 – Determination of New Transit Services.
2. Divide the number of new miles of service by the systemwide average annual vehicle services miles per bus for a given operator to determine the equivalent number of buses required to operate the new service. Round up to the nearest whole number of bus equivalents.

The *TransNet* revenues used for bus purchases shall come out of the revenues available under Section 4(B)(2)(c) of Ordinance 87-1. The use of *TransNet* revenues for bus purchases shall be used to the maximum extent possible as matching funds for available state and federal capital funds. If, at some point in the future, the number of buses purchased with *TransNet* revenues cannot be justified based on the number of new miles being operated with *TransNet* revenues, then a pro-rated reimbursement to the *TransNet* fund will be required based on the remaining useful life of the vehicles. *TransNet* revenues may not be used to support the purchase of replacement buses for the “existing” (FY 1988) level of service. Any buses purchases with *TransNet* revenues will remain under the ownership of MTDB (MTS) or ~~NSDCTDB (NCTD)~~ and be made available to the operator chosen to operate the new services.

RulePolicy #10: Use of *TransNet* Revenues to Replace Reduced State and Federal Operating Support

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: For purposes of determining compliance with Section 4(B)(2)(c) of Ordinance 87-1, the maximum amount of *TransNet* funds that MTDB (MTS) or ~~NSDCTDB (NCTD)~~ are eligible to use to replace federal funds in a given year is equal to the FY 1987 base year levels of federal and state operating support (\$6,113,307 for MTS and \$2,511,816 for NCTD) less the amount of state and federal operating support available in that year. The priority on the use of funds under this section is to provide new service improvements. MTS and NCTD are encouraged to use other available revenues, such as Transportation Development Act (TDA) funds, to offset reductions in state and federal funds, if possible, and to use *TransNet* funds under these sections for new service improvements.

RulePolicy #11: Use of *TransNet* Revenues for Transportation Services for Seniors and the Disabled

Adoption Date: March 23, 1990 (Resolution RC90-35)

Amendment: Amended at November 18, 2005, Board Meeting

Policy-Text: The funds made available under Section 4(B)(1) of Ordinance 87-1 or Section 4(c)(1) of Ordinance 04-01 for improved transportation services for seniors and the disabled shall be used to augment the revenues made available under the Transportation Development Act (TDA) Article 4.5 program for the same purposes. These *TransNet* funds shall be allocated to eligible service providers using the fund distribution formula approved by the SANDAG Board of Directors for use in distributing the TDA Article 4.5 funds. For accounting purposes, following the expenditure of fare revenues and other local and other local operating revenues, the interest earnings on the *TransNet* and TDA funds shall be considered to be spent first, followed by the *TransNet* funds, then the TDA funds.

RulePolicy #12: Use of *TransNet* Revenues for Accessibility Improvements

Adoption Date: March 23, 1990 (Resolution RC90-35)

Policy-Text: In the development of *TransNet*-funded local street and road projects, local jurisdictions may include, within the street right-of-way, improvements to enhance accessibility to the transportation system, including, but not limited to, accessibility improvements to bus stop areas.

PolicyRule #13: Investments-Policy

Adoption Date: July 27, 1990 (Resolution RC91-2)

Amendment: Repealed at November 18, 2005, Board Meeting. This rulepolicy has been superseded by the Annual Investment Policy Update (see Resolution No. 2006-06 approved at the September 23, 2005, SANDAG Board of Directors meeting).

RulePolicy #14: Capital Equipment Acquisition Loans to SANDAG

Adoption Date: November 16, 1990 (Resolution RC91-6)

Policy-Text: The loan of unused administrative allocations from *TransNet* funds to SANDAG for the purpose of acquiring office and computer equipment is authorized when lower cost financing is not available. The repayment schedule shall be based upon funding authorized in the SANDAG-approved budget and will include interest at a rate equal to the interest earning rate of the San Diego County Pooled Money Fund.

RulePolicy #15: Local Agency Hold Harmless Agreements

Adoption Date: October 25, 1992 (Resolution RC92-7)

Policy-Text: Each local agency shall be required to hold harmless and defend the Commission against challenges related to local *TransNet* projects. This [rulepolicy](#) is to be implemented by requiring that each local agency agree in its resolution approving its projects for *TransNet* funding to hold the Commission harmless.

RulePolicy #16: Repayment of Commercial Paper Program Proceeds

Adoption Date: September 23, 2005

Amendment: Amended at November 18, 2005, Board Meeting.

