



Audit Committee Agenda

Friday, October 13, 2023

1:30 p.m.

Welcome to SANDAG. The Audit Committee meeting scheduled for Friday, October 13, 2023, will be held in person in the SANDAG Board Room. While Audit 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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Public Comments: Members of the public may speak to the Audit Committee on any item at the time the Audit Committee is considering the item. Public speakers are generally limited to three minutes or less per person.

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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.

Audit Committee

Friday, October 13, 2023

Comments and Communications

1. Non-Agenda Public Comments/Member Comments

Members of the public shall have the opportunity to address the Audit Committee on any issue within the jurisdiction of the 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 five public speakers. If the number of public comments under this agenda item exceeds five, additional public comments will be taken at the end of the agenda. Audit Committee members and SANDAG staff also may present brief updates and announcements under this agenda item.

2. Update - Office of the Independent Performance Auditor Activities

Mary Khoshmashrab, Independent Performance Auditor

Independent Performance Auditor Mary Khoshmashrab will present an update on the Office of the Independent Auditor's activities and other sharing events.

Consent

+3. Approval of Meeting Minutes

Krystal Carranza, SANDAG

Approve

The Audit Committee is asked to review and approve the minutes from its September 8, 2023, meeting.

[Meeting Minutes](#)

Reports

+4. Purchase Cards Continuous Auditing Operational Process and System Control Review Results

Mary Khoshmashrab, Independent Performance Auditor

Discussion
/ Possible
Action

The Audit Committee is asked to discuss and provide input on the review results, and other required next steps, and move to the Board of Directors for consideration and acceptance.

[P-Card Continuous Audit
PC 2023-01 and Responses
Supporting Materials](#)

+5 Office of the Independent Performance Auditor – First Quarter Fraud, Waste, and Abuse Report for FY 2023-2024

Mary Khoshmashrab, Independent Performance Auditor

Discussion
/ Possible
Action

The Audit Committee is provided this report as information and asked to recommend that the report be provided to the Board of Directors as information.

[OIPA 1st Qtr 23-24 Fraud, Waste, and Abuse Report
Att. 1 - Final OIPA Q1 Fraud Waste and Abuse FY23-24 as of 9-30-2023](#)

+6. Matters to be Communicated in Accordance with Auditing Standards

Jennifer Farr, Davis Farr LLP; Lauren Warrem, SANDAG

Information

In accordance with the Statement of Auditing Standards 114 (SAS 114), the auditor will communicate with those charged with governance: (a) the auditor's responsibilities under generally accepted auditing standards and (b) an overview of the planned scope and timing of the annual financial audit.

[SANDAG Financial Audit Plan](#)

[Att 1 - FY 2023 Audit Communications Letter](#)

[Supporting Materials](#)

+7. The Office of the Independent Performance Auditor's Need for Independent Administrative Support

Mary Khoshmashrab, Independent Performance Auditor

Discussion
/ Possible
Action

The Audit Committee is asked to discuss the need for full-time administrative support dedicated to the Office of the Independent Performance Auditor.

[OIPA's Need for Admin Support](#)

+8. Update on Retaining Independent Counsel for the Audit Committee

David Zito, Audit Committee Chair

Discussion
/ Possible
Action

The subcommittee will present an update on retaining independent counsel to support the Audit Committee and discuss any possible action or recommendations.

[Update on Retaining Independent Counsel for the Audit Committee](#)

[Att. 1 - City of San Diego Draft Policy for Independent Legal Counsel](#)

[Handout - Independent Legal Counsel For OIPA.pdf](#)

9. Upcoming Meetings

The next meeting of the Audit Committee is Friday, November 3, 2023. Please note this meeting will be held the first week of the month due to the holiday schedule.

10. Adjournment

+ next to an agenda item indicates an attachment

October 13th, 2023

September 8, 2023 Meeting Minutes

Meeting Video

Chair David Zito called the meeting of the Audit Committee to order at 1:30 p.m.

1. Public Comments/Communications

Truth commented that the committee was regionally biased, stated the audit committee needs to retain independent counsel and spoke to the Board Chair's decisions.

Alan C. mentioned the findings of the previous audit, spoke about the way SANDAG has spent and invested money and commented on the soon-to-be IPA.

TheOriginalDra claimed that SANDAG engages in corrupt business practices.

Phone Number 415 stated that SANDAG and the new CEO need a fresh start and new staff.

Phone Number 813 stated that SANDAG plays the game 'government says.'

2. Agency Report

Deputy Chief Executive Officer Ray Major presented an update on key programs, projects, and agency initiatives including the recruitment efforts to hire a new CEO to replace Hassan Ikhata, the signing of a 15 year lease to relocate the agency, the creation and hiring of a new internal trainer, the implementation stages of the new ERP and the updates being made to the procurement manual.

Public Member Bob Monson asked about the Office of Independent Performance Auditor's involvement in recommendations being fulfilled.

Independent Performance Auditor Mary Khoshmashrab clarified and explained that her team will work jointly with Major's team on a quarterly basis.

Public Member Stewart Halpern, Ray Major and Finance Manager Lauren Warrem had a discussion around the timeline and data input into the finance module of the new ERP system.

Stewart Halpern and Lauren Warrem discussed the new financial auditors.

Agnes Wong Nickerson asked about the specifications of the new ERP system.

Ray Major explained that there had been a lot of special customizations for SANDAG's specific needs and that the OIPA team is invited for quality assurance.

Agnes Wong Nickerson followed up and asked if OIPA will be verifying the accuracy of the new system.

Mary Khoshmashrab stated that her team will be working with Management jointly to ensure there are adequate controls for each section of the ERP.

TheOriginalDra commented on the new CEO recruitment and the agency's paperless plan.

Phone Number 813 commented on Hassan Ikhata's retirement.

Action: Discussion Only

3. Update- Office of the Independent Performance Auditor Activities

IPA Mary Khoshmashrab indicated that October would be her last Audit Committee meeting. She also brought up her request for an administrative assistant and spoke about the timelines for the two continuous audits being conducted.

TheOriginalDra stated her concern over the audit topics.

Action: Discussion only.

4. Approval of Meeting Minutes

TheOriginalDra stated that people should be more aware of SANDAG and how their taxes are spent.

Action: Upon a motion by Vice Chair David Druker and a second by Bob Monson the Audit Committee Board voted to approve the meeting minutes from its July 25th, 2023 meeting.

Yes: Chair David Zito, Vice Chair David Druker, Agnes Wong Nickerson, Stewart Halpern, and Robert Monson.

No: None.

Abstain: None

Reports

5. The Audit Committee's Need to Retain Independent Counsel

Chair Zito mentioned the creation of a possible subcommittee to develop an RFP and procedures for independent counsel on an as-needed basis.

Mary Khoshmashrab supported the idea of a subcommittee.

Chair Zito and Stewart Halpern had a discussion around the potential subcommittee and the potential members and responsibilities.

Chair Zito then asked Deputy General Counsel Amberlynn Deaton about who the as-needed independent counsel would represent.

Amberlynn Deaton clarified and explained that the client is the organization itself and it acts through the Board of Directors or some other designated body.

Stewart Halpern disagreed and stated that the independent counsel would be representing the independent auditor's office, as it is required to be independent.

Mary Khoshmashrab agreed with Amberlynn Deaton but stated that OIPA is part of the organization, and their scope would be on behalf of OIPA.

Chair Zito, Alternate Member Ed Musgrove, Amberlynn Deaton, and Stewart Halpern continued discussion around the technicalities of who the independent counsel would represent.

Mary Khoshmashrab stated that she has an ethical and practical obligation to the organization, but she is still independent.

Chair Zito, Vice Chair David Druker, Agnes Wong Nickerson, and Bob Monson continued discussion around the potential subcommittee.

Phone Number 813 stated that SANDAG works to control the people.

TheOriginalDra spoke about her concerns over SANDAG and how they use money.

Action: Upon a motion by Chair Zito and a second by Bob Monson, the Audit Committee Board voted for the Audit Committee and OIPA to pursue the ability to have independent counsel on as needed basis, subject to agreed-upon procedures to be developed by a subcommittee consisting of Chair Zito and Agnes Wong Nickerson.

Yes: Chair David Zito, Vice Chair David Druker, Agnes Wong Nickerson, Stewart Halpern, and Robert Monson.

No: None.

Abstain: None

6. Update on Independent Performance Auditor Recruitment

This item was pulled by Chair Zito.

7. Independent Performance Auditor's Risk Assessment Results and Considerations Report for FY 2023-2024

IPA Mary Khoshmashrab stated that this report would be given as information only and the considerations provided, were that of the IPA and not the Audit Committee. Khoshmashrab stated that these considerations would be incorporated into the annual audit plan and addressed her changes made to language in the report.

Chair Zito thanked Mary Khoshmashrab for the changes made to the report.

Stewart Halpern asked if this had already been to the Board.

Mary Khoshmashrab stated that it had been a pulled item.

Stewart Halpern and Mary Khoshmashrab had a discussion around the quality control process on information and packages sent to the Board of Directors.

Katherine Rhodes commented on SANDAG's lack of fault investigations.

Phone Number 813 commented on people who follow corrupt agencies.

TheOriginalDra commented on the risks SANDAG pursues and acknowledges.

Action: Upon a motion by Bob Monson and a second by Vice Chair David Druker, the Audit Committee Board voted to forward the report to the Board of Directors.

Yes: Chair David Zito, Vice Chair David Druker, Agnes Wong Nickerson, Stewart Halpern, and Robert Monson.

No: None.

Abstain: None

DRAFT

8. Member Comments

Chair Zito mentioned that the Board of Directors approved the recommendation for Mary's performance review and compensation.

Ed Musgrove expressed his concern around trying to use the cost-of-living-adjustment as part of the recommended increase.

Mary Khoshmashrab expressed her gratitude to Chair Zito and the Audit Committee.

