



Executive Committee Agenda

Friday, April 11, 2025
9 a.m.

Welcome to SANDAG. The Executive Committee meeting scheduled for Friday, April 11, 2025, will be held in person in the SANDAG Board Room. While Executive Committee members will attend in person, members of the public will have the option of participating either in person or virtually.

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Persons who wish to address the members on an item to be considered at this meeting, or on non-agendized issues, may email comments to the Clerk at clerkoftheboard@sandag.org (please reference Executive Committee meeting in your subject line and identify the item number(s) to which your comments pertain). Comments received by 4 p.m. the business day before the meeting will be provided to members prior to the meeting. All comments received prior to the close of the meeting will be made part of the meeting record.

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Vision Statement: *Pursuing a brighter future for all*

Mission Statement: *We are the regional agency that connects people, places, and innovative ideas by implementing solutions with our unique and diverse communities.*

Our Commitment to Equity: *We hold ourselves accountable to the communities we serve. We acknowledge we have much to learn and much to change; and we firmly uphold equity and inclusion for every person in the San Diego region. This includes historically underserved, systemically marginalized groups impacted by actions and inactions at all levels of our government and society.*

We have an obligation to eliminate disparities and ensure that safe, healthy, accessible, and inclusive opportunities are available to everyone. The SANDAG equity action plan will inform how we plan, prioritize, fund, and build projects and programs; frame how we work with our communities; define how we recruit and develop our employees; guide our efforts to conduct unbiased research and interpret data; and set expectations for companies and stakeholders that work with us.

We are committed to creating a San Diego region where every person who visits, works, and lives can thrive.



Executive Committee

MEMBERSHIP

The Executive Committee is composed of elected officials responsible for setting the monthly SANDAG Board of Directors agenda, reviewing grant applications, reviewing legislative proposals, preparing the Overall Work Program and Budget, and providing direction to staff in preparing items for Board consideration. The Executive Committee consists of six voting members representing East County, North County Coastal, North County Inland, South County, the City of San Diego, and the San Diego County Board of Supervisors. The SANDAG Chair is one of the six voting members. The SANDAG Vice Chair also is on the Executive Committee, as long as he/she represents an area of the region that is different from the area of the region represented by the Chair.

The Executive Committee generally meets at 9 a.m., on the second Friday of the month.

Staff contact: Ariana Galvan, (619) 699-1977, ariana.galvan@sandag.org

MEMBERS

Vacant

Supervisor, County of San Diego

Joe LaCava, Vice Chair

Council President, City of San Diego

Lesa Heebner, Chair

Mayor, City of Solana Beach
(Representing North County Coastal)

Rebecca Jones

Mayor, City of San Marcos
(Representing North County Inland)

John Minto, 2nd Vice Chair

Mayor, City of Santee
(Representing East County)

John Duncan

Mayor, City of Coronado
(Representing South County)

EX-OFFICIO MEMBERS

David Zito

Councilmember, City of Solana Beach
(Chair, Transportation Committee)

Ed Musgrove

Councilmember, City of San Marcos
(Chair, Public Safety Committee)

Carolina Chavez

Councilmember, City of Chula Vista
(Chair, Borders Committee)

Jack Fisher

Councilmember, City of Imperial Beach
(Chair, Audit Committee)

Carrie Anne Downey

Councilmember, City of Coronado
(Chair, Regional Planning Committee)

ALTERNATES

Monica Montgomery-Steppe

Supervisor, County of San Diego

Vivian Moreno

Councilmember, City of San Diego

Sean Elo-Rivera

Councilmember, City of San Diego

Esther Sanchez

Mayor, City of Oceanside
(Representing North County Coastal)

Steve Vaus

Mayor, City of Poway
(Representing North County Inland)

Alysson Snow

Mayor, City of Lemon Grove
(Representing East County)

Luz Molina

Councilmember, City of National City
(Representing South County)

Executive Committee

Friday, April 11, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Executive Committee on any issue within the jurisdiction of the Executive Committee that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Executive Committee members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Approve

Francesca Webb, SANDAG

The Executive Committee is asked to approve the minutes from its March 14, 2025, meeting.

[Meeting Minutes](#)

+3. Legislative Status Report

Approve

Ryan Williams, Jose Alvarez, Hector Vanegas, SANDAG

The Executive Committee is asked to take “support” positions on Senate Bill 233 (Seyarto) and Assembly Bill 334 (Pietre-Norris).

[Legislative Status Report](#)

[Att. 1 - State Report from Ellison Wilson Advocacy, LLC.](#)

[Att. 2 - Federal Report from Peter Peyser Associates, LLC](#)

[Att. 3 - Senate Bill 233 \(Seyarto\)](#)

[Att. 4 - Assembly Bill 334 \(Pietre-Norris\)](#)

[Att. 5 - March Border Report](#)

+4. Review of Draft Board Agendas

Approve

Ariana Galvan, SANDAG

The Executive Committee is asked to approve the draft agendas for the April 25, 2025, and May 9, 2025, Board of Directors meetings. A report about the 2025 Board Retreat is also provided for review.

[2025 Board of Directors Retreat Overview](#)

[4A - Draft Board Agenda 04.25.25](#)

[4B - Draft Board Agenda 05.09.25](#)

Reports

+5. Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings and Related Recommendations

Discussion/Possible
Action

Julie Wiley, SANDAG

The Executive Committee is asked to provide feedback on amendments to

SANDAG board policies proposed to address findings and recommendations from OIPA audits and investigation outcomes from 2024.

[Proposed Amendments to Board Policies](#)

[Att. 1 - Proposed Board Policy No. 011 with Redline Changes](#)

[Att. 2A - Proposed Board Policy No. 016 with Redline Changes](#)

[Att. 2B - Proposed Board Policy No. 023 with Redline Changes](#)

[Att. 2C - Proposed Board Policy No. 024 with Redline Changes](#)

[Att. 3 - Proposed Board Policy No. 017 with Redline Changes](#)

[Presentation](#)

Adjournment

6. Adjournment

The next meeting of the Executive Committee is scheduled for Friday, May 9, 2025, at 9 a.m.

+ next to an agenda item indicates an attachment

April 11, 2025

March 14, 2025, Meeting Minutes

[View Meeting Video](#)

Vice Chair Joe LaCava (City of San Diego) called the meeting of the Executive Committee to order at 9:01 a.m.

Vice Chair LaCava deferred Item 6A – Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings to the next Executive Committee meeting.

1. Public Comments/Communications/Member Comments

Public Comments: Michael Brando, Purita Javier, Cesar Javier, Truth, Allegedly Audra, Mark, Katheryn Rhodes, Paul the Bold, Consuelo.

Member Comments: None.

Consent

2. Approval of Meeting Minutes

The Executive Committee was asked to approve the minutes from its February 14, 2025, meeting.

3. Review of Draft Board Agendas

The Executive Committee was asked to approve the draft agendas for the March 28, 2025, and April 11, 2025, Board of Directors meetings.

4. Legislative Status Report

This report provided an update on SANDAG legislative and policy activities.

Public Comments: Truth, Mark, Allegedly Audra, Gambler, Cesar Javier, Paul the Bold.

Action: Upon a motion by Second Vice Chair John Minto (East County), and a second by Mayor Esther Sanchez (North County Coastal), the Executive Committee voted to approve the Consent Agenda.

The motion passed.

Yes: Vice Chair Joe LaCava, Second Vice Chair Minto, Mayor Sanchez, Mayor Rebecca Jones (North County Inland), and Mayor John Duncan (South County).

No: None.

Abstain: None.

Absent: County of San Diego.

Reports

5. Draft FY 2026 SANDAG Program Budget

The Executive Committee was asked to consider the Draft FY 2026 Program Budget.

Public Comments: Truth, Mark, Guadalupe Rojas, Allegedly Audra, Cesar Javier, Katheryn Rhodes, Paul the Bold, Blair Beekman, Consuelo.

Action: Upon a motion by Mayor Sanchez and a second by Mayor Jones, the Executive Committee 1) authorized distribution of the Draft FY 2026 Program Budget to member agencies and other interested

parties for review and comment; and 2) recommended that the Board of Directors approve the Draft FY 2026 Draft Program Budget.

The motion passed.

Yes: Vice Chair LaCava, Second Vice Chair Minto, Mayor Sanchez, Mayor Jones, and Mayor Duncan.

No: None.

Abstain: None.

Absent: County of San Diego.

Items 6A and 6B were deferred to a future Executive Committee meeting to avoid delaying the Board of Directors meeting scheduled to begin at 10:30 a.m.

6. Proposed Board Policy Amendments

6A. Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings and Related Recommendations

6B. Proposed Amendments to Board Policy No. 008 and General Counsel Hiring Options

Adjournment

7. Adjournment

The next meeting of the Executive Committee is scheduled for Friday, April 11, 2025, at 9 a.m.

Vice Chair LaCava adjourned the meeting at 10:29 a.m.

Confirmed Attendance at Executive Committee Meeting

March 14, 2025

Jurisdiction	Name	Member/ Alternate	Attend
City of San Diego	Council President Joe LaCava, Vice Chair	Primary	Yes
	Councilmember Vivian Moreno	Alternate	No
	Councilmember Sean Elo-Rivero	Alternate	No
County of San Diego	Vacant	Primary	
	Supervisor Monica Montgomery Steppe	Alternate	No
East County	Mayor John Minto, 2nd Vice Chair	Primary	Yes
	Mayor Alysson Snow	Alternate	No
North County Coastal	Mayor Lesa Heebner, Chair	Primary	No
	Mayor Esther Sanchez	Alternate	Yes
North County Inland	Mayor Rebecca Jones	Primary	Yes
	Mayor Steve Vaus	Alternate	Yes
South County	Mayor John Duncan	Primary	Yes
	Councilmember Luz Molina	Alternate	No
Ex-Officio Members	Name		Attend
Chair, Transportation Committee	Councilmember David Zito		No
Chair, Public Safety Committee	Councilmember Ed Musgrove		No
Chair, Borders Committee	Deputy Mayor Carolina Chavez		No
Chair, Audit Committee	Councilmember Jack Fisher		No
Chair, Regional Planning Committee	Councilmember Carrie Anne Downey		Yes

April 11, 2025

Legislative Status Report

Overview

The San Diego Association of Governments (SANDAG) legislative team brings forward bills that advance SANDAG priorities and projects and align with SANDAG's Legislative Program.

Action: **Approve**

The Executive Committee is asked to take "support" positions on Senate Bill 233 (Seyarto) and Assembly Bill 334 (Pietre-Norris).

Key Considerations

SANDAG staff is recommending a "support" position on Senate Bill 233 (Seyarto) and Assembly Bill 334 (Pietre-Norris). Support of a bill means that SANDAG and its advocates will work to pursue passage of the legislation through letters of support, participation in hearings, and related activities. Staff will also present legislative updates on key legislation of interest to the agency.

Fiscal Impact:

None.

Schedule/Scope Impact:

None.

Senate Bill 233 (Seyarto): **Regional housing need: determination: consultation with councils of governments**

This bill, by Senator Kelly Seyarto from Temecula, would require the California Department of Housing and Community Development (HCD) to meet and consult with councils of governments (COGs) at least 38 months ahead of the next scheduled revision of the housing element, beginning with Cycle 7, and subsequent cycles. While existing law requires HCD to consult with COGs at least 26 months prior to the housing element revision due date, HCD often meets with COGs earlier in the process. For example, for the 6th cycle timelines associated with the Regional Housing Needs Determination (RHND) process, HCD met with the Association of Bay Area Governments (ABAG) and SANDAG 38 months before the housing element review due date. Similarly, HCD consulted with the Southern California Association of Governments (SCAG) 36 months ahead of the housing element revision for the 6th cycle.

SANDAG staff is recommending a "support" position as this bill would codify a 38-month lead time for COG consultation into state law and ensure all future HCD consultation processes provide sufficient time for coordination with COGs ahead of housing element revisions. This action acknowledges that the increasing mandates on regional governments to plan for housing and on local jurisdictions to comply with housing element law requires a thorough consultation process.

This bill aligns with SANDAG's Legislative Program Goal 23 to lead efforts to pursue legislative and/or administrative reform of the Regional Housing Needs Assessment (RHNA) process and state housing element law. It also supports SANDAG Board of Directors' RHNA principle of calling for greater transparency in the RHNA/RHND process, as well as our request for prompt guidance and increased transparency on upcoming changes to the RHNA process, as outlined by SANDAG's letter to the California Legislature and the HCD from October 25th, 2024.

Assembly Bill 334 (Pietre-Norris): [Operators of toll facilities: interoperability programs: vehicle information](#)

This bill, by Assemblywoman Pietre-Norris of Irvine, would authorize operators of toll facilities on federal-aid highways participating in an interstate interoperability program to share only the data necessary to facilitate such interoperability. Under current in-state interoperability practices, California tolling agencies exchange information limited to: license plate numbers, transponder identification numbers, transaction date and time, and the identity of the operating agency. This framework enables motorists to use FasTrak transponders across multiple toll facilities while maintaining a single home account, and it allows for accurate revenue collection and distribution among participating agencies. However, existing state law restricts the sharing of certain toll data that may be essential for enabling nationwide interoperability, rendering such interoperability impractical within California.

Staff is recommending a “support” position as this bill addresses the aforementioned limitations in state law by allowing toll facility operators to share only the essential data required for interstate interoperability without compromising the privacy and security of customers. This legislation would also enable a more efficient travel experience for drivers while improving operational efficiencies for toll operators. Additionally, AB 334 would ensure compliance with the federal Moving Ahead for Progress in the 21st Century Act (MAP-21), which included a provision that requires all tolling agencies throughout the U.S. to be nationally interoperable.

The bill is consistent with SANDAG Legislative Program Goal 14 to support efforts to pursue resources to improve regional public safety voice and data communications, as well as intelligent transportation system interoperability with state, federal, and binational systems.

Additional Legislative Status Updates

Senate Bill 10 (Padilla)

Introduced by Senator Steve Padilla on December 2, 2024, this bill would allow toll revenues from the future Otay Mesa East Port of Entry to be used for maintenance of the International Boundary and Water Commission sewage treatment facility and the development of additional sanitation infrastructure projects related to the Tijuana River.

SANDAG staff is communicating with the author about language to help mitigate potential impacts of the bill on the development of the Otay Mesa East Port of Entry Project. The bill recently passed the Senate Transportation Committee with an 11-3 vote and will now head to the Senate Appropriations Committee for an April 7th hearing.

SANDAG staff will continue monitoring the bill's progress and will bring it to the Executive Committee for discussion at a future date.

Assembly Bill 24 (DeMaio)

This bill, by Assemblymember Carl DeMaio, proposes modifying the SANDAG Board by removing one of the two County Board of Supervisors seats and replacing it with a representative from the San Diego County Association of Planning Groups. It would also require the remaining County Board representative to be from an unincorporated area of the county. The bill has been double-referred to the Assembly Local Government Committee and the Assembly Transportation Committee. It currently does not have a scheduled hearing date.

SANDAG staff will continue monitoring the bill's progress and will bring it to the Executive Committee for discussion at a future date.

Senate Bill 240 (Jones)

Senate Bill 240, authored by Senate Minority Leader Brian Jones, proposes to replace the secondary representative from the County Board of Supervisors with a resident from an unincorporated area of the County, as selected by a majority of the county's community planning groups, to serve a 1-year term. The bill also eliminates the requirement that one Board of Supervisors member be from a substantially incorporated district and the other from an unincorporated district. This bill was amended on March 24th and has not yet been referred to a policy committee in the Senate.

SANDAG staff will continue monitoring the bill's progress and will bring it to the Executive Committee for discussion at a future date.

Next Steps

Pending approval by the Executive Committee, SANDAG will notify the authors of SB 233 and AB 334 of its position and advocate on behalf of the passage of those bills.

Hannah Stern, Acting Director of Public Affairs

- Attachments:
1. State Report from Ellison Wilson Advocacy, LLC
 2. Federal Report from Peter Peyser Associates, LLC
 3. Senate Bill 233 (Seyarto)
 4. Assembly Bill 334 (Pietre-Norris)
 5. March Border Report



TO: SANDAG BOARD OF DIRECTORS
FROM: ELLISON WILSON ADVOCACY, LLC
SUBJECT: SANDAG LEGISLATIVE REPORT – MARCH 2025

Legislative Overview

Policy committee hearings have commenced on bills introduced in 2025. Simultaneously, budget subcommittees in each house have initiated hearings on budget items to be included in the 2025-26 State Budget.

The remaining legislative calendar for 2025 includes:

- May 2: Last day for policy committees to hear first house fiscal bills
- May 23: Last day for fiscal committees to hear first house bills
- June 6: Last day for each house to pass first house bills
- June 15: Last day for Budget bill to be passed
- July 18: Last day for policy committees to hear all bills
- July 18-August 18: Summer Recess
- August 29: Last day for fiscal committees to hear all bills
- September 5: Last day to amend bills on the Floor
- September 12: Last day for each house to pass bills
- October 12: Last day for the Governor to sign or veto all bills

SB 10 to Authorize Otay Mesa East Toll Facility Toll Revenues to Tijuana River Mitigation Passes First Committee

SB 10 by Senator Steve Padilla would authorize SANDAG to also use the toll revenues from the Otay Mesa East Toll Facility “to assist in the maintenance of the South Bay International Boundary and Water Commission sewage treatment facility and the development of additional sanitation infrastructure projects related to the Tijuana River pursuant to an agreement with the federal government.” SANDAG has engaged in discussions with Senator Padilla and his staff about language that could help mitigate potential impacts from the bill on the Otay Mesa East project.

On March 25th, SB 10 was heard and passed by the Senate Transportation Committee, 11-3, with primary support testimony coming from San Diego Coastkeeper, with additional support testimony from the Port of San Diego, the cities of Coronado and Chula Vista, as well as additional environmental groups. The City of National City was also listed in support in the Committee’s analysis, amongst others. While there was no opposition testimony at the hearing, the California Taxpayers Association was listed in the Committee’s

analysis in opposition, noting that, in their view “the charge imposed by SB 10 is a tax because the payors do not necessarily receive a direct, specific, and proportional benefit.”

The bill will now head to the Senate Appropriations Committee where it needs to be passed by May 23rd.

