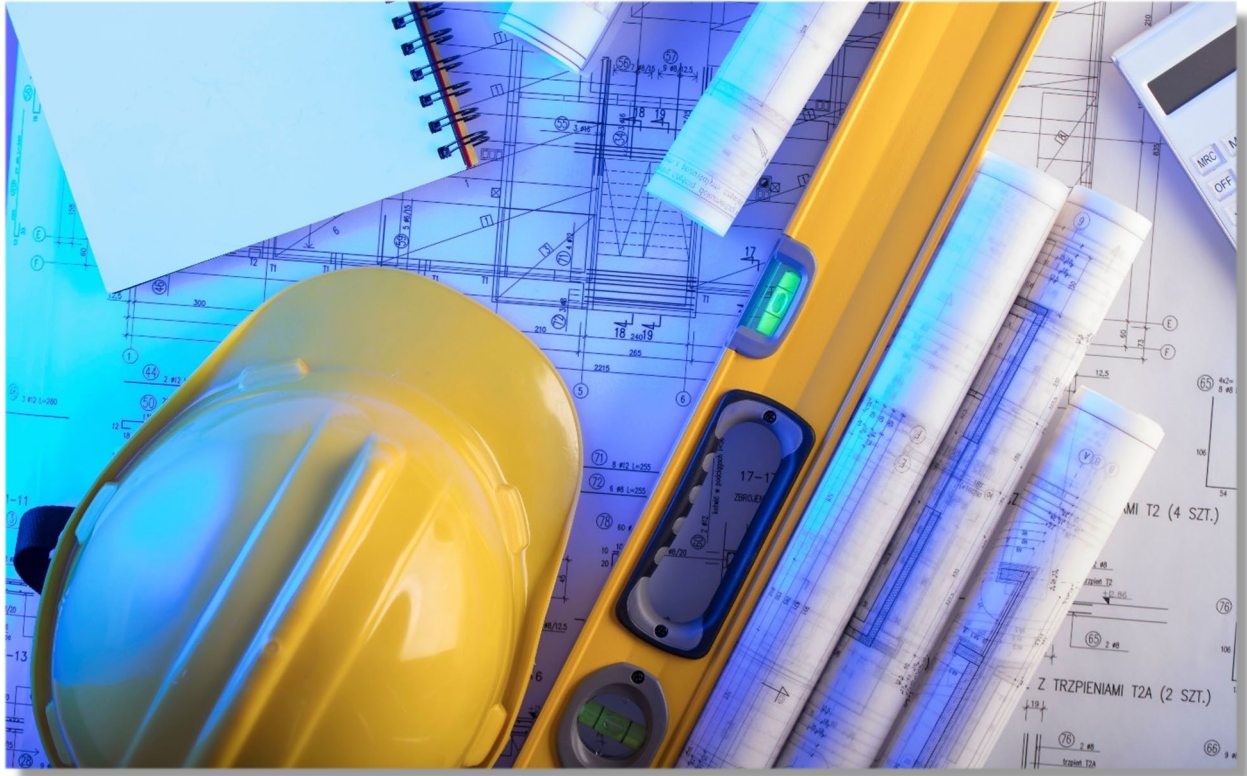


PERFORMANCE AUDIT OF SANDAG'S SOLE SOURCE PROCUREMENT PROCESS



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Lesa Heebner, Chair
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Jack Fisher, Chair
SANDAG Audit Committee

SUBJECT: PERFORMANCE AUDIT OF SANDAG'S SOLE SOURCE PROCUREMENT
PROCESS FOR THE PERIOD OF JULY 1, 2022, THROUGH JUNE 30, 2024

Dear Chair Heebner and Chair Fisher:

The Office of the Independent Performance Auditor (OIPA) completed the Performance Audit of SANDAG's Sole Source Procurement Process for the period of July 1, 2022 to June 30, 2024. The audit's objective was to determine if SANDAG's sole source procurements were properly processed and utilized only in limited circumstances. While competitive bidding is the required method for acquiring goods and services in public sector procurements, sole source procurements are allowed in limited cases – such as when specialized needs make competition impractical or not in the public's best interest.

Since late 2022, OIPA issued two contracting audits identifying many issues related to procurement processes, including sole source procurements. These issues included a misapplication of contracting policy and procedures, poor record keeping, inconsistent and insufficient departmental guidance, and staff lacking the knowledge and training to effectively safeguard the Agency from the numerous risks inherent in public procurement.

In March 2024, OIPA issued an investigation related to SANDAG's State Route (SR) 125 Toll Operations Back-Office System and recommended the sole source procurement process be included in OIPA's fiscal year 24/25 audit work plan. Additionally, in October 2024, OIPA issued a companion investigation related to SR 125 and found the \$28M sole source contract award in January 2024 to Deloitte for the replacement SR 125 back-office system was not sufficiently scrutinized, justified, or documented, thus highlighting the significant risk the current sole source practices pose to the Agency.

This audit found the problems identified in OIPA's past reports persisted and were largely attributed to insufficient oversight throughout the process and contributed to an excessive utilization of sole source procurements by SANDAG.

Management's September 2022 response to OIPA's Contracts and Procurement Operational and System Control Audit (Part I) released in October 2022, included the following statements:

The contract and procurement program is one of the agency's most essential business functions, and as such, it is Management's intention to prepare a work plan that will result in operational excellence as well as effective oversight, administration, and regulatory compliance. Once developed, the work plan will be shared with OIPA, the Audit Committee, and the Board of Directors for consideration. In the interim, Management shall consider OIPA's recommendations and implement changes where these align to existing work efforts and planned activities.

Supported by the results from Part II of the audit, Management will examine existing practices and approval criteria to ensure sole sources are being used appropriately and judicially.

The operational work plan referenced above in Management's response was not provided to OIPA, the Audit Committee, or the Board of Directors, and many of the prior contracting audits' recommendations were dependent upon the new Enterprise Resource Planning (ERP) system. As such, many of the planned recommendation implementation dates were in late 2024 and 2025.

As an Agency, it is incumbent that risks and resources are prioritized accordingly. Given the Agency's significant capital projects budget, contracting processes must be above reproach. A commitment was made to "*examine existing practices and approval criteria to ensure sole sources are being used appropriately and judicially*"; however this commitment was not kept. In addition, the new ERP system that was intended to support the Department of Contracting and Procurement Services (DCPS) in making progress has instead set the Department back, due to poor planning from past management. DCPS now must transition a significant part of their contracting process back to their former Contracts Management System (CMS). The underlying issues of accountability and executive leadership contributing to these setbacks are documented in OIPA's past reports.

It is important to also note OIPA's testing during the audit was limited due to SANDAG's inability to obtain contract and sole source information from its ERP system from January to June 2024 and necessary contract data from CMS from July 2022 to December 2023.

SANDAG appears to be turning a page with a new CEO committed to accountability, transparency, and operational integrity. OIPA's future audits will assess the new administration's work, and it is my hope that this audit's recommendations assist the new administration in meeting their goals.

I would like to thank SANDAG management and especially DCPS staff for their cooperation during this audit and their commitment to implement all 18 audit recommendations directed to management. If you have additional questions, please contact me at (619) 595-5323 or courtney.ruby@sandag.org.

Respectfully,



COURTNEY A. RUBY, CPA, CFE
Independent Performance Auditor
Office of the Independent Performance Auditor

Attachments:

1. Audit Report – Performance Audit of SANDAG’s Sole Source Procurement Process
2. Management’s Response and Corrective Action Plan

Report Highlights

THIS AUDIT

This audit focused on SANDAG's sole source procurement practices from July 1, 2022 through June 30, 2024, and found the issues identified in 2022 remain. While the Agency intended to address these matters sooner, accountability and leadership issues found in prior audits and investigations prevailed. This audit found these sole source procurement problems persisted and were largely attributed to insufficient oversight throughout the process and contributed to an excessive utilization of sole source procurements by SANDAG.

OIPA FOUND

- Subsequent work performed on projects (follow-on work) awarded by sole source cannot be tied to previous, competitively awarded contracts, a contract was unnecessarily sole sourced, and a policy exception was erroneously used to approve 50 sole source awards. (Finding I)
- Pervasive design errors and gaps within the sole source procurement process – leadership reviews and approvals are insufficient, with unclear responsibilities and no visibility into what is being assessed at each level. We also identified knowledge gaps within groups responsible for using sole source procurements. (Finding II)
- Significant internal control gaps in the sole source process resulted in a higher number of contracts awarded without competitive bidding. Additionally, the Agency does not have the ability to capture key data to assess the use and appropriateness of sole source contracts. Also, OIPA identified concerns with staff's use of the sole source process and the potential for preferential treatment of certain vendors. (Finding III)
- Contract amendments exceeded the monetary threshold requiring a sole source justification but were not treated as a sole source. Also, the parent contracts did not include the required maximum contract value. Finally, SANDAG's threshold for approving contract increases without a competitive process does not consider the impact of significant increases in terms of costs (materiality) and is not aligned with other government best practices. (Finding IV)
- SANDAG's sole source procurement policies do not include clear, sole source specific requirements for Board of Directors' consent. (Finding V)

OIPA RECOMMENDS

19 recommendations to improve oversight over the sole source procurement process. Key recommendations include:

- Improve the process of documenting how each contract is awarded and ensure contract documentation is clear, comprehensive, complete and readily accessible.
- Establish a comprehensive protocol for policy exceptions for unforeseen circumstances.
- Evaluate if the Agency's sole source procurement approval and review process provides an appropriate level of control.
- Annual performance reviews for contracting staff and Project Managers should include expectations to demonstrate their knowledge and execution of their contract responsibilities with adequate professional care to ensure accuracy, completeness, and compliance.
- Establish and document key controls for ensuring effective monitoring and continuous improvement of the sole source process.
- Identify data needed to track sole source volume and dollar amounts in SANDAG's system(s).
- Update policy to require contract staff to evaluate and document the need to sole source contract amendments.
- Evaluate and revise policy to strengthen requirements for when amendments should be awarded by sole source, considering materiality and the original contract value.
- Work with the Board to develop a specific dollar threshold for requesting Board consent prior to awarding contracts by sole source.

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Introduction and Background

INTRODUCTION

The San Diego Association of Governments (SANDAG or Agency) oversees regional transportation planning, public transit investments, and infrastructure projects across the San Diego region. It is governed by a Board of Directors (Board) made up of mayors, councilmembers, and county supervisors from each of the region's 18 cities and the County of San Diego. Supplementing these voting members are advisory member representatives from Imperial County, the U.S. Department of Defense, California Department of Transportation (Caltrans), 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. For fiscal year 2024-25, SANDAG's program budget is \$1.3 billion¹.

BACKGROUND

As a public agency, SANDAG must follow federal, state, and local regulations and internal procurement policies and procedures to ensure transparency and fairness in the procurement process. While competitive bidding is the required method for acquiring goods and services, sole source procurements are allowed in limited cases – such as when specialized needs make competition impractical or not in the public's best interest.

HOW SANDAG PROCURES GOODS AND SERVICES

SANDAG uses several procurement types to obtain goods and services from vendors, all of which may be amended by mutual agreement. Typically, a solicitation is the process of requesting bids, proposals, or offers from vendors to fulfill goods or services. It is the preliminary stage before a contract is awarded and can include Request for Proposals (RFP), Request for Offers (RFO), Invitation for Bids (IFB), Request for Qualifications (RFQ), or a Request for Information (RFI). It is an invitation (solicitation) to negotiate or compete for a contract, but it is not a binding agreement.

Our audit reviewed the following procurement types, as defined in the SANDAG Procurement Manual:

- Contract - A mutually binding legal relationship obligating the seller to furnish the goods or services and the buyer to pay for them. It encompasses various commitments that obligate SANDAG to do or not do something, including bilateral instruments, Memorandum of Understanding (MOUs), grant awards,

¹ SANDAG's budget includes \$80.9M for regional planning projects, \$79.9M for the management of ongoing regional operational programs and customer services, and \$683.2M for the capital program, with \$217.1M to be passed through to local agencies.

contracts, job orders or task orders, letter contracts, and purchase orders that become effective by written acceptance or performance.

- On-Call Contracts - An indefinite delivery indefinite quantity (IDIQ) master contract with a general scope of work further defined through task orders when specific scopes of work are known and agreed to for projects. On-call contracts may be either single award, such as a job order contract or multiple award master contracts to several vendors.
- Task Order - A contract document that is issued under an on-call contract to authorize work to a vendor in phases, or for specific projects.
- Job Order Contract - a competitively bid, firm fixed-price, indefinite quantity contract setting forth detailed repair and construction items of work, including descriptions, specifications, units of measurement, and individual unit prices for each item of work.

To invoke changes to contracts, organizations use amendments - an agreed upon modification to an existing contract, including but not limited to, cost, scope of work, contract duration, and deliverable time schedule modifications. Caltrans' Local Assistance Procedures Manual §10.8 states all contract amendments must be in writing and fully executed by the consultant and local agency before work begins.