9. Upcoming Meetings

The next Audit Committee meeting is scheduled for Friday, October 13, at 1:30 p.m.

10. Adjournment

Chair Zito adjourned the meeting at 2:55 p.m.

DRAFT

Confirmed Attendance at SANDAG Audit Committee Meeting

September 8, 2023

Jurisdiction/Organization	Name	Member/ Alternate	Attended
Board Member	David Zito (Chair)	Primary	Yes
Board Member	David Druker (Vice Chair)	Primary	Yes
Public Member	Robert Monson	Primary	Yes
Public Member	Agnes Wong Nickerson	Primary	Yes
Public Member	Stewart Halpern	Primary	Yes
Board Member	Ed Musgrove	Alternate	Yes

October 13, 2023

Purchase Cards Continuous Auditing Operational Process and System Control Review Results

Overview

A continuous review of the purchase card operational and system controls process was performed as part of the Office of the Independent Performance Auditor's (OIPA) approved Annual Audit Plan (Plan). The objectives of this engagement were to ensure that staff are adhering to SANDAG's purchase card policy, including the new policy that took effect on July 1, 2022, as part of the corrective action plan for the Operational and System Control Review – Purchase Cards engagement; ensure all corrective actions agreed to have been enacted and are being adhered to; and to apply tests and perform procedures to verify that controls are sufficient and consist of supporting documentation, and other relevant data to assess SANDAG's ability to properly and sufficiently track, obtain support with sufficient documentation, and keep adequate records of process and controls that supports adherence to policies and procedures.

Action: Discussion/Possible Action

The Audit Committee is asked to discuss and provide input on the review results, and other required next steps, and move to the Board of Directors for consideration and acceptance.

Fiscal Impact: None

Schedule/Scope Impact: FY 2024

Key Considerations

The attached report identifies two audit findings. Additionally, the auditors provide recommendations that can assist to avoid the deficiencies and provide guidance on creating a Corrective Action Plan (CAP) that would bring improvement to SANDAG's purchase card program.

SANDAG management has prepared a response and CAP for this review, which is enclosed.

The Audit Committee is asked to review the report, response and CAP, discuss the results, and direct the OIPA to move the matter to the Board of Directors (BOD) for acceptance and consideration.

Next Steps

The OIPA auditors will provide guidance to SANDAG management and staff, upon their request. Further, once the Audit Committee moves the matter to the BOD and the BOD accepts the report and the corrective actions, OIPA will work with management to ensure that the CAP is implemented, and that on a quarterly basis OIPA reports the results to the Audit Committee. The report will be posted to the website in a continued effort to support public transparency.

Mary Khoshmashrab, Independent Performance Auditor

Key Staff Contacts: Mary Khoshmashrab, (619) 595-5323, mary.khoshmashrab@sandag.org

Attachments: 1. Purchase Cards Continuous Operational Process and System Control Review Report, Management Response Letter, & Auditor Response



THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

October 13, 2023

Chair Vargas
SANDAG Board of Directors

Audit Committee Chair Zito
SANDAG Audit Committee

Dear Chair Vargas and Audit Committee Chair Zito:

Subject: Results – Audit ID PC2023-01: Continuous Auditing Operational Process and System Control Review – Purchase Cards for the period of March 1, 2022, to Current

The objectives of this engagement are to ensure that staff are adhering to SANDAG's purchase card policy, including the new policy that took effect on July 1, 2022, as part of the corrective action plan for the Operational and System Control Review – Purchase Cards engagement; ensure all corrective actions agreed to have been enacted and are being adhered to; and to apply tests and perform procedures to verify and assess SANDAG's ability to properly obtain, store and track supporting documentation and adequate records of processes and controls in adherence with policies and procedures

The auditors did not perform an audit of relative financial statements or other financial data or provide an opinion regarding the financial statements in part or taken as a whole, and accordingly, will not express such an opinion.

The audit consists primarily of testing controls and testing purchase card transactions to determine if applicable policies are being followed. The Office of the Independent Performance Auditor (OIPA) reviewed purchase card transactions for the period of March 1, 2022, to April 22, 2023.

The audit was performed as part of the board approved annual Audit Plan. The Audit Plan is risk based and prioritized by the level of risk to the agency. Risks are considered in both qualitative and quantitative perspectives.

The audit was conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS), as required by federal and state governing code and under Assembly Bill 805.

The OIPA would like to thank the Chief Executive Officer, Hasan Ikhata, and SANDAG management and staff. If you have additional questions, please contact me at (619) 595-5323 or mary.khoshmashrab@sandag.org.

Board of Directors Chair: Nora Vargas
Audit Committee Chair: David Zito
Continuous Auditing Operational Process and System Control Review – Purchase Cards
Audit ID: PC 2023-01
October 13, 2023

Respectfully,

A handwritten signature in blue ink, reading "Mary E. Khoshmashrab", followed by a long horizontal flourish.

MARY E. KHOSHMAHRAB, MSBA, CFE, CPA
Independent Performance Auditor Office of the Independent Performance

cc: Members of the Board of Directors
 Members of the Audit Committee
 Hasan Ikhata, Chief Executive Officer
 Ray Major, Deputy CEO, Business Operations
 John Kirk, General Counsel
 Andre Douzdjian, Chief Financial Officer
 OIPA Website and Files

Enclosure: PC2023-01: Continuous Auditing Operational Process and System Control
Review – Purchase Cards



Office of the Independent
Performance Auditor

Continuous Auditing Operational Process and System Control Review – Purchase Cards

AUDIT No. PC 2023-01

Independent Performance Auditor, Mary Khoshmashrab, MSBA, CFE, CPA

October 2023

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BACKGROUND, SCOPE, AND METHODOLOGY

AGENCY BACKGROUND AND CREATION OF THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

Founded in 1980, San Diego Association of Governments (SANDAG) was created by local governments as a long-range planning agency within the San Diego County government as a state-authorized joint powers authority. Currently SANDAG is defined by the State Controller's Office as an Independent Special District. This public agency serves as the forum for regional decision-making. The agency builds consensus; makes strategic plans for the region; obtains and allocates resources; plans, engineers, and builds public transportation; conducts criminal justice research; and provides information on a broad range of topics pertinent to the region's quality of life.

SANDAG is governed by a Board of Directors composed of mayors, council members, and county supervisors from each of the region's 18 cities and County. Supplementing these voting members are advisory member representatives from Imperial County, the U.S. Department of Defense, California Department of Transportation, Metropolitan Transit System, North County Transit District, San Diego County Water Authority, San Diego Unified Port District, San Diego Regional Airport Authority, Southern California Tribal Chairmen's Association, and Mexico.

SANDAG currently has approximately 450 employees. The agency's program budget for fiscal year 2023-24 was \$1.2 billion. This budget included \$98.6 million in projected costs for the overall work program, \$69.5 million for regional operations, and the annual portion of the capital program is projected to be \$565.6 million, of which \$129.4 million was passed through to Caltrans District 11 and local agencies. The SANDAG financial outlook is tied to the health of the regional, state, national, and global economy. Economic performance can impact sales tax receipts and other sources of revenue that the agency depends on to carry out its projects and programs. Sales tax-based revenues such as Transportation Development Act and TransNet are a significant source of funding for both the Capital Program and the Overall Work Program (OWP).

On January 1, 2018, a new California Assembly Bill ([AB 805](#)) required the creation of the SANDAG Audit Committee, and an independent performance auditor (IPA) position. The Audit Committee is responsible for making recommendations to the SANDAG Board of Directors regarding the hiring and oversight of the work of the SANDAG independent performance auditor, the SANDAG annual audit plan, the external financial auditors for SANDAG, and internal control guidelines for the agency. The Audit Committee is also responsible for monitoring the implementation of any corrective actions arising from the audits.

SCOPE

The OIPA audited purchase card transactions and processes and procedures for the period of March 1, 2022, to April 22, 2023

METHODOLOGY

An audit of internal controls was limited to gaining a sufficient understanding of the internal control structure including documenting the understanding of internal controls and the controls components to help plan the review and to determine the nature, timing, and extent of tests to be performed. Gaining an understanding of internal controls consisted of reviewing, verifying, and identifying internal controls strengths and weaknesses by way of a questionnaire, narratives, flowcharting processes, and performing a walk-through of transactions as necessary, to develop appropriate auditing procedures.

Additionally, auditors followed procedures in accordance with SAS No. 122 and with SAS No. 99 that includes performing a brainstorming session regarding potential fraud as it relates to the audit and document the process.

The substantive audit procedures consisted of an examination of the evidence that supports the recording, authorizing, and approving; reviewing and reporting; and the monitoring and maintenance processes and procedures relevant to the review. The examination entailed testing of randomly and judgmentally selected samples as necessary.

Auditors' consideration of audit risk and materiality is a matter of professional judgment. There are quantitative and qualitative elements to consider when establishing a materiality factor.

Independent Performance Auditor: Mary Khoshmashrab, MSBA, CFE, CPA

Staff:

Lloyd Carter, Principal-in-Charge

Michael Ryan, Associate Auditor

AUDIT OBJECTIVES

UNDERSTANDING SANDAG'S PURCHASE CARD PROGRAM

At SANDAG, the Director of Accounting and Finance, assisted by the Finance Manager, identifies program areas that would benefit from having a SANDAG issued purchase card to support efficient and effective conduct of agency business.

SANDAG's Purchase Card Program operates through the CAL-Card program, a statewide program administered by the California Department of General Services (DGS). DGS allows local government agencies to enroll and participate in the CAL-Card program, which contracts with a merchant bank, currently U.S. Bank.

As a result of a prior review of SANDAG's Purchase Card Program, staff implemented a new Procurement Card Policy that became effective July 1, 2022. Similar to the previous policy, it establishes requirements and processes for the program, including logging of transactions, reconciliation of transaction logs with bank statements, approval of transaction logs, and documentation of receipts. However, the new policy includes additional requirements such as requiring explanations for transactions that occurred on a weekend or holiday, more explicit limitations on restaurant/food related transactions, the establishment of department credit limits, among other changes.