Efforts Underway to Seek an Extension to REAP 2.0 Expenditure Deadline in State Budget

In 2024, the Regional Early Action Program (REAP) 2.0 program, which is used by SANDAG to address regional housing issues through its Housing Acceleration Program (HAP), was temporarily halted after its funding was proposed to be cut by the Governor. While the REAP 2.0 program was ultimately reapproved, albeit with a reduction of \$40M, the time to expend and be reimbursed for the program was shortened.

As such, working alongside CalCOG and other impacted COGs, SANDAG is seeking an extension to the REAP 2.0 expenditure deadline, with a more flexible reimbursement process, including providing testimony at the March 25th hearing of the Assembly Budget Subcommittee No. 5 on State Administration.

Two Bills Introduced to Add Unincorporated Communities to the SANDAG Board

On March 24th, amendments were introduced to both AB 24 (DeMaio) and SB 240 (Jones) to give unincorporated communities a voting seat on the SANDAG Board.

AB 24 by Assembly Member Carl DeMaio would replace the existing SANDAG Board composition with: 1) the mayor and the president of the city council of the City of San Diego; 2) the mayor or a councilperson from each city in the county; 3) one member of the Board of Supervisors of San Diego County from an unincorporated area of the county; and 4) one representative from the Association of Planning Groups - San Diego County.

SB 240 by Senator Jones would clarify that the secondary representative for the County of San Diego shall be a resident of an unincorporated area of the County and shall be selected by a majority of the community planning groups in the County.

Neither bill has yet to be scheduled for a policy committee hearing.

PEYSER ASSOCIATES LLC

Peter A. Peyser

Transportation Update from Peyser Associates

March 28, 2025

Molinaro Sails Through Confirmation Hearing for FTA Post

Former Rep. Marc Molinaro (R-NY), President Trump's Nominee for Federal Transit Administrator, had an easy time of it in his confirmation hearing at the Senate Banking Committee yesterday. He appears to be headed for a swift confirmation, unless a senator puts a "hold" on his nomination.

Molinaro was one of four nominees on a panel for the hearing. The others were nominees for Chair of the Securities and Exchange Commission, Comptroller of the Currency and an Assistant Secretary of Treasury. The members of the panel point out the fact that transit is a bit of an orphan at the Senate Committee on Banking, Housing and Urban Affairs. The committee's main focus is on banking and financial markets, including housing finance. During the course of the hearing Molinaro and senators joked about how little attention the committee was paying to him.

Despite the limited time senators spent on transit-related questions, between his opening statement and responses to questions, several important points emerged. Among them:

- Molinaro believes it will be his role to be an advocate for public transit within the Trump Administration.
- He evinced strong support for the work of the career team at FTA, while carefully noting that he is not in the job yet and not aware, beyond published reports, of staffing moves being made there.
- He paints himself as a strong supporter of transit labor. Indeed, the head of the Transport Workers Union was present at the hearing to show his support for Molinaro.
- In response to question trying to lead him to be critical of battery electric buses due to their expense, Molinaro noted that current law requires "certain distribution of dollars for low and no emissions vehicles" and that transit systems should "make purchasing decisions that make sense for them."
- When asked if he would be an advocate for robust funding for the CIG, Bus and Bus Facilities, Low-No Bus and BUILD programs he said "Senator, the answer is yes."

On the whole, it is hard to imagine the nominee of a Democratic president making a statement or providing answers much different from Molinaro. However, there were several question unasked. For example, no one asked him about the Administration's threat to withhold transit funds from systems they deem not to be doing enough to fight crime and fare evasion and no one asked him about his history of opposition to New York's congestion pricing program and the Administration's efforts to stop it.

There is no doubt the Banking Committee will recommend to the full Senate Molinaro's confirmation. The only potential threat to his nomination would be if a senator or senators place a hold on his nomination. The placing of holds on nomination is a time-honored Senate tradition that gives one or a handful of senators significant power to delay confirmation of a nominee. Given the open warfare between DOT and New York at the moment, there is certainly a chance that one or both

New York senators would put a hold on this nomination. If they don't, Molinaro could be in the job before the end of April.

FTA Set to Release Bus Programs NOFO and Pending Grants

In meetings at FTA this week, your reporter learned that the FTA is preparing to execute grants for pending discretionary bus program awards and complete disbursements for grants previously awarded and executed. According to FTA career staff, the programmatic reviews of the Bus and Bus Facilities Program and the Low-No Bus Program are complete and the programs have been found NOT to run afoul of the President's executive orders – particularly the one on “Unleashing American Energy.” This is a welcome – even surprising – result. Many observers had feared the Low-No program would be squarely in the target zone of the Administration's review.

A further positive sign is that the FTA is planning to release by April 15 a Notice of Funding Opportunity for the two discretionary bus programs. FTA staff pointed out the statutory requirement that after reserving at least 25% for low emissions buses (i.e. not no emissions) the statute says they are to make awards for the remaining 75% to the applications that have the most benefit in reducing greenhouse gas emissions and conserving energy. Here is the statutory language that governs the selection process:

“shall consider eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses.”

The career staff are encouraging grantees with applications for no emissions buses that were competitive in the last round to resubmit their applications.

All of this raises hopes that the Trump Administration this time around may repeat what it did during Trump 1.0 – award grants to low and no emissions buses in line with the intent of the statute for the Low-No program. It is important to point out though, that until the political leadership of FTA and DOT weigh-in on the NOFO, there is a possibility they may exploit any wiggle room they may find in the statute to steer funding away from no emission buses.

Stay tuned.

FTA Advance Projects into CIG Pipeline

FTA staff this week also confirmed that they have recently placed three Capital Investment Grant projects into the Project Development phase of the program. The projects are in Boston, Columbus (OH) and Los Angeles. These are the first actions by the Trump Administration that demonstrate the CIG program is functioning in a normal fashion. As with the actions taken and contemplated on bus grants, this is a hopeful sign.

House and Senate GOP Leaders Pushing for Adoption of a Budget

GOP leaders of the House and Senate continue to seek agreement on an approach to achieving the president's top goals of tax cuts and increases in spending on the border and defense while also achieving the goals of their own caucuses to cut federal spending. All of this could be accomplished in one or more budget reconciliation bills to be enacted later in the year. But in order to reconcile the tax code and spending plans with the budget, Congress must first actually pass a budget resolution.

The House is pushing for the Senate to simply take up the House-passed budget, which contains at least two features that are concerning to Senate Republicans. One is that the House budget only extends the expiration date of the 2017 Trump Tax Cuts. The Senate GOP and the president want to remove the expiration date altogether. The other is the House's provision calling for an \$880 billion cut in Medicaid over ten years. A few GOP senators have a problem with that.

Meetings are ongoing between House and Senate GOP leaders and the Trump Administration in search of a compromise. All the GOP leaders are hoping to pass the budget resolution before Congress goes on a two-week Easter/Passover break on April 10. If they do that, individual committees can get to work in late April to craft the reconciliation measure that will flesh out the details of the budget outline.

March 21, 2025

Transportation Update from Peyser Associates

Trump Administration Steps Up Focus on Safety and Security in Transit

Two weeks ago, this update reported on the letter Secretary of Transportation Sean Duffy sent to Washington Metro, the Mayor of Washington and Amtrak asking them to supply information on their efforts to improve safety, protect passengers from crime and stop fare evasion, among other things. The question at the end of that entry in the update was: "Is the action taken this week regarding Washington a precursor to a wider review of safety and security issues on transit systems elsewhere?" We now have the answer – yes.

Secretary Duffy on Tuesday sent a letter to Janno Lieber, Chairman and CEO of the MTA in New York, asking him for information on the MTA's plans to:

- "reduce crime, including assaults on customers;
- address violence against transit workers;
- reduce injuries and fatalities from suicide events and "subway surfing," the dangerous practice of riding atop subway cars in service; and
- deter fare evasion."

While the information requested in this letter was similar to that requested from Washington Metro, the MTA letter included this additional language: "I appreciate your prompt attention to this matter to avoid further consequences, up to and including redirecting or withholding funding." This threat to withhold federal funds is a ratcheting up of the Department's pressure on transit agencies to address safety and security issues. We need no longer ask if more letters to transit agencies around the country can be expected. It is now clear that they can be.

Click [HERE](#) to see a copy of Duffy's letter to the MTA.

DOT Grants Extension to Deadline for Halt to New York Congestion Pricing

In further transportation news about New York but with implications for the rest of the country, Secretary Duffy yesterday granted the MTA a one-month extension to the deadline he had set of today for the

termination of congestion pricing in New York City. New York Governor Kathy Hochul yesterday reiterated that the program will continue unless a court orders its cessation.

Secretary Duffy posted on X about the extension and included a threat: "'Know that the billions of dollars the federal government sends to New York are not a blank check. Continued noncompliance will not be taken lightly.'" This is twice in one week that he threatened to withhold federal funds to New York unless it complies with DOT directives.

Duffy's demand last month that the MTA halt congestion pricing came in the aftermath of Federal Highway Administration's revocation of the Biden Administration's approval of the program. This approval was required because the program charges drivers on federal-aid highways. While this program is currently unique to New York in the U.S., other cities have been exploring the idea and that exploration is only likely to continue given the early successes of New York's program in reducing traffic and noise and raising money for public transportation. It remains to be seen if the Trump Administration's efforts to halt the program in New York will succeed and what effect they will have on the potential for congestion pricing elsewhere.

From a broader perspective, the pattern of DOT threatening to withhold federal funds to influence policy decisions by state and local governments should be concerning.

Trump Administration Begins to Put Its Stamp on Amtrak – Gardner Out as CEO

Amtrak CEO Stephen Gardner on Wednesday announced his departure as CEO as Amtrak "to "ensure that Amtrak continues to enjoy the full faith and confidence of this administration." White House officials confirmed to reporters that Gardner's departure was the wish of the president himself.

The Amtrak Board, with significant involvement of Duffy's team at DOT, will now pick a replacement to Gardner amidst calls from Elon Musk to privatize the railroad. Their pick will be a signal about the seriousness of that effort and the extent to which Amtrak enjoys the full faith and confidence of the Administration.

Trump Revokes Biden Executive Order on Federal Contractor Pay and Labor Conditions

President Trump on Monday revoked executive orders issued by President Biden that set a \$15/hour minimum wage for contractors on federally funded projects and drove investments to companies that are neutral on union organizing in their ranks. He also withdrew an order to encourage the use of registered apprenticeships by contractors. Some state governments and contractor groups had sought without success to have the \$15/hour minimum struck down in the federal courts.

March 14, 2025

Transportation Update from Peyser Associates

Senate Poised to Clear Full-Year Continuing Resolution

As if the head-snapping 180-degree shifts on tariff and foreign policy from the White House were not enough, Senate Democrats this week treated the nation to another 24-hour turnaround in policy. Yesterday, Senate Minority Leader Chuck Schumer (D-NY) announced he would support the full-year Continuing Resolution passed on Tuesday by the House. This came on the heels of his statement on Wednesday that the Democratic caucus was unified in its opposition to the CR and that they wanted a 30-day stopgap so that work on the individual fiscal year 2025 spending bills could continue.

According to press reports, tempers flared during a Democratic caucus meeting yesterday where Schumer told his colleagues of his decision. Reporters could hear raised voices within the room from their position in the hallway. Senators were divided on which of two bad options -- full-year CR or shutdown -- would empower President Trump and Elon Musk the most.

In the aftermath of the meeting, senators told reporters that Schumer would be joined by a sufficient number of Democrats in supporting the CR to push it to the 60-vote threshold needed to pass it.

In contrast to the division among Senate Democrats, their colleagues on the House side stayed largely unified in opposition to the CR in the House. Only Rep. Jared Golden (D-ME) voted in favor of the measure from the Democratic side. It is important to note, however, that the stakes were lower on the House side. Democrats knew they could vote no and the bill would pass anyway with united GOP support. A shutdown was not at risk on that side of the Capitol.

Internal DOT Guidance Operationalizes Duffy January 29 Memorandum

Six weeks ago, Secretary of Transportation Sean Duffy sent a memorandum to all DOT offices kicking off what was then expected to be a twenty-day, two-step process for reviewing all DOT programs, rules, guidance and grants to determine their compliance with the executive orders issued by the president in the early days of the Administration and then to initiate corrective action where needed. This week, in a tacit recognition that those steps had not been completed on the schedule contemplated, the Office of the Assistant Secretary for Transportation Policy sent to all DOT offices and administrations an internal guidance memo spelling out in more detail the review and correction actions to be undertaken.

The guidance sets forth a three-step process as follows:

Step 1: Program Identification

- Identify programs with potential elements such as:
 - o Equity, DEI, climate change, environmental justice, gender-focused activities.
 - o Bicycle infrastructure, electric vehicles (EVs), EV charging infrastructure.
- Review criteria include:
 - o Statutory language referencing equity, climate, or bicycle infrastructure.
 - o Notice of Funding Opportunity (NOFO) requirements related to equity or climate.
 - o Eligible activities tied to bicycle, EV, or climate projects.
- If a program meets any of these criteria, it proceeds to Step 2.

Step 2: Project-by-Project Review

- Examine each individual project to identify specific scope elements related to:
 - o Equity analysis, green infrastructure, bicycle lanes, EV projects.
 - o Projects that prioritize environmental justice (EJ) or greenhouse gas (GHG) reduction.
- Document findings and flag projects for potential scope modification.
- Agency leadership will decide if projects should:
 1. Proceed unchanged.
 2. Be modified to remove flagged elements.
 3. Be canceled entirely.

Step 3: Project Scope Revision

- For projects flagged for modification:
 - o Remove or replace elements conflicting with Administration policies.
 - o Work with project sponsors to revise scope.
 - o If sponsors agree, proceed with the grant agreement.
 - o If sponsors refuse, issue a reduced award, removing flagged elements.

With regard to the question of which grants will be subject to review, modification or cancellation, the guidance states that “fully obligated” grants will not be reviewed. However, grants that are obligated but which may have additional obligations forthcoming (e.g., future fiscal year funding to be added) will be reviewed to determine if the additional obligations are warranted.

In the programmatic review section of the guidance it says that programs with NOFO requirements dealing with equity or climate will be found to be out of compliance with the executive orders. That is problematic for every BIL program, including those previously not thought to be targets for potential grant modification or cancellation, because all NOFOs issued by the Biden Administration included evaluation criteria and consideration on equity and climate matters.

The guidance does not include a timetable for completion of the steps.

In summary, this week’s guidance makes it clear, if it wasn’t already, that DOT intends to do a thorough vetting of its programs and its grants. Any un-executed grant agreement should be considered to be in the target zone at this point. Those awaiting the execution of grants can expect further delays as this process unfolds. The potential for modification of projects and grantee agency policies continues to be significant as does the threat that grant awards not yet executed will be canceled.

Bradbury Confirmed as Deputy Secretary

The Senate on Tuesday confirmed Steven Bradbury as Deputy Secretary of Transportation. The vote was largely on party lines at 51-46. Democrats united against his nomination on the basis of his role in the preparation of the Project 2025 program and the perception that he was lax in pushing Boeing to improve its safety regime during his service in the first Trump Administration.

Deputy Secretary Bradbury was sworn in on Wednesday.

Also this week, the White House announced the nomination of Sean McMaster as Federal Highway Administrator. Mr. McMaster was Deputy Chief of Staff at DOT in the first Trump Administration and served on Capitol Hill as a staff member for then-Chair of the House Transportation and Infrastructure Committee John Mica (R-FL).

March 7, 2025

Full-Year CR Emerges as Leadership's Approach to Avoiding Shutdown

Last week's report noted the emergence of a full-year Continuing Resolution as a leading option to complete the fiscal year 2025 appropriations process. This week saw that option become the clear direction of GOP congressional leaders and the White House.

The House early next week will take up a full-year "CR-plus" (the "plus" being the inclusion of some items – known as "anomalies" – that go beyond just simply extending fiscal year 2024 appropriations levels). Most of the changes are expected in the area of national security with no major impact on transit or rail programs.

While in the past there have been numerous Freedom Caucus Members of the GOP caucus who have said they would never support a full-year CR, this time those Members appear to be ready to support one after some lobbying from the White House. The House schedule for next week calls for votes to occur only on Monday through Wednesday to accommodate the Democratic Issues Conference later in the week. This would indicate that their plan is to pass the CR, send it to the Senate and then leave it to the Senate to pass the measure in time to meet the Friday deadline for the expiration of the current CR. It appears there will be enough votes on both sides of the aisle in the Senate to pass the bill.

As reported last week, earmarks included in the fiscal year 2025 appropriations process will likely fall out of the CR, as will policy language that may have been included as well.

Secretary Duffy Initiates Review of Transit Safety and Security in Washington, DC

Secretary of Transportation Sean Duffy yesterday sent letters to the Mayor of Washington, the CEO of Washington Metro and the CEO of Amtrak directing them to take a series of steps to report to DOT on their work to improve the safety and security of transportation systems as federal workers return to the office. The letter to WMATA directs the agency to supply information to FTA's region 3 office on their plans to reduce crime and fare evasion on the system and on their expenditure of FTA and non-FTA funds on safety and security.

There is much about this oversight effort that is particular to the Washington, DC area. Duffy references the importance of safe and secure travel for federal workers. This outreach is also part of a wider effort by the Trump Administration to assert greater control over the governance of the Capital. But the focus on crime and fare evasion in particular have been part of GOP talking points about transit during the past campaign season. Is the action taken this week regarding Washington a precursor to a wider review of safety and security issues on transit systems elsewhere? Could be.

AMENDED IN SENATE MARCH 3, 2025

SENATE BILL

No. 233

Introduced by Senator Seyarto

(Coauthors: Senators Niello, Ochoa Bogh, and Valladares)

(Coauthors: Assembly Members Alanis, Castillo, and Lackey)

January 28, 2025

An act to amend Section 65584.01 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Seyarto. Regional housing need: determination: consultation with councils of governments.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, which includes, among other mandatory elements, a housing element. Existing law requires, for the 4th and subsequent revisions of the housing element, the Department of Housing and Community Development, in consultation with each council of governments, where applicable, to determine the existing and projected need for housing for each region, as prescribed. Existing law requires, among other things, the department to meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs at least 26 months prior to the scheduled revision of the housing element and before developing the existing and projected housing need for a region.