For large capital projects SANDAG may enter into IDIQ contracts with a group of on-call vendors who possess the requisite qualifications. To award projects, SANDAG solicits the on-call vendors to compete for project task orders based on the vendor's qualifications and project's specific scope of work. SANDAG awards the work based on the vendor specialty, geographic location of the work, or via competitive mini-task-order solicitations.

Many of SANDAG's large capital projects occur over many phases and many years. These are known as *multi-phase projects*. The original solicitations are expected to define all planned project phases, and the requirements/qualifications that contractors must meet to perform the project. The solicitations are openly competed to ensure fair and open competition.

At times, SANDAG may refer to subsequent work performed on a project as *follow-on* work. SANDAG considers this work to be a logical continuation, or the next step of work already performed or in progress. Subsequent follow-on work may be awarded via a new contract or amendment.

PROCUREMENT LAWS, REGULATIONS, AND BEST PRACTICES

Federal regulations require the Agency's procurement processes to follow strict federal standards to maintain consistency, transparency and accountability when using public funds. The California Government Code mandates local government agencies to create procurement policies with competitive bidding rules to ensure fairness and prevent favoritism.

The SANDAG Board of Directors' policies Nos. 015, 016, and 024 outline requirements for procurements, documentation, and record-keeping to ensure procurement decisions align with established oversight procedures.

- Board Policy 015 outlines expectations for record management, including safekeeping of records and ease of access to records for employees and the public, in accordance with laws and regulations.
- Board Policy 016 outlines the statutory requirements and expectations for SANDAG to procure services.
- Board Policy 024 establishes a method for administering SANDAG construction procurements.

SANDAG'S Procurement Manual outlines the rules and procedures for purchasing goods and services using competitive bidding and sole source procurement methods, vendor requirements such as qualifications and certifications, and how proposals and cost estimates are evaluated. The manual also includes guidance on contract negotiation and management, ethical guidelines to prevent conflicts of interest, and approval processes based on procurement thresholds.

SOLE SOURCE PROCUREMENT METHODOLOGY

The Federal Transit Administration (FTA) defines a sole source procurement when an agency requires supplies or services available from only one responsible source, and no other supplies or services will satisfy the agency's requirements. The FTA only allows non-competitive, sole source procurements in specific cases, such as when no competition exists or during emergencies.

When only one vendor is available or uniquely qualified, making competitive bidding impractical, SANDAG may make a sole source award. A sole source award requires staff to document the justification(s) for sole sourcing the procurement².

According to SANDAG's Procurement Manual, a procurement can be sole sourced under any of the three following circumstances:

1. When SANDAG requires supplies or services available from only one responsible source and no other supplies or services will satisfy its requirements.
2. When SANDAG issues a competitive solicitation, and a single proposal/bid is received.
3. When SANDAG requires an existing contractor to make a change to its contract that is beyond the scope or more than 25 percent above the dollar value of the original solicitation.

² See Appendix C – SANDAG's Sole Source Justification Form.

As shown in Table 1 below, the FTA and SANDAG have specific justifications that can be used to rationalize the use of sole source procurements. However, the FTA and SANDAG prohibit a sole source to be justified when the need for the sole source is:

- Due to either a failure to plan or a lack of advance planning, or,
- Due to concerns about the amount of assistance available.

Table 1 - Justification of Sole Sourcing Procurements

Federal Transit Administration (FTA) Justifications for Sole Source	Applicable for all funding sources: <ul style="list-style-type: none"> • Statutory authorization or requirement (engineer of record) • Authorized by FTA • Public interest • Single bid or single proposal • Unique or innovative concept • Unusual and compelling urgency
	Applicable for Local³ or FTA funding sources: <ul style="list-style-type: none"> • International arrangements • National emergency • National security • Protests, disputes, claims, litigation • Substantial duplication costs • Unacceptable delay
SANDAG Board Policy Justifications for Sole Source	Applicable for Local funding sources only: <ul style="list-style-type: none"> • Unique/highly specialized item/service • Existing contractor/consultant follow-on work (economy or efficiency) • Competitive procurement exceeds cost of work/item • Integral to existing equipment • Essential to research or operational continuity • Existing specialized training/expertise

Source: FTA Circular 4220.1F, Chapter VI, Section 3.i.(1), Board Policy 016, 023, and 024

TIMELINE OF SANDAG'S CONTRACT DOCUMENT REPOSITORIES

Prior to March 2020, SANDAG stored contract and task order documents and their amendments in the Contracts Library, a share drive that is available to the entire Agency. Supporting documents and working documents for contracts were stored in a separate share drive accessible only to the Department of Contracting and Procurement Services (DCPS).

In March 2020, SANDAG's Contract Management System (CMS) went live. SANDAG started processing solicitations, contracts, task orders, and amendments in CMS. At

³ Local funding refers to revenue generated and allocated at the city, county, or regional level rather than from state or federal sources to plan, build, maintain, and improve transportation infrastructure and services.

the time, there was no plan to move all electronic contract documents from the Contracts Library to CMS. The 2019 Contracts & Procurement Contracts Management System User Guide states that all data for legacy contracts would be entered into CMS. Legacy contracts are contracts, task orders, purchase orders, amendments, etc. stored in Contracts Library.

All Agency staff have access to CMS, and the system was also configured to provide an audit trail. SANDAG continued to store working documents for solicitations, contracts, task orders, and purchase orders on share drives that were accessible to only the DCPS.

The Agency procured an Enterprise Resource Planning (ERP) system in March 2022. The system was intended to combine approximately 14 independent systems spanning various functional areas including accounting, budgeting, contracting and procurement, planning, and human resources into one comprehensive system.

In January 2024, SANDAG began storing solicitation and contract approvals and records, purchase orders, and task orders in its ERP system. SANDAG's record retention system is outlined in Figure 1 below.

During the ERP implementation, significant limitations related to the procurement function within ERP were identified, and management decided CMS and ERP would need to be used together to support the Agency's procurement function.

CMS will manage solicitation, procurement, and contract award activities, while the ERP will remain the system of record for budgeting and accounting related to awarded contracts.

A plan to transition back to CMS is expected to be ready in July 2025.

Figure 1 - SANDAG's Record Retention System



Source: OIPA generated

PREVIOUSLY ISSUED OIPA REPORTS

Since 2022, OIPA issued two contracting audits identifying many issues related to procurement processes, including sole source procurements. These issues included misapplication of contracting policy and procedure, poor record keeping, inconsistent and insufficient departmental guidance, and staff lacking the knowledge and training to effectively safeguard the Agency from the numerous risks inherent in public procurement.

In 2024, OIPA issued an investigation related to SANDAG's State Route (SR) 125 Toll Operations and recommended the sole source procurement process be included in OIPA's fiscal year 24/25 audit work plan. This recommendation was approved by the Audit Committee. Additionally, in October 2024, OIPA issued a companion investigation related to SR 125 and found the \$28M sole source contract award in January 2024 to Deloitte for the replacement SR 125 back-office system was not sufficiently scrutinized, justified, or documented, thus highlighting the significant risk the current sole source practices pose to the Agency.

In Management's September 2022 response to OIPA's Contracts and Procurement Operational and System Control Audit (Part I) released in October 2022, Management stated:

Management has reviewed the draft audit report and agrees with the findings. Management also has considered OIPA's recommendations for responding to the audit findings and believes a more comprehensive work plan, beyond the proposed actions recommended by OIPA, is warranted to address the organizational and systemic issues that currently impact the overall effectiveness of the agency's contracts and procurement program. Some of this work is already underway.

The Contracts audit started soon after the adoption of the agency's Strategic Plan in early 2022 - five initiatives designed to strengthen resource allocation, technology infrastructure, communication, recruitment and retention of employees, and access to outside resources. The Strategic Plan reflects the operational priorities of the Senior Executive team and includes the following work efforts that align with the audit recommendations:

- *Transition to a matrixed approach to project delivery and resource allocation. Department functions may need to be restructured, and positions repurposed to achieve this organization design; the emphasis is on establishing a robust and effective project management infrastructure that includes capabilities with respect to contract management responsibilities.*
- *Implementation of an Enterprise Resource Planning (ERP) system. The decision to replace the existing financial, budgeting, contracts management, and human resources/payroll systems with an ERP was initiated in 2019. Since the time the project commenced in early 2022, opportunities to leverage the ERP's capabilities in additional program areas have been evaluated.*
- *Improving practices that streamline the procurement of goods and services. Feedback has been sought from internal customers regarding actions that can be taken to become more efficient in accessing consultants, contractors, vendors, etc. while ensuring compliance with all applicable laws, regulations, and policies. Changes to the workflows and processes used within the Contracts team have been implemented*

as an initial first step. Other actions have been contemplated but not yet acted upon while waiting for the OIPA audit to be complete.

*As noted, Management agreed with the audit findings, and with the outcomes expected to be achieved via the recommended actions, specifically ensuring the agency has effective policies, procedures, and processes; capable and proficient staff who are aware of their roles, responsibilities, and performance expectations; and a robust technology solution that improves efficiency and supports recordkeeping, reporting, and controls. **The contract and procurement program is one of the agency's most essential business functions, and as such, it is Management's intention to prepare a work plan that will result in operational excellence as well as effective oversight, administration, and regulatory compliance. Once developed, the work plan will be shared with OIPA, the Audit Committee, and the Board of Directors for consideration. In the interim, Management shall consider OIPA's recommendations and implement changes where these align to existing work efforts and planned activities.** [Emphasis added by OIPA]*

With respect to Finding VII, Management agrees the agency's contracts and procurement program must be designed and managed to ensure that fair, competitive, and legally compliant processes are used. Due to the diversity of SANDAG's programs, projects, and business needs, various industry-standard procurement methods are used to obtain goods and services, including sole source awards and on-call solicitations. The audit results are consistent with the use of these practices.

*Sole source awards, by definition, are the result of limited competition and Management agrees this procurement method should be used only when there is reasonable and justifiable business necessity that is in both SANDAG's and the public's best interest. Supported by the results from Part II of the audit, **Management will examine existing practices and approval criteria to ensure sole sources are being used appropriately and judiciously.** [Emphasis added by OIPA]*

The operational plan referenced above in management's response was not provided to OIPA, the Audit Committee, and the Board of Directors. Management did inform OIPA and the Audit Committee that many of the issues identified would be rectified during the transition to the new ERP system. As such, many of their planned implementation dates were in late 2024 and 2025. Recommendations, related to the sole source process, from Contracts and Procurement Operational and System Control Audit (Part I and II), SR125 Toll Operations Investigation, and the Whistleblower Investigation Report on SANDAG's New Tolling Back Office System Implementation can be found in Appendix B with their current implementation status reflected.

NEW LEADERSHIP AND CURRENT ACTIVITIES

In June 2024, a new CEO joined SANDAG, and around October 2024 they began reviewing all requests to sole source contracts. In July 2024, the Board of Directors began receiving a semi-annual report on sole source procurements. In February 2025, DCPS issued a revised Procurement Manual, a sole source fact sheet, and roles and responsibilities in the contract lifecycle.

THIS AUDIT

This audit focused on SANDAG's sole source procurement practices from July 1, 2022 through June 30, 2024, and found the issues identified in 2022 remain. While the Agency intended to address these matters in a timelier manner, accountability and leadership issues found in prior audits and investigations prevailed.

Findings and Recommendations

FINDING I - IMPROPER SOLE SOURCE JUSTIFICATIONS, UNNECESSARY SOLE SOURCING, AND UNAUTHORIZED POLICY EXCEPTION

Summary

OIPA judgmentally selected a sample of 35 (totaling \$43.8M) of 139⁴ (totaling \$74.3M) newly awarded contracts that were sole sourced. We examined SANDAG's contract documentation to ensure the use of the sole source procurement method was allowable and justified as required.

We found follow-on work awarded by sole source cannot be tied to previous, competitively awarded contracts, a contract was unnecessarily sole sourced, and a policy exception was erroneously used to approve approximately 50 sole source awards.

Follow-On Work Awarded by Sole Source Cannot Be Tied to Previous Competitive Awards

According to Board Policy 016, SANDAG can justify the use of sole source contract awards based on *economy and efficiency*, meaning using a vendor to continue work (follow-on) for an existing project is expected to save the Agency time and money. However, a condition for using this justification is that the follow-on work must be tied to work that was previously awarded to the vendor through a competitive process.

To assess the validity of justifications used for selecting the sole source procurement method, we reviewed contract and project documents to verify the rationale provided was sufficient. We found that 23 of 35 contracts cited "economy and efficiency" as the reason for sole sourcing. A review of these 23 contracts found:

- 9 contracts (totaling \$6.7M) were missing documentation to demonstrate the follow-on work was tied to a prior competitively awarded contract. As a result, SANDAG cannot ensure that the origin of work was competitively awarded. There is no quality assurance process to ensure original award competition documents are saved to a single project file.
- 2 contracts (totaling \$5,386) were sole sourced for follow-on work; however, the original work had also been awarded via sole source, not by competition. These awards did not comply with Board policy. The Agency has not defined a process for contract staff to review whether sole source justifications are adequately supported. As a result, we were unable to determine if a review

⁴ Audit Scope Limitation: SANDAG provided a list of the population of new, sole source contracts to OIPA. However, the OIPA could not validate the total count of contracts processed through SANDAG's ERP due to system limitations. OIPA did validate the existence of 15 new, sole source contracts in ERP for this test. See Appendix A for the scope limitation to OIPA's Audit Methodology.

was conducted, and if so, whether this error was overlooked during the review.