GENERAL AUDIT OBJECTIVES

The objectives of this engagement are to ensure that staff are adhering to SANDAG's purchase card policy, including the new policy that took effect on July 1, 2022, as part of the corrective action plan for the Operational and System Control Review – Purchase Cards engagement; ensure all corrective actions agreed to have been enacted and are being adhered to; and to apply tests and perform procedures to verify and assess SANDAG's ability to properly obtain, store and track supporting documentation and adequate records of processes and controls in adherence with policies and procedures.

The auditors did not perform an audit of relative financial statements or other financial data or provide an opinion regarding the financial statements in part or taken as a whole, and accordingly, do not express an opinion.

AUDIT RESULTS

FINDING I – REQUIREMENTS OF THE CURRENT PURCHASE CARD POLICY ARE NOT ALWAYS FOLLOWED

Auditors reviewed **153** out of **1,174** transactions from July 1, 2022, through April 22, 2023, and noted the following:

- **6** transactions did not include an explanation for the weekend or holiday use of the card.
- **1** transaction did not include the purpose or need for the purchase in its documentation.
- **2** transactions were auto renewals of subscription fees.
- **4** transactions were for online or hosted software services that did not have a purchase order issued.

SANDAG's Purchase Card Policy states that "strongly discourages the use of P-cards outside of regular business hours... If a P-card is used on a weekend or holiday, the charge should be noted on the transaction log and a brief explanation provided by the Cardholder."

SANDAG's Purchase Card Policy states that documentation for each transaction must include the following:

- Receipt and other external source documents
- Invoice
- Date of purchase
- Merchant's description of goods or services purchased, and the Cardholder should add any clarifying information to the description
- Brief information about the purpose/business need for the purchase
- Last four digits of the purchase account
- The OWP or CIP number to be charged.

SANDAG's Purchase Card Policy includes a list of examples where a purchase card may not be used, including but not limited to:

- Auto renewals of professional memberships and monthly/annual subscription fees
- Online or hosted software services unless documented as part of an approved purchase order or agreement.

Staff indicated to auditors that the requirement for an explanation for weekend and holiday transactions was overlooked. Staff noted that the 2 auto renewal subscriptions were inadvertently overlooked in their attempt to remove auto-renewals under purchase cards to comply with the current policy. Staff mistakenly followed the Micro-Purchase Policy rather than the Purchase Card Policy for the 4 transactions for online or hosted software services.

The risks to SANDAG are as follows:

- Paying for transactions that should not be allowed since non-allowable transactions are not rejected.
- Paying for personal staff transactions since complete supporting documentation is not always completely reviewed.

RECOMMENDATION:

The OIPA recommends staff:

1. Ensure all P-Card holders, all P-Card approving officials and Finance staff are thoroughly trained on the P-Card Policy, to include awareness of requirements for weekend and holiday transactions, clarity on allowable and unallowable transactions and required documentation and support. Training should also include examples of each.
2. Review all professional memberships and monthly/annual subscription fees paid for by purchase cards to ensure none are set to automatically renew.
3. Create an easily accessible Frequently Asked Questions (FAQ) document to address the most common errors or questions received by Finance.
4. Update the Micro-Purchase Policy and/or Purchase Card Policy to ensure they align in regard to required purchase orders for online or hosted software services.

FINDING II – USE OF FEDERAL FUNDS TO PAY FOR FOOD AT A GROUNDBREAKING EVENT

During review, auditors noted that on August 18, 2022, a purchase card transaction was made for \$2,089 for food for a groundbreaking event using federal funds.

According to Code of Federal Regulations (CFR) § 200.421 (d) the only *allowable* public relations costs are:

1. Costs specifically required by the Federal award;
2. Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered *necessary* as part of the outreach effort for the Federal award); or
3. Costs of conducting general liaison with news media and government public

relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

Additionally, the CFR § 200.421(e)(2) states that *unallowable* advertising and public relations costs include costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 200.432).

Further, CFR § 200.432 (as referenced above in the unallowable list under CFR 200.421(e)(2)) defines conferences as a meeting, retreat, seminar, symposium, workshop, or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is *necessary* and *reasonable* for successful performance under the Federal award.

Staff submitted the expenses to Caltrans to allow Caltrans to determine allowability for reimbursement through use of federal funds instead of staff determining the allowability of using federal funds for public outreach events prior to submitting to Caltrans. Additionally, SANDAG comingles fund sources for projects, which allows use of fund sources designated for specific purposes that meet certain requirements, such as federal and state funds.

The potential risks to SANDAG are:

- Temporarily withholding cash payments
- Disallowing funds for the noncompliant activity/action
- Suspending or terminating the Federal award
- Suspension or debarment of the agency
- Withholding further Federal award

RECOMMENDATIONS:

The OIPA recommends:

1. If federal and state funds are used for Hospitality and Events, staff should ensure that the funding source used for payment(s) are in compliance with all relevant funding laws, rules, and regulations
2. Providing training to cardholders, project managers, finance staff, and any other relevant staff on the Hospitality and Events Policy.
3. When staff is uncertain of the allowability of using certain funds, staff should perform due diligence by verifying allowability and/or seeking approval with the federal oversight funding agency who have a better understanding of the Code of Federal Regulations.



September 28, 2023

TO: Mary Khoshmashrab, Independent Performance Auditor

FROM: Hasan Ikhrata, Chief Executive Officer

SUBJECT: Management Response to OIPA Continuous Audit for Purchase Card Operational and System Controls

On behalf of the SANDAG Management Team, thank you for the opportunity to respond to the Office of the Independent Performance Auditor's (OIPA's) report pertaining to the Continuous Auditing Operational Process and System Control Review – Purchase Cards for the period of March 1, 2022, to Current. Management also appreciated the opportunity to discuss the preliminary results of the audit with the OIPA team and provide additional and explanatory information that was considered prior to preparation of the final draft report.

Management takes no exception to Finding I from the audit and will undertake OIPA's recommended corrective actions, as outlined in the Draft Audit Action Plan (see Attachment 1). The audit results have been used by Management to evaluate the effectiveness of the Purchase Card Policy which was restated and implemented in July 2022. Changes to the policy, as well as the procedures used for administering the P-card program, are being considered, and will be implemented in the months ahead as part of the Action Plan.

OIPA and Management discussed Finding II (use of federal funds to pay for hospitality expenses at a groundbreaking event) after issuance of the initial draft report. While Management respects OIPA's opinion regarding the allowable use of federal funds for this activity, Management also believes it has relied on credible resources (i.e., the funding agencies) in its determination of allowability. Management intends to undertake the three recommended corrective actions proposed by OIPA as described in the Draft Action Plan and is committed to increasing staff's knowledge regarding the allowed use of state and federal funds for hospitality-related expenses.

As I have indicated in responses to other audits, the SANDAG Management Team is committed to continuous improvement. I believe the results of this Continuous P-card Audit are a testament to this fact, and our policy and practices will be further refined based on the results that have been shared. This is an excellent example of OIPA and Management working collaboratively toward the shared goal of organizational efficiency, transparency, and success.

Please contact me with any questions regarding the information provided.

Sincerely,

HASAN IKHRATA
Chief Executive Officer

Attachment 1: Purchase Card Continuous Audit - Proposed Action Plan

Proposed Action Plan for Implementing the Purchase Card Continuous Audit Recommendations

The SANDAG Office of the Independent Performance Auditor (OIPA) completed a Continuous Auditing Operational Process and System Control Review – Purchase Cards in September 2023.

The audit resulted in 7 recommendations for consideration by SANDAG Management. The recommendations pertain to improving awareness of and adherence to the agency's Purchase Card policy as well as appropriate use of federal funds for certain types of expenditures. Management intends to address the proposed recommendations as part of the agency's commitment to continual improvement and to support the highest levels of organization performance. Actions to start implementing the recommendations have been initiated.

This proposed Action Plan (Plan) has been prepared by Management in response to the recommendations identified in the audit report and summarizes the actions SANDAG intends to undertake. Periodic progress updates shall be reported.

Finding I:

Requirements of the current Purchase Card policy are not always followed.

OIPA Recommendations	Management Planned Actions	Responsible Official	Estimated Completion Date
1. Ensure all P-Card holders, all P-Card approving officials and Finance staff are thoroughly trained on the P-Card Policy, to include awareness of requirements for weekend and holiday transactions, clarity on allowable and unallowable transactions and required documentation and support. Training should also include examples of each.	Management will provide additional training to employees with P-card related responsibilities to increase awareness and understanding of the P-card policy, in particular the items noted in the audit findings.	Lauren Warrem, Director of Accounting and Finance Melissa Coffelt, Senior Director of Organization Effectiveness	December 31, 2023

OIPA Recommendations	Management Planned Actions	Responsible Official	Estimated Completion Date
2. Review all professional memberships and monthly/annual subscription fees paid for by purchase cards to ensure none are set to automatically renew.	Management shall coordinate a review of recent P-card transaction logs and verify with Department Managers and Approving Officials that there are no unauthorized recurring expenses being charged to P-cards. If unauthorized expenses are identified, action will be taken to ensure future purchases have proper authorization. Management shall also review the Micro-Purchase and Purchase Card policies, and update both to ensure clarity regarding recurring expenses.	Lauren Warrem, Director of Accounting and Finance Melissa Coffelt, Senior Director of Organization Effectiveness	December 31, 2023
3. Create an easily accessible Frequently Asked Questions (FAQ) document to address the most common errors or questions received by Finance.	Management will develop additional resources and reference materials, including FAQs, to support effective administration and compliance with the P-card policy.	Lauren Warrem, Director of Accounting and Finance Melissa Coffelt, Senior Director of Organization Effectiveness	December 31, 2023
4. Update the Micro-Purchase Policy and/or Purchase Card Policy to ensure they align in regard to required purchase orders for online or hosted software services.	Management will review the Micro-Purchase and Purchase Card policies, and update both as needed to ensure there is clarity regarding purchases for online or hosted software services.	Lauren Warrem, Director of Accounting and Finance Melissa Coffelt, Senior Director of Organization Effectiveness	December 31, 2023

Finding II:

Use of Federal Funds to pay for food at a Groundbreaking Event.

