

TRANSPORTATION DEVELOPMENT ACT

The Transportation Development Act (TDA) Statutes¹ and Title 21 of the California Code of Regulations (CCR) require the San Diego Association of Governments (SANDAG), as the Regional Transportation Planning Agency (RTPA), to adopt rules and regulations supplemental to and consistent with those of the California Department of Transportation (Caltrans) to establish procedures for the administration of TDA funds. These procedures provide for the local implementation of the Transportation Development Act of 1971, as amended, in the San Diego region.

Background

The TDA became effective on July 1, 1972, and was enacted to assist local jurisdictions at the county level to improve public transportation and encourage regional public transportation coordination. To this end, the TDA created a Local Transportation Fund (LTF) in each county into which is deposited ¼ percent out of the state and local sales taxes collected in the county. The TDA was amended in 1979 (Senate Bill [SB] 620) to create the State Transit Assistance (STA) program.

As the RTPA for the San Diego region, SANDAG is responsible for the annual allocation of monies from the LTF. There are various eligibility requirements for the receipt of TDA funds. This policy outlines those requirements while the TDA Manual provides further details for the different Articles of the TDA and the STA.

Procedures

1. Priorities for the Use of TDA Funds

The TDA sets priorities on the distribution of funds. The following priorities apply to the San Diego region.

- a. Administrative Costs (Section 99233.1): Funds are allocated to the County Auditor and SANDAG for administrative expenses as necessary.
- b. Planning by Statutorily Created Agencies (Section 99233.2): Up to three percent of annual revenues shall be allocated to SANDAG for the conduct of the transportation planning process.
- c. Bicycle and Pedestrian Facilities (Section 99233.3): Two percent of the money remaining in the fund may be available to the county, and cities, for development of bicycle and pedestrian facilities and safety education programs. These funds are allocated by SANDAG based on a regionwide priority list of projects.

¹All sections refer to the Public Utilities Code unless otherwise noted.

- d. Rail Passenger Service (Section 99233.4): Within the San Diego region, only Metropolitan Transit System (MTS), North County Transit District (NCTD), or SANDAG may file a claim under this provision for rail passenger service operating or capital improvement expenditures.
- e. Community Transit Services (Section 99233.7): Within the San Diego region, up to five percent of the remaining money in the fund shall be available to MTS, NCTD and the Consolidated Transportation Service Agency (CTSA) to provide community transit services. Community transit service means transportation services that link intracommunity origins and destinations including services for those such as the disabled who cannot use conventional transit services.
- f. Transit Operator Claims (Section 99233.8): The remaining money in the fund shall be allocated to MTS, NCTD and SANDAG to support public transit systems within the San Diego region.
- g. Express Bus and Vanpool Services (Section 99400.6): Within the San Diego region, any claims for express bus service and vanpool shall be consistent with the plans of MTS and NCTD for such services subject to specified conditions.
- h. Commuter Ferry Services (Section 99400.7): Within the San Diego region, MTS and NCTD may file a claim to provide commuter ferry service on San Diego Bay for purposes of serving peak-period commute trips for pedestrians and bicycles.

2. County Auditor's Responsibilities

The County Auditor in each county in the state is the designated trustee for that county's TDA funds. Prior to February 1 of each year, the San Diego County Auditor is required (21 CCR 6620) to furnish SANDAG with an estimate of monies anticipated to be deposited in the LTF during the ensuing fiscal year. The County Auditor must also provide an estimate of the TDA fund balance after all allocation instructions and payment schedules have been honored for the current fiscal year. Estimates include interest income for the ensuing fiscal year as well as sales tax revenues. In addition, the County Auditor is also responsible for maintaining accounting records for the LTF and for disbursing TDA monies in accordance with allocation instructions from SANDAG.

3. Apportionment Schedule

It is the responsibility of SANDAG to apportion TDA monies for the ensuing fiscal year based on estimates received from the County Auditor. In the San Diego region, the development of the annual apportionment schedule reflects the existence of two transit development board boundaries: (1) the San Diego MTS area and (2) the NCTD area. The MTS and NCTD service areas encompass the entire county. Prior to March 1 of each year, SANDAG shall provide its apportionment estimates to NCTD and MTS.