SANDAG Board Policy 015 requires all SANDAG business records be maintained in an organized fashion in a location that is easily identifiable in the event of a public records request.

Phased Work Previously Competitively Awarded Was Unnecessarily Sole Sourced

The SANDAG Procurement Manual states that future project phases should be outlined in contracts to prevent unnecessary sole source procurement.

However, a review of 35 sole source contracts found that one (1) contract (totaling \$2M) had been unnecessarily sole sourced even though the work was competitively awarded as part of a multi-phase project. As records were not readily available to show the work was part of a competitively awarded multi-phase project, staff processed the work as a sole source to ensure appropriate justification for awarding the work to the same vendor.

Unclear project documentation and an incomplete audit trail increases the risk staff cannot verify how past work was awarded to vendors. Since contract history directly impacts how future work is awarded to vendors, there are increased operational inefficiencies including redundancy and extra work. This extra work can cause confusion in responsibilities and lead to inconsistently applied processes. Time spent on non-essential work can also delay critical deliverables. In regulated environments, doing unauthorized or unapproved work leads to compliance issues.

Unauthorized Policy Exception: Blanket Approval of 50 Sole Source Contracts by E-mail

OIPA found 11 (totaling \$5.1M) of 35 sole source contracts were approved as part of a transfer of work from an expiring on-call master solicitation via a blanket approval⁵. To expedite the transfer of incomplete work from open task orders, SANDAG elected to open approximately 50 new task orders or standard service agreements with vendors who had not completed work on the expiring solicitation to extend the completion time only. However, rather than evaluating the procurement method on a case-by-case basis to determine if the work should be competitively bid or sole sourced, SANDAG approved sole sourcing these contracts by blanket approval⁶ in June 2022.

We identified the following errors and concerns with the blanket approval of these sole sources:

⁵ A blanket approval refers to a contract action, in this case, an approval, being applied in mass to multiple contracts.

⁶ See Appendix D – SANDAG's Blanket Approval to Award 50 Contracts to Vendors by Sole Source for timeline of events.

- It is unclear why work for 50 contracts was not finished before the on-call contract expired. The Agency could not sufficiently explain why so much work had to be moved to new contracts. This may be due to SANDAG approving scopes of work that couldn't realistically be completed before the contract expired or it did not hold vendors accountable for completing work as scheduled.
- All 50 contracts, including the 11 sampled, had the same rationale for why the sole source was needed, indicating the need to move work to a new contract was not evaluated on a case-by-case basis.
- SANDAG did not follow its Procurement Manual for processing sole source procurements. A single justification form was used to blanket approve all 50 contracts. The form was prepared by a Contract Analyst, rather than the Project Manager(s) as required. The Department Director approved the form by email and did not sign the form as required. SANDAG did not finalize the form, instead it saved a draft version of the form to each of the 11 contract files reviewed.
- Of the 11 contracts we reviewed, 10 contracts were later amended to add time, costs, or additional work. As shown in Figure 2, increased costs ranged from 64 percent to 3,300 percent. The need for future amendments suggests that SANDAG underestimated the time and cost needed to realistically complete work or did not hold vendors accountable for completing work as scheduled.

Figure 2 – Amendments to Increase Award Amounts for Contracts Previously Awarded by Blanket Approval

Count	Contract	Task Order No.	Vendor	Title	# of Ams	Original Award	Increased Award Amount	Total Award	% Increase
1	882170	3	HNTB Corporation	San Dieguito Double Track Plans, Specifications, and Estimates Phase 1 Project (SDDT)	2	\$1,178,709	\$3,314,896	\$4,493,605	281%
2	882168	3	AECOM Technical Services, Inc.	Buena Vista Lagoon Enhancement Project - Project Refinement and Technical Investigations	3	\$898,830	\$2,054,853	\$2,953,683	229%
3	882168	1	AECOM Technical Services, Inc.	San Dieguito Lagoon W-19 Restoration Project - Phase 5 Construction	4	\$698,540	\$1,256,006	\$1,954,545	180%
4	882176	7	T.Y. Lin International	Palomar Grade Separation 30% PS&E	1	\$1,206,114	\$ -	\$1,206,114	- %
5	882175	2	RailPros, Inc.	LOSSAN Corridor - Program Management & Peer Review Support	2	\$309,671	\$890,308	\$1,199,979	288%
6	1011930	N/A	Arcadis, a California Partnership	Uptown Bikeways - Phase 3 Final Design	1	\$256,492	\$634,323	\$890,815	247%
7	882176	2	T.Y. Lin International	Uptown: Eastern Hillcrest Bikeways Final Design	3	\$386,015	\$319,475	\$705,490	83%
8	1011927	N/A	Kimley-Horn and Associates, Inc.	Orange Bikeway Final Design (North Park Mid-City)	2	\$115,748	\$74,500	\$190,248	64%
9	882169	1	HDR Engineering, Inc.	Construction Support Services - Elvira to Morena Double Track Project	1	\$2,362	\$77,952	\$80,314	3300%
10	882170	5	HNTB Corporation	San Onofre to Pulgas Double Track Phase 2 TO 5	2	\$77,295	\$1,189,250	\$1,266,545	1539%
Totals					21	\$5,129,775	\$9,811,564	\$14,941,338	

Source: CMS and ERP

SANDAG policies and procedures do not permit a policy exception such as a blanket approval of sole source contracts, even in unforeseen circumstances. During the

COVID era, Caltrans-related delays prompted the use of mass approvals to maintain project momentum, despite SANDAG's own policy restrictions. In such cases, the lack of clear policies can result in the Agency's non-compliance with its policies, and lack of standard procedures for how to properly perform and document the review and approval of contracts by this method.

FTA Circular 4220.1F permits non-competitive procurements only under specific conditions, necessitating justification for any policy exceptions.

Also, the Federal Uniform Guidance and California regulations require local agencies to establish procurement policies:

- Uniform Guidance (2 CFR Part 200) mandates that procurement procedures align with federal standards to ensure transparency and competition.
- The California Government Code §54202 requires local agencies to establish procurement policies, including competitive bidding regulations, which could impact the validity of a blanket contract extension.

The SANDAG Procurement Manual states that Project Managers are responsible for providing accurate and complete information to support their recommendation for a noncompetitive procurement and their Department Directors certify that they agree with the recommendation provided by the Project Manager.

Considerations for the Use of Blanket Approvals

According to the FTA:

Federal procurement regulations neither authorize nor prohibit recipients from approving multiple change orders in a single "blanket approval" action. Although this action is not specifically defined under federal procurement standards, approving multiple change orders in a single "blanket approval" would generally be discouraged, but is not prohibited. There may be situations in which such an action may be reasonable and appropriate.

It is important to note that Federal procurement requirements do not explicitly recognize a contractual action termed "Blanket Change Order Approval." If a transit agency's applicable state and local procurement regulations or policies allow for blanket approvals and the procurement official followed the applicable regulation or policy, then the blanket approval could be a valid procurement method for that particular transit agency. A transit agency using a blanket approval should identify its authority for doing so in the blanket approval and include the document in the project file. Likewise, if a transit agency's procurement regulations or policies do not allow for or address blanket approvals, then a blanket approval would not be a valid procurement method.

RECOMMENDATIONS

1. For the nine (9) missing contracts, document their absence in the contract file and do not allow future sole source follow-on work for the project.
2. Revise the process to document how each contract is awarded (contract history) and ensure contract documentation is clear, comprehensive, complete and readily accessible.
3. Develop a procedure to identify and document the contract award method for past projects to ensure follow-on work is adequately validated.
4. Create criteria for evaluating if the sole source *economy and efficiency* justification is reasonable, including but not limited to:
 - Steps to identify if a prior contract was multi-phase.
 - Steps to identify if the new contract's scope of work was included in the original, competitively awarded contract.
5. Establish a protocol for policy exceptions for unforeseen circumstances. Such a policy should be comprehensive and include, but not be limited to:
 - Define exception and authority for such an exception.
 - Define any limitations related to the exception:
 - For example, can it be applied to multiple contracts in the form of a blanket approval? Or only to a single contract? Can it include future contract actions, such as amendments for time, costs, and scope?
 - Include documentation and analysis requirements to justify appropriate application.

FINDING II - INEFFICIENCIES AND RISKS IN THE SOLE SOURCE REVIEW AND APPROVAL PROCESS

Summary

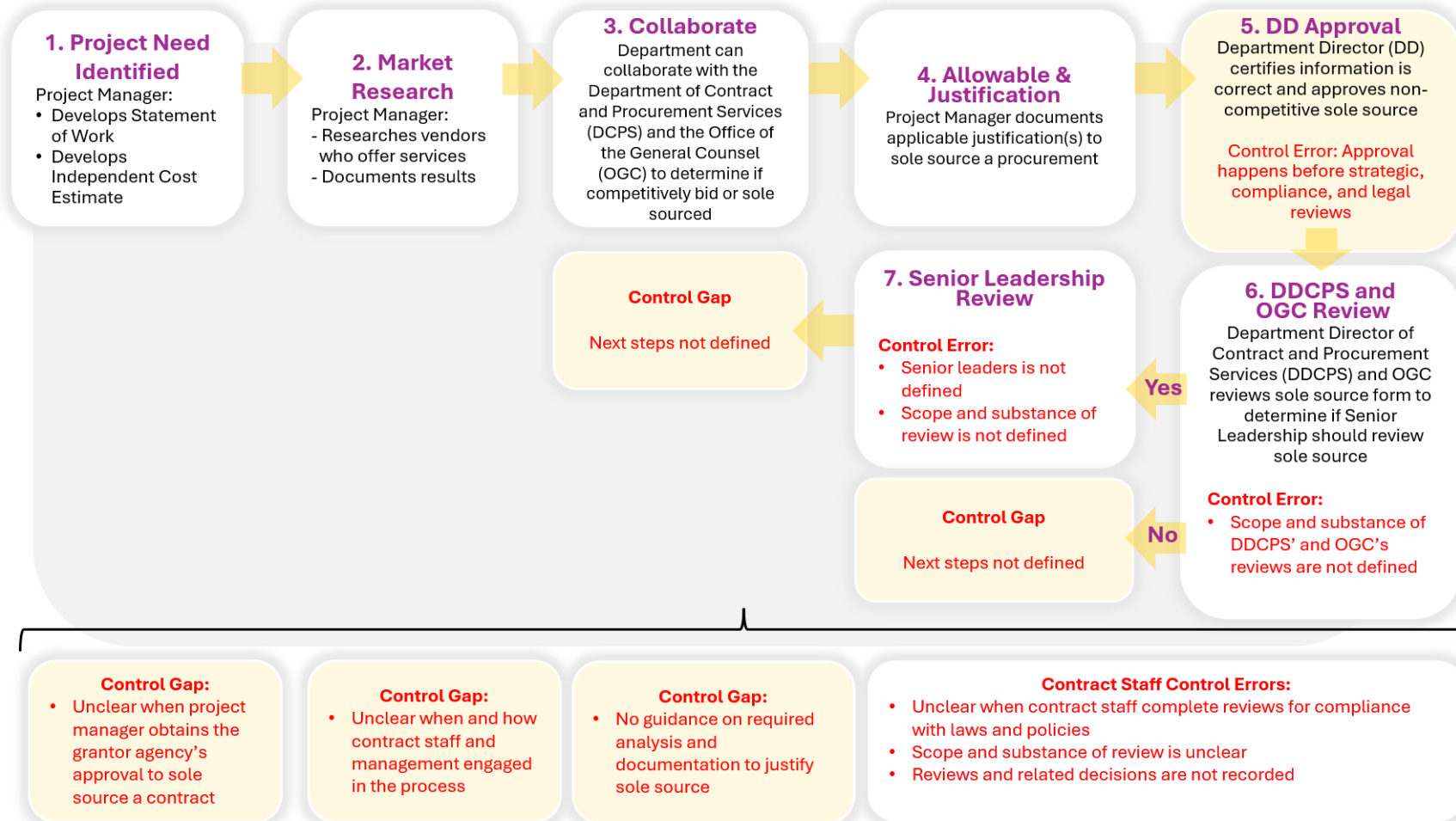
The Green Book, officially known as the U.S. Government Accountability Office (GAO) Standards for Internal Control in the Federal Government, outlines the framework for establishing and maintaining effective internal control systems in federal agencies. These standards are also widely referenced by state and local governments and organizations receiving federal funds.

The Green Book is built around five components that together form a strong system of internal controls. They are:

- Control environment – the organizational culture and the foundation for all other components.
- Risk assessment – identifying and analyzing risk to achieve objectives.
- Control activities – actions taken to reduce risk and achieve objectives.
- Information and communication – ensuring relevant information is identified, captured, and communicated.
- Monitoring – ongoing evaluations to make sure controls are in place and working.