OIPA Recommendations	Management Planned Actions	Responsible Official	Estimated Completion Date
1. If federal and state funds are used for Hospitality and Events, staff should ensure that the funding source used for payment(s) are in compliance with all relevant funding laws, rules, and regulations.	<p>Management will continue to consult with appropriate representatives from state and federal funding agencies to clarify and confirm the rules and regulations pertaining to the purchase of hospitality items.</p> <p>Management shall reference the relevant federal rules and regulations in the Hospitality and Events Policy, for use by project managers, Accounting staff, and other employees, that guides the allowable use of state and federal funds for the purchase of hospitality items. Training on this topic will be provided as part of Recommendation II.2.</p>	Lauren Warrem, Director of Accounting and Finance	March 31, 2024
2. Provide training to cardholders, project managers, finance staff, and any other relevant staff on the Hospitality and Events Policy.	Management shall review and update the Hospitality and Events Policy, including the procedures, and will provide training to employees who have responsibilities associated with the purchase of food and beverage for meetings and events.	<p>Lauren Warrem, Director of Accounting and Finance</p> <p>Melissa Coffelt, Senior Director of Organization Effectiveness</p>	March 31, 2024
3. When staff is uncertain of allowability, staff should perform due diligence by verifying allowability and/or seeking approval of fund use prior to submitting reimbursement claims. .	<p>Refer to Action II.1.</p> <p>Management shall reference the relevant federal rules and regulations in the Hospitality and Events Policy as a resource for staff that guides when federal and state funds may be used to purchase hospitality items, including who to consult if there are questions about allowability.</p>	Lauren Warrem, Director of Accounting and Finance	March 31, 2024



MEMORANDUM

September 29, 2023

TO: Hasan Ikhata, Chief Executive Officer

FROM: Mary Khoshmashrab, Independent Performance Auditor

SUBJECT: Auditor Response to Management Response (dated September 28, 2023) OIPA's Continuous Audit Operational Process and System Control Review – Purchase Cards

The Office of the Independent Performance Auditor (OIPA) appreciates Management's diligence and efforts to address the findings stated in the Draft Report that was emailed on September 22, 2023. The OIPA has reviewed the Management Response to the findings and has provided an Auditor Response.

FINDING II: USE OF FEDERAL FUNDS TO PAY FOR FOOD AT A GROUNDBREAKING EVENT

Management Response:

While Management respects OIPA's opinion regarding the allowable use of federal funds for this activity, Management also believes it has relied on credible resources (i.e., the funding agencies) in its determination of allowability.

Auditor Response:

Management reached out to the funding agency after the issuance of the initial draft audit report. The funding agency originally did not agree that it was an allowable reimbursement but stated that they would inquire with the "Area Engineers" to research the question. The funding agency stated, "*that based on CFR 200.421, it **appears** that the cost are eligible*" and further stated that "*Caltrans is requesting that SANDAG submit an invoice for the Outreach Event, when submitting the invoice package.*"

Determinations from the pass-through funding agency should have been requested *prior* to the fund use, particularly when uncertainty was presented, and not during the audit or after the audit results were presented to Management. When inquiring about a funding determination during an audit, auditors from the state and/or federal funding agency (i.e. FHWA) should be contacted directly for *confirmed* determination in writing.

CFR § 200.432 defines *conferences*, only when they are an *allowable* cost, and states the types of costs inclusive of a conference. However, CFR § 200.421 states that **unallowable** public relations costs include "Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 200.432)." CFR § 200.421 references *conferences* under the unallowable list of costs, therefore, the OIPA stands by its interpretation of CFR § 200.421 in that the cost of the noted event should not have been paid for with federal funds.

It should be noted that the OIPA's office referenced CFR 200.421 in the report as the criteria for Finding II.

Auditor Conclusion

The OIPA agrees that the results of the audit demonstrate that Management is committed to continuous improvement. The OIPA appreciates Management's willingness to seek out opportunities for continuous improvement to achieve the highest level of operational effectiveness possible for the agency and overall public good.

Please contact me with any questions regarding the information provided in this letter or in the *Auditor Response* to Management Response to the Audit Findings.

Sincerely,

A handwritten signature in blue ink, reading "Mary Khoshmashrab", followed by a horizontal line.

MARY KHOSHMAHRAB, MSBA, CFE, CPA
Independent Performance Auditor, Office of the Independent Performance Auditor

cc: Hasan Ikhata, Chief Executive Officer
Ray Major, Deputy CEO, Business Operations
OIPA File



CONTINUOUS AUDITING OPERATIONAL PROCESS AND SYSTEM CONTROL REVIEW – PURCHASE CARDS

Audit No. PC 2023-01

Office of the Independent Performance Auditor

1

SCOPE AND OBJECTIVES

Scope

The Office of the Independent Performance Auditor (OIPA) reviewed purchase card transactions for the period of March 1, 2022, to April 22, 2023.

Objectives

- To ensure that staff are adhering to SANDAG's purchase card policy, including the new policy that took effect on July 1, 2022, as part of the corrective action plan for the Operational and System Control Review – Purchase Cards engagement;
- Ensure all corrective actions agreed to have been enacted and are being adhered to; and
- Apply tests and perform procedures to verify and assess SANDAG's ability to properly obtain, store and track supporting documentation and adequate records of processes and controls in adherence with policies and procedures.

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FINDING I

REQUIREMENTS OF THE CURRENT PURCHASE CARD POLICY ARE NOT ALWAYS FOLLOWED

3

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FINDING I

Requirements of the Current Purchase Card Policy Are Not Always Followed

Observation

Auditors reviewed **153** out of **1,174** transactions from July 1, 2022, through April 22, 2023, and noted the following:

- **6** transactions did not include an explanation for the weekend or holiday use of the card.
- **1** transaction did not include the purpose or need for the purchase in its documentation.
- **2** transactions were auto renewals of subscription fees.
- **4** transactions were for online or hosted software services that did not have a purchase order issued.

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FINDING I

(Continued)

Recommendations

The OIPA recommends staff:

1. Ensure all P-Card holders, all P-Card approving officials and Finance staff are thoroughly trained on the P-Card Policy, to include awareness of requirements for weekend and holiday transactions, clarity on allowable and unallowable transactions and required documentation and support. Training should also include examples of each.
2. Review all professional memberships and monthly/annual subscription fees paid for by purchase cards to ensure none are set to automatically renew.
3. Create an easily accessible Frequently Asked Questions (FAQ) document to address the most common errors or questions received by Finance.
4. Update the Micro-Purchase Policy and/or Purchase Card Policy to ensure they align in regard to required purchase orders for online or hosted software services.

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SANDAG

FINDING II

USE OF FEDERAL FUNDS TO PAY FOR FOOD AT A GROUNDBREAKING EVENT

6

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FINDING II Use of Federal Funds to Pay For Food at a Groundbreaking Event

Observation

On August 18, 2022, a purchase card transaction was made for \$2,089 for food supplied for a groundbreaking event using federal funds.

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FINDING II (Continued)

Recommendations

The OIPA recommends staff:

1. If federal and state funds are used for Hospitality and Events, staff should ensure that the funding source used for payment(s) are in compliance with all relevant funding laws, rules, and regulations
2. Providing training to cardholders, project managers, finance staff, and any other relevant staff on the Hospitality and Events Policy.
3. When staff is uncertain of the allowability of using certain funds, staff should perform due diligence by verifying allowability and/or seeking approval with the federal oversight funding agency who have a better understanding of the Code of Federal Regulations.

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FINDING II

(Continued)

Management Response

Management believes it has relied on credible resources (i.e., the funding agencies) in determination of allowability.

Management intends to undertake the recommended corrective actions.

Auditor Response

The funding agency stated, "that based on CFR 200.421, it **appears** that the cost are eligible."

Determinations from the pass-through funding agency should have been requested prior to the fund use, not during the audit or after the audit results were presented to Management.

CFR § 200.421 states that **unallowable** public relations costs include "Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 200.432)." CFR § 200.432 defines conferences and the types of costs inclusive of a conference.

Since CFR § 200.421 references CFR § 200.432 (*Conferences*) under the **unallowable** list of costs, the OIPA stands by its interpretation.

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Questions?

Independent Performance Auditor:

Mary Khoshmashrab, MSBA, CFE, CPA

mary.khoshmashrab@sandag.org

SANDAG

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October 13, 2023

Office of the Independent Performance Auditor – First Quarter Fraud, Waste, and Abuse Report for FY 2023-2024

Overview

In accordance with Assembly Bill 805 (Gonzalez, 2017) and Board Policy No. 039: Audit Policy Advisory Committee and Audit Activities (Board Policy No. 039), Section 3.1.7 and in accordance with the Independent Performance Auditor's (IPA's) established Performance Measures, the IPA prepares a quarterly Fraud, Waste, and Abuse Report for discussion and recommendation to the Board.

Key Considerations

The IPA has prepared the FY 2023-2024 - First Quarter Fraud, Waste, and Abuse Report. The report is provided for discussion and information to the Audit Committee. The Audit Committee is asked to recommend that the report be provided to the Board as information.

Next Steps

The report will be posted to the Office of the Independent Performance Auditor (OIPA) webpage on the SANDAG website. If recommended by the Audit Committee, the report will be provided to the Board as information in October or November.

Mary Khoshmashrab, Independent Performance Auditor

Key Staff Contact: Mary Khoshmashrab, (619) 595-5323, mary.khoshmashrab@sandag.org

Attachment: 1. OIPA Q1 Fraud Waste and Abuse FY23-24 as of 9-30-23

Action: **Recommend**

The Audit Committee is provided this report as information and asked to recommend that the report be provided to the Board of Directors as information.