This bill would require the department to meet and consult with the council of governments, as described above, pursuant to prescribed deadlines. For the 7th revision of the housing element, the bill would require the department to meet and consult with each council of

governments at least 38 months prior to the scheduled revision, except for specified councils of governments. For the 8th and subsequent revision of the housing element, the bill would require the department to meet and consult with each council of governments at least 38 months prior to the scheduled revision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65584.01 of the Government Code is
2 amended to read:

3 65584.01. For the fourth and subsequent revision of the housing
4 element pursuant to Section 65588, the department, in consultation
5 with each council of governments, where applicable, shall
6 determine the existing and projected need for housing for each
7 region in the following manner:

8 (a) The department's determination shall be based upon
9 population projections produced by the Department of Finance
10 and regional population forecasts used in preparing regional
11 transportation plans, in consultation with each council of
12 governments. If the total regional population forecast for the
13 projection year, developed by the council of governments and used
14 for the preparation of the regional transportation plan, is within a
15 range of 1.5 percent of the total regional population forecast for
16 the projection year by the Department of Finance, then the
17 population forecast developed by the council of governments shall
18 be the basis from which the department determines the existing
19 and projected need for housing in the region. If the difference
20 between the total population projected by the council of
21 governments and the total population projected for the region by
22 the Department of Finance is greater than 1.5 percent, then the
23 department and the council of governments shall meet to discuss
24 variances in methodology used for population projections and seek
25 agreement on a population projection for the region to be used as
26 a basis for determining the existing and projected housing need
27 for the region. If agreement is not reached, then the population
28 projection for the region shall be the population projection for the
29 region prepared by the Department of Finance as may be modified

1 by the department as a result of discussions with the council of
2 governments.

3 (b) (1) ~~At least 26 months prior to the scheduled revision~~
4 ~~pursuant to Section 65588~~ *Subject to the applicable deadline*
5 *specified in paragraph (2)*, and prior to developing the existing
6 and projected housing need for a region, the department shall meet
7 and consult with the council of governments regarding the
8 assumptions and methodology to be used by the department to
9 determine the region's housing needs. The council of governments
10 shall provide data assumptions from the council's projections,
11 including, if available, the following data for the region:

12 (A) Anticipated household growth associated with projected
13 population increases.

14 (B) Household size data and trends in household size.

15 (C) The percentage of households that are overcrowded and the
16 overcrowding rate for a comparable housing market. For purposes
17 of this subparagraph:

18 (i) The term "overcrowded" means more than one resident per
19 room in each room in a dwelling.

20 (ii) The term "overcrowding rate for a comparable housing
21 market" means that the overcrowding rate is no more than the
22 average overcrowding rate in comparable regions throughout the
23 nation, as determined by the council of governments.

24 (D) The rate of household formation, or headship rates, based
25 on age, gender, ethnicity, or other established demographic
26 measures.

27 (E) The vacancy rates in existing housing stock, and the vacancy
28 rates for healthy housing market functioning and regional mobility,
29 as well as housing replacement needs. For purposes of this
30 subparagraph, the vacancy rate for a healthy rental housing market
31 shall be considered no less than 5 percent.

32 (F) Other characteristics of the composition of the projected
33 population.

34 (G) The relationship between jobs and housing, including any
35 imbalance between jobs and housing.

36 (H) The percentage of households that are cost burdened and
37 the rate of housing cost burden for a healthy housing market. For
38 the purposes of this subparagraph:

1 (i) The term “cost burdened” means the share of very low, low-,
2 moderate-, and above moderate-income households that are paying
3 more than 30 percent of household income on housing costs.

4 (ii) The term “rate of housing cost burden for a healthy housing
5 market” means that the rate of households that are cost burdened
6 is no more than the average rate of households that are cost
7 burdened in comparable regions throughout the nation, as
8 determined by the council of governments.

9 (I) The loss of units during a state of emergency that was
10 declared by the Governor pursuant to the California Emergency
11 Services Act (Chapter 7 (commencing with Section 8550) of
12 Division 1 of Title 2), during the planning period immediately
13 preceding the relevant revision pursuant to Section 65588 that
14 have yet to be rebuilt or replaced at the time of the data request.

15 (J) The housing needs of individuals and families experiencing
16 homelessness.

17 (i) The data utilized by the council of governments shall align
18 with homelessness data best practices as determined by the
19 department.

20 (ii) Sources of homelessness data may include the Homeless
21 Data Integration System administered by the Interagency Council
22 on Homelessness, the homeless point-in-time count, or other
23 sources deemed appropriate by the department.

24 (2) *The deadline for the department to meet and consult with*
25 *each council of governments pursuant to paragraph (1) shall be*
26 *as follows:*

27 (A) *For the fourth, fifth, and sixth revisions of the housing*
28 *element, at least 26 months prior to the scheduled revision pursuant*
29 *to Section 65588.*

30 (B) *For the seventh revision of the housing element, the*
31 *applicable of the following:*

32 (i) *With respect to the following councils of governments, at*
33 *least 26 months prior to the scheduled revision pursuant to Section*
34 *65588:*

35 (I) *The Humboldt County Association of Governments.*

36 (II) *The Lake Area Planning Council.*

37 (III) *The Mendocino Council of Governments.*

38 (IV) *The San Luis Obispo Council of Governments.*

1 (ii) *With respect to all councils of governments other than those*
2 *specified in clause (i), at least 38 months prior to the scheduled*
3 *revision pursuant to Section 65588.*

4 (C) *For the eighth and subsequent revisions of the housing*
5 *element, at least 38 months prior to the scheduled revision pursuant*
6 *to Section 65588.*

7 ~~(2)~~

8 (3) The department may accept or reject the information
9 provided by the council of governments or modify its own
10 assumptions or methodology based on this information. After
11 consultation with the council of governments, the department shall
12 make determinations in writing on the assumptions for each of the
13 factors listed in subparagraphs (A) to (I), inclusive, of paragraph
14 (1) and the methodology it shall use and shall provide these
15 determinations to the council of governments. The methodology
16 submitted by the department may make adjustments based on the
17 region's total projected households, which includes existing
18 households as well as projected households.

19 (c) (1) After consultation with the council of governments, the
20 department shall make a determination of the region's existing
21 and projected housing need based upon the assumptions and
22 methodology determined pursuant to subdivision (b). The region's
23 existing and projected housing need shall reflect the achievement
24 of a feasible balance between jobs and housing within the region
25 using the regional employment projections in the applicable
26 regional transportation plan. Within 30 days following notice of
27 the determination from the department, the council of governments
28 may file an objection to the department's determination of the
29 region's existing and projected housing need with the department.

30 (2) The objection shall be based on and substantiate either of
31 the following:

32 (A) The department failed to base its determination on the
33 population projection for the region established pursuant to
34 subdivision (a), and shall identify the population projection which
35 the council of governments believes should instead be used for the
36 determination and explain the basis for its rationale.

37 (B) The regional housing need determined by the department
38 is not a reasonable application of the methodology and assumptions
39 determined pursuant to subdivision (b). The objection shall include
40 a proposed alternative determination of its regional housing need

1 based upon the determinations made in subdivision (b), including
2 analysis of why the proposed alternative would be a more
3 reasonable application of the methodology and assumptions
4 determined pursuant to subdivision (b).

5 (3) If a council of governments files an objection pursuant to
6 this subdivision and includes with the objection a proposed
7 alternative determination of its regional housing need, it shall also
8 include documentation of its basis for the alternative determination.
9 Within 45 days of receiving an objection filed pursuant to this
10 section, the department shall consider the objection and make a
11 final written determination of the region's existing and projected
12 housing need that includes an explanation of the information upon
13 which the determination was made.

14 (4) In regions in which the department is required to distribute
15 the regional housing need pursuant to Section 65584.06, no city
16 or county may file an objection to the regional housing need
17 determination.

18 (d) Statutory changes enacted after the date the department
19 issued a final determination pursuant to this section shall not be a
20 basis for a revision of the final determination.

21 ~~SECTION 1. Section 65584.01 of the Government Code, as~~
22 ~~amended by Section 1.5 of Chapter 283 of the Statutes of 2024, is~~
23 ~~amended to read:~~

24 ~~65584.01. For the fourth and subsequent revision of the housing~~
25 ~~element pursuant to Section 65588, the department, in consultation~~
26 ~~with each council of governments, where applicable, shall~~
27 ~~determine the existing and projected need for housing for each~~
28 ~~region in the following manner:~~

29 ~~(a) The department's determination shall be based upon~~
30 ~~population projections produced by the Department of Finance~~
31 ~~and regional population forecasts used in preparing regional~~
32 ~~transportation plans, in consultation with each council of~~
33 ~~governments. If the total regional population forecast for the~~
34 ~~projection year, developed by the council of governments and used~~
35 ~~for the preparation of the regional transportation plan, is within a~~
36 ~~range of 1.5 percent of the total regional population forecast for~~
37 ~~the projection year by the Department of Finance, then the~~
38 ~~population forecast developed by the council of governments shall~~
39 ~~be the basis from which the department determines the existing~~
40 ~~and projected need for housing in the region. If the difference~~

1 between the total population projected by the council of
2 governments and the total population projected for the region by
3 the Department of Finance is greater than 1.5 percent, then the
4 department and the council of governments shall meet to discuss
5 variances in methodology used for population projections and seek
6 agreement on a population projection for the region to be used as
7 a basis for determining the existing and projected housing need
8 for the region. If agreement is not reached, then the population
9 projection for the region shall be the population projection for the
10 region prepared by the Department of Finance as may be modified
11 by the department as a result of discussions with the council of
12 governments.

13 (b) (1) Subject to the applicable deadline specified in paragraph
14 (2), and prior to developing the existing and projected housing
15 need for a region, the department shall meet and consult with the
16 council of governments regarding the assumptions and
17 methodology to be used by the department to determine the
18 region's housing needs. The council of governments shall provide
19 data assumptions from the council's projections, including, if
20 available, the following data for the region:

21 (A) Anticipated household growth associated with projected
22 population increases.

23 (B) Household size data and trends in household size.

24 (C) The percentage of households that are overcrowded and the
25 overcrowding rate for a comparable housing market. For purposes
26 of this subparagraph:

27 (i) The term "overcrowded" means more than one resident per
28 room in each room in a dwelling.

29 (ii) The term "overcrowded rate for a comparable housing
30 market" means that the overcrowding rate is no more than the
31 average overcrowding rate in comparable regions throughout the
32 nation, as determined by the council of governments.

33 (D) The rate of household formation, or headship rates, based
34 on age, gender, ethnicity, or other established demographic
35 measures.

36 (E) The vacancy rates in existing housing stock, and the vacancy
37 rates for healthy housing market functioning and regional mobility,
38 as well as housing replacement needs. For purposes of this
39 subparagraph, the vacancy rate for a healthy rental housing market
40 shall be considered no less than 5 percent.

1 ~~(F) Other characteristics of the composition of the projected~~
2 ~~population.~~

3 ~~(G) The relationship between jobs and housing, including any~~
4 ~~imbalance between jobs and housing.~~

5 ~~(H) The percentage of households that are cost burdened and~~
6 ~~the rate of housing cost burden for a healthy housing market. For~~
7 ~~the purposes of this subparagraph:~~

8 ~~(i) The term “cost burdened” means the share of very low, low-,~~
9 ~~moderate-, and above moderate-income households that are paying~~
10 ~~more than 30 percent of household income on housing costs.~~

11 ~~(ii) The term “rate of housing cost burden for a healthy housing~~
12 ~~market” means that the rate of households that are cost burdened~~
13 ~~is no more than the average rate of households that are cost~~
14 ~~burdened in comparable regions throughout the nation, as~~
15 ~~determined by the council of governments.~~

16 ~~(I) The loss of units during a state of emergency that was~~
17 ~~declared by the Governor pursuant to the California Emergency~~
18 ~~Services Act (Chapter 7 (commencing with Section 8550) of~~
19 ~~Division 1 of Title 2), during the planning period immediately~~
20 ~~preceding the relevant revision pursuant to Section 65588 that~~
21 ~~have yet to be rebuilt or replaced at the time of the data request.~~

22 ~~(J) The housing needs of individuals and families experiencing~~
23 ~~homelessness.~~

24 ~~(i) The data utilized by the council of governments shall align~~
25 ~~with homelessness data best practices as determined by the~~
26 ~~department.~~

27 ~~(ii) Sources of homelessness data may include the Homeless~~
28 ~~Data Integration System administered by the Interagency Council~~
29 ~~on Homelessness, the homeless point-in-time count, or other~~
30 ~~sources deemed appropriate by the department.~~

31 ~~(2) The deadline for the department to meet and consult with~~
32 ~~each council of governments pursuant to paragraph (1) shall be as~~
33 ~~follows:~~

34 ~~(A) For the fourth, fifth, and sixth revisions of the housing~~
35 ~~element, at least 26 months prior to the scheduled revision pursuant~~
36 ~~to Section 65588.~~

37 ~~(B) For the seventh revision of the housing element, the~~
38 ~~applicable of the following:~~

1 ~~(i) With respect to the following councils of governments, at~~
2 ~~least 26 months prior to the scheduled revision pursuant to Section~~
3 ~~65588:~~

4 ~~(I) The Humboldt County Association of Governments.~~

5 ~~(II) The Lake Area Planning Council.~~

6 ~~(III) The Mendocino Council of Governments.~~

7 ~~(IV) The San Luis Obispo Council of Governments.~~

8 ~~(V) The San Diego Association of Governments.~~

9 ~~(ii) With respect to all councils of governments other than those~~
10 ~~specified in clause (i), at least 38 months prior to the scheduled~~
11 ~~revision pursuant to Section 65588.~~

12 ~~(C) For the eighth and subsequent revisions of the housing~~
13 ~~element, at least 38 months prior to the scheduled revision pursuant~~
14 ~~to Section 65588.~~

15 ~~(3) The department may accept or reject the information~~
16 ~~provided by the council of governments or modify its own~~
17 ~~assumptions or methodology based on this information. After~~
18 ~~consultation with the council of governments, the department shall~~
19 ~~make determinations in writing on the assumptions for each of the~~
20 ~~factors listed in subparagraphs (A) to (I), inclusive, of paragraph~~
21 ~~(1) and the methodology it shall use and shall provide these~~
22 ~~determinations to the council of governments. The methodology~~
23 ~~submitted by the department may make adjustments based on the~~
24 ~~region's total projected households, which includes existing~~
25 ~~households as well as projected households.~~

26 ~~(c) (1) After consultation with the council of governments, the~~
27 ~~department shall make a determination of the region's existing~~
28 ~~and projected housing need based upon the assumptions and~~
29 ~~methodology determined pursuant to subdivision (b). The region's~~
30 ~~existing and projected housing need shall reflect the achievement~~
31 ~~of a feasible balance between jobs and housing within the region~~
32 ~~using the regional employment projections in the applicable~~
33 ~~regional transportation plan. Within 30 days following notice of~~
34 ~~the determination from the department, the council of governments~~
35 ~~may file an objection to the department's determination of the~~
36 ~~region's existing and projected housing need with the department.~~

37 ~~(2) The objection shall be based on and substantiate either of~~
38 ~~the following:~~

39 ~~(A) The department failed to base its determination on the~~
40 ~~population projection for the region established pursuant to~~

1 subdivision (a), and shall identify the population projection which
2 the council of governments believes should instead be used for the
3 determination and explain the basis for its rationale.

4 (B) The regional housing need determined by the department
5 is not a reasonable application of the methodology and assumptions
6 determined pursuant to subdivision (b). The objection shall include
7 a proposed alternative determination of its regional housing need
8 based upon the determinations made in subdivision (b), including
9 analysis of why the proposed alternative would be a more
10 reasonable application of the methodology and assumptions
11 determined pursuant to subdivision (b).

12 (3) If a council of governments files an objection pursuant to
13 this subdivision and includes with the objection a proposed
14 alternative determination of its regional housing need, it shall also
15 include documentation of its basis for the alternative determination.
16 Within 45 days of receiving an objection filed pursuant to this
17 section, the department shall consider the objection and make a
18 final written determination of the region's existing and projected
19 housing need that includes an explanation of the information upon
20 which the determination was made.

21 (4) In regions in which the department is required to distribute
22 the regional housing need pursuant to Section 65584.06, no city
23 or county may file an objection to the regional housing need
24 determination.

25 (d) Statutory changes enacted after the date the department
26 issued a final determination pursuant to this section shall not be a
27 basis for a revision of the final determination.

ASSEMBLY BILL**No. 334****Introduced by Assembly Member Petrie-Norris**

January 28, 2025

An act to amend Section 27565 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 334, as introduced, Petrie-Norris. Operators of toll facilities: interoperability programs: vehicle information.

Existing law requires the Department of Transportation, in cooperation with the Golden Gate Bridge, Highway and Transportation District and all known entities planning to implement a toll facility, to develop and adopt functional specifications and standards for an automatic vehicle identification system in compliance with specified objectives, and generally requires any automatic vehicle identification system purchased or installed after January 1, 1991, to comply with those specifications and standards. Existing law authorizes operators of toll facilities on federal-aid highways engaged in an interoperability program to provide only specified information regarding a vehicle's use of the toll facility.

This bill would instead authorize operators of toll facilities on federal-aid highways engaged in an interstate interoperability program to provide only the information regarding a vehicle's use of the toll facility that is intended to implement interstate interoperability.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 27565 of the Streets and Highways Code is amended to read:

27565. (a) The department, in cooperation with the district and all known entities planning to implement a toll facility in this state, shall develop and adopt functional specifications and standards for an automatic vehicle identification system, in compliance with all of the following objectives:

(1) In order to be detected, ~~the a~~ driver shall not be required to reduce speed below the applicable speed for the type of facility being used.

(2) ~~The A~~ vehicle owner shall not be required to purchase or install more than one device to use on all toll facilities, but may be required to have a separate account or financial arrangement for the use of these facilities.

(3) ~~The A~~ facility ~~operators~~ operator shall have the ability to select from different manufacturers and vendors. The specifications and standards shall encourage multiple bidders, and shall not have the effect of limiting ~~the a~~ facility ~~operators~~ operator to choosing a system that is able to be supplied by only one manufacturer or vendor.

(b) Except as provided in subdivision (c), ~~any an~~ automatic vehicle identification system purchased or installed after January 1, 1991, shall comply with the specifications and standards adopted pursuant to subdivision (a).