We performed an in-depth review of SANDAG's sole source procurement process during the audit period to assess whether control activities are designed effectively and efficiently. In addition, we surveyed key contract and project management staff to assess the consistency of knowledge around sole source procurements. As shown in Figure 3, we identified several design errors and gaps within the process – leadership reviews and approvals are insufficient, with unclear responsibilities and no visibility into what is being assessed at each level. We also identified knowledge gaps within groups responsible for using sole source procurements.

Figure 3 - SANDAG's Sole Source Procurement Process



Source: OIPA generated

Control Gap: There is a gap in the process, i.e. missing internal control such as next process steps are not defined.

Control Error: The process is not adequately designed, i.e. control is in the wrong place, with the wrong person, and/or aspects of control are undefined or incorrect.

No Process for Obtaining Funding Agency Approval

According to SANDAG's Sole Source Justification Form, a contract may be sole sourced if the grantor agency providing the federal funding has approved the sole source. However, SANDAG's procedures do not define when or how Project Managers should obtain such approval. Also, there is no formal guidance on required steps for obtaining approvals, including timing, level of authority required, and necessary documentation.

Approval Captured Before Strategic, Compliance, and Legal Reviews are Completed

SANDAG's sole source process has the Department Director (DD) authorizing the use of a non-competitive process (via the Sole Source Justification Form) prior to reviews by the Department Director of Contracts and Procurement Services (DDCPS), the Office of General Counsel (OGC), and senior leadership. Approval to proceed with a sole source procurement should only occur after all reviews are complete. The additional reviews in the SANDAG's sole source procurement process introduce inefficiencies and reduce the overall effectiveness of the process.

The Sole Source Justification form states that by approving the Sole Source Justification form, the Department Director approves the services can be procured by using a non-competitive solicitation process. No other Agency approval is needed.

SANDAG's policies and procedures do not specify what documentation should be reviewed when determining whether a sole source procurement is justified. Such a determination would be expected to include a review of key items such as the project scope, cost estimates, market research on potential vendors, vendor locations, and a written rationale explaining why sole sourcing is the only viable option for procuring the required services.

As a best practice, the City of San Diego's justification form⁷ is designed to capture evidence that critical reviews occur before the City's Director of Purchasing and Contracting approves and certifies the sole source procurement. Key items are:

- Department Director's justification request.
- Cost/Market analysis.
- Purchasing and contracting due diligence checklist.

Unclear Roles and Responsibilities for Contract Analysts and Managers

There are control gaps and design errors in the sole source process with respect to the roles and actions of contract staff and management.

- When and how Contract Analysts and management are assigned to a procurement is unclear.

⁷ See Appendix E – Example: City of San Diego's Sole Source Request and Certification Form.

- The criteria used by Contract Analysts to evaluate sole source justifications are undefined, as are the steps taken to ensure the sole source is allowable and appropriately justified.
- Reviews conducted by Contract Analysts, including their findings and conclusions, are not documented.
- Supervisory reviews, approvals, and related decisions by Contract Managers are also not identified or documented.

Confusion on the Scope, Substance, and Sequence of Leadership Reviews

The process requires the DDCPS and OGC to evaluate if senior leadership should review the sole source. We found:

- The purpose, substance, and scope⁸ of the DDCPS' and senior leadership's review is not defined. While OGC stated its review is to ensure legal sufficiency, the scope and substance of its review is vague in the Procurement Manual. Additionally, OGC's internal review process is not documented.
- The sequence of DDCPS's and OGC's reviews and the subsequent steps are not clearly outlined and occur after the sole source is authorized.
- Senior leadership only needs to review if DDCPS or OGC deem it necessary.
- The positions within "senior leadership" are not defined. Because these positions are undefined, SANDAG cannot ensure reviews and approvals by appropriate senior leadership are documented.
- Next steps after senior leadership review and approval are not defined.

Contract and Project Management Staff Lack Knowledge About Their Responsibilities in the Sole Source Procurement Process

We surveyed 10 Contract Analysts⁹ and 10 Project Managers to assess their knowledge and understanding of sole source laws and regulations, and SANDAG's related policies and procedures. We found:

- Contract Analysts did not consistently understand their responsibility to confirm the funding sources for sole source procurements.
 - 4 Contract Analysts stated it was part of their job duties.
 - 3 Contract Analysts stated it was the Project Managers' responsibility.
 - 1 Contract Analyst stated it was both the Contract Analysts' and Project Managers' responsibility.

⁸ The scope of the review is the objective and parameters of the evaluation. The substance refers to the core content, evidence, and rationale being evaluated.

⁹ Only 8 of 10 Contract Analysts responded to OIPA's survey.

Not all justifications are allowable for every funding source. For example, the *economy and efficiency* justification applies only to local funding sources. As a result, there is an increased risk that Contract Analysts will not reconcile the justification selected to the funding source and corresponding allowability in all cases.

- Project Managers did not consistently understand the policies and procedures governing the rationale that must be provided when justifying the use of the sole source procurement method for contracts. Without a clear understanding of the required rationale, Project Managers may submit inconsistent or incomplete justifications for sole source procurements.
 - 2 Project Managers cited they followed Board Policy 024.
 - 1 Project Manager cited they followed 'PM Resources' page on SharePoint.
 - 1 Project Manager cited SANDAG's Procurement Manual.
 - 5 Project Managers cited no awareness of applicable laws and policy.
- Project Managers were unable to recall the meaning of "failure to plan" and "lack of advanced planning", leading to inconsistent application of policies. A lack of understanding of these terms increases the risk of non-compliance with FTA regulations, potentially jeopardizing SANDAG's adherence to Federal guidelines.

The first step in the Sole Source Justification Form is for the Project Manager to affirm that the need for a sole source is not due to lack of planning or concerns about funding.

SANDAG's Procurement Manual requires Project Managers to justify the use of the sole source procurement method in writing based on one or more of the allowable justifications.

FTA Circular 4220.1F, Chapter VI, Section 3.i(2)(a) states that less than full and open competition cannot be justified based on a lack of advance planning, and SANDAG's Sole Source Justification Form requires staff to affirm the need for a sole source procurement is not due to a failure to plan or a lack of advanced planning.

These design errors and process gaps demonstrate a weak and ineffective control environment in the Agency's contracting and procurement function. As such, this environment can cause a late identification of contracting issues, inefficiencies in the procurement process, inconsistent or incomplete reviews/authorizations, a lack of necessary contract and procurement documentation, and an overall lack of accountability and transparency. Further, there is an increased risk of non-compliant contracts that may subject the Agency to legal challenges, the possibility of procurement decisions being questioned or reversed due to a lack of proper

justification or approval, and potential reputational damage to SANDAG due to perceived or actual failures in the procurement process.

RECOMMENDATIONS

1. Evaluate if the Agency's approval and review process provides an appropriate level of control. For example, the DDCPS is the senior management contracting and procurement expert and is responsible for contracting and procurement oversight. Additionally, the CEO is responsible for the Agency's overall operations. The Agency should consider approvals levels based upon criteria such as dollar volume and project risk level – for example the DDCPS approves all sole source procurements, and the DDCPS and CEO both approve all high dollar and high-risk projects.
2. Review and update policies and procedures to:
 - define process for obtaining and documenting required grantor permissions to sole source contracts.
 - define staff and management responsibilities (including OGC) and when they are engaged in the sole source process.
 - define the scope and substance and document each level of review performed and required documentation from each review.
 - define the sequence of reviews and approvals to ensure strategic, compliance, and legal reviews occur before approval, and eliminate the possibility of approving a sole source before all appropriate reviews are completed.
 - evaluate and assign the appropriate level of Agency approval based upon dollar amount and project risk.
 - implement steps and/or controls where gaps in the process were identified.
3. Once policies and procedures have been updated, provide training to staff to ensure they understand their roles and responsibilities within the sole source procurement process. Periodically provide refreshers and evaluate staff's retention.
4. Annual performance reviews for contracting staff and Project Managers should include expectations to demonstrate their knowledge and execution of their contract responsibilities with adequate professional care to ensure accuracy, completeness, and compliance.

FINDING III – PATTERNS OF SOLE SOURCE AWARDS RAISE CONCERNS ABOUT PREFERENTIAL TREATMENT, OVERSIGHT, COMPLIANCE, AND OVERUSE OF SOLE SOURCE PROCUREMENTS

Summary

The Green Book, as previously referenced, outlines the framework for establishing and maintaining effective internal control systems in federal agencies. These standards are also widely referenced by state and local governments and organizations receiving federal funds.

The Green Book is built around five components that together form a strong system of internal controls. They are:

- Control environment – the organizational culture and the foundation for all other components.
- Risk assessment – identifying and analyzing risk to achieve objectives.
- Control activities – actions taken to reduce risk and achieve objectives.
- Information and communication – ensuring relevant information is identified, captured, and communicated.
- Monitoring – ongoing evaluations to make sure controls are in place and working.

We performed a review of SANDAG's control environment over sole source contracts and amendments to ensure controls were in place to identify and reduce risk, ensure compliance with laws and policies, capture reliable, relevant information, and perform evaluations to ensure controls are working as intended.

We also conducted data analytics to identify the total number of sole source contracts during the audit period and assess the number of sole source contracts procured by Project Managers and Contract Analysts. For any Contract Analyst found to be performing significantly more sole source contracts than peers, we also evaluated if the rationale for awarding the contracts by sole source was allowable and justified.

We found significant internal control gaps in the sole source process resulting in a higher number of contracts awarded without competitive bidding. Additionally, the Agency does not have the ability to capture key data to assess the use and appropriateness of sole source contracts. Also, OIPA identified concerns with staff's use of the sole source process and the potential for preferential treatment of certain vendors.

Volume of Contracts Awarded by Sole Source Is Significantly Higher than Expected

From July 1, 2022 to December 30, 2023, SANDAG had 1,389 contracts overall¹⁰. Of those, SANDAG executed 245 sole source contracts – 124 new and 121 amendments, representing about 18 percent of all contracts processed. This is significantly higher than expected for a process intended to be used only as an exception. See Table 2, for the total contracts by procurement method in CMS.

Table 2 - Total Procurements by Procurement Award Method from July 1, 2022 to December 30, 2023 in CMS

	Procurement Method			
	Competitively Bid Contracts	Sole Source Contracts	% of Sole Source Contracts	Total Contracts
New Contracts	671	124	16%	795
Amendments	473	121	20%	594
TOTAL	1,144	245		1,389

Source: CMS

Without a target to work towards, SANDAG cannot evaluate if the number of contracts awarded by sole source is aligned to management and Board of Directors expectations. The volume of contracts awarded by sole source increases the risk of SANDAG appearing to favor some vendors or forgoing the competitive bidding process.

Governance Over Data Tracked in SANDAG Systems

SANDAG does not consistently capture the data needed to perform meaningful analysis of the sole source process. We found:

- CMS does not require the *Amendment Effective Date* field to be updated. As a result, OIPA cannot identify the total count and dollar value of amendments processed through CMS. Undefined contract types and methods in SANDAG's policies result in a lack of contract standardization over how contracts are used and managed.
- CMS shows SANDAG awarded 39 different types of contracts from July 1, 2022 to December 31, 2023. However, some of the contract types were not found in SANDAG's Procurement Manual, others are found but are not defined in the manual. OIPA cannot quantify the number of contracts by contract type which were awarded by sole source procurement record.

¹⁰ OIPA's testing was limited due to SANDAG's inability to obtain contract and sole source information from its ERP system from January to June 2024.

- ERP does not track the contract type (i.e. amendment), or procurement method, (i.e. competitive or sole source), or assigned Project Managers and Contract Analysts. As a result, OIPA could not identify the total dollar value of sole source contracts and amendments from January to June 2024 or conduct data analytics to assess staff usage of sole sourcing. This is an audit scope limitation, see Appendix A.
- OIPA identified 245 sole source contracts reported in CMS. However, the procurement method field in CMS is not mandatory and allows for values beyond *competitively bid* and *sole source*. OIPA could not ensure that all sole source contracts from July 2022 to December 2023 were captured. This is an *audit scope limitation*, see Appendix A.

Concerns of Preferential Treatment Among Vendors

From July 2022 to December 2023, there were 62 Project Managers assigned to at least one sole source contract in CMS. OIPA assessed whether SANDAG staff disproportionately awarded sole source contracts to specific vendors.

Of the 62 Project Managers, there were 12 who processed four or more sole source contracts. Among them, four Project Managers repeatedly awarded contracts to AECOM, HNTB, and Kimley-Horn, raising concerns about preferential treatment and a lack of competition among vendors.

We also judgmentally selected 19 contracts to assess if the Project Manager's rationale for using sole source is allowable and justified. All 19 contracts cited economy or efficiency as one of their justifications. This finding suggests that sole source procurements may be standard practice, rather than a limited exception.

Based upon the earlier survey of Contract Analysts and Project Managers, the overuse of economy and efficiency could also be tied to a lack of understanding of regulatory requirements and internal procurement policies.