Policy-Text: Each agency receiving proceeds from the *TransNet* Commercial Paper Program shall be responsible for its proportionate share of the ongoing interest and related administrative costs from the date the proceeds are received until the principal amount of the loan is fully repaid. Repayment of the principal amount shall commence within three years of the agency's receipt of the proceeds and shall be completed within five years of the agency's receipt of the proceeds. Repayment of the proceeds may be accomplished by rolling the outstanding amount into a long-term bond issue during the five-year repayment period. In such cases, the agency would then be responsible for its proportionate share of the bond issuance costs and annual debt service costs. The repayment of debt, in all cases, is the first priority on the use of the agency's share of annual *TransNet* revenues.

RulePolicy #17: Fiscal and Compliance Audits

Adoption Date: November 18, 2005

Policy-Text: I. Fiscal and Compliance Audit Procedures

The fiscal and compliance audit is an essential tool to determine that *TransNet* funds are being used for the intended purposes. The Commission has the fiduciary responsibility to ensure that the public funds are used in accordance with the *TransNet* Ordinance and Expenditure Plan. In order to complete the audits in a timely manner, SANDAG proposes the following:

- A. July/August: SANDAG meets with the auditors to review the audits required for the year and provide all necessary documentation/information for the auditors to begin work.
- B. September to November: Auditors schedule site visits. Recipient agencies must be ready and available to meet with the auditors and provide requested financial schedules and other information necessary for the completion of the audit.
- C. November/December: Auditors issue draft reports to both SANDAG and the agencies. The agencies must be available to review and comment on the draft report in a timely manner. All outstanding issues should be resolved within four weeks.

D. December/January: Auditors issue the final reports. If there are outstanding issues, those should be resolved so that the audit is completed no later than March.

SANDAG Responsibility: SANDAG will provide all information necessary to complete the audit.

Agency Responsibility: All agencies must be ready for the site visit, provide requested information, and review and comment on the draft reports in a timely manner.

If the auditor is unable to complete the audit because an agency was not ready or did not provide the required information or reviews in a timely manner, then the agency will be deemed in noncompliance of the Ordinance. SANDAG will withhold future *TransNet* payments (except for required debt service payments) until the audit is completed.

The Ordinance states that the Commission:

[S]hall not allocate any revenues...to any eligible local agency in any fiscal year until that local agency has certified to the Commission that it will include in its budget for that fiscal year an amount of local discretionary funding for street and roads purposes at least equal to the minimum maintenance of effort requirement. An annual independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirement in any given year shall have its funding reduced in the following year by the amount by which the agency did not meet its required Maintenance of Effort level. Any local street and road revenues not allocated pursuant to the Maintenance of Effort requirement shall be redistributed to the remaining eligible agencies according to the formula described in [the Ordinance].

Although there are no specific MOE requirements for the highway, transit, or other discretionary programs, the verification of fund usage is essential. Therefore, the withholding of *TransNet* fund payments applies to all agencies that do not have a completed audit.

II. Exceptions

SANDAG acknowledges the existence of unforeseen circumstances which may prevent an audit from completion. Should situations warrant an extension, the agencies must submit a request for an extension to be considered by the SANDAG Transportation Committee, including an explanation of the situation and specific timelines for completion of the audit.

III. Audit Adjustments

Specific Project Funding/Discretionary Programs

This section applies to funding allocated for the specified projects under the Highway and Transit Programs under Ordinance 87-1, including funding allocated for bicycle facility improvements. Under the *TransNet* Extension

(Ordinance 04-01), this section applies to the Major Corridor funding – Section 4(A) and (B) and the four discretionary programs: (1) Transit Senior program – Section 4(C)(2); (2) Local Environmental Mitigation program – Section 4(D)(2); (3) Local Smart Growth Incentive program – Section 4(D)(3); and (4) Bicycle, Pedestrian, and Neighborhood Safety Program – Section 2(E).

After the projects are completed and there are funds remaining, the agency is required to return the money to the program. After the fiscal audit determines that the project has been completed, SANDAG will transmit a letter to the agency to return the funds to SANDAG. The agency must remit the balance within 60 days of the letter. Should an agency fail to respond in a timely manner, all future *TransNet* payments (including funds from the other programs) to that agency will be suspended until the funds are returned.

Local Street and Road Formula Program (Section 4(C) of Ordinance 87-1 and Section 4(D)(1) of Ordinance 04-01) and Transit Funding (Section 4(B) of Ordinance 87-1 and Sections 4(C)(1), 4(C)(3), and 4(C)(4) of Ordinance 04-01).

The audit identifies the status of each project funded with *TransNet* funds – i.e., completed projects, projects that have negative balances, inactive projects, and ongoing projects. The agencies are responsible to work with the auditors to make proper adjustments as follows:

Completed projects: once a project is identified as completed and there are *TransNet* funds remaining with that project, the agency is required to transfer the balance to another *TransNet*-eligible project (any project included in the approved Program of Projects). The audit should make note to which project the funds will be transferred. Completed projects should no longer show in the following year's audit.

