

AGENDA

Independent Taxpayer Oversight Committee Meeting (ITOC)

January 12, 2016

1:30 p.m.

Location

*San Bernardino Associated Governments
Board Room – First Floor Lobby
1170 W. 3rd Street, San Bernardino, CA*

Independent Taxpayer Oversight Committee Membership

*Richard Haller
Committee Member*

*Rod Johnson
Committee Member*

*Norman Orfall
Committee Member, Chair*

*Craig Scott
Committee Member*

*Mike Layne
Committee Member*

*Ryan McEachron
SANBAG President / Ex-Officio*

*Raymond Wolfe
SANBAG Executive Director / Ex-Officio*

CALL TO ORDER

(Meeting Chaired by: Norman Orfall)

- 1. Attendance**
- 2. Results of Agreed-Upon Procedures Engagement Conducted by Conrad, LLP, Certified Public Accountants**

Review the results of the Agreed-Upon Procedures engagement and provide comments as appropriate for the SANBAG Board of Directors.

Duane Baker

- 3. Measure I 2010-2040 Maintenance of Effort Base Year Levels**

Review the proposed Measure I 2010-2040 Maintenance of Effort Base Year Levels and provide comments as appropriate for the SANBAG Board of Directors.

Andrea Zureick

- 4. Public Comments**

Comments from the general public.

Adjournment

Independent Taxpayer Oversight Committee (ITOC)

January 12, 2016
1:30 p.m.

AGENDA ITEM: 2

Date: January 12, 2016

Subject: Results of Agreed-Upon Procedures Engagement Conducted by Conrad, LLP, Certified Public Accountants

Recommendation:* Review the results of the Agreed-Upon Procedures engagement and provide comments as appropriate for the SANBAG Board of Directors.

Background: On October 28, 2015 the Independent Taxpayer Oversight Committee (ITOC) approved a scope of work for an outside auditor to perform an Agreed-Upon Procedures engagement. The outside auditor reviewed a sampling of transactions involving Measure I funds and tested for compliance with the Measure I Expenditure Plan and SANBAG Measure I policies.

The review by an outside auditor was requested after SANBAG staff conducted an internal review of compliance with the Measure I Expenditure Plan and SANBAG Policies for highway, grade separation, interchange, bus rapid transit and rail projects that are funded by Measure I, as well as Measure I allocations for local projects managed by cities or the County. The staff review showed that most projects complied with the Measure I Expenditure Plan and SANBAG Policies but there were some discrepancies identified.

After reviewing the results of the internal staff review, the ITOC requested that an outside auditor be engaged to conduct a test of 10% of Measure I vouchers. Staff has a bench of pre-approved auditing firms and these firms were requested to provide a cost proposal to perform the scope of work approved by the ITOC. Procurement solicited bids from the two on call audit firms. Based on the proposals, Conrad, LLP was selected for this Agreed-Upon Procedures engagement.

The findings of the Agreed-Upon Procedures engagement (Attached) found no major exceptions and one minor exception with a voucher payment and one minor exception with a contract complying with SANBAG policy.

The one exception noted with the voucher had to do with \$987 paid for project dedication plaques. That voucher was charged to the Measure I Valley –

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Metrolink/Rail Service fund when it should not have been. That charge will be reversed and will be applied to an eligible fund other than Measure I. The contract compliance exception related to a contract not containing a “non-discrimination clause” as required by SANBAG policy. That contract is an older contract executed before SANBAG put in place new procurement processes and before SANBAG had in-house General Counsel to review contracts. All contracts now go through a more rigorous and standardized process and are compliant with SANBAG policies.

SANBAG staff will be forwarding the results of this Agreed-Upon Procedures engagement to the SANBAG Board of Directors. Staff will also include any comments or recommendations from the ITOC for the Board’s consideration as well.

Reviewed By: This item has not been reviewed by any other policy committee or technical advisory committee.