Sole Source Contracts Processed by Contract Analysts

From July 2022 to December 2023, there were 21 Contract Analysts assigned to at least one sole source contract in CMS. OIPA reviewed a sample of contracts and identified the following problems:

Sole Source Contract Awarded Based on Vendor Recommendation Without Competitive Review

A vendor, AECOM, requested that its subconsultant, Chen Ryan (CR) Associates, assume a future project contract, despite CR Associates not having been awarded an A&E On-Call contract. SANDAG awarded the contract by sole source, and without conducting a formal qualification review, obtaining an updated cost proposal, or preparing a new Independent Cost Estimate. AECOM remained on the project as a subconsultant.

Retroactive and Noncompetitive Agreements

SANDAG awarded Kimley-Horn four sole source contracts for two bikeway projects after the expiration of its A&E On-Call contract. The expired contracts stated “Consultant shall not be paid for work performed after the termination date. Work performed before the start date or after the termination date of a task order or task order amendment will be treated as non-reimbursable volunteer work by consultant”.

However, retroactive sole source agreements were executed to pay for the work already completed, and subsequent work was awarded through new sole source agreements without updated cost estimates.

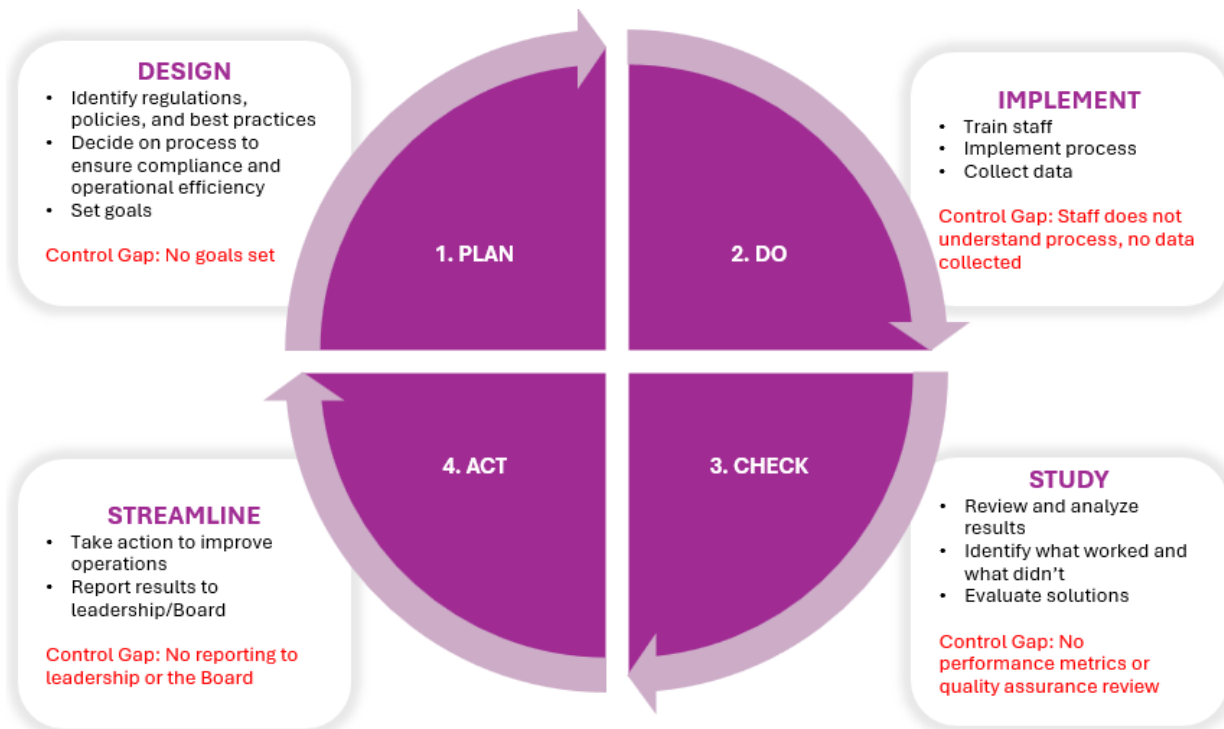
SANDAG Missing Key Performance Indicators, Quarterly Reviews of the Sole Source Process, and Reporting to Leadership and the Board of Directors

A review of the sole source procurement process identified significant gaps in key controls necessary for effective monitoring and continuous improvement to mitigate the risk of vendor favoritism and lack of competition, as illustrated in Figure 4.

SANDAG has not:

- Established reasonable targets to limit the use of sole source procurements.
- Developed performance measures to monitor sole source usage.
- Defined the data and information required to track progress towards established goals.
- Implemented a quality assurance function to periodically assess the accuracy and completeness of the sole source process and identify and recommend opportunities for improvements to the process.
- Instituted regular reporting on sole source procurement performance to executive leadership and the Board of Directors.

Figure 4 – Continuous Improvement Model



Source: OIPA Generated

RECOMMENDATIONS

1. Establish and document key controls for ensuring effective monitoring and continuous improvement of the sole source process, including but not limited to:
 - Target limit for sole source contracts.
 - Key performance indicators, reporting procedures, and periodic quality assurance review process to increase compliance and operational efficiency over the sole source process.
 - Periodic evaluations of staff assignments and procurement methods to ensure that sole source procurements are appropriately utilized.
 - Reporting sole source contract metrics to the Board of Directors and executive leadership.
2. Identify data needed to track sole source volume and dollar amounts in SANDAG's system(s) responsible for tracking contract data, and ensure system(s) are configured to require necessary data, including but not limited to:
 - Amendment Effective Date
 - Contract type
 - Dollar value of amendments and where they are stored
 - Procurement method

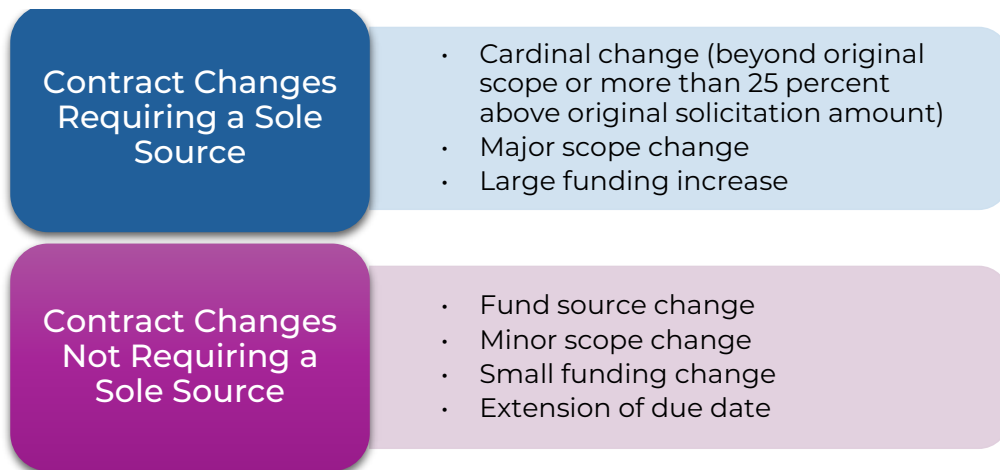
3. Update the Procurement Manual to include and define all possible contract types that are awarded.
4. Reconcile the contract types in CMS with those defined in the Procurement Manual and configure CMS to allow only the contract types defined in the manual.
5. The Board of Directors and the Audit Committee approve the following for inclusion in OIPA's Fiscal Year 25-26 Audit Plan:
 1. Assess planned capital project outcomes for fiscal year 2025-26.
 2. In December 2025, initiate a six month review of sole source justifications to evaluate progress.

FINDING IV – AMENDMENTS NOT PROPERLY SOLE SOURCED, UNDEFINED CONTRACT LIMITS, AND MISALIGNED POLICIES WITH BEST PRACTICES

Summary

Agencies typically use amendments to adjust a contract’s timing, funding source, cost, or scope. However, substantial changes to scope or cost – known as “cardinal changes” – require justification and must be awarded as sole source, since the added work or cost was not competitively procured. Figure 5 shows sole source requirements for contract changes.

Figure 5 - Sole Source Requirements for Contract Changes



Source: FTA Circular 4220.1F Chapter I, Section 5.c. and SANDAG's Procurement Manual

We judgmentally selected and reviewed 20 of 204 contract amendments not labeled as sole source in the system, \$27.9M out of \$29.5M in total, to determine if they should have been sole sourced. We also evaluated SANDAG’s criteria for sole sourcing amendments.

OIPA found that contract amendments exceeded the monetary threshold requiring a sole source justification but were not treated as a sole source. Also, the parent contracts did not include the required maximum contract value. Finally, SANDAG’s threshold for approving contract increases without a competitive process does not consider the impact of significant increases in terms of costs (materiality) and is not aligned with other government best practices.

Amendments Surpassed the Sole Source Monetary Threshold, Yet Were Not Sole Sourced

We found two (2) amendments (totaling \$1.7M) exceeded the 25 percent threshold of the original solicitation value, but were not processed as sole source procurements, as required.

SANDAG stated it was the responsibility of Contract Analysts to verify whether an amendment exceeds the 25 percent threshold. However, a review found Contract Analysts do not document their review, including findings and conclusions. As stated in Findings 1 and 2, we identified gaps in SANDAG's process for reviewing rationale for sole sourcing contracts and amendments.

SANDAG's Procurement Manual states a procurement will be considered a sole source:

"When SANDAG requires an existing contractor to make a change to its contract that is beyond the scope or more than 25% above the dollar value of the original solicitation."

FTA Circular 4220.1F and SANDAG's Procurement Manual define a cardinal change as a major deviation from the original contract's purpose or a revision so extensive that it effectively requires the contractor to perform significantly different work from what was originally contracted.

Contracts Have No Defined Maximum Value

We found the parent contracts for four (4) amendments were missing clearly defined maximum dollar values. Instead, the contracts had, "the total agreement value shall not exceed the aggregate value of executed task orders and amendments issued under this contract" in place of a monetary value. The decision to include this statement, rather than the dollar value, appears to be a management decision, as on-call contracts were signed by executive leadership.

Without a defined contract maximum, a single vendor could receive the full solicitation value through task orders and amendments - without triggering the sole source procurement process. Thus, creating a significant risk of favoritism, overuse and reduced competition.

FTA states that if services were solicited, competed, and awarded using an indefinite-delivery-indefinite-quantity (IDIQ) contract, the solicitation and the contract award are expected to contain both a minimum and maximum quantity that represent the recipient's reasonably foreseeable needs.

SANDAG's Sole Source Threshold Does Not Address Materiality Risk in Approving Changes to Contracts

SANDAG's monetary threshold for requiring amendments to be sole sourced is based on the amendment's percentage change to the original solicitation value, which presents two issues:

1. By basing thresholds on percentages only, it overlooks materiality. For example, 25 percent of \$100,000 is \$25,000, but 10 percent of \$5M is \$500,000. If SANDAG is only reviewing amendments with dollar value changes based on percentages, SANDAG will miss potentially significant impacts.

2. The percentage is calculated from the solicitation value, not the individual contract value. Since solicitation values reflect the total pool for all on-call vendors, this inflates the threshold for identifying substantial changes. Staff stated their policy is based upon the FTA best practice; however, the FTA uses contract value, not solicitation value.

The monetary threshold is set in internal SANDAG policy and appears to have been a management decision.

FTA best practices use *contract* value rather than solicitation value to calculate the value they would consider a cardinal change.

As an example, the Southern California Association of Governments (SCAG) requires¹¹ all contract amendments with a 30 percent or more increase of the *original contract* value be awarded by sole source. For general fund sole source procurements, required approvals then depend on the monetary threshold of the contract value change:

- Less than \$10,000 – approved by Chief Financial Officer (CFO).
- Greater than \$10,000, but less than \$200,000 – approved Executive Director.
- Greater than \$200,000 – approved by SCAG's Regional Council.

RECOMMENDATIONS

1. Update policy to require contract staff evaluate and document the need to sole source contract amendments.
2. Develop a process to periodically review non-sole sourced contract amendments for compliance with sole source thresholds.
3. Evaluate and revise policy to strengthen requirements for when amendments should be awarded by sole source, considering materiality and the original contract value.
4. Update procurement policy to require that contracts include the maximum dollar value, as required.

¹¹ See Appendix F – Example: Southern California Association of Governments' Procurement Policy and Procedure Manual

FINDING V – NO BOARD CONSENT REQUIRED FOR HIGH DOLLAR SOLE SOURCE CONTRACTS

SANDAG's sole source procurement policies do not include clear, sole source specific requirements for Board of Directors' consent. SANDAG's Procurement Manual states:

"Board consent in a public meeting may be required if the procurement is of the type and amount the Board has directed that staff bring it for pre-procurement and/or pre-contracting approval".

The Board set a \$5M threshold for professional services and construction solicitations, and not specifically to sole source procurements.

Other agencies have defined financial thresholds for sole sources that require Board (or equivalent) approval:

- The County of San Diego requires board approval with detailed justifications for sole source procurements over \$100,000.
- The Port of San Diego mandates board authorization for agreements exceeding \$500,000.
- The Southern California Association of Governments (SCAG) requires Regional Council approval for general fund sole source contracts over \$200,000.

The lack of clear Board oversight in the sole source procurement process limits accountability for high-value, non-competitive contracts and reduces transparency. This increases the risk of unchecked spending, perceived or actual favoritism, and non-compliance with procurement best practices.