Fiscal Impact:

Potential Fund Recovery

Schedule/Scope Impact:

FY 2024



THE OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

Fraud, Waste and Abuse Report

Fiscal Year 2023-24 – First Quarter

September 2023

About the Fraud, Waste and Abuse:

The Office of the Independent Performance Auditor (OIPA) is the official body of the agency to investigate allegations of potential fraud, waste, and abuse identified by agency staff or other stakeholders. Once the investigation into the allegations has been conducted, the OIPA advises the SANDAG Audit Committee and the Office of General Counsel on whether improper activities occurred.

[SANDAG Board Policy No. 41](#) - Internal Control Standards is intended to help prevent and detect potential fraud, waste, and abuse of public funds by guiding and encouraging agency management and staff to consider, implement, and monitor good system controls. Additionally, [SANDAG Board Policy No. 042](#) dictates the policy and procedures for reporting Fraud, Waste and Abuse to the OIPA.

Fraud, Waste, and Abuse of Public Funds or Assets Defined

"Fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

Per the Board of Director's approval of [SANDAG Board Policy No. 039](#), the Independent Performance Auditor (IPA) is the official body of SANDAG to investigate allegations of potential fraud, waste, and abuse identified by staff or other stakeholders. Once the investigation into the allegations has been conducted, the IPA advises the Audit Committee, the Office of the General Counsel or outside counsel under contract with SANDAG on whether improper activities occurred.

An employee, contracted parties, member of the public, or other stakeholders of SANDAG can file a complaint with the OIPA alleging improper activities. A member of the public or other stakeholders are encouraged to file as soon as the complainant has knowledge of the alleged improper activity. An employee or applicant for employment that is subject to Government Code Section 53297 shall have the right to file a complaint within 60 days of the date of the act or event which is subject of the complaint. Prior to filing a written complaint, the employee shall first make a good faith effort to exhaust all available administrative remedies.



OFFICE OF THE INDEPENDENT PERFORMANCE AUDITOR

DATE: October 13, 2023

TO: Chair Zito and Members of the Audit Committee

FROM: Mary Khoshmashrab, Independent Performance Auditor

SUBJECT: **Independent Performance First Quarter Fraud, Waste, and Abuse Report**

During Fiscal Year 2023-24 – as of September 30, 2023, OIPA received one additional internal Fraud, Waste and Abuse complaint. During the first quarter one case was investigated and found to be unsubstantiated. Additionally, one case that was recaptured in the prior period was fully investigated and also determined to be unsubstantiated. Currently, there are seven external cases that remain open and pending with no open internal case.

Table 1: the following page summarizes the types of allegations received during Fiscal Year 2022-23 or pending from prior fiscal year.

Table 2: page 5 provides detailed reporting and status on External Fraud, Waste and Abuse Reporting's.

Table 3: page 6 provides detailed reporting and status on Internal Fraud, Waste, and Abuse Reporting's.

Table 1: Reporting Received in Fiscal Year 2023-24

Independent Performance Auditor Reporting's	Number of Reporting's (Prior Year)	Number of Reporting's (Current Year)	Closed	Open
External Reporting's				
Fraud				
Gross Mismanagement				
Waste				
Abuse/Misuse				
Substantial and Specific Danger to Public Health and Safety	1			1
Combination of Allegations	6			6
Subtotal External Investigations	7			7
Internal Reporting's				
Abuse of Authority	1		1	
Unfair Treatment				
Misuse and Abuse				
Employee Relations				
Overall Risk Lack of Control/Policy				
Theft of Time				
Combination of Allegations		1	1	
Subtotal Internal Investigations	1	1	1	
Total Reports in Purview of the IPA	8	1	2	7

Table 2: Status of External Fraud, Waste and Abuse Reporting Fiscal Year 2023-24

No.	Incident Type	Case #	Received	Date Started	Status/Outcome	Date Closed
1-4	Combination of Allegations (GM, Waste, and Abuse)	PPY001-22, PPY003- 22, PPY004-22, PPY006-22	07/27, 02/02, 02/08,02/14	10/20/22	Open	Pending
An allegation stating that SANDAG, the City of San Diego and Consultants working on the Bike Project are grossly mismanaging, wasting, and abusing public dollars. The claim includes four different complaints filed through the fraud, waste, and abuse hotline. The matter concerns the fact that the project has doubled in estimated cost. Additionally, there are allegations that in some areas that have been completed, the contractors failed to ensure that proper safety guidelines were followed including proper signage and advanced posting of work tasks.						
5	Combination of Allegations (Waste, GM, Abuse)	PPY007-22	02/25/22	03/16/22	Open	Pending
An allegation regarding misuse and abuse by a SANDAG consultant/contractor. The claim is regarding abuse of billing, overreaching of authority and failure to adhere to the terms of the contract. The claimant states that these actions by the contractor have been ongoing for many years.						
6	Combination of Allegations (GM, Abuse, COI, Quid Pro-Quo)	PPY009-22	02/17/22	Not started	Open	Pending
An allegation regarding misuse and abuse by a SANDAG consultant/contractor and prior SANDAG employee. The claim is regarding abuse of power, conflict of interest (COI), overreaching of authority and financial gain by prior employee and contractor. Claimant provides detail of a “this for a that” agreement.						
7	Public Safety Issue	PY002-23	08/7/22	Not Started	Open	Pending
<p>Complainant alleges that since 2006, for 16 years, she has had ongoing concerns regarding Seismic Safety on SANDAG, Port, Airport, and City of San Diego public funded projects. Specifically, for SANDAG, the concern is Seismic Safety concerns on the Rose Canyon Fault Zone (RCFZ) on SANDAG's Headquarters and SDMTS Bus Maintenance Facility in downtown San Diego, the double tracking over the San Diego River, the Old Town Station, and the limited fault investigations for only 3 bridges along the Mid-Coast Corridor, and the new stations and Transit Oriented Development (TOD) housing projects adjacent new trolley stops. The Complainant alleges that in the past SANDAG stated they were not confirming or denying active faulting along the full Mid-Coast corridor or the bridges over the San Diego River due to budget constraints. The ask is to require all SANDAG, Airport, Port, and City fault investigations to have third-party approvals. With the fault investigation reports and approvals sent to the State Geologist within 30 days of approval.</p> <p>Second, reconvene the Caltrans 2006 Coronado Fault Technical Advisory Panel (TAP) or reconvene or contact Caltrans's Seismic Advisory Board (SAB) for free Seismic guidance and approvals for public funded projects on liquefiable soils. Additional State Seismic guidance and approvals should be required for SANDAG's proposed Airport connectivity project for a new subway/trolley to the airport, Central Mobility Hub (CMH), and new City Hall complex, the Navy Broadway Complex (NBC), Seaport Village, and SANDAG's new Headquarters and SDMTS Bus Maintenance Facility.</p>						

Table 3: Status of Internal Fraud, Waste and Abuse Reporting Fiscal Year 2023-24

No.	Incident Type	Case #	Received	Date Started	Status/Outcome	Date Closed
8	Abuse of Authority	PY004-23	12/21/22	12/21/22	Unsubstantiated	8/23/2023
<p>Allegation of abuse of authority. Complainant alleged that some SANDAG Executive Management members abused their power of authority that resulted in negativity impacting the complainant.</p> <p>Results of the investigation: Unsubstantiated. In summary, based on interviews with varying perspectives and a review of emails, and other documents such as text, teams, and other media, the IPA did not identify behavior that rose to a level where abuse of authority or power by the two executive members, occurred. However, the IPA did identify areas that could be approved.</p> <p>Recommendation:</p> <p>The IPA recommends that SANDAG management consider the following steps to prevent similar personnel issues from arising in the future.</p> <ol style="list-style-type: none"> 1. Training for new supervisors, managers and directors that include areas of performance evaluations, documenting poor performance, relationship with staff, staff development and confidentiality around employee matters. 2. Develop a policy on a formal Progressive Discipline Process (Preventative, Corrective, and Adverse Phases). 3. Training on proper and timely documentation over personnel matters at each phase of the Progressive Discipling Process. 4. Timely and detailed Performance Reviews that identify area that require improvement and ongoing follow-up until resolved. 5. Hire a Risk Management position that reports directly to the CEO and can independently review personnel matters when an employee is not satisfied with the SANDAG's HR's direction/decision. 						
9	Combination of Misuse/Abuse	CY001-24	07/10/23	8/28/23	Unsubstantiated	9/22/23
<p>The complaint describes an event that resulted in misuse and abuse of public funds and conflict of interest. The complainant described a BBQ event and identified individuals from two major contractors and several SANDAG employees who attended an all-day event that occurred at an employee's home with approx. 30 people. The complaint claims that the SANDAG employee that attended except for two had nothing to do with the two contractors and the project. The complainant described that there was a great deal of time and effort that went into cooking and setting up which included public employees time and resources as well as potential public funds, as no funds were being requested for the food and other items provided by any of the employees. It is unclear who paid for the food and what funds were used. The event was not shared on all the employees' calendars that attended.</p> <p>Results of the investigation: Unsubstantiated</p> <p>Based on the conversation with executive management that attended and participated, additional review of system records, and other inquiries, the matter reported is unfounded. Based on our review, the food was fully funded by a director out of their own personal funds; this was also verified via system records with the contractor supplying drinks (no alcohol was present). Though some staff may have spent more than an hour, the event was not an all-day event and reasonable. The employees that attended appeared to have participated either directly or indirectly on the project that spanned several years.</p>						

Conclusion

The Office of the Independent Performance Auditor is committed to ensuring that all reported claims of fraud, waste, and abuse related to SANDAG's operations are sufficiently investigated and successfully resolved.