Responsible Staff: Duane A. Baker, Deputy Executive Director

Attachment No. 1

**SAN BERNARDINO
ASSOCIATION OF GOVERNMENTS**

Agreed-Upon Procedures
Measure I Funds Invoice Testing

For the Period
July 1, 2011 through June 30, 2015



Hilda Flores, CPA
Chief of Fiscal Resources
San Bernardino Associated Governments
1170 West 3rd Street, 2nd Floor
San Bernardino, CA 92410

We have performed the procedures enumerated below, which were agreed to by the San Bernardino Association of Governments ("SANBAG"), solely to assist you with respect to reviewing invoices pertaining to Measure I ordinance for the period July 1, 2011 through June 30, 2015. SANBAG's management is responsible for reviewing and ensuring that the invoices were in accordance with the Measure I ordinance. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

Our procedures performed and the results of those procedures are as follows:

- 1) We reviewed approximately 10-15 contracts, identified compliance requirements, and documented items of significance

Results: No exceptions were noted as a result of our procedures.

- 2) We reviewed the 10-Year Delivery Plan and Measure I Ordinance, identified compliance requirements, and documented items of significance.

Results: No exceptions were noted as a result of our procedures.

- 3) We reviewed SANBAG policies and procedures and documented items of significance.

Results: No exceptions were noted as a result of our procedures.

- 4) We reviewed internal audit results, and documented items of significance.

Results: No exceptions were noted as a result of our procedures.

- 5) We randomly selected 10% of the vouchers and ensured that the vouchers were supported, allowable, and all compliance requirements as well as internal procedures were met.

Results: In the following table we have summarized the items selected for testing.

<u>Description/Task</u>	<u>Number of Items Tested</u>	<u>Amount Tested</u>
Transit and Passenger Rail	7	\$ 553,647
Major Project Delivery	147	43,867,403
Fund Administration and Programing	17	<u>4,488,579</u>
Total	171	<u>\$ 48,909,629</u>

As a result of our procedures one exception was noted. We identified one voucher in the amount of \$987 paid to Champion Awards & Specialty for a dedication ceremony plaque that was charged to the MSI Valley Fund – Metrolink/Rail Service fund. However, Policy 40007 Section IV.B only allows expenditures for the purchase of vehicles used on the Metrolink lines, construction of the tracks, and maintaining the railroad tracks, signal systems and road crossings for passenger rail service.

In addition, we identified that contract #00-1000004 did not contain a non-discrimination clause as required per Policy 11000 Section V.D. However, we did note that the expenditures relating to the contract were allowable.

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion on the invoices pertaining to the Measure I Ordinance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the specified users listed above and is not intended to be and should not be used by anyone other than those specified parties.

Conrad LLP

Lake Forest, California
December 12, 2015

Independent Taxpayer Oversight Committee (ITOC)

January 12, 2016
1:30 p.m.

AGENDA ITEM: 3

Date: January 12, 2016

Subject: Measure I 2010-2040 Maintenance of Effort Base Year Levels

Recommendation:* Review the proposed Measure I 2010-2040 Maintenance of Effort Base Year Levels and provide comments as appropriate for the SANBAG Board of Directors.

Background: After the Independent Taxpayer Oversight Committee (ITOC) noted that SANBAG lacks a formal process to monitor “Maintenance of Effort” (MOE) on the part of local agencies as required by the Measure I Ordinance and Section 190300 of the California Public Utilities Code, SANBAG staff developed amendments to Measure I policies to put MOE requirements in place. MOE is a requirement that a local agency use the Measure I funds they receive to supplement and not to replace their own discretionary fund sources used for transportation purposes.