4. Claims

Each article of the TDA provides funding for specific purposes with differing eligibility requirements and restrictions.

This policy discusses the general requirements, while detailed instructions are included in the TDA Manual.

- 4.1 Claim Process: Claimants shall submit all required forms and data supporting their TDA claims by April 30 of each year. These forms are included in the TDA Manual and available on the TDA web page. An item that provides a summary of TDA allocations based on review of the claims shall be presented for approval to the Transportation Committee and Board of Directors at its June meeting. Transit claims must be consistent with the annual Transit Operating Budgets approved for funding by the Board.
- 4.2 Project Eligibility: Article 3 funds are designated for bicycle and pedestrian projects. Article 4 funds are used to provide general public transit services. Article 4.5 funds are designated for community transit services and, by SANDAG Board policy, are allocated within the San Diego region to support paratransit services required by the Americans with Disabilities Act (ADA). Article 8 provides special provisions to support express bus service, multimodal transit centers, and ferry service. Finally, the STA fund is a state program, administered locally, that provides additional support for public transit.
- 4.3 Farebox Recovery Ratio: Except for Article 3 projects, the commuter ferry service, and services provided by the CTSA, all transit operators must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio as set forth in Section 6.2.1 of this policy).
- 4.4 Reporting Requirements: Each recipient of TDA funds is required to submit the annual State Controller's Report (CCR 6665) and annual certified fiscal audit (Section 99245) before the required deadline. As the TDA administrator, SANDAG procures an independent auditor for the annual fiscal audit and submits to Caltrans on behalf of the recipients.
- 4.5 Claim Revisions: Where changes in circumstances warrant, a claimant may request a revision to an approved allocation. A request for an allocation revision or amendment shall include detailed information and the reason for the request. The SANDAG Transportation Committee approval is required for an amendment.

5. Article 3 - Bicycle and Pedestrian Claims

Two percent of TDA funds are apportioned each year for facilities provided for the exclusive use of pedestrians and bicyclists. Of the amount available to a city or the county pursuant to this section, five percent thereof may be expended to supplement monies from other sources to fund bicycle and pedestrian safety education programs. Funds under this article shall be allocated pursuant to procedures or criteria established by SANDAG for the area within its jurisdiction. SANDAG allocates funding based on a regionwide priority list of projects in the development of a balanced transportation system, including funds for the Regional Bike Early Action Program and also funds local bicycle and pedestrian plans, programs, and projects through the competitive *TransNet*/TDA Active Transportation Program which is supplemented with TDA revenues.²

² The San Diego Transportation Improvement Program (*TransNet*) Extension approved by the voters in 2004 also includes an annual allocation of 2 percent of the total annual revenues dedicated to the Bicycle, Pedestrian, and Neighborhood Safety Program, which also is known as the *TransNet*/TDA Active Transportation Grant Program (ATGP). The ATGP provides funding for bikeway facilities and connectivity improvements, pedestrian and walkable community projects, bicycle and pedestrian safety projects and programs, and traffic calming projects through a competitive grant program.

- 5.1 Project Eligibility: Public Utilities Code (PUC) Sections 99233.3 and 99234 describe the project eligibility. SANDAG, as the RTPA, has the authority to establish criteria applicable to evaluating claims for bicycle and pedestrian funds (Section 99401). The claims are due by April 30 of each year. Each claim must include required claim forms and supplemental information. Additional SANDAG requirements are outlined in the TDA Manual.
- 5.2 Payment of Funds: Payment of funds for bicycle and pedestrian projects will be made based on payment requests submitted to SANDAG.
- 5.3 Project Monitoring: Regular project status reports are provided to the Transportation Committee. SANDAG bike projects are monitored through quarterly capital status reports and updates to the Board of Directors and Independent Taxpayer Oversight Committee.
- 5.4 Project Completion: Final payment will not be issued for any project until all aspects of the contract between SANDAG and the claimant have been completed.
- 5.5 Project Maintenance: The claim for either TDA funds or for *TransNet* bicycle funds requires the applicant to identify how the facility will be maintained. Beyond routine maintenance, agencies that construct bikeways or pedestrian improvements with these funds assume the responsibility to maintain those improvements so long as the right-of-way in which the improvements are provided remains open to the public.