RECOMMENDATION

1. Work with the Board to develop a specific dollar threshold for requesting Board consent prior to awarding contracts by sole source.

APPENDIX A – AUDIT OBJECTIVES, SCOPE, METHODOLOGY, SCOPE LIMITATION AND GAGAS COMPLIANCE

OBJECTIVES

This audit aims to assess SANDAG's use of sole source contracts, evaluating whether they are properly justified, documented, and aligned with procurement policies. The review focused on the adequacy of internal controls, the consistency of decision-making, and the transparency of the sole source procurement process. The audit objectives were to:

- Assess whether sole source procurements are justified, documented, and in compliance with federal, state, and local laws, as well as SANDAG's policies and procedures.
- Determine whether SANDAG staff are disproportionately awarding sole source contracts to specific vendors and, if so, whether these procurements are valid and compliant.
- Identify whether any procurements that are not explicitly labeled as sole source contracts are, in fact, sole source in nature.

SCOPE

OIPA reviewed sole source procurements from July 1, 2022, through June 30, 2024.

METHODOLOGY

The audit assessed the justifications, documentation, and compliance of sole source procurements with federal and state laws, SANDAG's policies, and best practices. The audit evaluated potential patterns of disproportionate sole sourcing with certain vendors and if the procurements aligned with regulatory requirements. The audit included an evaluation of SANDAG's internal controls, using interviews, document reviews, and process walk-throughs.

We used a combination of random and judgmental sampling to test whether procurements are properly justified, documented, and categorized.

AUDIT SCOPE LIMITATION

OIPA's testing was limited due to SANDAG's inability to obtain contract and sole source information from its ERP system from January to June 2024 and obtain necessary contract data from CMS from July 2022 to December 2023.

ERP does not have the ability to run reports including the total contracts processed by Contract Analyst or Project Manager. ERP also cannot report contract type or procurement method, i.e. contracts awarded by competition or sole source. In some instances, OIPA's scope of testing was limited to the data within CMS, which housed 75 percent of the audit scope period as noted in the report.

CMS does not require staff to input dates or the procurement type (how the contract was awarded, i.e. competitive or sole source) into contract records. CMS also allows

staff to enter values other than “competitive” and “sole source” into the procurement type field. For contract amendments dollar amounts are inconsistently entered into CMS. As a result, we could not verify the total population and amounts of sole source procurements occurring during the audit period.

COMPLIANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B - PRIOR SOLE SOURCE AUDIT RECOMMENDATIONS

Finding Number	Recommendation	Due Date	Status
Contracts and Procurement Operational and System Control Audit Report (Part I) (Issued Oct. 2022)			
6.1	Provide training to staff on sole source laws, rules, regulations, and processes.	12/31/25	Pending
6.2	Create formal administrative procedures on sole source processes	12/31/24	Implemented
6.3	Update the current sole source justification template to include procurement request details such as contract/task order/amendment number, project manager name, vendor name, etc.	12/31/24	Implemented
6.4	Reorganize contract and sole source records in one centralized location.	9/30/25	Partly Implemented
6.6	Ensure required documents are saved as separate files and labeled accordingly, such as saving a sole source justification form as such.	9/30/25	Pending
7.3	Ensure sufficient procurement planning efforts are being made to avoid sole sources and amendments.	6/30/25	Pending
7.4	Review the sole source policies, processes, and procedures to ensure a clear understanding of allowed sole sources, limitations around sole sources, and the review and approval requirements of sole sources.	9/30/25	Partly Implemented
7.5	Create sole source SOPs for all levels of the approval process.	12/31/24	Implemented
7.6	Create and provide training related to sole sources to include examples of allowable/approvable situations when a sole source is or can be justified and an explanation and examples of when poor planning does not suffice in requesting a sole source procurement.	12/31/25	Pending
7.8	Revise the Procurement Manual to avoid conflicting language, particularly with the contract management of Architecture & Engineering contracts and allowance of sole sources.	9/30/25	Partly Implemented
Contracts and Procurement Operational and System Control Audit Report (Part II) (Issued May 2023)			
2.2	Create clear policies and SOPs to ensure sole sources are limited and are thoroughly reviewed and analyzed to ensure potential risks are mitigated.	9/30/25	Partly Implemented

Finding Number	Recommendation	Due Date	Status
SR 125 Toll Operations Investigation (Issued Mar. 2024)			
3	The Board and the public should be provided with an explanation as to why an RFP process was not initiated a year sooner, and why the Board was instead presented with a request to authorize a sole source contract award on January 12, 2024.	4/12/24	Implemented
5	The Board review SANDAG's sole source awards semi-annually to ensure adherence with public procurement laws and practices.	7/26/24	Implemented
6	The Board should request the Audit Committee and the IPA include SANDAG's sole source procurement process be included in the annual work plan for FY 24-25.	7/11/24	Implemented
Whistleblower Investigation Report on SANDAG's New Tolling Back Office System Implementation (Issue Oct. 2024)			
3	Revise sole source policies and procedures for IT to preclude sole source awards except for demonstrated proprietary, compatibility or unique functionality issues only. An IT system implementation would not qualify.	9/30/25	Partly Implemented

APPENDIX C – SANDAG’S SOLE SOURCE JUSTIFICATION FORM

Project Manager:	Insert: Project Manager
Solicitation Title:	Insert: Solicitation title
Record Number:	Insert: Record number
Project CIP/OWP:	Insert: CIP/OWP number
ICE Amount:	\$Insert: ICE amount

Requirement

Contracting without providing for full and open competition is prohibited unless justified with one or more of the reasons below. This form is required if the Project Manager is requesting approval to follow a noncompetitive procurement process. Project Managers must review the SANDAG Procurement Manual for details regarding noncompetitive procurements, complete this form, route electronically via Adobe for review & approval by the appropriate Department Director, and attach to their ERP requisition.

The following must be answered affirmatively.	
<i>By marking the boxes below, you are affirming that the following statements are true.</i>	
<input type="checkbox"/>	The need for a sole source is not due to a failure to plan or a lack of advanced planning.
<input type="checkbox"/>	The need for a sole source is not due to concerns about the amount of federal assistance available to support the procurement (for example, expiration of federal assistance available for award).

Justification

Review the acceptable justifications for a noncompetitive procurement process listed below. Justifications are sectioned by funding type. Select the reason(s) applicable to the solicitation.

Applicable for <u>all</u> funding sources.	
<i>When SANDAG requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, SANDAG may make a sole source award. When SANDAG requires an existing contractor to make a change to its contract that is beyond the scope of that contract, SANDAG has made a sole source award that must be justified.</i>	
<input type="checkbox"/>	Authorized by Statute When the sole source is authorized by statute or only one contractor can comply with specific statutory requirements. <i>Pursuant to California Business & Professions Code section 6735, the Engineer of Record must be willing to place his/her seal on plans after modifications are made to those plans so that s/he can assume liability for the plan modifications. The firm identified above is the engineer of record for the Project and additional work is needed on the Project's plans. This sole source is justified because modification/further development of the original plans for this Project requires</i>

Applicable for <u>all</u> funding sources.	
	<i>use of the original engineering firm to comply with the specific statutory requirement in Section 6735.</i>
<input type="checkbox"/>	Funding Agency Approval The grantor agency providing the federal funds has approved the sole source.
<input type="checkbox"/>	Public Interest When SANDAG determines that full and open competition in connection with a particular acquisition is not in the public interest.
<input type="checkbox"/>	Single Bid or Single Proposal In response to an open solicitation only a single bid or proposal was received. SANDAG determined that competition was adequate and that the specifications were not unduly restrictive.
<input type="checkbox"/>	Unique or Innovative Concept The contractor demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted and is available to SANDAG only from one source and has not in the past been available to SANDAG from another source.
<input type="checkbox"/>	Unusual and Compelling Urgency/Emergency SANDAG has such an unusual and urgent need for the property or services, including but not limited to a public exigency or emergency, that SANDAG would be seriously injured unless it were permitted to limit the solicitation. SANDAG may also limit the solicitation.

Applicable for <u>Local or FTA</u> funding sources. Note: NOT applicable for FHWA.	
<input type="checkbox"/>	International Arrangements A competitive procurement is precluded by the terms of an international agreement or treaty or the written directions of a foreign government providing reimbursement for the cost of the supplies or services.
<input type="checkbox"/>	National Emergency To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.
<input type="checkbox"/>	National Security When the disclosure of SANDAG's needs would compromise the national security.
<input type="checkbox"/>	Protests, Disputes, Claims, Litigation To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.

Applicable for <u>Local</u> or <u>FTA</u> funding sources. Note: NOT applicable for FHWA.	
<input type="checkbox"/>	Substantial Duplication Costs (Equipment) In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
<input type="checkbox"/>	Unacceptable Delay (Equipment) In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling SANDAG's needs.

Applicable for ONLY <u>Local</u> funding sources.	
<input type="checkbox"/>	Unique/Highly Specialized Item/Service Only one contractor/consultant/vendor who can provide unique/highly specialized item or service.
<input type="checkbox"/>	Existing Contractor/Consultant Follow-on Work Economy or efficiency supports award to existing contractor/consultant as a logical follow-on to work already in progress under a competitively awarded contract.
<input type="checkbox"/>	Competitive Procurement Cost Exceeds Cost of Work/Item Cost to prepare for a competitive procurement exceeds the cost of the work or item.
<input type="checkbox"/>	Integral to Existing Equipment The item is an integral repair part or accessory compatible with existing equipment.
<input type="checkbox"/>	Essential to Research or Operational Continuity The item or service is essential in maintaining research or operational continuity.
<input type="checkbox"/>	Existing Specialized Training/Expertise The item/service is one with which staff members who will use the item/service have specialized training and/or expertise and retraining would incur substantial cost in time and/or money.

Explanation

Insert: Explanation for this sole source request to support the justification reason(s) selected.

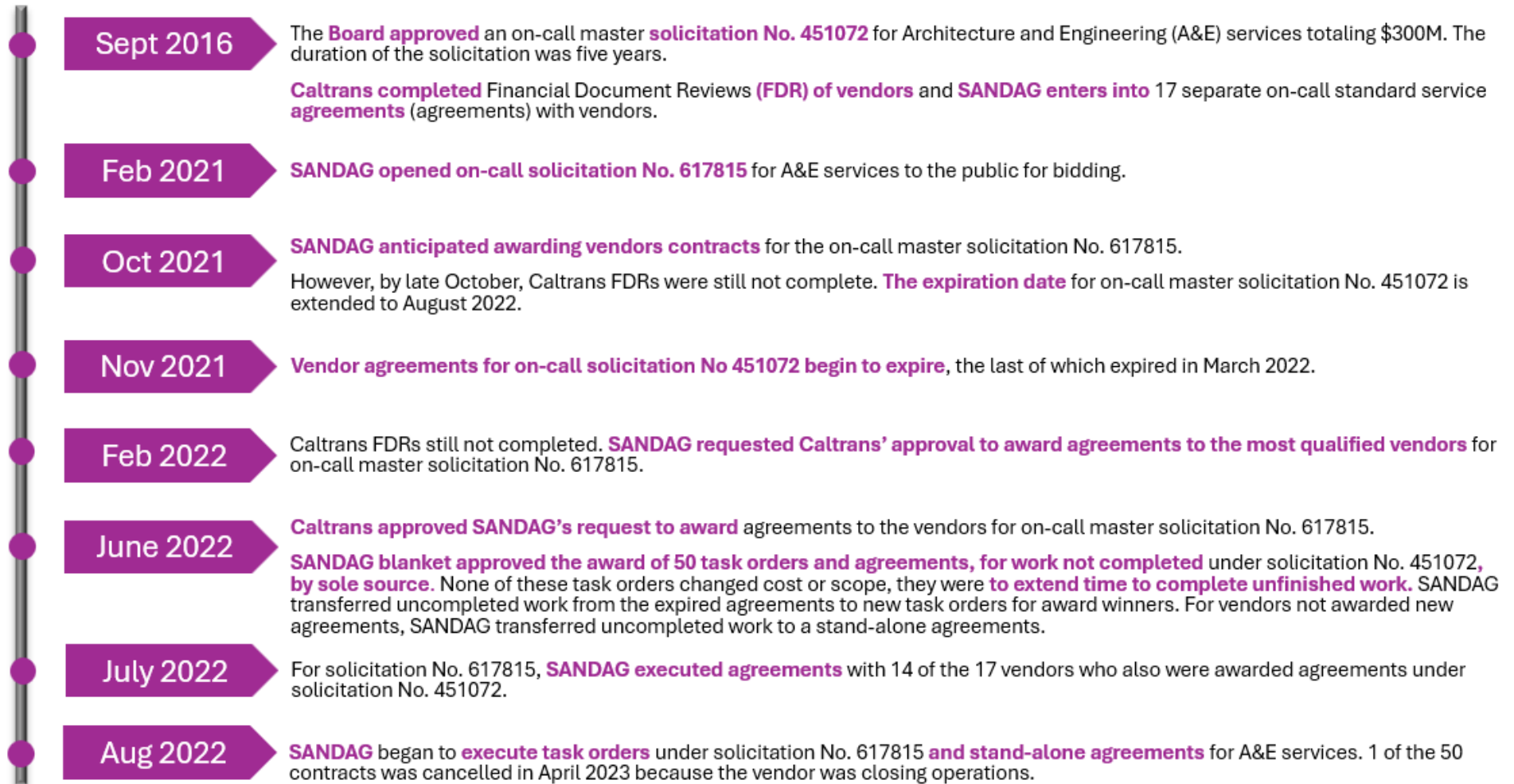
Approval

I certify that the information on this form is correct. Based on the justification provided, I approve that these services be procured using a non-competitive solicitation process.