Respectfully submitted,



Mary Khoshmashrab, MSBA, CFE, CPA
Independent Performance Auditor

cc: SANDAG Board of Directors
Hasan Ikhata, Executive Director
Ray Major, Assistant Deputy Executive Director
OIPA Webpage and File

October 13, 2023

Matters to be Communicated in Accordance with Auditing Standards

Overview

The independent certified public accounting firm of Davis Farr LLP will perform the SANDAG annual financial audit for the fiscal year ending June 30, 2023 (FY 2023). Professional auditing standards require that as part of an audit, and in compliance with the Statement of Auditing Standards (SAS) No. 114, the auditor is required to communicate certain matters to the governing body.

Action: Information

In accordance with the Statement of Auditing Standards 114 (SAS 114), the auditor will communicate with those charged with governance: (a) the auditor's responsibilities under generally accepted auditing standards and (b) an overview of the planned scope and timing of the annual financial audit.

Discussion

Davis Farr LLP has provided a SAS 114 letter (Attachment 1), which includes certain matters related to the financial statements of SANDAG and its related entities. SANDAG related entities include two blended component units: San Diego County Regional Transportation Commission and SourcePoint; and the Automated Regional Justice Information System, a discretely presented component unit.

The principal purpose of this requirement is to clearly communicate responsibilities of the auditor in relation to the financial statement audit, provide an overview of the scope and timing of the audit, to obtain information relevant to the audit, and to provide timely observations arising from the audit that are relevant to those charged with governance responsibilities in overseeing the financial reporting process. Upon completion of the audit, and in accordance with SAS No. 114, the auditor also should communicate any significant findings with those charged with governance.

Fiscal Impact:

The Davis Farr LLP agreement annual cost was negotiated at the time of procurement. The \$190,092 annual cost is funded from federal, state, *TransNet*, toll, member assessment, and other revenues.

Schedule/Scope Impact:

FY23 interim audit was performed in June 2023. The year-end audit will start on October 2023.

Next Steps

Based on the planned timing of the audit, the FY 2023 Annual Comprehensive Financial Report is scheduled for issuance in mid-December. The report and any required auditor communication are anticipated for presentation to the Audit Committee and Board of Directors in March 2024.

Lauren Warrem, Director of Accounting and Finance

Key Staff Contacts: Lauren Warrem, (619) 595-5603, lauren.warrem@sandag.org
Samuel Diche, (619) 699-6909, samuel.diche@sandag.org

Attachment: 1. FY 2023 Audit Communications Letter

September 11, 2023

Audit Committee
San Diego Association of Governments
San Diego, California

This letter is provided in connection with our engagement to audit the financial statements of the San Diego Association of Governments ("SANDAG") as of and for the year ended June 30, 2023. Professional standards require that we communicate with you certain items including our responsibilities with regard to the financial statement audit and the planned scope and timing of our audit, including significant risks we have identified.

Our Responsibilities

As stated in our engagement letter dated June 12, 2023, we are responsible for conducting our audit in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards for the purpose of forming and expressing an opinion about whether the financial statements that have been prepared by management, with your oversight, are prepared, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audit does not relieve you or management of your respective responsibilities.

Our responsibility relating to other information, whether financial or nonfinancial information (other than financial statements and the auditor's report thereon), included in the entity's Annual Comprehensive Financial Report ("ACFR") includes only the information identified in our report. We have no responsibility for determining whether the Introductory Information, the Statistical Information, and the Continuing Disclosure Section of the ACFR is properly stated. We require that we receive the final version of the ACFR in a timely manner prior to the date of the auditor's report, or if that is not possible, as soon as practicable and, in any case, prior to the entity's issuance of such information.

Planned Scope of the Audit

Our audit will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. Our audit is designed to provide reasonable, but not absolute, assurance about whether the financial statements as a whole are free of material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws or governmental regulations. Because of this concept of reasonable assurance and because we will not examine all transactions, there is a risk that material misstatements may exist and not be detected by us.

Our audit will include obtaining an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of the financial statements and as a basis for designing the nature, timing, and extent of further audit procedures, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over financial reporting. However, we will communicate to you at the conclusion of our audit any material weaknesses or significant deficiencies identified. We will also communicate to you:

- Any violation of laws or regulations that come to our attention;
- Our views relating to qualitative aspects of the entity's significant accounting practices, including accounting policies, accounting estimates, and financial statement disclosures;
- Significant difficulties, if any, encountered during the audit;
- Disagreements with management, if any, encountered during the audit;
- Significant unusual transactions, if any;
- The potential effects of uncorrected misstatements on future-period financial statements; and
- Other significant matters that are relevant to your responsibilities in overseeing the financial reporting process.

Timing of Audit

We begin the interim audit procedures in June 2023 and will begin our final audit examination in October 2023. We will present the audit reports and results of the audit to the Audit Committee at the completion of the audit.

Audit Risk Areas

In addition to our standard audit approach, our engagement team plans to expand our testing in the following areas:

- Risk of errors implementing new subscription-based IT arrangement standard: We will review SANDAG's inventory of IT arrangements, review a sample of agreements, and test the calculations of the transactions. We will ensure SANDAG's disclosure footnotes are accurate and complete in accordance with the new standard.
- Risk of noncompliance with purchasing policies: We plan to utilize our data mining software to perform data analytics on expenses, including performing a Benford's Law analysis to identify potential anomalies in transactions. We will use this transactional analysis to select a sample of disbursements for compliance with SANDAG's policies.
- Internal controls over information systems: This year we plan to perform an analysis of SANDAG's information systems using a Certified Information Systems Auditor. We will evaluate the current system of controls over the overall network and the accounting systems as well as identify key internal controls to determine if they are operating effectively.

September 11, 2023
Audit Committee

- Risk of federal grant noncompliance: We will evaluate SANDAG's federal grants to determine which grants are required to be audited under the Federal Uniform Guidance. We will test those grants for compliance with the Uniform Guidance and the applicable grant agreements.

Fraud Inquiries

Professional auditing standards require that, as a part of our audit, we inquire of those in governance to ascertain whether or not the Audit Committee (the "Committee") has knowledge of matters that might have a bearing on the auditor's risk assessment for the annual audit of SANDAG's financial statements.

Examples of these matters are:

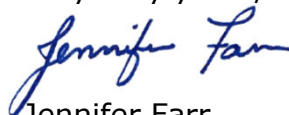
- Known or suspected instances of employee fraud
- Areas in which the internal controls of SANDAG are thought by the Committee to be weak
- Known or suspected misstatements in the accounting records of SANDAG
- Known or suspected use of improper accounting practices by SANDAG
- Any awareness of pressure upon SANDAG or Authority management with respect to achieving certain financial results
- Matters that warrant particular attention during the audit
- Information about unusual transactions or other matters relevant to the audit

Generally, the scope of the audit is limited to *matters involving amounts that would be significant to the financial statements of SANDAG taken as a whole*. If additional time is required to respond to the concerns of the Committee, we will estimate for SANDAG the costs involved.

This information is intended solely for the information and use of the Audit Committee and Management of the San Diego Association of Governments and is not intended to be and should not be used by anyone other than these specified parties.

If any member of the committee has information relevant to our audit (matters involving amounts that would be significant to the financial statements of SANDAG taken as a whole), please contact the undersigned at (949) 783-1740 or JFarr@davisfarr.com.

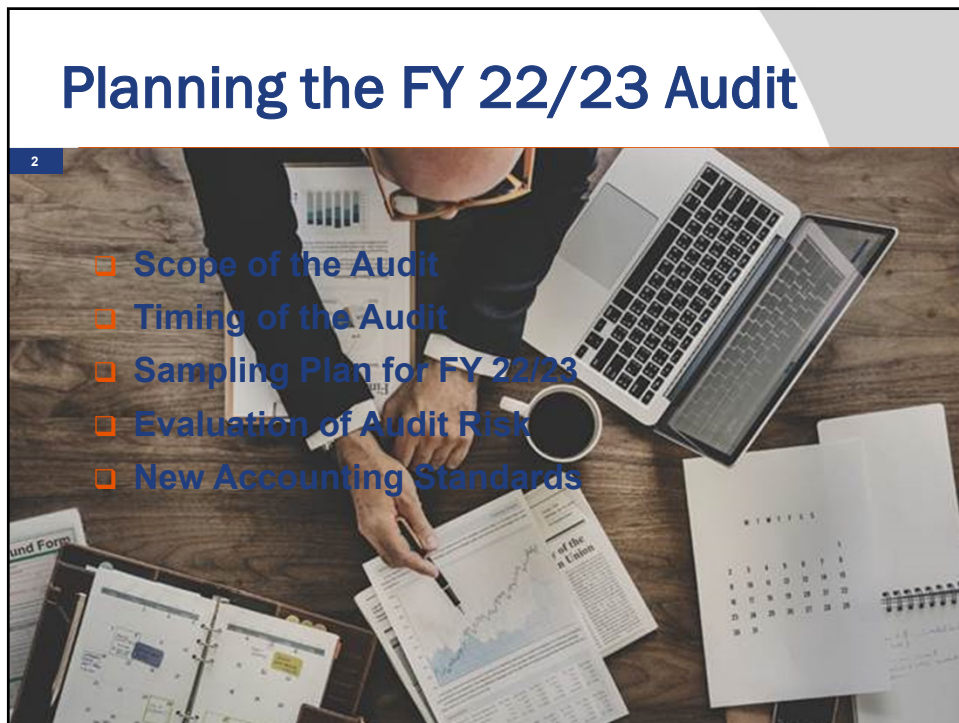
Very truly yours,

A handwritten signature in blue ink that reads "Jennifer Farr". The signature is fluid and cursive, with the first name "Jennifer" and last name "Farr" clearly distinguishable.