(c) Subdivision (b) does not apply to an interim automatic vehicle identification system for which a contract is entered into between an entity planning to implement a toll facility and the supplier of the interim system ~~prior to~~ before January 1, 1994, if both of the following requirements are met:

(1) The department has made a written determination that the installation and operation of the interim system will expedite the completion of the toll facility and its opening to public use.

(2) The entity planning to implement the toll facility has entered into an agreement with the department to install, within five years after any portion of the toll facility is opened for public use, an automatic vehicle identification system meeting the specifications and standards adopted pursuant to subdivision (a).

1 (d) The automated vehicle identification system developed by
2 the department pursuant to subdivision (a) shall be capable of
3 identifying various types of vehicles, including, but not limited to,
4 commercial vehicles.

5 (e) On and after the date specified in the federal Moving Ahead
6 for Progress in the 21st Century Act (*Public Law 112-141*) for
7 implementation of interoperability of electronic toll collection on
8 federal-aid highways, operators of toll facilities on federal-aid
9 highways may fully implement technologies or business practices
10 that provide for the interoperability of electronic toll collection
11 programs consistent with federal law. Operators of toll facilities
12 on federal-aid highways engaged in an *interstate* interoperability
13 program may provide only the following information regarding a
14 vehicle's use of the toll facility; *facility that is intended to*
15 *implement interstate interoperability*, and shall otherwise comply
16 with all federal and state privacy protection laws, including, but
17 not limited to, Section ~~31490~~; 31490.

18 ~~(1) License plate number.~~

19 ~~(2) Transponder identification number.~~

20 ~~(3) Date and time of transaction.~~

21 ~~(4) Identity of the agency operating the toll facility.~~

O

March Border Report

Executive Committee | Item 3

April 11, 2025

Update on San Antonio de los Buenos Treatment Plant (SAB) repairs

Mexican authorities report ongoing efforts to meet the required standards for discharging treated wastewater into the sea by the end of March 2025.

The first of the plant's two units, with a capacity of 400 liters per second, has already stabilized, and work is underway to stabilize the second unit to meet the plant's total capacity of 800 liters per second. Once both units are operational, sufficient sludge will be required to activate the plant's digesters, after which laboratory tests will be conducted to confirm compliance with discharge parameters.

Recent rains delayed the repair work on the CILA Pumping Plant, but repairs have now resumed. *(Source: Comisión Internacional de Límites y Aguas)*

Progress in Otay Mesa on Playas de Tijuana elevated viaduct

Significant progress is being made on the construction of the elevated deck that will connect the Otay Mesa area and Tijuana International Airport to Avenida Internacional and the scenic road to Ensenada. Current works involve foundation construction in the proximity to the Puerta México-San Ysidro border crossing, which may affect mobility in the area. The Mexican federal government estimates the cost of this project at approximately \$500 million USD (\$11 billion MXN), with completion expected before the end of 2025. *(Source: Secretaría de Infraestructura, Desarrollo Urbano y Territorial, State of Baja California).*

April 11, 2025

2025 Board of Directors Retreat Overview

Overview

The Board of Directors typically meets on an annual basis for an off-site retreat focused on strategic planning, team-building, and informational sessions.

Key Considerations

This year's Board Retreat will provide an opportunity for Board members to engage in substantive discussions on key SANDAG plans, projects, and programs. The retreat will also facilitate meaningful dialogue around the fundamental work that SANDAG is responsible for, providing an opportunity for greater understanding of key mandates and opportunities to improve decision-making processes.

Based on input from Board leadership, SANDAG staff has identified several topics for discussion. Following the completion of the 2025 Board Retreat Survey and incorporation of feedback received, a detailed two-day itinerary will be crafted to cover the following topics:

- | | |
|----------------------|--|
| - 2025 Regional Plan | - Regional Housing Needs Assessment (RHNA) |
| - TransNet Program | - Policy and Governance |
| - Budget Priorities | |

Consistent with SANDAG Bylaws and the Brown Act open meeting laws, each day of the retreat will be treated as a separate meeting. Board members will receive meeting stipends for each meeting and the public will be afforded the right to offer non-agenda comments at each meeting.

In addition, expenses for lodging/meals (within the local GSA per diem rate) for primary BOD members for each jurisdiction (or one alternate in absence of primary), as well as lodging/meals (within per diem) for primary advisory members (or one alternate in absence of primary) will be provided. Expenses for lodging/meals (within per diem) for SANDAG staff with an identified business need to be there and/or stay overnight due to safety or business case considerations will be provided. Board members and staff will be subject to the normal mileage reimbursement policies.

Hannah Stern, Director of Public Affairs

Action: Information

This report provides an overview of planned activities and agenda items for the 2025 Board of Directors Retreat.

Fiscal Impact:

The 2025 Board of Directors Retreat is funded through Overall Work Program Project No. 9000100.

Schedule/Scope Impact:

The 2025 Board Retreat is scheduled for May 1-2, 2025.

Board of Directors

Friday, April 25, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Board of Directors on any issue within the jurisdiction of SANDAG that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Board members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to approve the minutes from its April 11, 2025, meeting.

+3. Chief Executive Officer Delegated Actions*

Jennie Sharp, SANDAG

Information

In accordance with various board policies, this report summarizes delegated actions taken by the Chief Executive Officer.

+4. Policy Advisory Committee Actions

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to ratify the actions taken by the Policy Advisory Committees as noted in the report.

+5. Approval of Proposed Solicitations

Kelly Mikhail, SANDAG

Approve

The Board of Directors is asked to authorize the Chief Executive Officer to conduct the proposed solicitation(s) and contract awards as identified in this report.

+6. FY 2024 TransNet Extension Ordinance Funding Eligibility Request*

Dawn Vettese, Marcus Pascual, SANDAG

Approve

The Transportation Committee recommends that the Board of Directors, acting as the San Diego County Regional Transportation Commission, approve TransNet funding eligibility requests.

+7. FY 2026 Transit Capital Improvement Program*

Wylenia McCambridge/Richard Radcliff

Approve

The Transportation Committee recommends that the Board of Directors:

1. Approve the submittal of Federal Transit Administration grant applications for

- the San Diego region; and
2. Adopt Regional Transportation Commission Resolution No. RTC-2025-XX, in substantially the same form, approving Amendment No. X to the 2025 Regional Transportation Improvement Program.

+8. Federal Transit Administration Section 5311 Program of Projects

Approve

Richard Radcliffe, SANDAG

The Transportation Committee recommends that the Board of Directors approve the Federal Fiscal Year 2025 apportionments of Federal Transit Administration Section 5311 Non-Urbanized Area Formula Program funds for the San Diego region.

Reports

+9. Proposed Board Policy Amendments to Address OIPA and TransNet Performance Audit Findings and Related Recommendations*

Approve

Julie Wiley, SANDAG

The Executive Committee recommends that the Board of Directors approve the proposed Board Policy amendments to address previous findings from several OIPA and TransNet Performance audits as well as other related recommendations.

Adjournment

10. Adjournment

The next Board of Directors meeting is a Board Retreat scheduled for May 1-2, 2025.

+ 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

DRAFT

Board of Directors

Friday, May 9, 2025

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Board of Directors on any issue within the jurisdiction of SANDAG that is not on this agenda. Public speakers are limited to three minutes or less per person. Public comments under this agenda item will be limited to eight public speakers. If the number of public comments under this agenda item exceeds eight, additional public comments will be taken at the end of the agenda. Board members and SANDAG staff also may present brief updates and announcements under this agenda item.

Consent

+2. Approval of Meeting Minutes

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to approve the minutes from its April 25, 2025, May 1, 2025, and May 2, 2025, meetings.

+3. Meetings and Events Attended on Behalf of SANDAG

Francesca Webb, SANDAG

Information

This report provides an update on meetings and events attended by Board members.

+4. Policy Advisory Committee Actions

Francesca Webb, SANDAG

Approve

The Board of Directors is asked to ratify the actions taken by the Policy Advisory Committees as noted in the report.

+5. Approval of Proposed Solicitations

Kelly Mikhail, SANDAG

Approve

The Board of Directors is asked to authorize the Chief Executive Officer to conduct the proposed solicitation(s) and contract awards as identified in this report.

+6. Regional Beach Sand Project III Phase 1 - Draft Preliminary Planning Activities Results

Courtney Becker, SANDAG

Information

This report provides an update on the Regional Beach Sand Project III.

Reports

+7. Proposed Final FY 2026 Program Budget*

Susan Huntington, SANDAG

Adopt

The Board of Directors is asked to adopt Regional Transportation Commission (RTC) Resolution No. RTC-202X-XX, adopting the Final FY 2026 Program Budget.

Adjournment

8. Adjournment

The next Board of Directors meeting is scheduled for Friday, May 23, 2025, at 9:00 a.m.

+ 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

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April 11, 2025

Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings and Related Recommendations

Overview

The Executive Committee is asked to consider proposed amendments to board policies resulting from previous OIPA and TransNet Performance Audit recommendations as well as related recommendations stemming from prior Board direction and the Grand Jury report from 2024.

Action: Discussion/Possible Action

The Executive Committee is asked to provide feedback on amendments to SANDAG board policies proposed to address findings and recommendations from OIPA audits and investigation outcomes from 2024.

Key Considerations

Travel - Board Policy No. 011

The OIPA audit entitled Board Member and Employee Travel and Other Reimbursements Report, contains recommendations to add language to Board Policy No. 011 and administrative policies and forms concerning travel to enhance internal controls and recordkeeping. The majority of the changes will be made to the administrative policies and forms and combined with additional staff training. The modifications proposed in Attachment 1 are intended to provide a framework for the implementation of those activities.

Fiscal Impact:

None.

Schedule/Scope Impact:

None.

Procurements - Board Policy Nos. 016, 023, and 024

Several audits have been performed by OIPA in the last few years with recommendations that have been accepted and require implementation via significant changes to board policies regarding procurement. These audits include the following reports: Contracts Invoicing and Payment Process Report, Investigation Report on SANDAG's State Route 125 Toll Operations, Contracts and Procurement Operational and System Control Audit Report (Parts I and II), and Whistleblower Investigation Report on SANDAG's New Tolling Back-Office System Implementation. Based on observations noted from Grand Jury and Board direction in 2024, other changes are proposed to board policies to enhance procurement practices for the agency.

Board policies 016, 023, and 024 respectively concern procurements of services, equipment, and construction. These policies were originally drafted many years ago when SANDAG authority for these three categories of procurement varied considerably more. Due to California Assembly Bill 1833 (Ward, 2022) that went into effect on January 1, 2023, and changes in internal procedures at the agency over the past 20 years, many of these variances no longer exist. To reduce duplicative language in the policies and simplify ease of reference, staff recommend consolidating all procurement-related matters into a single policy using Board Policy No. 016. This means Board Policy Nos. 023 and 024 will be superseded and could be used for other purposes in the future at the Board's direction. Pending Executive Committee recommendation, the changes proposed in Attachment 2 for Board Policy No. 016 will update the policy to align it with current law and make modifications to address 45 OIPA recommendations in whole or in part.

Delegation of Authority - Board Policy No. 017

Six of OIPA's recommendations from the above-referenced audits require modifications to Board Policy No. 017, Delegation of Authority. In addition, the 2024 TransNet Performance Audit contains one recommendation that can be implemented with an amendment to Board Policy No. 017. The proposed amendments to Board Policy No. 017 are in Attachment 3. The amendments add language to allow other Board Policies to carve out staff positions that the Board of Directors may want to appoint directly instead of delegating that authority to the Chief Executive Officer (CEO). The modifications also add requirements to the CEO's role with regard to internal controls and project oversight as recommended by OIPA.

Next Steps

Pending a recommendation from the Executive Committee, the proposed amendments will be taken to the April 25, 2025, Board meeting for approval. Staff believe it will take three to six months to fully institute the necessary infrastructure to implement the proposed policy changes if they are approved by the Board. Activities will include the development of new templates for reporting of vendor performance problems, modified forms, tracking systems, and staff education and training.

Options for modifications to Board Policy No. 008: Legal Matters will be discussed as a separate agenda item at the April 11 Board meeting to respond to requests from the Board to review and modify the hiring and reporting relationship between the Board and the General Counsel for the agency. All other board policies with proposed amendments will be brought to the Executive Committee for consideration in May 2025.

Mario Orso, Chief Executive Officer

Attachments: 1. Proposed Board Policy No. 011 with Redline Changes
2A. Proposed Board Policy No. 016 with Redline Changes
2B. Proposed Board Policy No. 023 with Redline Changes
2C. Proposed Board Policy No. 024 with Redline Changes
3. Proposed Board Policy No. 017 with Redline Changes



BOARD POLICY NO. 011

TRAVEL EXPENSES

This policy is intended to establish processes and procedures regulating Out-of-Town Travel by SANDAG Board and Committee members and employees while on SANDAG business, and to provide a basis for budgeting Board member and employee attendance at conferences, training, seminars, or other meetings. Employees should refer to the Administrative Guidelines/Procedures for Employee Business Travel for Additional Information.

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

1. Definitions Applicable to Policy

- 1.1 Out-of-Town Travel – Any travel outside San Diego County.
 - 1.1.1 One-day trips within San Diego County will be treated as in-town expenses and not *Out-of-Town Travel*.
- 1.2 Authorizing Authority – SANDAG Board Chair for Board and Committee member travel, or SANDAG Chief Executive Officer (CEO) and those delegated authority by the CEO to ensure SANDAG compliance with this Policy, but do not include positions lower than a Director for SANDAG employee travel.
- 1.3 U.S. General Services Administration (GSA) – GSA establishes the per diem rates for the lower 48 Continental United States (CONUS), which are the maximum allowances that federal employees are reimbursed for expenses incurred while on official travel. (See www.gsa.gov.) The GSA's Federal Travel Regulation shall be used in interpreting this Policy.

2. Budgeting

- 2.1 Each year the CEO will survey the Board and Committee members to ascertain their interest in attending upcoming conferences and meetings. These conferences may include legislative and annual meetings for the California Transit Association, the American Public Transit Association, and the National Association of Regional Councils, as well as California Transportation Commission meetings and legislative hearings. The Chair of the Board will make the final decision regarding which Board and Committee members should attend all conferences and meetings. Upon return, Board members will be asked to present their experiences to the Board in order to share the knowledge obtained from their attendance.
- 2.2 Employees may attend conferences related to their respective disciplines consistent with this Policy's procedures. The CEO or his/her designee will make the final decision regarding which employees should attend conferences and meetings.

within the adopted budget. Upon return, employees will submit a report to their Director in order to share the knowledge obtained from their attendance.

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

3. Procedures

- 3.1 Requests for Out-of-Town Travel in all cases shall be limited to SANDAG business, conferences, and meetings, legislative hearings, and training classes from which SANDAG will derive a specific benefit through the attendance of a representative and must be approved in advance by an Authorizing Authority.
- 3.2 Out-of-Town conference Travel by SANDAG employees shall be limited to positions of a highly technical or professional nature as designated by the Authorizing Authority.
- 3.3 Any reimbursable Out-of-Town Travel expenses must be properly documented in accordance with a travel request form and shall be submitted for reimbursement within 10 (ten) business days following the completion of travel.
- 3.4 Employees must fill out a travel request form prior to traveling out of San Diego County on SANDAG business. The project code, purpose of travel, and trip budget must be filled in on the form. The form must be approved by the Authorizing Authority prior to travel arrangements being made.
- 3.5 For Board and Committee member travel, the Clerk of the Board or Executive Assistant will fill out ~~the top portion of~~ the travel request form and the Chair of the Board, or upon their written delegation the CEO, shall determine whether to approve it based upon the standards in this Policy.
- 3.6 Basic travel arrangements for flights, hotels, and rental cars will be made by the Clerk of the Board, Executive Assistant, or other designated staff. Board and Committee members and employees are responsible for contacting the Clerk of the Board, Executive Assistant, or other designated staff if itinerary changes are needed. Board and Committee members or employees desiring different travel arrangements will contact the Clerk of the Board or other designated staff to place them on notice and will be financially responsible for any costs over and above those costs for the basic trip.
- 3.7 If a Board or Committee member or employee initiates a change in travel plans that is not due to a medical/death emergency by the Board or Committee member or employee, or his/her immediate family, then the Board or Committee member or employee will be responsible for the cost impacts of those changes.
- 3.8 Use of air, train, private vehicle, bus, SANDAG vehicle, or other travel mode shall be selected on the basis of the lowest reasonable cost to SANDAG after all expense items are tabulated, including but not limited to travel time salary costs. The

responsibility for this consideration rests with the respective Authorizing Authority in approving the proposed travel and may be based upon the assessment of the Clerk of the Board, Executive Assistant, or other staff member or agency charged with making travel arrangements.

- 3.9 When the use of public air carrier transportation is approved, the travel expense will only be reimbursed for the equivalent of reserved coach class service. Airfare will be reimbursed for actual expenses; the use of personal mileage or vouchers for airfare will not be reimbursed.
- 3.10 Authorized travel time shall be based on that required by the most appropriate mode of transportation. Should an employee desire travel time in excess of the above, such time must be approved by the respective Authorizing Authority.
- 3.11 Additional fees such as luggage fees will be reimbursed on the basis of one bag fee per traveler. Extended travel that requires extra luggage may be approved by the respective Authorizing Authority.
- 3.12 Board and Committee members and employees will be reimbursed for meals and incidentals using the per diem rates established by the GSA. There are circumstances where these guidelines may not be appropriate. Examples of these circumstances include, but are not limited to the following, and such exceptions must be approved by the Authorizing Authority for reimbursement at actual expense:
 - 3.12.1 Meal costs incurred in connection with training, travel, civic/professional group meetings, etc., which have a set price and for which the individual has little or no choice in the amount paid. These costs usually include speaker, facility, and meal costs.
 - 3.12.2 Circumstances specifically identified in the GSA's Federal Travel Regulation as allowing actual expense reimbursement instead of per diem rates.
- 3.13 Lodging will be reimbursed at actual expenses, not to exceed the guidelines set by the GSA. (See www.gsa.gov.) Exceptions will be granted at the discretion of the Authorizing Authority for hotels included with training, travel, civic/professional group meetings, etc., which have a set price and for which the individual has little or no choice in the amount paid, or where specifically allowed in the GSA's Federal Travel Regulation. The use of personal mileage/points or vouchers for lodging will not be reimbursed.
- 3.14 It is the responsibility of Board and Committee members and employees to ensure that expenses are within the guidelines of this Policy.
- 3.15 The number of Board members or Committee members attending any conference or meeting should not exceed a quorum unless this provision is specifically waived by the Board after seeking advice from legal counsel.
- 3.16 The CEO shall develop and implement administrative travel policies and procedures consistent with this policy. Among the requirements in those policies and procedures, the following shall be mandated:

3.16.1 The travel request form used to approve travel must be documented separately from the travel expenses report used to reimburse travel; and

3.16.2 Only those executive assistants and other staff who have received training and are sufficiently familiar with the requirements for reimbursement and supporting documentation may process or submit travel requests and/or travel expense reports for final approval; and

3.15.13.16.3 Travel request and reimbursement approvals shall be documented by digital signature unless a digital signature cannot be acquired in a timely manner, in which case a text message or email may be used. Any record of emailed or texted approval and documentation shall be included with the travel request or reimbursement approval.