Projects with negative balances: an ongoing project or a completed project may have expended all the *TransNet* funds but the agency decided to augment with other funds. In this case, the project should show zero balance for the amount of *TransNet* expended rather than showing a negative balance. If the project is completed, then it should no longer show in the following year's audit. If the project is ongoing and the agency intends to backfill the project with the following year's *TransNet* funds, then it should be noted in the audit. However, this practice is discouraged as it will throw off the MOE calculation.

Inactive projects: if a project has had no activity over a period of two audits, the agency must either close out the project or note when the project will be completed. These projects should no longer show in the following year's audit. Any remaining *TransNet* funds must be transferred to another *TransNet*-eligible project.

IV. Local Agency Balance Limitations

Based on the audit, an agency that maintains a balance of more than 30 percent of ~~their~~ its annual apportionment (after debt service payments) must use the remaining balance to fund projects. SANDAG will defer payment until the unused balances fall below the 30 percent threshold.

Rule #18:

Adoption Date: June 23, 2006

Text: As specified in Section 2(C)(1) of the Ordinance 04-01, at least **70 percent** of the revenues provided for local street and road purposes should be used for congestion relief purposes and no more than **30 percent** for maintenance purposes. Attachment 2 provides a set of guidelines to be used in the implementation of this new requirement beginning with the 2006 Regional Transportation Improvement Program (RTIP) update. These guidelines apply to the programming of all available local *TransNet* funding (annual formula funds and prior year carry-over balances) beginning with July 1, 2008 (Fiscal Year 2008-09).

Rule #19: Conflict of Interest for ITOC Representatives

Adoption Date: December 15, 2006

Policy Text: The Board intends to make every effort to ensure the representatives selected to serve on the Independent Taxpayers Oversight Committee (ITOC) are free from any bias that would interfere with objective decision making by the ITOC. The Conflict of Interest section of the "Statement of Understanding Regarding the Implementation of the Independent Taxpayer Oversight Committee for the *TransNet* Program," which is part of the *TransNet* Extension Ordinance, states in part: "ITOC members shall not have direct commercial interest or employment with any public or private entity, which receives *TransNet* sales tax funds authorized by this Ordinance." The Board interprets this language to impose the same level of restrictions on the ITOC representatives as those that apply to SANDAG Board members pursuant to California state law found at Government Code sections 87100 *et seq.* and 1090 *et seq.*

Attachments: 1. FY 1988 Base Year Statistics
2. SANDAG Board Item No. 12, June 23, 2006

Attachment 1

FY 1988 Base Year Statistics

(for use in *TransNet* Ordinance [RulePolicy #8](#))

Metropolitan Transit Development Board (MTS) Area

Fund Source	Operator/Service	Vehicle
		Service Miles
Article 4.0	Chula Vista Transit	559,734
	National City Transit	276,303
	County Transit System:	
	▪ Suburban Service	646,904
	▪ Rural Bus	170,953
	▪ Poway Fixed Route	313,425
	San Diego Transit	10,473,323
	San Diego Trolley	1,033,084
	Strand Express Agency	400,738
	Total	13,874,464
Article 8	County Transit System:	
	▪ Express Bus	189,276
	Total	189,276
Article 4.0 Dial-A-Ride	El Cajon Express	308,331
	La Mesa Dial-A-Ride	251,516
	Lemon Grove Dial-A-Ride	62,090
	County Transit System:	
	▪ Poway Dial-A-Ride	23,030
	▪ Poway Airporter	103,925
	▪ Spring Valley Dial-A-Ride	73,298
	San Diego Transit DART	309,370
	Total	1,131,560
Article 4.5	Chula Vista Handytrans	128,807
	County Transit System – WHEELS	219,906
	National City Wheels	15,159
	Poway Call-A-Ride	60,156
	San Diego Dial-A-Ride	1,149,541
	Total	1,573,623

MTDB (MTS) Area Total	16,768,923
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North San Diego County Transit Development Board District

Fund Source	Operator/Service	Vehicle
		Service Miles
Article 4.0	NCTD Fixed Route	7,651,408
	NCTD FAST	126,744
	Total	7,778,152
Article 4.5	NCTD Lifeline	386,680
	Total	386,680

NSDCTDB (NCTD) Area Total	8,164,832
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REGIONAL TOTAL	24,933,755
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Adopted: February, April, and May 1988; August 1989; March, July, and November 1990; October 1992; September and November 2005

Amended: June and December 1990; February 1991; November 2005

TransNet Local Street and Road Program
TransNet Ordinance and Expenditure Plan Implementation Guidelines
 June 23, 2006

The *TransNet* Ordinance requires that at least 70 percent of the revenues provided for local street and road purposes should be used to fund direct expenditures for facilities contributing to congestion relief. No more than 30 percent of these funds should be used for local street and road maintenance purposes. The required multi-year Regional Transportation Improvement Program (RTIP) project lists submitted by local agencies that are found to be out of compliance with this requirement will not be approved. Local agencies may request an exception to this requirement and must provide justification for such a request as part of its project list submittal.