 [Director Name]
 [Title]

 Date

APPENDIX D – SANDAG’S BLANKET APPROVAL TO AWARD 50 CONTRACTS TO VENDORS BY SOLE SOURCE



Source: OIPA generated based on Sole Source Justification

APPENDIX E – EXAMPLE: CITY OF SAN DIEGO'S SOLE SOURCE REQUEST AND
CERTIFICATION FORMPurchasing and Contracting Department
Sole Source Request and Certification Form

To: Director of Purchasing and Contracting

Cc: Select One

From: Tom Rosales, Interim Deputy Director, WWTD

Date: May 30, 2019

In alignment with the guidance provided in the San Diego Municipal Code section 22.3016, the Purchasing Agent (Director of Purchasing and Contracting) must certify that the award of a sole source contract is necessary by memorializing in writing why strict compliance with a competitive process would be unavailing or would not produce an advantage, and why soliciting bids or proposals would therefore be undesirable, impractical, or impossible.

For consideration, this form must be completed and all required accompanying information must be submitted together, including any related contracts. Failure to do so will result in a delay of approval of the request.

Describe commodity or service(s) to be purchased. Include vendor contact information.

The Wastewater Treatment and Disposal (WWTD) of the Public Utilities Department (PUD) requests certification of Emerson Process Management™ (Emerson) for continuing to provide control systems, integration, technical support, and cybersecurity related products and services to upgrade and expand existing Wastewater facilities, and properly maintain the Clean Water Operations Management Network (COMNET) to assure reliable operation.

The main objectives of this sole source request are:

- a. Allow the City to issue several Task Orders (TOs), each with own specific scope of work and budget, on an "As Needed" basis.
- b. Allow the City to issue individual TOs to Emerson to address COMNET upgrade needs at various existing Wastewater facilities.
- c. Allow the City to issue a TO to Emerson to fill the gaps related to monitoring and control functions that may exist between various Pure Water Program projects.

On behalf of PUD, COMNET was designed and implemented by Emerson, starting in 1995 and continuing for several years thereafter, for approximately \$121 million, with additional investments made on new facilities and system expansion and upgrades made since the original implementation, using Emerson's proprietary Distributed Control System (DCS). Currently, Emerson's DCS is in use at a multitude of government and private water and wastewater facilities, refineries, and power plants worldwide. Furthermore, Emerson has maintained an engineering and system support center here in San Diego for over 20 years. City's investment in COMNET to date is estimated at over \$200 million.

Emerson is the sole provider of the hardware and software components of the DCS currently used within COMNET. Continued use of Emerson's DCS products and technical support and services will allow seamless and cost-effective integration of new facilities, as well as facilitating the system upgrades currently much needed at the existing Wastewater facilities. Extending the Emerson DCS will mitigate risks in both capital and operational costs for the needed work and continue the City's Operations and Maintenance efficiency goals. Projected cost for the 10-year contract is approximately \$30 million.

Emerson Representative Information:

Jeff Johnson
Sr Account Executive
jeffrey.johnson@emerson.com
(951) 826-3229

Sole Source Request and Certification
Rev. July 11, 2018
OCA Document No. 1772513

Justification

1. This product or service is available from only one supplier and meets at least one of the following criteria (please check all that are applicable):

- ☒ *One-of-a-kind/Compatibility*
- a. Required by Warranty: the product matches existing equipment, infrastructure and is required by warranty. **(A letter from the provider which supports this claim must be provided.)**
- b. Goods and Services:
- i. the good has no competitive product or alternative on the market.
- ii. the service requires a special skill, ability, or expertise linked to the current project that cannot be provided by another supplier.

(Documentation in support of either of the above claims must be provided by the requesting department.)

- ☐ *City Standards*

The product or service complies with established, existing City standards.

- ☐ *Replacement*

The product or service is the only compatible replacement component that supports a larger system. Or, the services are the only ones that can replace the existing service requirements.

2. Do any of the following situations exist?

- ☐ *Limited Competition*

Department made an attempt to find a second or multiple sources to no avail.

- ☐ *Emergency*

There is an urgent need for the item or service and time does not permit the City to solicit for competitive bids, as in the cases of emergencies as defined under SDMC section 22.3208,. (Delays in solicitation do not satisfy this criteria)

Cost/Market Analysis

Purchasing and Contracting will perform due diligence on each request. If Purchasing and Contracting can find a suitable, cost effective alternative, this request will be denied and that alternative will be pursued after your department has been contacted to discuss the revised determination.

This form does not take the place of an agreement and all sole source requests for a period of one year or longer will require the **submission of an agreement**. The requesting department must submit a purchase requisition and a copy of this certification to Purchasing and Contracting for a Purchase Order to be issued.

Sole Source Request and Certification
Rev. July 11, 2018
OCA Document No. 1772513

PCO Due Diligence (PCO to initial all that apply)

- ☐ Proof of warranty or maintenance requirement for standardized and replacement items confirmed.
- ☒ Vendor/Supplier confirmed submission of justification letter.
- ☐ Market test confirmed that there is no advantage to the City in competing this contracting opportunity to multiple vendors.
- ☐ Emergency verified with the department.
- ☒ Pricing agreement has been reviewed.
- ☒ Purchasing and Contracting has reviewed this request and affirms that this request for a sole source justification is appropriate.

This sole source is approved for:

- ☐ One (1) year from the signature date below.
- ☐ For the entire length of the contract, but not more than five ~~(5)~~ years. *approved by Council*

The length of the contract must be consistent with the sole source approval. A sole source request must be submitted and approved by the Purchasing and Contracting Director prior to the award of each new contract and prior to each extension of an existing contract that was not contemplated in the initial contract term.

☐ After reviewing the provided information and due diligence, I cannot recommend the approval of this request.

Purchasing and Contracting Director Review

I certify that strict compliance with a competitive process would be unavailing or would not produce an advantage, and that soliciting bids or proposals would be therefore undesirable, impracticable or impossible. My approval is contingent on the information provided in this form.

- ☒ In accordance with SDMC §22.3016, this request is approved.
- ☐ Based on the information provided and due diligence recommendation of staff, this request is denied.



Kristina Peralta, Director, Purchasing and Contracting

14 June 2019

Date

Sole Source Request and Certification
Rev. July 11, 2018
OCA Document No. 1772513

APPENDIX F – EXAMPLE: SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS' PROCUREMENT POLICY AND PROCEDURE MANUAL

SCAG Procurement Policy & Procedures Manual

3.3. Approval Authority Thresholds and Processing Time

- A. Table 1 below provides SCAG's approval authority thresholds and average processing time for each Procurement Method, and for all funding sources excluding the General Fund (see Table 2 below for General Fund).

Table 1 - Approval Authority Thresholds and Average Processing Time			
Procurement Method	Threshold	Approval Authority	Processing Time (in weeks)
Formal – 1	\$200,000 or greater (subject to Audit if \$250K or greater)	Regional Council	15 (from receipt of final Scope of work to Notice-to-Proceed)
Formal – 2	\$50,000 but < \$200,000	CFO (or designee)	11 ²
Informal	>\$10,000 but < \$50,000	CFO (or designee)	2 – 7
Micro/Non-Competitive	\$1 - \$10,000	Contracts Manager	2
Sole Source - 1	\$200,000 or greater (subject to Audit if \$250K or greater)	CFO/Regional Council	2 – 6
Sole Source - 2	> \$10,000 but < \$200,000	CFO (or designee)	2
Amendment - 1	\$75,000 or greater (subject to Audit if the amendment increases the contract's value to \$250K or greater)	Regional Council	2 – 6
Amendment - 2	\$1 but < \$75,000 (subject to Audit if the amendment increases the contract's value to \$250K or greater)	CFO (or designee) if the amendment is 30% or greater of the contract's original value, or increases the contract's value to \$200,000 or greater, then	2

² Note: The 11 weeks typically consists of the following major activities:

1.5 weeks for RFP creation and issuance;
 4.0 weeks for RFP posting;
 3.0 weeks for evaluating proposals and conducting any interviews;
 2.5 weeks for negotiating and executing the final contract.
 11 weeks total anticipated processing time

Add 4 more weeks for contracts \$200K or greater (for Regional Council Approval)

SCAG Procurement Policy & Procedures Manual

Table 1 - Approval Authority Thresholds and Average Processing Time

Procurement Method	Threshold	Approval Authority	Processing Time (in weeks)
		the RC must approve this amendment.	

- B. Agreements (including contracts and purchase orders for goods and services) and related amendments are reported to the SCAG Regional Council. Agreements and amendments not subject to pre-approval by the RC are reported to the RC for informational purposes.
- C. Further, while contract amendments are limited to no more than thirty (30) percent of the original total amount of the contract, any amendment(s) with an individual or aggregate amount of \$75,000 or greater requires Regional Council approval prior to the amendment.
- D. Table 2 below provides SCAG's approval authority thresholds and processing time for each Procurement Method, for purchases funded from the General Fund (see Table 1 above for all other funds).

**Table 2
Approval Authority Thresholds & Average Processing Time Processing for General Fund
Contracts**

Procurement Method	Threshold	Approval Authority	Processing Time (in weeks)
Formal	\$50,000 or greater (subject to Audit if \$250K or greater)	Regional Council	11
Sole Source - 1	Contracts \$10,000 or less (Micro Purchases regardless of funding source)	Chief Financial Officer	1 - 4
Sole Source - 2	Contracts > 10,000 < \$200,000	Executive Director (any amendment that increases the contract's value to \$200,000 or greater must be approved by the RC)	2 - 11
Sole Source - 3	\$200,000 or greater (subject to Audit if \$250K or greater)	Regional Council	2 – 15
Amendment	\$1 but < \$75,000 If the amendment is 30% or greater of the contract's original value, or increases the contract's value to \$200,000 or greater, then the RC must approve this amendment. The amendment is also	Regional Council	2 – 6

SCAG Procurement Policy & Procedures Manual

4. Time extensions. Each contract or PO should be re-solicited prior to a total of thirty-six (36) months with the same consultant including any amendment or options to extend the contract's term, unless SCAG's Chief Financial Officer provides written authorization for a longer period for the initial contract or an amendment to an existing contract.
 5. Changing incremental funding (on the Funding Exhibit).
- E. Contract or PO amendments may also be necessary at the beginning of each fiscal year, upon approval of the new fiscal year budget, to advise the consultant of the following:
1. To continue work
 2. Project Number
 3. Term of the contract
 4. Document any funding change
 5. Any other contractual change
- F. Excluding Micro Purchases which may be amended up to \$10,000 without regard to any percentage increase limits, contract or PO amendments are limited to no more than thirty (30) percent of the original contract amount. In general, amendments which increase the contract value more than 30% of the original amount are considered a sole source procurement and require sole source justification (see section 7.3 above). An amendment in excess of the 30% of the contract's original value, requires the Regional Council's Approval prior to executing the amendment. Note – Any purchase that was procured INFORMALLY (i.e., originally valued at less than \$50,000), can only be increased up to \$64,999.99 or 30% of the Contract's original value, whichever is less (e.g. if the original contract is \$49,999, it can on be increased up to 30% or \$15K, with the revised value totaling \$64,999). The Regional Council must approve amend such a contract beyond \$64,999. Such amendments must still be processed in accordance with this Policy Manual.
- G. In accordance with a June 14, 2006 Regional Council agenda item 3.1.17, and the Regional Council Policy Manual, Article VIII, Section 1.3 (updated September 2009, pg. 26) any amendment to incorporate additional (similar) scope with an individual or aggregate amount of \$75,000 or greater requires Regional Council approval, before the amendment can be executed. This excludes fiscal year funding amendments. Once the aggregate value of an amendment is \$75,000 or greater or 30% of the contract's original value, whichever is less, any further amendment to the contract's value requires Regional Council approval before it can be executed. Contracts will require the consultant to complete a new Conflict of Interest (COI) Form if the contract is more than 1 year old (as of the date the RC/EAC first went to the Regional Council for Approval or Information) and include this new COI in the Regional Council report. Further, amendments valued between \$5,000 and \$74,999 must be submitted as an **"information item"** on the Regional Council agenda.

Management's Response and Corrective Action Plan



May 12, 2025

Courtney Ruby
Independent Performance Auditor
Office of the Independent Performance

RE: Management Response to the Office of the Independent Performance Auditor's
Performance Audit of SANDAG's Sole Source Procurement Process

Dear Ms. Ruby:

Thank you for the opportunity to respond to the Office of the Independent Performance Auditor's (OIPA's) Sole Source Procurement Process Audit. We appreciate the work you and your team have completed to develop this analysis.