3.16.3.17 The CEO shall report any exceptions granted under this Policy to the Board of Directors on a regular basis.

Adopted June 2003

Amended January 2006

Amended December 2006

Amended December 2008

Amended January 2010

Amended November 2012

Amended November 2015

Amended February 2018

Amended June 2021

Amended November 2022

Amended April 2025



BOARD POLICY NO. 016

PROCUREMENT AND CONTRACTING

Purpose and Applicability

This policy establishes rules for procurement and contracting approved by the Board of Directors based on applicable laws and Board directives to staff. Primary procurement authority for SANDAG is derived from Public Utilities Code (PUC) section 132352.4. As stated in PUC section 132352.4(b)(7), with Board approval, the agency may may use any procurement method authorized for state or local agencies by state or federal law.

Detailed procedures for carrying out this policy are described in the Procurement Manual, the Construction Manual, and standard operating procedures approved by the Chief Executive Officer (CEO) and Office of General Counsel (OGC). Code of Federal Regulations, Volume 2, Part 200, Federal Transit Administration Circular 4220.1G, and the Caltrans Local Assistance Procedures Manual also establish rules and guidance that SANDAG must consider when administering procurements and contracts using federal or state Department of Transportation (DOT) funds. All references to the CEO in this policy also apply to the CEO's delegates to the extent permitted by Board Policy No. 017 and as set forth in the Delegation of Authority policy approved by the CEO.

Definitions

Best Value Selection: "Best value" mMeans the contract award is made to the highest ranked responsive and responsible offeror(s) as a value determined by objective criteria, ~~which-and~~ may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by SANDAG. Price must be a significant evaluation factor, but SANDAG is not required to award to the lowest price offeror.

Cardinal Change: A cardinal contract change is work added that is outside of the scope of what offerors could have reasonably expected the work to include at the time of the original solicitation. A cardinal contract change cannot be identified easily by assigning a specific percentage, dollar value, number of changes, or other objective measure that would apply to all cases. Relevant factors include the nature and extent of the changed work to be performed, the amount of effort involved, whether the change was originally contemplated at the time the original solicitation was issued and/or contract was entered into, and/or the cumulative impact on the contract's quantity, quality, costs, and delivery terms. Generally, an amendment or change order that is either outside of the original contract scope, or greater than 25 percent of the price of the original solicitation value should be documented as a noncompetitive procurement (sole source).

Contract: Any binding written document, whether or not it contains a dollar amount, that states that SANDAG agrees to carry out or refrain from one or more actions. Contract documents include, but are not limited to, Memoranda of Understanding, agreements for services, sponsorship agreements, purchase orders, task orders, amendments, change orders, job orders, nondisclosure agreements, letters of intent regarding future transactions, and real property purchase agreements.

Contractor: A person or entity contracting directly with SANDAG to provide goods or services. Sometimes also referred to as a consultant or vendor.

Exigency or emergency: A situation that will not permit a delay resulting from carrying out the typically required competitive procurement or amendment requirements for the supplies or services due to the serious injury that would be caused to SANDAG or the public if delay occurs.

Failure to plan: Circumstances that constitute failure to plan include, but are not limited to, staff not adequately tracking contract expiration dates, staff not allowing enough time to conduct a new solicitation prior to contract expiration, issues with a non-performing contractor that have not been addressed through a formal Notice to Cure, and failure to timely replace a project manager who is absent from work, has left the agency, or has changed roles.

Limited Competition: Use of the small purchase procedures when formal purchase procedures are otherwise warranted to avoid a noncompetitive sole source. Permitted only under the limited conditions described in this policy.

Lowest Bidder Selection: Means the contract is awarded to the lowest priced responsive and responsible bidder meeting specifications for award, not including sales tax.

Micro Purchase Amount: An amount that will not exceed the ceiling amount for micro purchases set by the Board of Directors or the applicable funding agency(ies) for the procurement, whichever is lower.¹

Mini Brooks Act Services: Services described in Government Code section 4525 et seq. Those services include: architectural, landscape architectural, engineering, environmental, land surveying, construction engineering, or program management, construction management, feasibility studies (includes environmental studies and analysis), preliminary engineering, design, engineering, surveying, mapping or architectural related services, as those terms are defined in the Government Code.

Noncompetitive Procurement (Sole Source): A procurement leading to award of a contract to a contractor or entity that was not required to compete against other potential contractors.

Qualifications Based Selection: Means the contract award is made to the highest ranked responsive and responsible offeror(s) as determined solely by offeror qualifications. An offeror's price proposal is not reviewed unless the offeror is determined to be most qualified. This selection method is only used for Mini Brooks Act Services.

Small Purchase Amount: An amount that is higher than the Micro Purchase Amount but lower than the amount set in PUC section 132352.4 requiring formal procurement procedures.²

Subcontractor: A person or entity hired by a SANDAG contractor at any tier with no direct contractual relationship with SANDAG. Sometimes also referred to as a subconsultant or supplier.

PROCUREMENT OF SERVICES

¹ As of March 2025, the Board of Directors approved micro purchase amount is \$10,000.

² As of March 2025, this amount is \$150,000.

1.—Rules for Procurement of Services -

1. Pursuant to Public Utilities Code section 132352.4, the following statutory requirements apply to procurements of services, including Mini Brooks Act Services, unless a justification in Section 5 of this policy applies.

~~Micro Purchases. 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 designees.~~

Procedures

- ~~1.1—Micro Purchase Agreements. For purposes of this policy, the term "micro purchase amount" shall mean an amount that will not exceed the ceiling amount for micro purchases set by the applicable funding agency(ies) for the procurement. These procedures apply to the procurement of all services at or below the Mmicro Purchase Amount.~~

1.1

- ~~1.1.1 For purchases at or below the micro purchase amount, a micro purchase procurement method may be used. A micro purchase procurement is a noncompetitive purchase technique; however, the price of the service must still be fair and reasonable.~~
- 1.1.2 There should be equitable distribution of contract awards among qualified service providers in the local area and no splitting of procurements to avoid competition.
- 1.1.3 An offer is only required from the contractor/vendor of choice and a purchase order, invoice, or simple letter agreement may be used instead of the SANDAG standard contract languageservices agreement template. -when the risk to SANDAG is considered low, in the discretion of the Director or Manager of Contracts and Procurement or the OGC.
- ~~1.1.3~~1.1.4 If it is reasonably possible that the amount awarded will need to be amended to exceed the Micro Purchase Amount, the procedures in Section 1.2 or 1.3 of this policy, as applicable, shall be utilized.

~~1.2~~ Small Purchases. These procedures apply to procurements at or below the Small Purchase Amount that exceed the Micro Purchase Amount. ~~Agreements (in excess of micro purchase amount – \$100,000).~~ These procedures apply to the procurement of all ~~services~~ Small Purchases of services excluding Mini Brooks Act ~~Section 4525~~ Services with federal funding. All procurements that are predominantly Mini Brooks Act services and that will be funded in whole or in part with federal or state DOT funds, shall be procured using the procedures in Section 1.3.2 and 1.6 of this policy.

1.2

1.2.1 If the final estimated value of the contract is expected to be less than the \$100,000 or less, Small Purchase Amount, staff may select a qualified proposer whose proposal is most advantageous to SANDAG ~~the Board~~, price and all other factors considered, using an informal competitive process with the approval of their division director or department director. The CEO shall determine the selection procedure for this informal process, to distribute work in a fair and equitable manner. Prior approval of the selection procedure shall be obtained from the CEO via approval of the small purchase procedures in the Procurement Manual.

~~1.2.2~~ The Chief Executive Officer shall determine the selection procedure for contracts valued in excess of the micro purchase amount and no more than \$100,000 ~~the stated threshold~~, 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 or, 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 for Mini Brooks Act Services or goods or services with complex descriptions, a written scope of work or specifications shall be developed and supplied to all ~~proposers~~ bidders.

~~1.2.3~~ Selections will be made on a best value basis unless the procurement is not federally funded and is for Mini Brooks Act Services. For such services, selections shall be qualifications based. Procurements of Mini Brooks Act Services with federal funds must use the formal processes in Sections 1.3.2 and 1.6.

~~1.2.2~~ ~~1.2.4~~ If it is reasonably possible that the amount awarded will need to be amended to exceed the Small Purchase Amount, the procedures in Section 1.4 of this policy shall be utilized.

1.3 Formal Procurements. If the estimated total cost of required services will exceed the Small Purchase Amount, SANDAG must solicit proposals in writing and award the work in a formal, competitive procurement process that is in the best interest of SANDAG and applicable to the type of services to be procured as set forth in the Procurement Manual. Exceptions to this requirement include when services will be performed by another government entity or when a justification for noncompetitive procurement applies.

~~1.2.3~~ 1.3.1 Solicitation Process for Formal ~~Major Service Procurements~~ 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 the micro purchase amount.~~

~~1.2.4 — A~~Normally, a "one-step" ~~procurement~~~~selection~~ procedure ~~is typically will be~~ used for service contracts in excess of ~~\$100,000~~~~the Small Purchase Amount-current stated threshold~~. The "one-step" competitive process is as follows:

1.3.1.1

~~1.2.4.1 — Proposers~~Firms shall submit a response to a SANDAG Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP/RFQ shall include:

1.3.1.2

~~1.2.4.1.1~~1.3.1.2.1 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.

~~1.2.4.1.2~~1.3.1.2.2 All evaluation factors and their relative importance.

~~1.2.4.1.3~~1.3.1.2.3 The standard contract language that the successful proposer will be required to comply with, including applicable federal clauses and certifications.

~~1.2.4.2~~1.3.1.3 Notice of the ~~professional~~ services required shall be published at least once in a newspaper of general circulation and at least one minority publication in San Diego County, on SANDAG's ~~website and~~ electronic vendor portal and in such publications as appropriate in San Diego County, at least three weeks before the proposal due date. The notice shall state, at a minimum, ~~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.

~~1.2.4.3~~1.3.1.4 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 Disadvantaged Business Enterprises (DBE) firms or individuals listed in the SANDAG vendor database and the California Unified Certification Program (CUCP) Database.

~~1.2.4.4~~1.3.1.5 Responses to an RFP/RFQ shall list all proposed sub~~consultant~~~~contractors and subcontractors~~, ~~their area of~~ the work they will perform, and identify which of them, if any, are certified DBEs.

~~1.2.4.5~~1.3.1.6 Responses to an RFP/RFQ shall include a detailed cost estimate.

~~1.2.4.6~~1.3.1.7 For procurement that are all or predominantly Mini Brooks Act~~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 for Mini Brooks Act Services~~and will only be used by the Chief Executive Officer, when negotiating within the prescribed budget, except as provided in 3.1.5.2 below.~~ Sections 1.3.2 and 1.6 of this policy concern Mini Brooks Act Services procedures.

~~1.2.4.7~~ 1.3.1.8 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.

~~1.2.4.8~~ 1.3.1.9 The responses shall be evaluated by an evaluation committee. The evaluation committee should consist of SANDAG staff who are not all in the same chain of command. For procurements in excess of \$5 million, at least one person on the evaluation committee should be from outside the agency ~~and, unless waived at the discretion of the procuring department's by a Director on the basis that it is not in the best interest of the agency, at least one person from outside the agency.~~

1.3.1.10 The top-ranked firm(s) should ~~shall~~ then be interviewed. If only one firm is in the competitive range, an interview may be, if deemed unnecessary. The final list of qualified firms shall be based on the response to the RFP/RFQ, references, the interview, and other relevant factors.

1.3.2 A "two-step" procurement process may be used for procurements of any service but are most often used for Mini Brooks Act Services. The RFQ process is as follows:

1.3.2.1 Letters of Interest/Statements of Qualifications (LOIs/SOQs) are solicited from the firms registered in the electronic vendor portal for the particular services specialty.

1.3.2.2 Notice of the professional services required shall be on SANDAG's electronic vendor portal and in any such other publications 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 Letters of Interest or Statements of Qualifications (LOIs/SOQs) from qualified firms, and indicate how additional information can be obtained, and the time and place for receiving responses.

1.3.2.3 Requests for LOIs/SOQs will be sent to firms or individuals registered on the SANDAG vendor portal.

1.3.2.4 "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 if required, DBE participation.

1.3.2.5 An evaluation committee will be formed. The evaluation committee should consist of SANDAG staff who are not all in the same chain of command. For procurements in excess of \$5 million, at least one person on the evaluation committee should be from outside the agency, unless waived at the discretion of the procuring department's Director.

1.3.2.6 The evaluation committee will evaluate the SOQs and a memo will be prepared for the CEO summarizing the evaluation committee's findings and recommending one or more qualified firms to be invited to receive an RFP. Following approval by the CEO, 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).

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

~~1.3.1.4~~ Selection Process for Services Other Than Mini Brooks Act Services. When the services to be procured are not Mini Brooks Act Services, ~~s~~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. If there are some Mini Brooks Act Services mixed in with a procurement that is predominantly for services that do not qualify as Mini Brooks Act Services, then the best value selection process is to be used rather than qualifications only.~~ A summary of the findings of the evaluation committee will be included in a recommendation memo to the ~~CEO~~Executive Director. The memo shall include the evaluation committee’s recommendation for negotiations with one or more firms in the competitive range and the best value evaluation factors.

~~1.3.1~~ — The ~~CEO~~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.~~

~~1.4.1~~

~~1.3.2~~1.4.2 Approval by the ~~CEO~~Executive Director of the recommendation shall be deemed approval to enter into negotiations with one or more firms in the competitive range.

~~1.3.3~~ — 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.

~~1.3.4~~1.4.3 For all other service contracts, ~~t~~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 ~~CEO~~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 ~~CEO~~Executive Director.

~~1.4.1.5~~ Services with Highly Specific Scope. 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, 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~~contractor with the lowest bid will be awarded the contract. The ~~CEO~~department directors will determine whether the nature of any of the services are appropriate for within their purview ~~lend themselves to~~ using this low bid procedure.

~~1.5~~ Services that Are Predominantly If desired, a "two step" selection process may be followed, as follows:

~~1.5.1~~ Letters of Interest/Statements of Qualifications (LOIs/SOQs) shall be solicited from the current SANDAG consultant list for the particular services specialty.

~~1.5.2~~ Notice of the professional services required shall be on SANDAG's website and electronic vendor portal and in such other publications 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.

~~1.5.3~~ 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.~~

~~1.5.4~~ An evaluation committee will be formed, which should consist of SANDAG staff and at least one person from outside the agency.

~~1.5.5~~ The evaluation committee will evaluate the SOQs and a memo will be prepared for the Chief Executive Officer summarizing the evaluation committee's findings and recommending one or more qualified firms to be invited to receive an RFP. Following approval by the Chief Executive Officer, 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).

~~1.5.6~~ From this point, the steps above for a one step procurement should be followed.

~~1.6~~ Mini Brooks Act For contracts for Section 4525 Services, When the work will predominantly be Mini Brooks Act Services, scoring and selection will be qualifications-based. Only the most qualified firm(s) shall have its cost proposal reviewed. ‡ 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 ~~CEO~~Executive Director may authorize ~~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 ~~CEO/Executive Director~~. Only the cost proposal of the firm in negotiations shall be opened.

1.6

1.7 Compliance with Brooks Act Provisions for Federally Funded Contracts. If federal funds are used and the services in the contract are of the types included in the Mini-Brooks Act, SANDAG shall comply with the provisions of the Brooks Act even if the amount awarded will be less than the Small Purchase Amount threshold.

~~—— Multiple Award On-Call Contracts. All on-call contracts will be awarded in accordance with the SANDAG Procurement Manual and applicable procedures.~~

1.8 When SANDAG has a need to procure services within a particular genre, such as planning, environmental, or legal services, but the specific project assistance that will be needed is not known in a sufficient amount of detail, then a two-phase process will be used.

1.8.1 First, an RFP or RFQ will be used to select one vendor or a short-list of vendors to be placed under an on-call contracting arrangement for a specific period of time.

1.8.2 Second, if only one vendor was awarded an on-call contract, each time services are needed, the vendor will be sent a scope of work prepared by SANDAG. The on-call vendor will then send a proposal to SANDAG and staff will evaluate the proposal and negotiate terms and conditions of the task order with the vendor. If multiple vendors are awarded an on-call contract, a secondary task order solicitation will be sent to all vendors within the relevant genre(s) of the on-call to allow for full and open competition. Selection will be based on the evaluation factors in the RFP or RFQ issued in the first phase.

1.8.3 Task orders for services other than Mini Brooks Act Services shall be awarded on a best value basis. Award of Mini Brooks Act Services shall be qualifications based.

1.8.4 Noncompetitive task order procurements shall only be permitted under the conditions set forth in Section 4 of this policy.

1.8.5 Task orders that include phased project work must include a description of the plan for future deliverable(s) or service(s) within the solicitation document and resulting task order to establish clearly that such future deliverable(s) and/or service(s) are conditioned upon applicable matters within SANDAG's discretion such as availability of funds, budget, contractor performance, and SANDAG's best interest. The solicitation for phased work task orders must contain a sufficient description of the scope of work to avoid later work from being categorized as noncompetitively procured.