The following table categorizes and lists the more typical types of facilities that are considered to contribute to congestion relief. For other facilities not listed, it must be demonstrated that congestion relief can be obtained before the project can be considered part of the 70 percent Congestion Relief category. Maintenance costs of items listed in the 70 percent Congestion Relief category are eligible under the 30 percent category. Facilities that are not considered to contribute to congestion relief (Items 28-30) are eligible under the 30 percent category.

Congestion Relief (At least 70%)	Maintenance and Non-Congestion Relief (No more than 30%)
<p>New or Expanded Facilities</p> <ol style="list-style-type: none"> 1. New roadways and bridges 2. Roadway and bridge widening 3. Roadway widening for bike lanes <p>Major Rehabilitation and Reconstruction</p> <ol style="list-style-type: none"> 4. Roadway rehabilitation (grinding and overlay, or new structural pavement, or new overlay 1-inch thick or greater) 5. Roadway realignment 6. Bridge retrofit or replacement 7. Roadway drainage improvements for the purpose of improving capacity-impeding conditions such as significant and frequent roadway flooding 8. New sidewalk or sidewalk widening <p>Traffic Operations</p> <ol style="list-style-type: none"> 9. Median installation for safety improvement or left-turn movement 10. New traffic signal, passive permissive left turn (PPLT) installation, signal removal for congestion relief reasons, traffic signal upgrades, intersection lighting 11. Traffic signal coordination 12. Traffic signal interconnection 	<ul style="list-style-type: none"> ▪ Lane removal for bike lanes ▪ Pavement overlay (less than 1 inch) ▪ Pot hole repair, chip seal, fog seal, crack seal (except when part of roadway rehabilitation project) ▪ Roadway realignment that does not increase roadway capacity ▪ Bridge replacement for aesthetic purposes ▪ Minor drainage improvements not part of a congestion relief project ▪ Stand alone landscaping project of an existing median ▪ Traffic signal replacement, bulb replacement, hardware, software, inductive loop repair

Congestion Relief (At least 70%)	Maintenance and Non-Congestion Relief (No more than 30%)
<p>13. Centrally controlled traffic signal optimization system</p> <p>14. Traffic surveillance or detection system (video)</p> <p>15. Traffic data collection system for performance monitoring purposes (in pavement detection, radar)</p> <p>Smart Growth-Related Infrastructure*</p> <p>16. Traffic calming measures</p> <p>17. Pedestrian ramps</p> <p>18. Pedestrian traffic signal activation</p> <p>19. Pedestrian crossings/overcrossings</p> <p>20. Buffer area between sidewalk and street</p> <p>21. Pedestrian roadway lighting</p> <p>Transit Facilities</p> <p>22. New bus stops</p> <p>23. Bus stop enhancements</p> <p>24. Bus-only lanes</p> <p>25. Queue jumper lanes for buses</p> <p>26. Traffic signal priority measures for buses</p> <p>27. Transit operational costs for shuttle and circulator routes</p>	<ul style="list-style-type: none"> ▪ Light bulb replacement ▪ Bus-only lanes that do not provide congestion relief <p>Non-Congestion Relief</p> <p>28. Erosion control (unless required as part of a congestion relief project)</p> <p>29. Landscaping (unless required as part of a congestion relief project)</p> <p>30. Roadway signing and delineation (unless it is a congestion relief project)</p>

Note: Staff costs for congestion relief project development (environmental, preliminary engineering, design, right-of-way acquisition, and construction management) are eligible expenditures under the 70 percent category. Staff costs for transportation infrastructure maintenance or traffic operations efforts are eligible under the 30 percent category. Costs for general *TransNet* fund administration and transportation planning are eligible up to 1 percent of annual revenues.

* To receive credit for providing congestion relief under the 70 percent category, smart growth-related infrastructure must be provided in one of the existing or planned (not potential) seven Regional Comprehensive Plan smart growth land use type characteristic areas: Metropolitan Center, Urban Center, Town Center, Community Center, Transit Corridor, Special Use Center, or Rural Community. Smart growth-related infrastructure built outside of one of the seven types of characteristic areas is eligible under the 30 percent category.