Many of the recommendations are consistent with those from Parts I and II of OIPA's Contracts audit completed in 2022 and 2023 and we have taken important steps since then to implement these actions. As noted in the audit report, the Board of Directors began receiving a semi-annual report on sole source procurements in July 2024; all requests for sole source contracts started to be subject to CEO review around October 2024; and, a revised Procurement Manual, Sole Source Procedures fact sheet, and Roles and Responsibilities in the Contract Lifecycle Framework were released to staff in February 2025.

Also mentioned in the audit report are additional actions that can and should be taken to continue to implement organizational changes that drive accountability, enhance internal controls, and further instill a continuous improvement culture at SANDAG. Attached is management's response to the audit's 19 recommendations.

We look forward to continuing to work with the OIPA to improve processes and practices. Again, thank you for your efforts on this analysis and continued partnership during this journey in being prudent stewards of taxpayer dollars.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mario Orso', is written over a light blue horizontal line.

Mario Orso
Chief Executive Officer

cc: Members of the Board of Directors
Members of the Audit Committee

Attachment 1 – Management Corrective Action Plan – Sole Source Procurement Process

Sole Source Procurement Process Audit
SANDAG's Corrective Action Plan

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
1	1	For the nine (9) missing contracts, document their absence in the contract file and do not allow future sole source follow-on work for the project.	Management agrees with this recommendation. Information will be added to the nine contract files to: 1) note that certain documentation related to the original competition is missing; and 2) outline the steps that should be taken to ensure appropriate procurement methods will be followed for any future work on those contracts. The project's needs are being assessed, sole source contracts are not anticipated to be used for follow-on work.	Director of Contracts and Procurements Due: 8/31/2025
1	2	Revise the process to document how each contract is awarded (contract history) and ensure contract documentation is clear, comprehensive, complete and readily accessible.	Management agrees with this recommendation. Staff is working on updates to the History of Procurement form to more clearly document different contract milestones, decision points, and related justifications. In addition, the Procurement Manual will be updated to more clearly outline the information to be included in the form, who is responsible for completing the form, and any necessary approvals.	Director of Contracts and Procurements Due: 9/30/2025
1	3	Develop a procedure to identify and document the contract award method for past projects to ensure follow-on work is adequately validated.	Management agrees with this recommendation. The Procurement Manual will be updated to clarify how to identify and document the contract award method used for past projects that are <u>still active</u> so that follow-on work is adequately procured. This update will include information on where to find project records based on	Director of Contracts and Procurements Due: 9/30/2025

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
			the status and timing of the original solicitation (i.e. Contracts Library, ERP, CMS).	
1	4	<p>Create criteria for evaluating if the sole source economy and efficiency justification is reasonable, including but not limited to:</p> <ul style="list-style-type: none"> • Steps to identify if a prior contract was multi-phase. • Steps to identify if the new contract's scope of work was included in the original, competitively awarded contract. 	<p>Management agrees with this recommendation.</p> <p>Staff is working on an update to the Sole Source Procedures that will include a Check List with criteria to help evaluate if the sole source economy and efficiency as well as safety justification is reasonable; including whether the prior contract was multi-phase and if the sole source scope was included in the original, competitively awarded contract.</p>	<p>Director of Contracts and Procurements</p> <p>Due: 9/30/2025</p>
1	5	<p>Establish a protocol for policy exceptions for unforeseen circumstances. Such a policy should be comprehensive and include, but not be limited to:</p> <ul style="list-style-type: none"> • Define exception and authority for such an exception. • Define any limitations related to the exception: <ul style="list-style-type: none"> o For example, can it be applied to multiple contracts in the form of a blanket approval? Or only to a single contract? Can it include future contract actions, such as amendments for time, costs, and scope? • Include documentation and analysis requirements to justify appropriate application. 	<p>Management agrees with this recommendation.</p> <p>Management will review best practices to establish a comprehensive protocol for policy exceptions for unforeseen circumstances; including defining the appropriate authority, circumstances, justification, and limitations for such exceptions.</p>	<p>Director of Contracts and Procurements / Office of General Counsel</p> <p>Due: 12/31/2025</p>

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
2	1	Evaluate if the Agency's approval and review process provides an appropriate level of control. For example, the DDCPS is the senior management contracting and procurement expert and is responsible for contracting and procurement oversight. Additionally, the CEO is responsible for the Agency's overall operations. The Agency should consider approvals levels based upon criteria such as dollar volume and project risk level – for example the DDCPS approves all sole source procurements, and the DDCPS and CEO both approve all high dollar and high-risk projects.	<p>Management agrees with this recommendation.</p> <p>A review of the agency's <i>Delegation of Authority by Chief Executive Officer Policy</i> is currently underway that will include an evaluation of current contract and procurement approvals to ensure an appropriate level of control. This review will also consider how dollar, volume, risk level or other appropriate metrics should be factored into the review/approval process.</p>	<p>Director of Internal Controls / Office of General Counsel</p> <p>Due: 12/31/2025</p>
2	2	<p>Review and update policies and procedures to:</p> <ul style="list-style-type: none"> • Define process for obtaining and documenting required grantor permissions to sole source contracts. • Define staff and management responsibilities (including OGC) and when they are engaged in the sole source process. • Define the scope and substance and document each level of review performed and required documentation from each review. • Define the sequence of reviews and approvals to ensure strategic, compliance, and legal reviews occur before approval, and eliminate the possibility of approving a sole source before all appropriate reviews are completed. 	<p>Management agrees with this recommendation.</p> <p>Staff is working on updates to the Sole Source Procedures that will further clarify processes and responsibilities related to grantor permissions, staff/management roles, documentation and reviews, and approvals. In addition, a review of the agency's <i>Delegation of Authority by Chief Executive Officer Policy</i> is currently underway that will include an evaluation of current contract and procurement approvals to ensure appropriate levels of control throughout the process (Finding 2.1).</p>	<p>Director of Contracts and Procurements / Director of Internal Controls</p> <p>Due: Sole Source Procedures: 9/30/2025</p> <p>Policy: 12/31/2025</p>

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
		<ul style="list-style-type: none"> Evaluate and assign the appropriate level of Agency approval based upon dollar amount and project risk. Implement steps and/or controls where gaps in the process were identified. 		
2	3	Once policies and procedures have been updated, provide training to staff to ensure they understand their roles and responsibilities within the sole source procurement process. Periodically provide refreshers and evaluate staff's retention.	Management agrees with this recommendation. Training on the updated Sole Source Procedures will be provided on a regular basis to ensure that staff understand their roles and responsibilities within the procurement process.	Director of Contracts and Procurements / Director of Human Resources / Director of Program/Project Management Due: 4/30/2026
2	4	Annual performance reviews for contracting staff and Project Managers should include expectations to demonstrate their knowledge and execution of their contract responsibilities with adequate professional care to ensure accuracy, completeness, and compliance.	Management agrees with this recommendation. Annual performance reviews for contracting staff and Project Managers will consider their knowledge and execution of their contract responsibilities with adequate professional care to ensure accuracy, completeness, and compliance	Director of Contracts and Procurements / Director of Human Resources / Director of Program/Project Management Due: 12/31/2025

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
3	1	<p>Establish and document key controls for ensuring effective monitoring and continuous improvement of the sole source process, including but not limited to:</p> <ul style="list-style-type: none"> • Target limit for sole source contracts. • Key performance indicators, reporting procedures, and periodic quality assurance review process to increase compliance and operational efficiency over the sole source process. • Periodic evaluations of staff assignments and procurement methods to ensure that sole source procurements are appropriately utilized. • Reporting sole source contract metrics to the Board of Directors and executive leadership. 	<p>Management agrees with this recommendation.</p> <p>Management will: 1) establish and document key controls for ensuring effective monitoring and continuous improvement of the sole source process; and 2) identify key performance indicators, reporting procedures, and periodic quality assurance review processes to increase compliance and operational efficiency over the sole source process, including periodic evaluations to determine if sole source procurements are being appropriately utilized.</p> <p>Based on a review of best practices of peer agencies and operational needs, management will determine what the appropriate metrics are to monitor and report (in addition to the information currently provided to the Board and executive leadership). Management will initiate a process to review best practices of peer agencies to consider what an appropriate baseline of sole source procurements could be to determine if there are appropriate limits to be established.</p>	<p>Director of Internal Controls / Director of Contracts and Procurements</p> <p>Due: 03/31/2026</p>
3	2	<p>Identify data needed to track sole source volume and dollar amounts in SANDAG's system(s) responsible for tracking contract data, and ensure system(s) are configured to require necessary data, including but not limited to:</p> <ul style="list-style-type: none"> • Amendment Effective Date • Contract type • Dollar value of amendments and where they are stored • Procurement method 	<p>Management agrees with this recommendation.</p> <p>The agency is planning to transition back to CMS to manage solicitation, procurement, and contract award activities in summer 2025. Management will identify the data needed to track sole source volume and dollar amounts in CMS and ensure it is configured to require necessary data for all new contracts, including but not limited to:</p> <ul style="list-style-type: none"> • Amendment Effective Date 	<p>Director of Contracts and Procurements</p> <p>Due: 9/30/2025</p>

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
			<ul style="list-style-type: none"> Contract type Dollar value of amendments and where they are stored Procurement method <p>In the meantime, staff is manually maintaining a list of all sole source contracts (including vendor name, contract number, project name, dollar value, award date, funding source, justification, and approving official) and providing this information to the Board of Directors every six months.</p>	
3	3	Update the Procurement Manual to include and define all possible contract types that are awarded.	<p>Management agrees with this recommendation.</p> <p>The Procurement Manual will be updated to include and define all possible contract types that are awarded.</p>	<p>Director of Contracts and Procurements</p> <p>Due: 9/30/2025</p>
3	4	Reconcile the contract types in CMS with those defined in the Procurement Manual and configure CMS to allow only the contract types defined in the manual.	<p>Management agrees with this recommendation.</p> <p>Management will reconcile the contract types in CMS with those defined in the updated Procurement Manual and configure CMS to allow only the contract types defined in the manual.</p>	<p>Director of Contracts and Procurements</p> <p>Due: 9/30/2025</p>

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3	5	<p>The Board of Directors and the Audit Committee approve the following for inclusion in OIPAS's Fiscal Year 25-26 Audit Plan:</p> <ol style="list-style-type: none"> 1. Assess planned capital project outcomes for fiscal year 2025-26. 2. In December 2025, initiate a six-month review of sole source justifications to evaluate progress. 	<p>OIPA operates and sets its Audit Plan independently. Major agency changes to policies and processes may take longer than six months to demonstrate results.</p>	<p>Office of the Independent Auditor</p> <p>Due: Based on OIPA input</p>
4	1	<p>Update policy to require contract staff evaluate and document the need to sole source contract amendments.</p>	<p>Management agrees with this recommendation.</p> <p>Project managers are responsible for evaluating and documenting the need to sole source contracts and the Department Director is responsible for certifying this need. The Procurement Manual currently states that "the Contracts staff member assigned to process the request will review the justification to ensure it is complete, contains a detailed explanation, has appropriate documentation, and has been signed by the Director."</p> <p>To further strengthen this process, staff is working on an update to the Sole Source Procedures that will include additional levels of review and recommendation of approval as well as a Check List that contract staff must use to confirm that the justification to sole source is sufficient and appropriate.</p>	<p>Director of Contracts and Procurements</p> <p>Due: 9/30/2025</p>
4	2	<p>Develop a process to periodically review non-sole sourced contract amendments for compliance with sole source thresholds.</p>	<p>Management agrees with this recommendation.</p> <p>Management will develop a process as part of its Internal Controls Program and Project Program Management to periodically review a sample of non-sole sourced</p>	<p>Director of Internal Controls/ Director of Project Program Management</p>

Finding No.	Rec No.	OIPA Recommendations	Management Corrective Action Plan (CAP)	Responsible Owner(s) and Target Completion Date
			contract amendments to ensure compliance with sole source thresholds.	Due: 03/31/2026
4	3	Evaluate and revise policy to strengthen requirements for when amendments should be awarded by sole source, considering materiality and the original contract value.	Management agrees with this recommendation. Management will review best practices from peer agencies and update policies as needed to strengthen requirements for when amendments should be awarded by sole source, potentially considering materiality and the original contract value.	Director of Contracts and Procurements / Office of General Counsel Due: 12/31/2025
4	4	Update procurement policy to require that contracts include the maximum dollar value, as required.	Management agrees with this recommendation. The Procurement Manual currently states that for IDIQ contracts, "the joint minimum and maximum quantities are expected to be stated in the solicitation and contract." This language will be expanded to clearly state that all contracts must contain a maximum dollar value.	Director of Contracts and Procurements Due: 9/30/2025
5	1	Work with the Board to develop a specific dollar threshold for requesting Board consent prior to awarding contracts by sole source.	Management agrees with this recommendation. The current threshold for requesting Board approval prior to awarding a sole source contract is \$5 million. Management will review this threshold with the Board to determine if any adjustments are needed.	Director of Contracts and Procurements / Office of General Counsel Due: 12/31/2025