Jennifer Farr
Davis Farr LLP



1



2

Engagement Team

3

Key Engagement Team Members



Partner



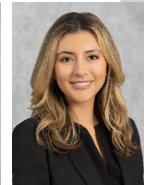
Manager



Manager



Supervisor



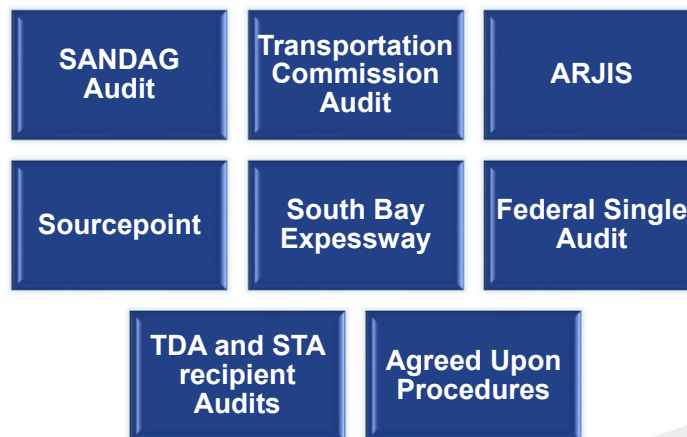
Supervisor



3

Scope of the Engagement

4



4

Audit Engagement Letter

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❑ Auditor Responsibilities

- ❑ Identify and assess the risk of material misstatement
- ❑ Obtain an understanding of internal control
- ❑ Evaluate accounting policies and estimates
- ❑ Evaluate Entity's ability to continue as a going concern
- ❑ Perform tests of compliance with laws and regulations
- ❑ Because of the inherent limitations of an audit there is an unavoidable risk that some material misstatements may not be detected even though the audit is properly planned and performed



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Audit Engagement Letter

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❑ Management Responsibilities

- ❑ Preparation and fair presentation of the financial statements in accordance with accounting principles
- ❑ Design and implementation of internal controls
- ❑ Provide auditors with unrestricted access to information
- ❑ Ensuring compliance with laws and regulations
- ❑ Accuracy and completeness of information provided



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Timing of the Engagement

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- ❑ **Preliminary Audit Procedures**
 - ❑ Occurred in June 2023
 - ❑ Evaluation of internal controls, transaction testing, fraud questionnaires, other planning procedures
- ❑ **Final Audit Procedures**
 - ❑ Scheduled to begin October 16th
 - ❑ Procedures designed to determine if there are any material misstatements in the financial statements
- ❑ **TDA and STA Audits** – Sept to Nov
- ❑ **Single Audit** – January



7

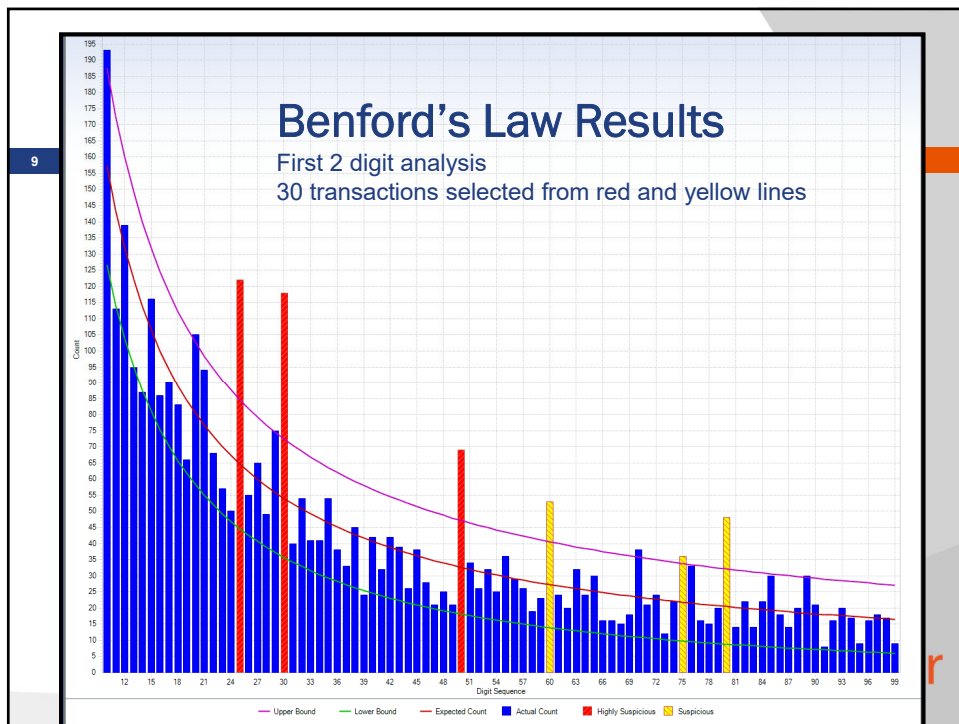
Disbursement Sampling Plan

8

- ❑ **Disbursement testing includes non-payroll checks and electronic fund transfers**
- ❑ **SANDAG**
 - ❑ 10 largest disbursements
 - ❑ 30 disbursements using Benford's Law analysis
- ❑ **Southbay Expressway**
 - ❑ Random sample of 40 disbursements
- ❑ **Single Audit** – AICPA Sampling Methodology



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Identification of Audit Risk

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- ❑ Auditors evaluate risk based on:
 - ❑ Knowledge of the entity
 - ❑ External factors (COVID-19, State Law)
 - ❑ Government risk alerts
 - ❑ Fraud inquiries of SANDAG staff, Independent Performance Auditor, and those in governance
- ❑ Additional procedures are performed in audit areas identified as a high or significant risk

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Risk Areas Identified by Auditors

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- ❑ Implementation of Subscription Based IT Arrangements Standard
 - ❑ Risk is due to complexity of accounting and risk of unrecorded assets/liabilities
- ❑ Audit reaction to OIPA reports
 - ❑ Contracts and Procurement – additional contract testing performed by Davis Farr
- ❑ Certified Information System Auditor review of IT risks
- ❑ Federal Single Audit compliance



11

New Subscription Based IT Arrangements Standard

12

- ❑ Results in recording a right to use asset and liability for certain multi-year IT arrangements
 - ❑ Similar to the lease accounting change last year, but specific to software and other IT arrangements



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October 13, 2023

Office of the Independent Performance Auditor's Need for Administrative Support

Overview

The Office of the Independent Performance Auditor (OIPA) has identified a need for administrative support in performing various administrative duties currently being performed by Associate level and Principal level audit staff.

Action: Discussion/Possible Action

The Audit Committee is asked to discuss the need for full-time administrative support dedicated to the Office of the Independent Performance Auditor.

Key Considerations

All administrative duties in the OIPA are currently being performed by an Associate level auditor and a Principal level auditor including capturing meeting minutes, agenda setting for the Audit Committee and Board of Directors (BOD) meetings, meeting coordination and calendar setting for staff meetings and staff discussions, document drafting, proofreading, and editing, as well as other administrative duties.

Fiscal Impact: TBD

Schedule/Scope Impact: FY 2024 forward

Audit staff is limited to 5 full-time personnel. Providing a full-time administrative support staff person would reduce the costs of performing administrative duties as well as would allow the audit staff to dedicate more time on audit-specific work, in an effort to expedite audits and/or complete more audits. To ensure confidentiality and avoid any conflict of interest, the administrative support staff person must be solely dedicated to the OIPA.

The Audit Committee is asked to discuss the need for full-time administrative support dedicated to the OIPA and make any recommendations needed to the BOD to authorize recruitment and funding needed to accommodate this position.

Next Steps

If agreed upon, the Audit Committee recommends to the BOD to proceed with a recruitment and identification of funding for this position. If approved by the BOD, OIPA will work with Human Resources to ensure that the job description advertised specifies the needs of the OIPA and addresses the need for maintaining confidentiality and avoiding any conflicts of interest.

Mary Khoshmashrab, Independent Performance Auditor

Key Staff Contacts: Mary Khoshmashrab, (619) 595-5323, mary.khoshmashrab@sandag.org

October 13, 2023

Update on Retaining Independent Counsel for the Audit Committee

Overview

California Assembly Bill AB 805 requires the creation of a new SANDAG Policy Advisory Committee, known as the Audit Committee, and an independent performance auditor (IPA) position. In efforts to maintain the independence of both the Committee and the IPA, the Audit Committee is being asked to discuss, with insight from the IPA, the need for independent counsel to represent the Committee and the Office of the Independent Performance Auditor (OIPA).

Action: **Discussion/Possible Action**

The subcommittee will present an update on retaining independent counsel to support the Audit Committee and discuss any possible action or recommendations.

Fiscal Impact:

Unknown

Schedule/Scope Impact:

FY 2024 forward

Key Considerations

California Assembly Bill AB 805 requires independence of the Audit Committee and the OIPA. AB 805, Section 132354.1.(b)(1) states “The audit committee shall appoint an independent performance auditor...” and Section 132354.1.(b)(2) further states “The independent performance auditor shall have authority to conduct or to cause to be conducted performance audits of all departments, offices, boards, activities, agencies, and programs of the consolidated agency.”

The OIPA audits include auditing areas around SANDAG policies and activity performed, which may include policies and activity performed by the Office of the General Counsel (OGC). Currently, the OGC reports directly to the Chief Executive Officer, thus creating a conflict of interest and impairment when the OGC provides guidance or interpretation of audit related materials or matters to the Audit Committee or the OIPA.

Further, the Audit Committee is responsible for making recommendations to the SANDAG Board of Directors regarding the following:

- Hiring and oversight of SANDAG’s independent performance auditor.
- SANDAG’s annual audit plan.
- Selection and oversight of the firm to perform SANDAG’s annual financial statement audits; and
- Internal control guidelines for the agency.

The Audit Committee is also responsible for monitoring the implementation of any corrective actions arising from the audits. Therefore, as matters arise, there may be a need to obtain and consult with independent legal counsel for guidance and/or representation to the Audit Committee and/or the OIPA.

The subcommittee will provide an update on the progress of retaining independent counsel and discuss any possible action, next steps or recommendations that may need to be presented to the Board of Directors (BOD).