1.6.1

2. 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. **Rules for Procurement of Equipment, Supplies, and Materials**

- 2.1 When a purchase is predominantly equipment, supplies, and materials (goods), SANDAG staff are required to use a competitive procurement process, unless a justification in Section 4 of this policy applies. Pursuant to PUC section 132352.4(b)(4), SANDAG is required to use the lowest bidder selection process.
- 2.2 Micro Purchases. For purchases below the micro purchase amount, 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.
- 2.3 Small Purchases. For purchases in excess of the Micro Purchase Amount and less than the formal procurement threshold, a simplified competitive procurement method may be used:
- 2.3.1 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.
- 2.3.2 Staff shall recommend the supplier that will provide the best value to SANDAG, taking into account the possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, and other similar factors in addition to price.
- 2.3.3 Staff shall obtain approval as required in the administrative delegation of authority policy and the small procurement procedures for use of the recommended supplier.
- 2.4 Formal Procurements. For purchases in excess of the stated threshold, an invitation for bids (IFB) shall be issued and the award will be made to lowest responsible bidder submitting a responsive bid:
- 2.4.1 The IFB will be posted on the SANDAG electronic vendor portal with a link from the SANDAG Web site.
- 2.4.2 Notice of the IFB will be published in at least one newspaper of general circulation and at least one minority publication in San Diego County and in such other 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.
- 2.5 For purchases 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 Director of Contracts and Procurement Services to utilize a different procurement process in accordance with PUC section 132352.4(b)(7). An alternate procurement process to the IFB may be in the best interest of SANDAG in the following example situations:
- 2.5.1 Contract negotiations with the offerors will be needed.

2.5.2 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.

2.5.3 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.

3. Rules for Procurement of Public Works Construction

3.1 PUC section 132352.4(b)(3) mandates that SANDAG establish rules for competitive procurement for construction of public works projects. SANDAG must solicit bids in writing and award the work to the lowest responsive and responsible bidder or reject all bids. Additionally, Government Code section 14085 et seq. requires that whenever any public entity is to receive state or federal funds for the purposes of project planning, design, rights-of-way, construction, acquisition, or improvement of exclusive public mass transit guideways it shall prepare various policies, procedures, and performance standards, which are subject to review and approval by the State of California prior to the implementation of the project or the project phases affected. This documentation must include the overall project financing plan and the overall project development schedule, as well as other items such as policies and procedures for contract provisions, bidding and awards, change orders, payments and audits, and contractor claims. This policy, the Procurement Manual, the Construction Manual, and applicable procedures are meant to address these requirements.

3.2 Micro Purchases. For construction contracts estimated to cost an amount equal to or less than the Micro Purchase Amount, 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.

3.3 Small Purchases. For construction contracts estimated to cost in excess of the Micro Purchase Amount, but not more than the \$50,000 limit in PUC Code section 132352.4(b)(3), the following procedures shall be followed:

3.3.1 An Invitation for Bids (IFBs) with the same scope of work and specifications will be sent to a minimum of three qualified bidders. The bid period will be a minimum of three calendar days. When possible, IFBs should be sent to at least two certified DBE firms. The IFB will contain the time and location for receiving and opening bids.

3.3.2 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 the protest period has expired.

3.3.3 Bid bonds will only be required on bids that are under \$50,000 when requested by the applicable Director or his or her designee.

3.4 Formal Procurements. For public works construction procurements estimated to cost more than \$50,000, a formal procurement process will be used to award the work to the lowest bidder.

3.4.1 Public notice 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:

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

3.4.1.2 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; and

3.4.1.3 In at least one minority or community newspapers as appropriate to best meet SANDAG's DBE goals.

3.4.1.4 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.

3.4.1.5 The notice shall state the time and location for receiving and announcing sealed bid amounts and shall describe the work to be done.

3.5 Contractor Prequalifications. 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.

3.5.1 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.

3.6 Form of Bids. SANDAG shall furnish each bidder with a standard bid form, to be filled out, executed, and submitted as its bid.

3.6.1 All bids shall be submitted as a sealed bid in a form directed by SANDAG, which shall mean either submission in a sealed envelope or electronically through the use of SANDAG's web-based solicitation system.

3.6.2 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.

3.6.3 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 CEO. The request shall be

executed by the bidder or its designated representative. Bids shall not be withdrawn after the time fixed for public opening.

3.6.4 On the day specified in the notice, staff shall post the preliminary bid results on the SANDAG electronic vendor portal within 24 hours.

3.7 Review of Bids. After the bids are opened, the staff 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.

3.7.1 Responsiveness. All bids will be evaluated to determine whether or not they are 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. In the event one or more bids is found nonresponsive, SANDAG will determine whether the non-responsiveness is material to the solicitation requirements and whether clarification is needed from one or more bidders. Responsiveness requirements shall generally include, but will not be limited to, the following:

3.7.1.1 Bid Booklet - with all bid amounts filled in

3.7.1.2 Designation of Suppliers and Subcontractors with dollar amounts, if applicable

3.7.1.3 Acknowledgment of Addenda, if applicable

3.7.1.4 Contractor's License Requirements

3.7.1.5 Ability to Meet Minimum Insurance Requirements

3.7.1.6 Public Contract Code 10162 Questionnaire

3.7.1.7 Bidder's Bond

3.7.1.8 Noncollusion Affidavit

3.7.1.9 Certification of Restrictions on Lobbying

3.7.1.10 Disclosure of Lobbying Activities

3.7.1.11 Certification Regarding Debarment

3.7.2 If the lowest monetary bidder's bid is responsive, then the bidder's qualifications will be evaluated 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.

3.7.3 SANDAG may investigate the responsibility and qualifications of 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 staff and written approval by the affected bidders.

3.8 Award or Rejection of Bids. The bidder deemed to be the lowest responsive and responsible bidder will be recommended to the CEO for contract award.

3.8.1 If staff finds -the lowest monetary bidder's bid is not responsive or the lowest monetary bidder is not responsible, then the responsiveness and responsibility of the next low monetary bidder may be reviewed. If staff finds 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 findings will be reported as recommendations to the CEO. Staff may continue to review the responsiveness and responsibility of the next lowest monetary bidder until he/she finds the lowest monetary bidder that is also responsive and responsible, and deemed lowest responsive and responsible bidder. In the event one or more low monetary bidders are found to be nonresponsive, those bidders will be given notice and a reasonable opportunity to present additional evidence to SANDAG within five working days after the bidder receives the notice.

3.8.2 The CEO 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 CEO determines that the award of an LNTP is justified.

3.8.3 If in the best interest of SANDAG, the CEO may, on refusal or failure of the successful bidder to execute the contract, award it to the second-lowest responsive and responsible bidder. If the second-lowest responsive and responsible bidder fails to execute the contract, the CEO may likewise award it to the third-lowest responsible bidder. On the failure or refusal of any bidder to execute the contract, its bidder's security shall be forfeited to SANDAG.

3.8.4 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. Bonds may be in either hard copy or electronic format. Bidders bonds must be issued by bonding companies registered in California. 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 CEO.

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

3.9 Return of Bidder's Security. 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.

3.10 Procedure for Subcontractor Substitution. 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 CEO is hereby designated to carry out all functions of the awarding authority under Section 4100 et seq.

3.11 Relief from Maintenance and Responsibility. 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 CEO 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.

3.12 Acceptance of Work. 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 CEO 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.

3.12.1 In determining whether to accept the entire work on major construction projects, these procedures should be followed:

3.12.1.1 The contractor shall request acceptance in writing.

3.12.1.2 Concurrence with the request by the SANDAG Resident Engineer shall be in writing to the CEO 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.

3.13 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. JOC procurements are authorized pursuant to PUC section 132352.4(b)(7).

3.13.1 JOC General Requirements. JOCs shall be awarded under written agreement subject to the following limitations:

3.13.1.1 The specifications were advertised in accordance with this policy based on the maximum potential value of the JOC.

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

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

3.13.1.4 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.

3.13.1.5 The JOC may not contain any provision which would guarantee the contractor cumulative Job Orders in excess of \$50,000.

3.13.2 Issuance of Job Orders. Following award of a JOC, job orders may be issued by the CEO in accordance with this policy, administrative policies, 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:

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

3.13.2.2 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

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

3.13.3 An individual Job Order may not exceed the sum of \$2,000,000, except in the case of an emergency as defined in this policy, or as specifically authorized by the CEO, whose authorization shall not be delegated.

3.13.4 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.

3.13.5 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, do not make up more than 25% of the bid amount, and are priced reasonably and in conformity with all applicable laws, regulations and policies.

3.13.6 Job Order Contract Intergovernmental Agreements. The SANDAG CEO may permit, subject to requirements of this section and subject to such terms and conditions that the CEO 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.

3.14 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 other provisions of this policy, SANDAG is permitted to use the design-build contracting method when allowed by law and in accordance with such law.

3.15 Construction Manager/General Contractor Contracting. Construction Manager/General Contractor (CM/GC) contracting is a project delivery method using a best value selection 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 other provisions of this policy, SANDAG is permitted to use the CM/GC contracting method on regional projects in accordance with Public Contracts Code sections 6950-6958; in accordance with the Otay Mesa East Toll Facility Act, Section 31460 et seq. of the

Streets and Highways Code; or as otherwise permitted by law. A competitive negotiation process, similar to the process described in this policy 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.

3.16 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 sections 6950-6958.

3.17 Community Benefits Agreement. The SANDAG Community Benefits Agreement shall apply to all construction projects awarded on or after May 19th, 2011, with a prime contract awarded by SANDAG with a SANDAG estimated construction contract award value of \$5,000,000 or greater. It shall apply to all Job Order Contracts with an individual job order valued at \$250,000 or greater and issued under a master Job Order Contract with an award value of \$5,000,000 or greater.

4. Other Than Full and Open Competition

4.1 SANDAG will utilize full and open competition when soliciting bids or proposals for procurements in excess of the Small Purchase Amount unless use of another method is fully justified.

4.2 Limited Competition. Under certain circumstances, a procurement may be justified that does not utilize full and open competition. These procurements are known as limited competition procurements. Staff may limit the number of sources and use small purchase procedures when the agency's need for the supplies or services is of such an unusual and compelling urgency that SANDAG would be seriously injured, financially or otherwise, unless the agency is permitted to limit the number of sources from which it solicits bids or proposals and use a simplified acquisition procedure.

4.2.1 Contract awards using this authority shall be supported by written justifications and approvals and require that offers be requested from as many potential sources as is practicable under the circumstances.

4.2.2 The total period of performance of a contract awarded using this authority shall not exceed the time necessary to meet the unusual and compelling requirements of the work to be performed under the contract and/or for the agency to enter into another contract for the required goods and services through the use of full and open competitive procedures.

4.2.3 Such contracts shall not exceed one year, including all options, unless the CEO determines that exceptional circumstances apply and the determination is documented in the contract file and reported to the Board.

4.3 Noncompetitive procurement also is known as sole source procurement. Sole source procurements are not favored and only may be used when adequate justification exists and approval has been obtained from the CEO. Noncompetitive and limited competition procurements shall only be permitted when the conditions in this Section 4 are met.

4.4 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 4220.1G, or the equivalent from other federal funding agencies, must be met. For projects funded in whole or in part by Caltrans or Federal Highway Administration funds, the applicable provisions in the Caltrans Local Assistance Procedures Manual must be met.

4.5 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:

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

4.5.2 The services should be purchased from a particular contractor in the interest of economy or efficiency as a logical follow-on to services already in progress under a competitively awarded contract based on a documented cost benefit analysis.

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

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

4.5.5 The good or service provided is utilized by SANDAG staff members with specialized training and/or expertise in using the good or services and retraining would incur substantial cost in time and/or money.

1.74.6 The Director of Contracts and Procurement Services will report noncompetitive contract awards to the Board of Directors on a semi-annual basis.

5 General Rules

5.1 Bid splitting, the intentional dividing of procurements into smaller quantities in order to avoid the statutory threshold for advertised competition, is strictly prohibited.

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

5.3 Late bids or proposals shall not be accepted after the time and date designated in the applicable solicitation.

4.1 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 contract templates. Other Than Full and Open Competition

5.4

~~4.2—The CEO is not required to make a contract award if he/she determines the proposals received or contract terms negotiated by SANDAG staff are not in the best interests of SANDAG. 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.~~

~~4.3—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. For projects funded in whole or in part by Caltrans or Federal Highway Administration funds, the applicable provisions in the Caltrans Local Assistance Procedures Manual must be met.~~

~~4.4—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:~~

~~4.5—There is only one consultant capable of providing the services because the services are unique or highly specialized.~~

~~4.6—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.~~

~~4.7—The cost to prepare for a competitive procurement exceeds the cost of the services.~~

~~4.8—The services are essential to maintain research or operational continuity.~~

~~4.9—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.~~

~~4.10—~~

~~4.11—General Conditions~~

5.5

~~4.12—In the event that circumstances dictate other than the processes indicated above for procurements that will exceed \$300,000, 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.~~

~~4.13—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.~~

~~4.14 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.~~

~~4.15 The Executive Director may approve contract amendments that exceed the project budget, approved annually by the Board, totaling up to \$300,000 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 \$300,000 or those contemplating a significant change in the original scope of services must be processed in accordance with the SANDAG procurement manual and policies.~~

~~4.16 For purchases in excess of the Micro Purchase Amount 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 standard agreement should~~contract may~~ be used instead of a purchase order in order to ensure provisions are included to protect the interests of SANDAG.~~

5.6

~~5.7 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.~~

~~4.17 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 service contract 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.~~

~~5.8 Responsibility Requirements. For all contracts in excess of \$1 million, the following uniform system of determining whether or not a bidder or proposer is "responsible" shall be applied. Multi-million-dollar contract awards must include sufficient pre-award analysis to demonstrate the bidder or proposer has been formally evaluated against SANDAG's project requirements. The CEO will consider the following non-exclusive list of factors in relation to the work to be performed for the project:~~

5.8.1 Financial Requirements:

~~5.8.1.1 The following guidelines may be used by staff to evaluate this factor:~~

~~5.8.1.1.1 Evidence of availability of sufficient working capital in the form of liquid assets, lines of credit, or similar sources to cover time periods during which the bidder or proposer will be required to provide goods or services without yet being eligible for payment from SANDAG;~~

5.8.1.1.2 The bidder or proposer should have completed contract(s) with a contract duration similar to the potential contract award and whose cumulative value meets or exceeds their bid or proposal amount. In the case of an on-call, as-needed, or phased contract, the maximum estimated contract amount shall be used in place of a bid or proposal amount;

5.8.1.1.3 The bidder or proposer should have successfully completed contracts during the previous five years that together exceed five times the annual value of the SANDAG contract.

5.8.2 Experience Requirements:

5.8.2.1 The following guidelines will be used by staff to evaluate this factor:

5.8.2.1.1 The bidder or proposer must demonstrate their firm's 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 in process that the bidder or proposer 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;

5.8.2.1.2 The bidder or proposer 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 bidder or proposer shall include the name, title, address, and phone number of an individual or organization who can verify the individual's experience;

5.8.2.1.3 The bidder or proposer 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 proposer or bidder or proposer against owner, and the final status of each claim);

5.8.2.1.4 The bidder or proposer shall state whether or not it has defaulted on a contract within the last two years;

5.8.2.1.5 The bidder or proposer shall list any violation of the Apprenticeship Requirements under the State Business and Professions Code or Labor Code found by an appropriate authority within the last two years;

5.8.2.1.6 The bidder or proposer shall state whether it has been found guilty of failure to pay required prevailing wages on a public contract within the last two years;

5.8.2.1.7 The bidder or proposer shall state whether it has been formally found to be a nonresponsible bidder or proposer, for reason other than being nonresponsive, by a public agency within the last two years;

- 5.8.2.1.8 The bidder or proposer shall list how many projects it will be working on concurrently with the SANDAG project;
- 5.8.2.1.9 The bidder or proposer shall state whether it has ever been terminated by an owner or client, or rejected from bidding in a public works project in the last five years;
- 5.8.2.1.10 The bidder or proposer shall state whether a surety ever completed any portion of the work of its projects within the last five years;
- 5.8.2.1.11 The bidder or proposer shall state whether it, any of its officers, or any of its employees who has a proprietary interest in it, 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
- 5.8.2.2 For all items identified under subsections 5.8.2.1.3 – 5.8.2.1.11, the bidder or proposer shall provide the name of owner, title of project, contract amount, location of project, date of contract, and name of the bonding company.
- 5.8.3 Reporting Forms: In order to demonstrate that financial and experience requirements are met, the bidder or proposer shall submit, when requested by SANDAG, a Statement of Experience and Financial Condition Questionnaire verified under oath that shall meet the requirements in this section of the policy.
- 5.8.3.1 Failure to provide accurate information relative to its financial status or experience may result in the debarment of the bidder or proposer from future SANDAG work.
- 5.8.3.2 The Statement of Experience and Financial Condition Questionnaire shall not be considered public records nor open for public inspection to the extent they are exempt under the California Public Records Act.
- 5.8.4 SANDAG will make its determination of responsibility based upon information submitted by bidder or proposers, and, if necessary, interviews with previous owners, clients, design professionals, or subcontractors with whom the bidder or proposer has worked, including SANDAG. If a bidder or proposer is determined to be nonresponsive, 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 CEO regarding determination of the lowest responsive and responsible bidder or proposer and award of the contract.
- 5.9 In the event that circumstances dictate other than the processes indicated in this policy for procurements that will exceed \$1 million, 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.
- 5.10 Board consent shall be obtained for the following solicitations and awards:
- 5.10.1 All services and job order contracting solicitations valued at \$5 million or more;

- 5.10.2 All final awards of services and job order contracts that are the result of a solicitation valued at \$5 million or more;
- 5.10.3 All final awards of construction solicitations valued at \$5 million or more;
- 5.10.4 All awards that were originally solicited for less than \$5 million, but for which an amendment is sought that will cause it to exceed the \$5 million threshold that would have required approval;
- 5.10.5 Procurements that exceed \$300,000 where circumstances dictate other than the procurement processes required or authorized by this policy.
- 5.11 In limited instances, a retroactive effective date can be applied to a contract document in accordance with the SANDAG Procurement Manual and with consideration of appropriate funding sources. A retroactive effective date should only be applied in exigent or emergency situations as described in this policy. Failure to plan as defined in this policy is not a permissible reason for use of a retroactive effective date in a contract.
- 5.12 When SANDAG procures goods or services to respond to public exigency or emergency, it will limit its contract only to the quantities or period of performance necessary to see it through the emergency or exigent situation.