6. Article 4 – General Purpose Claims

This article provides for the following purposes: (1) support of public transportation system; (2) aid to public transportation research and demonstration projects; and (3) contribution for the construction of grade separation projects (Section 99260).

- 6.1 Eligible Expense: Public transit operators can use Article 4 funds for all purposes necessary for the development and operation of a public transportation system including the following (Section 99262):
 - a. Planning and contributions to the transportation planning process
 - b. Acquisition of real property
 - c. Construction of facilities and buildings
 - d. Purchase and replacement of vehicles
 - e. Systems operation, maintenance, and repair
 - f. Debt service

6.2 Eligibility Requirements:

- 6.2.1 *Farebox Recovery Ratio:* In order to qualify for TDA funds, an operator must maintain a certain ratio of fare revenue to operating cost (farebox recovery ratio). To be eligible for Article 4 funds, the farebox recovery ratio must equal or exceed the required ratio (see table below).

If an operator fails to maintain the required ratio, certain penalties apply (Section 99268.9). Should an operator's service expand by more than 25 percent, the ratio requirement is waived for two years after the end of the fiscal year in which the expansion was implemented (Section 99268.8).

Farebox Recovery Ratio Requirements

Operator	Required Ratio	PUC Section
MTS	20%	99269
NCTD	18.8%	99270.1
MTS/NCTD Services for Elderly and Disabled Persons	10%	99268.5

- 6.2.2 *Staffing of Vehicles:* Transit vehicles routinely staffed by two or more persons are prohibited for any vehicle designed to be operated by 1 person (Section 99264)
- 6.2.3 *Retirement System:* The current cost of the transit operator's retirement system must be fully funded with respect to the officers and employees of its public transportation system (Section 99271). An operator with a private pension plan can be eligible for Article 4 funds only if it meets all the requirements of Sections 99272 and 99273.
- 6.2.4 *Maximum Fund Eligibility:* Each operator shall determine the maximum amount of LTF and STA funds using the Fund Eligibility Worksheet (21 CCR 6634).
- 6.2.5 *Fund Use:* All operators shall expend funds from the LTF only in accordance with the terms and conditions of the allocations.
- 6.2.6 *Charter Service:* Any operator providing charter service must meet the requirements of Section 99250 – all charter bus service must contribute financially to the reduction of deficits incurred in the operation of scheduled bus service.
- 6.2.7 *Pull Notices:* Each operator must include a certification completed within the last 13 months from the Department of the California Highway Patrol indicating that the operator is in compliance with Section 1808.1 of the Vehicle Code (maintaining current driver records).

7. Article 4.5 - Community Service Claims

The State Legislature provides up to 5 percent of the eligible annual TDA funds for community transit services, which include services for those such as the disabled who cannot otherwise use conventional transit services. Eligible applicants are cities, counties, public transit operators, and consolidated transportation service agencies. Only public agencies are eligible; however, private operators (e.g., taxicab companies) can provide community transit services under contract with a public agency on a competitive bidding basis.

The total funds apportioned are divided between the MTS and the NCTD service areas based on the ratio of the total population in each area to the total population in the county.

In order to include the CTSA in the fund distribution process, a maximum of 2 percent of the total available will be set aside to support the CTSA.

7.1 Board-Adopted Priorities: Due to the limited funds available under the Article 4.5 program, the SANDAG Board adopted the following priorities for the allocation of article 4.5 funds:

1. The Article 4.5 program is intended to serve those population groups that cannot use conventional, fixed-route transit services, primarily persons with disabilities as defined by the ADA. Service to persons such as the nondisabled elderly should be provided only when capacity is available.
2. Priority shall be given to providing accessible curb-to-curb services to all communities within the urbanized area. Currently service is limited to a $\frac{3}{4}$ -mile radius of an existing fixed-route service area. Based on fund availability, service shall expand beyond the $\frac{3}{4}$ -mile radius.
3. Additional services proposed within areas currently served by another operator will be considered only on the basis of fund availability and a clear demonstration of unmet need.