Next Steps

The Audit Committee members will discuss and possibly act to recommend that the board take action to allow the Committee, on an as-needed basis, to retain independent counsel to represent the Committee and the OIPA on audit or other relative SANDAG matters. Further, the Board will direct SANDAG Management to initiate a solicitation (RFP) process, in collaboration with the Audit Committee, for the

procurement of independent legal counsel to support the Audit Committee and the OIPA on an as-needed basis for audit related matters. The recommendation from the Audit Committee to the BOD includes that the RFP requirements specify that the firm may not have previously engaged or consulted with/for SANDAG management within the past 5 years and include a clause in the contract/agreement stating that the firm may not engage with SANGAG management while engaging with the AC/OIPA for conflict-of-interest reasons.

Once the Audit Committee acts to request that the Board direct Management to initiate the following items, SANDAG Management will be expected to present at the Audit Committee meeting for review and approval.

1. Initiate the RFP process for AC/OIPA independent legal counsel working jointly with an AC Ad Hoc Committee; and
2. Identify funding available for AC/OIPA independent legal counsel.

Mary Khoshmashrab, Independent Performance Auditor

Key Staff Contact: Mary Khoshmashrab, (619) 595-5323, mary.khoshmashrab@sandag.org

Attachments: 1. City of San Diego Draft Policy for Independent Legal Counsel

DRAFT FOR POLICY DISCUSSION PURPOSES ONLY

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON _____, 20_____, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, SECTION 40 AND ADDING SECTION 40.1., RELATING TO INDEPENDENT LEGAL COUNSEL FOR THE CITY AUDITOR AND AUDIT COMMITTEE ON SPECIFIED CONDITIONS.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O-_____, introduced and adopted on _____, 20_____, the Council called a Municipal Special election to be consolidated with the California State Primary Election to be held _____, 20_____, for the purpose of submitting to the qualified voters of the City of San Diego (City) one or more ballot measures; and

WHEREAS, Charter section 39.2 establishes the position of City Auditor, who conducts audits in accordance with an annual audit plan and performs other duties as provided by ordinance or general laws; and

WHEREAS, Charter section 39.2 also provides that the City Auditor may investigate any material claim of financial fraud, waste, or impropriety within any City department; and

WHEREAS, Charter section 39.1 establishes the Audit Committee as an independent body of the City, composed of two members of the Council and three members of the public; and

WHEREAS, Charter section 39.1 provides that the Audit Committee has oversight responsibility regarding the City's auditing, internal controls, and any other financial or business practices required of the Committee by Charter; and

WHEREAS, under Charter section 39.1, the Audit Committee is responsible for directing and reviewing the work of the City Auditor, and the City Auditor must report directly to the Audit Committee; and

WHEREAS, Charter section 39.1 also provides that the Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the Charter provisions; and

WHEREAS, the duties and activities of the Audit Committee are further described by ordinance of the Council, codified in San Diego Municipal Code sections 26.1701 through 26.1711; and

WHEREAS, the Council has also established the Office of the City Auditor as a City department, as set forth in San Diego Municipal Code section 22.1801; and

WHEREAS, in January 2020, the City Auditor proposed an amendment to the Charter to allow the Office of the City Auditor to use legal counsel, independent of the Office of the City Attorney, in certain circumstances; and

WHEREAS, in 2020, the Audit Committee and the Council's Rules Committee supported the proposal, but the City was unable to timely complete the process required by the Meyers-Milias-Brown Act (MMBA), California's collective bargaining law applicable to the City as a public agency employer, before the November 2020 election; and

WHEREAS, on February 16, 2022, the Rules Committee voted to advance the proposed Charter amendment to the Council to reauthorize the meet and confer process and to modify the proposed Charter amendment to vest with the Audit Committee the sole power to deem independent legal counsel for the City Auditor in the City's best interests; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one measure amending the City Charter by amending Article V, Section 40 and adding Section 40.2 , relating to independent legal counsel for the City Auditor and Audit Committee on specified conditions; and

WHEREAS, the Council's proposal, on its own motion, of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One measure amending the Charter by amending Article V, related to independent legal counsel for the City Auditor and Audit Committee, is hereby submitted to the qualified voters at the Municipal Special Election to be held on _____, 20____, and consolidated with the California State Primary Election to be held on the same date, with the measure to read as follows:

MEASURE

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 40: City Attorney

A City Attorney shall be elected for a term of four years in the manner prescribed by Section 10 of this Charter. The City Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

No person shall serve more than two consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission and the Commission on Police Practices, which each shall have its own legal counsel independent of the City Attorney, and in the case of the Office of the City Auditor, which may retain and use independent legal counsel for the City Auditor, the City Auditor's subordinates, and the Audit Committee on the conditions set forth in Charter section 40.2. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to

taking office. The City Attorney must be licensed to practice law in the State of California and must have been so licensed for at least ten years at the time he or she submits nominating petitions.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter. The City Attorney may appoint no more than six Assistant City Attorneys and four other assistants, who shall serve at the pleasure of the City Attorney and may be removed by the City Attorney at any time.

No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for one year or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

It shall be the City Attorney's duty, either personally or by such assistants as he or she may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against

the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each approval of the form or correctness thereof; to preserve in the City Attorney's office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in the City Attorney's office copies of all written opinions he or she has furnished to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his or her successor in office.

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption.

The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

Effective December 10, 2020, the salary paid to the City Attorney will be equal to the salary prescribed by law and as adjusted by law for judges of the Superior Court for the State of California, provided that the salary of the City Attorney may not be decreased during a term of office.

Whenever a vacancy exists in the office of the City Attorney, an Assistant City Attorney, previously designated by the City Attorney to fulfill duties in the event of a vacancy and whose name has been recorded with the City Clerk as the Interim City Attorney in the event of a vacancy, shall fulfill the duties of the City Attorney as the Interim City Attorney until a replacement can be appointed or elected as provided by this Charter. The Interim City Attorney shall have the full authority of the Office.

SECTION 40.1 [NO CHANGE IN TEXT.]

SECTION 40.2: Independent Legal Counsel for the Office of the City Auditor and Audit Committee

The Office of the City Auditor, acting through the City Auditor, may retain and use legal counsel, independent of the City Attorney, for legal support and advice in audits, investigations, or other activities within the authority and duties of the Office of the City Auditor, subject to the limitations set forth in this section.

The Office of the City Auditor must retain independent legal counsel by contract approved by the City Council and in a manner consistent with this Charter, including the City's

required competitive bidding processes, and other applicable laws. The City Council has discretion to determine and appropriate funding for the Office of the City Auditor's independent legal counsel. The City Council is not mandated to provide any minimum level of funding for independent legal counsel on an annual or regular basis, and may determine funding consistent with the City Council's budgetary authority under the Charter. The City Council may, by ordinance, establish additional rules and procedures to implement this section.

Before the Office of the City Auditor may use the independent legal counsel who is under contract, the Audit Committee must determine that the use on an audit, investigation, or other activities is within the "public interest," as that term is defined by generally accepted government auditing standards promulgated by the United States Government Accountability Office or successor agency.

The Audit Committee may use retained independent legal counsel under the conditions set forth in this section for legal support and advice related to the Audit Committee's oversight responsibilities.

Independent legal counsel retained and used under this section will only be responsible for legal support and advice related to those activities within the authority of the Office of the City Auditor, acting through the City Auditor, and the Audit Committee's oversight responsibilities. Any attorney-client relationship between independent legal counsel and the City Auditor, the City Auditor's subordinates, and the Audit Committee must be formed in a manner consistent with California law and the Rules of Professional Conduct of the State Bar of California.

END OF MEASURE

Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this Ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

MEASURE __. CHARTER AMENDMENTS REGARDING INDEPENDENT LEGAL COUNSEL FOR CITY AUDITOR AND AUDIT COMMITTEE Shall Charter section 40 be amended and section 40.2 be added to _____?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this Ordinance or a digest of this Ordinance to be published once in the official newspaper following this Ordinance’s adoption by the Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The City Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this Ordinance shall take effect on the date of passage by the Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By

Joan F. Dawson
Senior Deputy City Attorney

JFD:cm
April 21, 2022
Or. Dept: City Auditor
Doc. No. 2959467

Independent Legal Counsel for the Office of the Independent Performance Auditor and Audit Committee

The Office of the Independent Performance Auditor (OIPA), acting through the IPA, may retain and use legal counsel, independent of the SANDAG Office of General Counsel, for legal support and advice in audits, investigations, or other activities within the authority and duties of the OIPA, subject to the limitations set forth in this section.

The OIPA must retain independent legal counsel by contract approved by the Audit Committee and the SANDAG Board and in a manner consistent with required competitive bidding processes, and other applicable laws. The SANDAG Board has discretion to determine and appropriate funding for the OIPA's independent legal counsel.

Before the OIPA may use the independent legal counsel who is under contract, the Audit Committee must determine that the use on an audit, investigation, or other activities is within the "public interest," as that term is defined by generally accepted government auditing standards promulgated by the United States Government Accountability Office or successor agency. If time is of the essence, the Chair and Vice Chair may jointly make this determination, and have their decision confirmed at the next Audit Committee meeting

The Audit Committee may use retained independent legal counsel under the conditions set forth in this section for legal support and advice related to the Audit Committee's oversight responsibilities.

Independent legal counsel retained and used under this section will only be responsible for legal support and advice related to those activities within the authority of the OIPA, acting through the IPA, and the Audit Committee's oversight responsibilities. Any attorney-client relationship between independent legal counsel and the IPA, the IPA's subordinates, and the Audit Committee must be formed in a manner consistent with California law and the Rules of Professional Conduct of the State Bar of California.

Annually, at the first Audit Committee meeting after the start of the fiscal year, the OIPA will present a report of uses of independent legal counsel for audits and investigations that have been completed in the prior fiscal year. The report will contain the topic, cost, and the result of the consultation.