56 Conflicts of Interest

- 5.16.1 A ~~consultant~~contractor is eligible for award of ~~a~~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 or its staff 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 unless otherwise authorized by applicable federal or state law:

~~5.1.16.1.1~~ Except in cases of design-build, CM/GC, or other approved alternative delivery method, 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.

~~5.1.26.1.2~~ 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.

~~5.1.36.1.3~~ 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.

~~5.1.46.1.4~~ Any firm that assists SANDAG or any of its member or affiliated agencies in the preparation of a solicitation~~construction RFP or RFQ~~ document will not be allowed to participate as a bidder or proposer~~offeror~~ or join a team submitting a proposal in response to the ~~that solicitation RFP or RFQ~~. SANDAG may in its sole discretion, however, determine there is not an organizational conflict of interest for a prospective firm where:

~~5.1.4.16.1.4.1~~ The role of the firm was limited to provision of preliminary design, reports, or similar "low-level" documents that will be incorporated into the solicitation~~construction RFP or RFQ~~, and did not include assistance in development of instructions to offerors or evaluation criteria; or

~~5.1.4.26.1.4.2~~ Where all relevant documents and reports delivered to the agency by the firm are made available to all offerors; or

~~5.1.4.36.1.4.3~~ 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 solicitation~~RFP and RFQ~~.

~~5.1.56.1.5~~ SANDAG shall not contract with, and will reject any bid or proposal submitted by, the following persons or entities, unless the CEO-Executive Director finds that special circumstances exist ~~that~~which justify the approval of such contract:

~~5.1.5.16.1.5.1~~ Persons employed by SANDAG;

~~5.1.5.26.1.5.2~~ Profit-making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;

~~5.1.5.36.1.5.3~~ 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

~~5.1.5.46.1.5.4~~ Profit-making firms or businesses in which the former employees described in subsection ~~67.1.5.3~~ serve as officers, principals, partners or major shareholders.

~~5.26.2~~ General ~~consultantcontractor~~s or sub~~consultantcontractor~~ firms may provide services on other SANDAG projects. A ~~consultantcontractor or subcontractor~~ 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 ~~CEO-Executive Director~~, a general ~~consultantcontractor~~ is a ~~consultantcontractor~~ 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 ~~consultantcontractors~~ support SANDAG staff in managing other SANDAG ~~consultantcontractors~~. ~~General consultants are prime consultants to SANDAG.~~ Sub~~consultantcontractor~~s to general ~~consultantcontractors~~ are not classified as general ~~consultantcontractor~~s. General ~~consultantcontractor~~ procurements ~~will be~~ identified as such during the ~~solicitationRFP~~ process.

~~5.36.3~~ A Notice of Potential for Conflict of Interest shall be included within any ~~applicable solicitationRFP for services~~ issued by SANDAG. The ~~n~~Notice shall be the policy of the Board as listed ~~in this policyherein~~. Any ~~solicitationmajor service agreement~~ issued in accordance with this policy shall include or make reference to ~~th~~~~Section 6 of thise~~ policy ~~listed herein~~.

~~5.4~~ For purposes of this Section 6, 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.

~~5.56.4~~ “Ineligible” firms shall include the prime ~~consultantcontractor~~ for the services, sub~~consultantcontractor~~s 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.

~~5.66.5~~ 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, OGC~~ will, upon written request, provide a written ~~determination on behalf of SANDAGruling~~. 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 ~~CEO-Executive Director~~ within five calendar days of notice from SANDAG ~~regarding the OGC's determinationconflict~~. The ~~CEO-Executive Director~~ shall determine the adequacy of the appeal and make a subsequent final decision. No further appeal shall be considered.

~~5.7~~ 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.

~~5.86.6~~ 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 ~~and administrative policies and procedures~~.

67 Protests to Solicitation, Bid, or Award

~~6.17.1~~ SANDAG shall include in all ~~solicitations~~~~procurements~~ a procedure to be followed by interested parties who wish to protest a specification or procedure related to a procurement. Interested parties are defined as firms that submitted a bid or proposal in response to the solicitation. The procedure shall include the following:

~~6.17.1.1~~ 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.

~~6.17.1.2~~ 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. In no event shall the time limit for a solicitation exceeding the Micro Purchase Amount be less than three business days or the Small Purchase Amount be less than five business days.

~~6.17.1.3~~ A statement specifying the review and determination process by SANDAG, including time limits for response.

~~6.17.1.4~~ Requirements for submittal of protest reconsideration.

~~7.1.5~~ A statement regarding review of the initial protest by a protest review committee and review of protest reconsiderations by the Executive Director CEO, as appropriate.

~~6.17.1.6~~ A statement that protests will be rejected if they are not complete.

7—Procedure for ~~Consultant~~Contractors with Claims Against SANDAG-on-Service Contracts

8

~~8.1~~ On all SANDAG ~~services~~ contracts not involving construction, using a SANDAG contract document with an award estimated ~~to cost of~~ more than \$100,000, a section shall be included in the contract provisions that specifies how a consultantcontractor should file a notice of potential claim for additional funds and the procedures for review and disposition thereof.

~~7.18.2~~ 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.

~~7.28.3~~ Written notice of the potential claim must be given to SANDAGthe project manager prior to the time the consultantcontractor shall have performed the work giving rise to the potential claim, if based upon an act or failure to act of SANDAGthe 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.

~~7.38.4~~ It is the intention of the ese claimis requirements that differences between the parties arising under and by virtue of the contract be brought to the attention of

~~SANDAG 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 ~~consultantcontractor~~ 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.

~~7.48.5~~ If a ~~consultantcontractor~~ files an appropriate notice of potential claim," the administrative procedure shall be as follows:

~~7.4.18.5.1~~ 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.

~~7.4.28.5.2~~ 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 ~~CEO-Executive Director~~ and shall so notify the ~~consultantcontractor~~ of the action.

~~7.4.38.5.3~~ The ~~CEO-Executive Director~~ shall direct the appropriate department director to obtain all pertinent information, including any oral or written presentation, concerning the claim the ~~consultantcontractor~~ might wish to present. The department director shall provide all information to the ~~CEO-Executive Director~~, including any recommendations.

~~7.4.48.5.4~~ The ~~CEO-Executive Director~~ shall report a final decision in writing to the ~~consultantcontractor~~. The written decision shall notify the ~~consultantcontractor~~ that this action completes the ~~consultantcontractor~~'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.

~~7.4.58.5.5~~ Any~~The~~ final recommendation of ~~a~~the Dispute Resolution Board or arbitrator~~ion~~ shall be presented to the ~~CEO-Executive Director~~ for approval before going to the Board for action.

~~7.58.6~~ Any claim disputes not resolved by the ~~CEO-Executive Director~~ shall be reported to the Board at one of the Board's regular meetings.

~~7.68.7~~ If a contract amendment proposed for the settlement of a claim causes a budget impact over \$300,000, the amendment must be sent to the Board for approval.

~~7.78.8~~ Federal Transit Administration review and concurrence may be required for claim settlements that exceed \$100,000 if federal funds are involved.

~~7.88.9~~ 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.

~~89~~ Debarment Procedures ~~for Service Contracts~~

~~8.19.1~~ In addition to all other remedies permitted by law, SANDAG may, upon advice of the ~~CEO and OGC-Executive Director and Office of General Counsel~~, by issuance of a

resolution by the Board of Directors, declare a ~~proposer or consultant~~ contractor ineligible to bid on SANDAG contracts for a period not to exceed three years for any of the following grounds:

~~8.1.19.1.1~~ Unjustified failure or refusal to timely provide or properly execute contract documents;

~~8.1.29.1.2~~ Unsatisfactory performance of contract;

~~8.1.39.1.3~~ Excessive and/or unreasonable claims while performing work for SANDAG;

~~8.1.49.1.4~~ 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;

~~8.1.59.1.5~~ Unjustified refusal to properly perform or complete contract work or warranty performance;

~~8.1.69.1.6~~ Unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract;

~~8.1.79.1.7~~ 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;

~~8.1.89.1.8~~ 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~~ contractor on future contracts with SANDAG;

~~8.1.99.1.9~~ Any debarment of the ~~consultant~~ contractor by another governmental agency; and

~~9.1.10~~ Two or more claims of computational, clerical, or other error in cost proposal submission within a two-year period;

~~9.1.11~~ False statements or certifications in documents submitted as part of a bid or any supplementary documentation thereto; or

~~8.1.109.1.12~~ Unjustified failure or refusal to timely provide or properly execute contract documents.

~~8.29.2~~ 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~~ bidder or proposer or ~~consultant~~ contractor by another governmental agency, as permitted by law.

~~8.39.3~~ The ~~proposer or consultant~~ firm 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 ~~CEO-Executive Director~~ has established a factual basis for debarment.

~~8.49.4~~ A ~~consultant~~ firm'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~~ firm.

~~8.59.5~~ Debarment constitutes debarment of all divisions or other organizational elements of the ~~consultant~~firm, 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~~firm if the affiliate is (1) specifically named, and (2) given written notice of the proposed debarment and an opportunity to respond.

~~8.69.6~~ Notwithstanding the debarment of the ~~ee~~firm~~nsultant~~, the Board may continue contracts in existence at the time the ~~consultant~~firm is debarred, unless the Board directs otherwise, after receiving advice from the ~~CEO and OGC~~Executive Director as to the effects of termination of an existing agreement.

910 Contract Administration and ConsultantContractor Assurances

~~9.110.1~~ SANDAG ~~consultant~~contractors must ~~assure that they~~ meet all applicable laws concerning labor law, labor rates, EEO, and licenses.

~~9.210.2~~ SANDAG ~~contractors shall assure~~~~shall ensure that~~ all services requiring a licensed ~~consultant~~contractor or subcontractor shall be performed by licensed ~~consultant~~contractors.

~~9.310.3~~ ~~Consultant~~Contractors will be responsible for complying with the provisions of the ~~federal~~ Fair Labor Standards Act of 1938 as amended.

~~10~~ ~~Consultant~~Contractors must provide the minimum scope of insurance as stipulated in the contract.

~~11.10.4~~ 10.4 ~~Consultant~~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 ~~consultant~~contractor shall be required to provide a certificate of compliance and proof of any required insurance to SANDAG.

~~11.2~~10.5 Contractors must agree to meet ~~labor~~ compliance requirements on SANDAG contracts, which shall be consistent with the California Labor Code.

~~11.3~~10.6 ~~Consultant~~Contractors 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 an applicable federal funding agency~~the Federal Transit Administration~~.

10.7 ~~Consultant~~Contractors shall comply with Section 1735 of the Labor Code and all other California laws prohibiting discrimination based on protected class status.

10.8 Contractor shall be required to pay workers no less than the stipulated prevailing wage 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.

10.9 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 PUC section 132354.7 unless one of the exceptions in Section 132354.7(a) are met.

~~11.4~~10.10 All contractors shall assure compliance with the Board's Equal Employment Opportunity Program and agree to 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.

~~12~~11 Amendments and Change Orders to Service Contracts

~~11.1~~ All contracts may be amended ~~by a suitable amendment processed~~ in accordance with the SANDAG Procurements Manual and related procedures~~policies~~. Unplanned amendments are not favored and should only be needed when events that could not have reasonably been anticipated with sufficient planning occur. Staff shall provide detailed reasons and justifications for amendment requests.

11.2 Contracts staff shall review all amendments and the contract procurement history to ensure bid splitting and avoidance of competition is not occurring. Contracts staff shall ensure justifications for amendments are allowable and in the event it is unclear if the justification is adequate, consult with the OGC.

11.3 Any amendment to a contract document that constitutes a cardinal change requires a sole source justification in accordance with Section 4 of this policy.

11.4 Pursuant to Board Policy No. 017, the CEO has authority to enter into agreements not currently incorporated in the budget and make other modifications to the budget in an

amount up to \$300,000 per project per fiscal year, subject to the limitations in this policy. The Board will be notified of all such amendments.

11.4.1 The Executive Committee or Transportation Committee or, if not practical, the Board Chair, First Vice Chair, or Second Vice Chair are hereby authorized to approve such amendments that will cause the project budget to be changed in an amount exceeding \$300,000 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, First Vice Chair, or Second Vice Chair 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~~CEO shall notify the Board of the action at the next regular Board meeting.

~~12.11.5~~ Notwithstanding any need for a budget approval from the Board of Directors or others permitted to authorize such an amendment under the previous subsection, all amendments in excess of \$500,000, shall be reported to the Board of Directors on a monthly basis, with a brief explanation of the need for the amendment. The \$500,000 amount shall be cumulative of all amendments to the original dollar amount in the solicitation or contract, whichever amount is higher.-

~~12.2~~ All amendments that impact or potentially impact Board adopted policies shall be brought before the Board for decision.

11.6 All amendments, including change orders, which utilize ing federal funds shall conform to the Code of Federal Regulations, Volume 2, Part 200 and the most recent version of Federal Transit Administration Circular 4220.1G or the equivalent from other applicable federal funding agencies.

11.7 Construction Contract Change Orders. Change orders are a type of amendment made to public works construction contracts.

11.7.1 All construction contracts may be amended by a suitable change order. Change orders shall be processed in accordance with the SANDAG Procurement and Construction Manual(s), this policy, and applicable procedures. Such procedures shall be consistent with the Board of Directors intent to be apprised of contract amendments.

11.7.2 All change orders shall be approved by the CEO, except the following, which shall be brought before the Board for decision:

11.7.2.1 Change orders that would require review as an amendment pursuant to this Section 11; and

—On contracts where the price of the original contract or solicitation value exceeds \$5 million, change orders where the value of such change order exceeds 25 percent of the price of the original contract or otherwise qualifies as a cardinal change.

11.7.2.2

~~12.2.1~~—

12 Contract Administration

- 12.1 During the life of the contract, the staff member(s) authorized to administer the contract shall track the performance of contractors and subcontractors, use of Disadvantaged Business Enterprises (DBEs), the milestone dates for contractor performance and deliverables, and the rate at which funding for the contract is being used and report any concerns to their manager.
- 12.2 A Notice to Cure shall be sent to a contractor when its performance falls behind deliverable dates or milestones by more than 60 days. Such correspondence shall be reviewed by the OGC prior to being sent and submitted to Contracts Department staff for recordkeeping. Failure of the contractor to cure the matter(s) in the notice within 30 days shall result in the matter(s) being reported to the Board of Directors as set forth in Section 12.4 of this policy.
- 12.3 When a contract exceeds \$100,000 in aggregate value, final contractor performance shall be evaluated upon completion or termination of the contract. This requirement also shall apply to task orders in excess of \$100,000.
- 12.4 To ensure timely communication of critical contract concerns related to contractor performance or claims, the Director of Contracts & Procurement Services will track the following criteria to include in a monthly report to the Board of Directors when a contract value will exceed \$1 million in aggregate:
- 12.4.1 Contracts for which a Stop Work Notice is issued for a vendor performance concern.
- 12.4.2 Contracts for which a Notice to Cure is issued and not resolved within the timeline required by this policy.
- 12.4.3 Contracts with at least two instances of documented non-excusable delays. A non-excusable delay is defined as a delay of more than five working days when that delay was solely within control of the contractor.
- 12.4.4 Contracts for which the contractor is responsible for compensable delays, based on liquidated damages or otherwise, in excess of \$50,000. A compensable delay occurs when there is going to be some compensation to SANDAG for the delay because the contractor is liable for an extension of time or cost compensation or both.
- 12.4.5 Contracts with "critical path" delays. A critical path delay is defined as a significant contractor delay in reaching a milestone or maintaining a project schedule that results in a determination that the contractor will not be able to reasonably accomplish the work by the contracted deadline.
- 12.4.6 When there is notice of a potential claim by the contractor related to the contract.
- 12.4.7 When there is notice of an actual claim by the contractor related to the contract.
- 12.4.8 In other situations when the OGC or Director of Contracts & Procurement Services determines the Board of Directors should be placed on notice of significant contractual issues related to priority projects.
- 12.5 Employees assigned as project managers over projects with a budget in excess of \$1,000,000 shall meet specific job qualifications, including completion of a formal

project management training or certification program within 60 days of being assigned such responsibilities.

12.6 Persons administering SANDAG contracts and overseeing the work of a contractor, including but not limited to, contract analysts, project managers, and contract managers, shall, at minimum, receive formal training at least once per year. Training shall be provided by procurement and contracting subject matter experts and/or management. Training shall at minimum, include the following subjects:

12.6.1 Assigned roles, responsibilities, and procedures of persons in the procurement and contracting process;

12.6.2 What is required from contractors for invoices based on SANDAG contract language. Elements of invoice review shall include:

12.6.2.1 Ensuring fee schedules align with the applicable contract rates.

12.6.2.2 Tracking of invoices and invoice approval processes.

12.6.2.3 The amount of detail and itemization required in invoices and progress reports prior to payment to the contractor being authorized. How to cross-check against the contract document to verify invoiced work reflects work performed consistent with the contract. The requirement that staff must validate the work has been performed and meets contractual requirements before invoices are authorized for payment using information such as detailed timesheets or task specific assignment sheets that support labor or work product results, subcontractor invoices, and goods and/or receiving receipts from third parties.

12.6.3 Procurement planning and oversight functions such as tracking of contracts, phased procurements, monitoring of expiration dates, procurement timelines for any changes to projects or potential amendments or change order needs, steps and timelines needed to prepare for various sized and timed procurements, and avoidance of requests for a contract with a retroactive effective date.

12.6.4 The requirement that competition must be open and full unless a permitted justification in this policy applies, and the frequency that competition must occur as required by applicable laws, rules and regulations. Information provided shall include:

12.6.4.1 How to ensure sole sources are limited and are thoroughly being reviewed and analyzed to ensure potential risks are mitigated.

12.6.4.2 Instruction explaining failure to plan is not an adequate justification for a noncompetitive procurement or retroactive effective date in a contract.

12.6.5 Reporting requirements to the Board of Directors for procurement and contract actions as described in this policy.

12.6.6 The requirement that performance evaluations of contractors be submitted upon completion or termination of a contract document.