Policies 40003, 40012, and 40016 in the Measure I 2010-2040 Strategic Plan establish requirements for the Valley, Victor Valley, and Rural Mountain/Desert subareas Local Streets Programs, respectively, for project eligibility, adoption of Five Year Capital Improvement Plans (CIP) by local jurisdictions, accounting requirements, and development mitigation requirements. Proposed MOE policy amendments were presented to the Transportation Technical Advisory Committee (TTAC), the City/County Managers Technical Advisory Committee (CCMTAC), the SANBAG General Policy Committee and finally the SANBAG Board of Directors. On May 6, 2015, the SANBAG Board of Directors approved the amended policies to add sections related to MOE as follows:

- Determination of MOE Base Year Level – At the suggestion of ITOC and the concurrence of the TTAC and CCMTAC, Fiscal Year 2008/2009 will be the base year as this is the year before the start of the current Measure I Ordinance. The MOE base year level is proposed to be equivalent to the Fiscal Year 2008/2009 General Fund expenditures for street and highway purposes. Because the purpose of setting a base year level is to quantify a jurisdiction’s typical commitment of General Fund to street and highway purposes, staff recommends that allowances be made for unusual

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circumstances that increased the General Fund expenditures in that particular fiscal year, such as special projects, emergency repairs, or loans to other transportation-related funds. Jurisdictions have submitted draft base year level determinations, and SANBAG staff has reviewed those submittals for consistency in assumptions between jurisdictions and verification of data submitted. After the data has been verified, the proposed base year levels, with any recommended deductions, will be adopted by resolution of the governing body and presented to the ITOC for consideration. The ITOC will provide a recommendation to the SANBAG Board for approval. The base year level as approved by the SANBAG Board will remain in effect until expiration of Measure I 2010-2040. Nineteen jurisdictions' proposed MOE base year levels are presented here for review by the ITOC. SANBAG staff and the remaining six jurisdictions will continue to work toward agreement on a proposed base year level for review at the next ITOC meeting. Note that some jurisdictions have chosen to have their base year levels approved by resolution after ITOC review, and SANBAG staff has agreed to this exception.

- Certification – Jurisdictions will annually provide a statement in the resolution of the governing body adopting the Measure I Local Street Program Five Year CIP that acknowledges the jurisdiction will maintain the required MOE base year level in that fiscal year. Additionally, the MOE requirement will be tracked as part of the annual Measure I Local Street Program audit. This will go into effect for the Fiscal Year 2016/2017 CIP after the base year levels have been adopted.
- Excess General Fund Expenditures – Carryover balances will be determined from Measure I Local Street Program audits. If a jurisdiction has reported General Fund expenditures above the MOE base year level, the amount in excess of the MOE base year level can be applied in a future year to offset the amount the local agency may need to meet the MOE requirement.
- Consequences – If an audit indicates that MOE is not being met, then the jurisdiction has four years to make up the amount. If the audit following the four year period indicates that jurisdiction is still below the MOE base year level, SANBAG will immediately stop disbursing Measure I Local Street Program funds until the MOE shortfall is withheld. The withheld funds will be disbursed to the jurisdiction upon demonstration that the jurisdiction has met the MOE requirements. There are special provisions proposed to ensure that all shortfalls are resolved at the expiration of Measure I 2010-2040.
- Role of ITOC – The ITOC is responsible for determining if an allowance should be made for unusual circumstances in determination of a jurisdiction's MOE base year level and for hearing appeals related to audit disputes. Additionally, when a determination has been made that a jurisdiction has not met its MOE base year level, the jurisdiction is allowed to file a request for

special consideration with the ITOC. The jurisdiction must present evidence to the ITOC demonstrating the need for special consideration. The ITOC will then make a recommendation to the SANBAG Board to either approve or deny the request.

SANBAG staff will provide a separate summary of the MOE base year levels and detailed MOE base year level calculations and descriptions of any deductions proposed. SANBAG staff has conducted a thorough review of each jurisdiction's general ledger and financial reports for Fiscal Year 2008/2009 and the proposed deductions, finds them to be acceptable, and recommends the ITOC recommend approval by the SANBAG Board. (Attachments will be provided as a supplement to the Agenda.)

Reviewed By: This item has not been reviewed by any other policy committee or technical advisory committee.

Responsible Staff: Andrea Zureick, Director of Fund Administration and Programming