7.2 Eligibility Requirements: Applicants must meet the following requirements:

1. That the proposed community transit service is responding to a transportation need currently not being met in the community of the claimant.
2. That the service shall be integrated with existing transit services, if appropriate.
3. That the applicant is in compliance with the applicable farebox recovery ratio requirements (Sections 99268.3, 99268.4, 99268.5 or 99268.9). For exclusive elderly and handicapped services, 10 percent of the claimant's operating costs must be recovered through fare revenues. However, local support may be included toward meeting the 10 percent requirement. A CTSA performing coordination activities is exempt from this requirement.
4. That the applicant is in conformance with the requirements of Section 99155 and Section 99155.5 relating to the honoring of specified identification cards by operators offering reduced fares for seniors and the disabled and other eligibility requirements.

8. Article 8 – Special Provisions

Special provision claims generally refer to Article 8 claims for local street and road improvements; multimodal terminals; and express bus, vanpool, and commuter ferry services. Article 8 allows for the construction and maintenance of multimodal transportation terminals anywhere in the County of San Diego or any city, as the case may be (Section 99400.5). The transit operators may also file for express bus services (Section 99400.6).

- 8.1 Multimodal Transportation Terminals: Eligible uses include planning or feasibility studies undertaken to develop new transit centers. The applicant(s) must include a work program describing the objectives and tasks of the study, and projected time frame of the study. The funding request should cover work scheduled to begin, construction costs, and if the project is to be implemented in phases, including in the project description the estimated implementation dates and related costs for each phase (i.e., preliminary engineering, right-of-way acquisition, construction, etc.).
- 8.2 Express Bus and Vanpool: Operators may file for express bus service or vanpool oriented toward serving work commute trips and providing accessibility between residential areas and major activity centers.
- 8.3 Commuter Ferry Service: Cities within the County of San Diego may file for commuter ferry service on San Diego Bay for the purpose of serving peak-period commute trips for pedestrian and bicycles. The commuter ferry service may be located anywhere on San Diego Bay, but shall be consistent with the Regional Plan, shall serve employment centers and high-volume activity centers, and may be provided by contract with operators, private entities operating under a franchise or license, or nonprofit corporations. Pursuant to Section 99400.7, the ferry service is exempt from the farebox recovery ratio requirement.

9. State Transit Assistance Funds

The STA program was created under Chapter 161 of the Statutes of 1979 (SB 620). The program provides a second source of TDA funding to transit operators for transportation planning, public transportation, and community transit purposes only as specified by the Legislature.

STA funds are derived from the statewide excise tax on diesel fuel and are deposited in the Transportation Planning and Development Account. The funds are appropriated to the State Controller for allocation by formula to SANDAG and the San Diego Metropolitan Transit System. The formula allocates 50 percent of the funds on the basis of the population of the region compared to the population of the state, and the remaining 50 percent is allocated according to the prior-year proportion of regional transit operator revenues compared with statewide transit operator revenues. Section 99312.7 requires the State Controller to issue estimates of funds to be allocated to each regional entity by January 31 of each year. To assist the Department of Transportation in determining the populations of the San Diego Metropolitan Transit Development Board, the San Diego Association of Governments, SANDAG, on or before June 1st of each year, shall provide the Department with the population of its respective jurisdiction using the most recent population estimates of the Department of Finance (Section 93313(b)).

- 9.1 Funding Priorities: The intent of the Legislature, and thereby SANDAG, is to give priority consideration to claims for the following purposes (Section 99314.5(A)):
 1. To offset reductions in federal operating assistance.
 2. To offset unanticipated increases in the cost of fuel.
 3. To enhance existing public transportation services.
 4. To meet high-priority regional, countywide, or areawide public transportation needs.

9.2 **Required Findings:** Each regional entity is required to make all of the findings listed below before it can allocate funds to a claimant (21 CCR 6754). It is the responsibility of the operator to provide the regional entity with sufficient information upon which to make these findings. The required findings in this section do not apply to MTS. By state statute, MTS is designated as a regional entity for STA purposes. As a result, MTS is a direct recipient of these funds and SANDAG is not required to make findings, although SANDAG is required to verify that MTS has met the requirements. In order to allocate STA monies, SANDAG must find that:

1. The operator's proposed expenditures are in conformance with the Regional Plan.
2. The level of fare revenues proposed is sufficient to enable the operator to meet the fare revenue requirements of Sections 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, as applicable.
3. The operator is making full use of federal funds available under the Federal Transit Act, as amended.
4. The sum of the operator's allocations from the STA fund and from the LTF does not exceed the amount the operator is eligible to receive during the fiscal year (see CCR 6634). Such finding, however, shall not relieve the operator of its responsibility pursuant to CCR 6735.
5. Priority consideration has been given to offset reductions in federal operating assistance and unanticipated increases in the cost of fuel; to enhance existing public transportation services; and to meet high-priority regional, countywide, or areawide public transportation needs.
6. The operator has made a reasonable effort to implement the productivity improvements recommended pursuant to Section 99244. This finding shall make specific reference to the improvements recommended and to the efforts made by the operator to implement them.
7. The operator is not precluded by any contract entered into, from employing part-time drivers or from contracting with common carriers of persons operating under a franchise or license (Section 99314.5).
8. The operator has been certified within the last 13 months by the California Highway Patrol to be in compliance with Section 1808.1 of the Vehicle Code.
9. The operator is in compliance with either the operating cost per revenue vehicle hour in the latest year or three-year rolling average eligibility requirements of Section 99314.6 (STA Operator Qualifying Criteria).

10. Transit Productivity Improvement Recommendations

Pursuant to the provisions of Section 99244, SANDAG is responsible for identifying and recommending potential productivity improvements that can lower the operating costs of transit operators. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the triennial performance audit pursuant to Section 99246. Performance improvement is best measured over a multiyear timeframe that focuses on longer term trends. In order to measure multiyear improvements, performance recommendations for fixed-route and demand response operators are divided into two categories: (1) performance improvement recommendations and (2) performance audit recommendations. The TDA Manual describes the requirements and forms to be submitted as part of the annual claim process.

11. Additional Regulations

Sections 99261, 99275.5, and 99401 provide for SANDAG to further delineate procedures for the administration of TDA funds.

1. Interest Earned on TDA Monies in the County Treasury: Interest earned on TDA monies in the County Treasury accrue to the LTF and will be apportioned as part of the total funds estimated as determined by the County Auditor and Controller.
2. Interest Earned on TDA Monies Allocated to Operators: Recipients of TDA funds shall maintain separate accountability for such funds and interest earned on such funds. In addition, operators should invest TDA funds received in a prudent manner and any interest earned on such funds shall be expended only for the purposes for which the TDA funds were allocated.
3. Operator Performance Audits: A performance audit guide shall be maintained and the performance audits of operators who claim TDA funds shall be conducted as required by law.
4. Apportionment Schedule Population Estimates: In determining the annual apportionment of TDA funds to member jurisdictions, SANDAG shall utilize the most recent California Department of Finance population figures.
5. TDA Payment Schedules: The SANDAG Chief Executive Officer determines the cash flow needs of individual TDA claimants and is directed to issue allocation instructions and payment schedules to the County Auditor that will meet said cash flow needs within the limits of available TDA monies and within the limits of individual claim amounts approved by the Board. Capital claims for fixed facilities shall be treated as reserves and paid on a progress-payment basis.
6. Article 4.5 Claimants - Farebox Recovery Requirements: Claimants of funds under Article 4.5 shall be in compliance with the applicable farebox recovery requirements as contained in Sections 99268.3, 99268.4, 99268.5, and 99268.9. However, for the purpose of meeting the farebox recovery requirement, an operator may include local support, as defined by 21 CCR 6611.3, in the calculation. A CTSA performing coordination activities is exempt from any farebox recovery requirement.

7. Technical Changes to Adopted Resolutions: When a minor technical revision to an adopted resolution approving a TDA claim is necessary, and where the revision does not amend the allocated amount of funds, the SANDAG Board has authorized the SANDAG Chief Executive Officer to make said revisions subject to approval of SANDAG Counsel.
8. Use of TDA Funds for Local Street and Road Improvements: PUC Section 99232 restricts the use of TDA funds in urbanized counties, including San Diego County, for transit purposes. TDA funds shall be allocated for local street and road improvements only when such improvements are directly related to a major transit facility, such as a multimodal terminal or transit center. The local street and road improvements must be an integral part of the transit facility and the transit facility must be identified in the Coordinated Plan (the Regional Short-Range Transit Plan & Coordinated Public-Transit-Human Services Transportation Plan) and in the Regional Plan.

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