12.6.7 Explanation of justifications allowed for amendments with examples of both allowable and non-allowable justifications. This shall include training for contract analysts to ensure they are reviewing and analyzing whether justifications are allowable by among other things, reviewing amendment requests and

procurement history, identifying excessive amendments, identifying potential bid splitting or avoidance of competition, ensuring amendments are not being issued to non-performing consultants, and making enquiries to confirm there are no conflicts of interest.

12.6.8 The Procurement Manual, Construction Manual, and any relevant Standard Operating Procedures.

12.6.9 Information that must be included in the record of negotiation for contracts not procured using the low bid process to ensure an adequate record exists of the steps taken to negotiate the contract.

12.6.10 Contract negotiation training to include reasons and intent of negotiations to provide the best contract terms and conditions for SANDAG, best practices, and the risks of not negotiating and/or not following best practices.

12.6.11 Proper use of the on-call contract process, competition required to award task orders or job orders, and methods that must be used to ensure fairness and equity in the award of task orders. The requirement that on-call procurements are appropriately advertised to reach sufficient, qualified and a variety of contractors and subcontractors, including outreach efforts using public platforms and attendance of outreach events to attract new and disadvantaged contractors and subcontractors.

12.6.12 Internal control requirements in Board Policy No. 041, including those applicable to limitation of sole source procurements.

12.6.13 The types of contract documents requiring review and approval by the OGC pursuant to Board policies and applicable procedures.

12.6.14 Conflicts of interest that can arise based on personal relationships of staff. This training shall include information on how to eliminate improper influence by any person on evaluation committees for selection of contractors.

12.6.15 Instruction that staff should not dictate the selection of particular subcontractors and should be sensitive to the fact that suggestions to contractors to hire particular subcontractors may be perceived as unduly coercive or create an appearance of favoritism or a lack of competitive contracting.

~~12.3~~12.7 Following completion of all projects with contracts exceeding \$5 million in aggregate, analyses shall be conducted, with lessons learned documented and corrective action plans for future projects prepared and presented to the CEO. The analyses will be shared with relevant internal stakeholders and presented to the CEO within 60 days of completion of the project. The documentation will be saved in the project files for future reference. Any lessons learned will be noted and incorporated into standard operating procedures and future procurements of a similar nature.

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 February 2018

Amended February 2021

Amended June 2021

Amended April— 2025 (with consolidation of Board Policy Nos. 023 and 024)

DRAFT



BOARD POLICY NO. 023

RESERVED 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, unless a justification in Section 3 of this policy applies. 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. The Board hereby finds that it is in the best interest of the agency to authorize simplified procurement procedures for contract awards covered by this policy that will not exceed \$100,000. 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 \$100,000, 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 proposals or bids.
2. For purposes of this policy, the term "micro-purchase amount" shall mean an amount that will not exceed the ceiling amount for micro-purchases set by the applicable funding agency(ies) for the procurement.
3. For purchases in excess of the micro-purchase amount 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.
4. 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 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:
- 4.1.1 There is only one vendor capable of providing the item because the item is unique or highly specialized.
 - 4.1.2 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.
 - 4.1.3 The cost to prepare for a competitive procurement exceeds the cost of the item.
 - 4.1.4 The item is an integral repair part or accessory compatible with existing equipment.
 - 4.1.5 The item is essential in maintaining research or operational continuity.
 - 4.1.6 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.
 - 4.1.7 The procurement is of the type that may be made as a sole source procurement pursuant to the Public Contracts Code.
- 4.2 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 projects funded in whole or in part by Caltrans or Federal Highway Administration funds, the applicable provisions in the Caltrans Local Assistance Procedures Manual must be met.
5. For purchases below the micro purchase amount, 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.
6. For purchases in excess of the micro purchase amount and \$50,000, a simplified competitive procurement method may be used:
- 6.1. 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.
 - 6.2. 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.
 - 6.3. Staff shall obtain approval as required in the administrative delegation of authority policy and the small procurement procedures for use of the recommended supplier.

- ~~7.—For purchases in excess of \$50,000, an invitation for bids (IFB) shall be issued and the award will be made to lowest responsible bidder submitting a responsive bid:~~
- ~~7.1—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).~~
- ~~7.2—Notice of the IFB will be published on SANDAG's website and electronic vendor portal, in at least one newspaper of general circulation and at least one minority publication in San Diego County and in such other 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.~~
- ~~8.—For purchases 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:~~
- ~~8.1—The purchase may be made at a lower price on the open market.~~
- ~~8.2—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.~~
- ~~8.3—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.~~
- ~~9.—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.~~
- ~~10.—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.~~
- ~~11.—Conflicts of Interest~~
- ~~11.1—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:~~
- ~~11.1.1—Persons employed by SANDAG;~~
- ~~11.1.2—Profit making firms or businesses in which SANDAG employees serve as officers, principals, partners or major shareholders;~~

~~11.1.3—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~~

~~11.1.4—Profit making firms or businesses in which the former employees described in subsection 10.1.3 serve as officers, principals, partners or major shareholders.~~

~~11.2—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.~~

~~11.3—A Notice of Potential for Conflict of Interest shall be included when relevant in any procurement issued by SANDAG. The Notice shall include 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.~~

~~11.4—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.~~

~~11.5—“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.~~

~~11.6—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 February 2018
Amended June 2021

Consolidated with Board Policy No. 016, April 2025



BOARD POLICY NO. 024

RESERVED 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 2, Part 200, Federal Transit Administration Circular 4220.1F, and the Caltrans Local Assistance Procedures Manual also establish procedures that SANDAG must follow when administering contracts using federal funds. All references to the Executive Director in this policy also apply to the Executive Director's designees.

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 purposes of this policy, the term “micro purchase amount” shall mean an amount that will not exceed the ceiling amount for micro purchases set by the applicable funding agency(ies) for the procurement. For construction contracts estimated to cost an amount equal to or less than the micro purchase amount, 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 in excess of the micro purchase amount, but not more than \$50,000, the following procedures shall be followed:

1.1.2.1.—An Invitation for Bids (IFBs) will be sent to a minimum of three qualified bidders by mail or email on the same date. The bid period will be a minimum of three calendar days. When possible, IFBs should be sent to at least two certified Disadvantaged Business Enterprise (DBE) firms. The IFB 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 applicable Director 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 immediately post the bid results on the SANDAG electronic vendor portal.~~

~~1.5.—Review of Bids~~

~~1.5.1—After the bids are opened, the applicable Director or 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 the project:

1.5.6.1—Financial Requirements:

1.5.6.1.1—Bidders 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 bidder 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 bidder 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 bidder 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 bidder 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 bidder 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 bidder 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 bidder shall state whether or not it has defaulted on a construction project within the last two years;~~
- ~~1.5.6.2.5 — The bidder shall list any violation of the Apprenticeship Requirements under the State Business and Professions Code or Labor Code found by an appropriate authority within the last two years;~~
- ~~1.5.6.2.6 — The bidder shall state whether it has 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 bidder shall state whether it has 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 bidder shall list how many construction projects it will be working on concurrently with the SANDAG project;~~
- ~~1.5.6.2.9 — The bidder shall state whether it has 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 bidder shall state whether a surety ever completed any portion of the work of its projects within the last five years;~~
- ~~1.5.6.2.11 — The bidder shall state whether it, any of its officers, or any of its employees who has a proprietary interest in it, 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 bidder shall provide name of owner, title of project, contract amount, location of project, date of contract, and name of the bonding company.~~
- ~~1.5.6.3 — Reporting Forms: In order to demonstrate that the SANDAG financial and experience requirements are met, the bidder 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 bidder 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 nonresponsive, 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—Labor compliance requirements on SANDAG contracts shall be consistent with the California Labor Code.
 - 2.1.6—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.
 - 2.1.7—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 Section 1735 of the Labor Code and all other California laws prohibiting discrimination based on protected class status.
 - 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 2, Part 200 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 Director 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 unless otherwise authorized by applicable federal or state law:~~

~~6.1.1—Except in the case of design-build or other authorized alternative delivery method 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/offeree 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 6.2.2 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 policies, 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 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 7 of this Policy, SANDAG is permitted to use the design-build contracting method on transit projects in accordance with Public Contracts Code section 22160 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 7 of this Policy, SANDAG is permitted to use the CM/GC contracting method on transit projects in accordance with Public Contracts Code §§6950-6958. Additionally, Chapter 7 (commencing with) of Division 17 provides for SANDAG to construct the Olay Mesa East Port of Entry Project using CM/GC. 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

Amended February 2012

Amended November 2012

Amended October 2013

Amended November 2014

Amended January 2017

Amended February 2018

Amended January 2019

Amended June 2021

Consolidated with Board Policy No. 016, April 2025



BOARD POLICY NO. 017

DELEGATION OF AUTHORITY

The purpose of this policy is to establish the authority granted by the Board of Directors to the Chief Executive Officer (CEO). It also provides the CEO with the authority to delegate functions he or she has been delegated by the Board to SANDAG staff.

Definitions

The following words shall have the meanings indicated when used in this policy:

“Agreement” shall be interpreted to include contracts, memorandums of understanding, agreement amendments, purchase orders, invoices, money transfers, or any other document that could be enforced against SANDAG in a court of law.

“Budget” shall be interpreted to include SANDAG’s annual budget, revisions and amendments thereto, and the Overall Work Program.

“Emergency or Urgent Need” for purposes of this policy shall mean a situation in which, in the CEO’s or his/her designee’s opinion, injury to persons, or significant injury to property, covered species, habitats, linkages, and/or corridors identified in the San Diego County Natural Communities Conservation Planning program, or interruption of a public service will occur if immediate action is not taken.

Procedures

1. Adoption of a budget by the Board shall automatically authorize the CEO to enter into any agreements or take any other actions necessary to implement the budget items or other actions approved by the Board.
2. Any authority delegated to the CEO shall automatically vest with ~~a Chief Deputy Executive Director~~ the Chief Financial Officer (CFO) when business must be conducted in the absence of the CEO. In the event the CEO position is vacant, the Chair or their designee shall serve as the supervisor to the CFO. Chief Deputy Executive Director and shall have the authority to authorize salary adjustments, consistent with agency pay practices as set forth in the SANDAG Employee Handbook.
3. In the event of emergency or an urgent need, the CEO is authorized to take all necessary actions to prevent significant unnecessary loss to SANDAG, a shut-down of public services, or to address a situation threatening the health or safety of persons or property, including, but not limited to, authorization to contract with a contractor or consultant on a sole source basis, consistent with applicable state or federal law without prior approval from the Board. In the event such an emergency or urgent need occurs, the CEO will consult with the Chair of the Board, promptly communicate all actions taken to the Board members, and submit a report to the Board at its next regular meeting in order to obtain ratification for those actions.

4. The CEO is hereby authorized to carry out the actions set forth below. In the event any of the authorities in this paragraph are exercised, the CEO will report actions taken to the Board in summary written form on a monthly basis.
- 4.1 Enter into agreements not currently incorporated in the budget and make other modifications to the budget in an amount up to \$300,000 per project per fiscal year so long as the overall annual budget remains in balance. This authority shall refresh in the event the Board of Directors or Policy Advisory Committee authorizes further modifications to a capital project budget within the same fiscal year or a new annual budget has been approved by the Board.
 - 4.2 Approve all design plans, specifications and estimates for capital improvement projects.
 - 4.3 Execute all real property transfer documents, including but not limited to, rights of entry, licenses, leases, deeds, easements, escrow instructions, and certificates of acceptance.
 - 4.4 Approve the establishment of an offer of just compensation based on a qualified appraisal and within approved project budget for property sought to be acquired, and direct payment to persons for such property so long as the payment amount does not exceed 110 percent of the appraised value, or \$100,000 above the appraised value, whichever is greater, or the full satisfaction of court judgments regarding property valuation.
 - 4.5 Reject all bids and/or suspend the competitive procurement process.
 - 4.6 Provide the final determination to persons or firms filing a protest regarding SANDAG's procurement or contracting process or procedures.
 - 4.7 File administrative claims and to initiate and maintain lawsuits on behalf of the Board to recover for damage to or destruction of SANDAG property, or interruption of a public service.
 - 4.8 Settle all lawsuits initiated under paragraph 4.7.
 - 4.9 Settle all lawsuits that SANDAG must defend when the settlement amount does not exceed \$100,000.
 - 4.10 Accept reimbursement from member agencies for use of SANDAG on-call contracts.
 - 4.11 Execute tolling agreements to extend the statute of limitations for litigation involving SANDAG as a potential plaintiff or defendant when deemed in the best interest of SANDAG by the CEO and Office of General Counsel.
 - 4.12 Authorize transfers of funds in the SANDAG budget for capital improvement projects following approval of such a transfer by the affected transit operator's board of directors or designated governing body.
 - 4.13 Authorize the expenditure of Emergency Land Management Funds designated in the most recent Board-adopted Environmental Mitigation Program Funding Strategy based upon support from a cross-section of technical experts not affiliated with the request.

- 4.14 Modify the Board of Directors meeting agenda regarding issues that arise after the most recent Executive Committee meeting with the concurrence of Chair of the Board.
 - 4.15 Execute Right-of-Way Certifications for submittal to the California Department of Transportation, and take all other actions necessary to facilitate the timely filing of such certifications, for SANDAG projects that are either on the State Highway System or for those off-system projects with federal funding.
 - 4.16 Authorize writing off or compromising uncollectable debt in an amount not exceeding \$5,000 per account when, in the judgment of the Director of Finance, after using all appropriate collection tools, it is likely that the full debt is uncollectible and that it would not be cost efficient to pursue collection of the entire debt.
 - 4.17 Approve exemptions and addendums to a previously-approved Environmental Impact Report or Negative Declaration consistent with CEQA Section 15164 where only minor technical changes or additions are necessary.
 - 4.18 Approve administrative modifications to the Regional Transportation Improvement Program (RTIP) which have been prepared consistent with Federal Transportation Improvement Program Amendment and Modification Procedures agreed to between Caltrans and the Federal Highway Administration and Federal Transit Administration.
5. With the exception of any position identified by the Board of Directors in a Board policy, the CEO~~The Executive Director~~ shall act as the appointing authority for SANDAG with the authority to appoint, promote, transfer, discipline, and terminate all employees of SANDAG consistent with the provisions of SANDAG's Employee Handbook, which shall be provided to the Board on an annual basis. The CEO shall have the authority to offer severance to an employee in accordance with the employee's contract and/or at the discretion of the CEO. In the event this discretion is exercised, the CEO shall obtain written concurrence from the Office of General Counsel and shall report any action taken in summary form at the next regular meeting of the Board.
 6. The CEO shall prepare for the Board's consideration, and shall update on a regular basis, an 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 in order to allow the Board monitor the staff evaluation process on a regular basis.
 7. Pursuant to Article V, Section 4, paragraph c of the Bylaws, the CEO shall develop and maintain an administrative policy governing the procedures for delegating his/her authority to other SANDAG staff.
 8. In addition to other responsibilities as directed by the Board of Directors, the CEO shall have the following responsibilities:
 - 8.1 Ensure that executive staff take an active role in overseeing the implementation of all accepted audit recommendations and hold staff accountable to timely address all related corrective actions.
 - 8.2 Require that staff managing projects with budgets in excess of \$100,000 have the requisite project management skills, training, and certifications to effectively conduct the analyses of internal resources

- and contractor capacity needed to successfully complete assigned projects, including technical expertise, documented risk assessments, and demonstrated alignment with the agency's budget and goals.
- 8.3 Establish and maintain clearly defined senior management roles, responsibilities, and expectations, and when an individual is given a special project assignment, such as management oversight for a system implementation, the role for the assignment also must have clearly defined responsibilities and expectations. The CEO shall hold staff accountable to their roles, responsibilities, and expectations in their performance evaluations.
- 8.4 Direct staff to have all contract transactions identified in Board Policy No. 008 reviewed by the Office of General Counsel prior to those contracts' final approval by SANDAG.
- 8.5 Ensure proper controls are in place to prevent staff from splitting procurements, awarding sole source contracts, or issuing contracts with a retroactive effect in a manner that is meant to circumvent requirements applicable to such transactions per Board Policy No. 016.
- 6.1 _____

Adopted October 2003
Amended November 2004
Amended December 2006
Amended December 2008
Amended February 2012
Amended November 2012
Amended October 2013
Amended November 2014
Amended January 2019
Amended June 2021
Amended April 2025



Discussion of Proposed Board Policy Changes to Address Previous OIPA and TransNet Findings and Related Recommendations

Executive Committee | Item 5
Julie Wiley, Senior Counsel
April 11, 2025

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Board Policy No. 11 - Travel

- OIPA Recommendations:
 - Travel request and travel reimbursement request should be two separate forms
 - Staff approving travel forms should have sufficient training
 - Approvals should be made with a digital signature unless an exception applies and documentation for an exception is provided

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Board Policy No. 016 - Procurement

- Section 1: Services (BP 16)
- Section 2: Equipment and Supplies (BP 23)
- Section 3: Construction (BP 24)
- Section 4: Other than Full and Open Competition (mix of old policies and new language)
- Section 5: General Rules (mix of old policies and new language)
- Section 6: Conflicts of Interest (BP 16)
- Section 7: Protests (BP 16)
- Section 8: Claims Against SANDAG (BP 16 and BP 24)
- Section 9: Debarment Procedures (BP 16 and BP 24)
- Section 10: Contractor Assurances (BP 16 and BP 24)
- Section 11: Amendments and Change Orders (mix of old policies and new language)
- Section 12: Contract Administration (new)

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Board Policy No. 016 – OIPA Recommendations

Increased Reporting to Board of Directors
4 Recommendations

Contractor Performance Monitoring
4 Recommendations

Enhanced Internal Controls
(overlap with other changes)
3 Recommendations

Reduction of Sole Sources
5 Recommendations

Training for Procurement and Contract Administration Duties
11 General Recommendations
6 Invoice Review Recommendations

Requirements Related to Open Competition
7 Recommendations

Improved Procurement Planning
5 Recommendations

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Board Policy No. 017 – Delegation of Authority

- Carve out for General Counsel role consistent with Grand Jury recommendation and outside counsel advice on approach of using Board Policies to govern Board's retention of appointing authority
- OIPA Recommendations
 - Additional risk-based internal controls should be implemented for procurement and contracting
 - Senior management roles and responsibilities should be clearly defined, including for large special projects
 - There should be accountability for implementation of accepted audit recommendations
 - Employees should have sufficient training and skills for their roles

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