



May 29, 2020

Ms. Heather Halsey  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

**Response to Test Claim 19-TC-03, Assembly Bill No. 805 SANDAG's Independent Performance Auditor Staffing and Other Increased Cost**

Dear Ms. Halsey:

On behalf of the City of Carlsbad, I am writing to express our support for the test claim submitted by the San Diego Association of Governments (SANDAG) on March 19, 2020, related to "Assembly Bill 805 (AB 805) SANDAG's Independent Performance Auditor Staffing and Other Increased Cost."

AB 805 mandates that SANDAG appoint an Independent Performance Auditor (IPA) to conduct or to cause to be conducted performance audits of all departments, offices, boards, activities, agencies, and programs relating to the agency. It also provides that the IPA have the power to appoint and employee personnel as believed necessary for efficient and effective administration of affairs of the office. The IPA is also charged with the responsibilities to investigate any material claim of financial fraud, waste or impropriety within the agency, claimant, or other persons.<sup>1</sup>

A statute creates a "program" when it creates: "[1] programs that carry out the governmental function of providing services to the public, or [2] laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state." *County of Los Angeles v. State of California*, 43 Cal. 3d 46, 56 (1987). A program is "new" if the local governmental entity had not previously been required to institute it." *County of Los Angeles v. Comm'n on State Mandates*, 110 Cal. App. 4th 1176, 1189 (2003).

The purpose of the constitutional provision requiring reimbursement to local governments for a new program is to prevent "transferring to [local] agencies the fiscal responsibility for providing services which the state believed should be extended to the public." *County of Los Angeles*, 43 Cal. 3d at 56-57. The test claim statute meets this definition of a "program."

Prior to AB 805, the IPA position at SANDAG did not exist. Further the requirement to create this position is unique to SANDAG as the statute does not apply to similar regional agencies statewide. The Legislature anticipated that AB 805 would impose a mandate on SANDAG, as

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<sup>1</sup> Public Utilities Code Section 132354.1 (b) (2), (3), and (4),(c),(d), and (e)

indicated in the legislative history. The Senate Committee on Appropriations (August 28, 2017) determined the fiscal effect of the bill to be “Unknown, potentially reimbursable local mandate costs to...establish an in-house audit committee and independent auditor within SANDAG... To the extent SANDAG, MTS, and/or NCTD files a successful claim for reimbursement with the Commission on State Mandates, this bill could result in significant General Fund impacts.” The Assembly Committee on Appropriations (May 17, 2017) found the fiscal effect to be “Unknown, potentially reimbursable mandate costs, likely in the several hundreds of thousands of dollars, to the affected local agencies to...establish an audit committee...”

Although these comments are not binding on the Commission, see Cal. Government Code § 17575, it is clear the Legislature understood the statute would “transfer to [local] agencies the fiscal responsibility for providing services which the state believed should be extended to the public.” County of Los Angeles, 43 Cal. 3d at 56-57.

Similarly, the Department of Finance stated it opposed AB 805 because “it appears to create a reimbursable state mandate.” The potentially reimbursable components included requiring a higher level of audit functions from SANDAG though Finance could not quantify the potential fiscal impact of the bill on SANDAG.

Though SANDAG can and has assessed membership assessment fees, the amounts collected are not sufficient to pay for the full mandated program increased cost. As a result of the state-imposed mandate, in 2019, SANDAG doubled membership assessment fees to help recover some of the increased costs that resulted from the state-imposed mandate. Since April 2019, the assessments have and continue to be used to offset the mandated cost, but there are residual costs associated with the state-imposed mandate. Given the current economic situation, SANDAG member agencies are unable to further increase their member assessment contributions. The amounts collected are not sufficient and do result in costs incurred that are not fully covered by offsets, thus the remainder of the cost associated with the mandate-imposed actions and increased level of activity is what SANDAG is seeking through this test claim.

For these reasons, the City of Carlsbad encourages the Commission on State Mandates to approve SANDAG’s test claim, reimbursing the claimant for incurred, eligible expenses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge, information and belief.

Sincerely,



Matt Hall  
Mayor

**City of Carlsbad City Council**

**City Hall** 1200 Carlsbad Village Drive | Carlsbad, CA 92008 | 760-434-2820 t

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On June 1, 2020, I served the:

- **City of Del Mar's Comments on the Test Claim filed May 29, 2020**
- **City of Encinitas' Comments on the Test Claim filed May 29, 2020**
- **City of Solana Beach's Comments on the Test Claim filed May 29, 2020**
- **City of Carlsbad's Comments on the Test Claim filed May 29, 2020**

*SANDAG: Independent Performance Auditor, 19-TC-03*  
Public Utilities Code Section 132354.1 (b)(1), (2), (3), (4)  
San Diego Association of Government (SANDAG), Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 1, 2020 at Sacramento, California.

*Lorenzo Duran*

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Lorenzo Duran  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 5/5/20

**Claim Number:** 19-TC-03

**Matter:** SANDAG: Independent Performance Auditor

**Claimant:** San Diego Association of Government (SANDAG)

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

**Socorro Aquino**, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

**Allan Burdick**,

7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608

allanburdick@gmail.com

**J. Bradley Burgess**, *MGT of America*

895 La Sierra Drive, Sacramento, CA 95864

Phone: (916)595-2646

Bburgess@mgtamer.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 324-5919

ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*

Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

**Annette Chinn**, *Cost Recovery Systems, Inc.*  
705-2 East Bidwell Street, #294, Folsom, CA 95630  
Phone: (916) 939-7901  
achinnrcs@aol.com

**Carolyn Chu**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8326  
Carolyn.Chu@lao.ca.gov

**Andre Douzjian**, Chief Financial Officer, *San Diego Association of Government (SANDAG)*

**Claimant Contact**  
401 B Street, Suite 800, San Diego, CA 92101  
Phone: (619) 699-6931  
Andre.Douzjian@sandag.org

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
dillong@csda.net

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Jason Jennings**, Director, *Maximus Consulting*  
Financial Services, 808 Moorefield Park Drive, Suite 205, Richmond, VA 23236  
Phone: (804) 323-3535  
SB90@maximus.com

**Edward Jewik**, *County of Los Angeles*  
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-8564  
ejewik@auditor.lacounty.gov

**Anita Kerezsi**, *AK & Company*  
2425 Golden Hill Road, Suite 106, Paso Robles, CA 93446

Phone: (805) 239-7994  
akcompanysb90@gmail.com

**John Kirk**, General Counsel, *San Diego Association of Government (SANDAG)*

**Claimant Representative**

401 B Street, Suite 800, San Diego, CA 92101  
Phone: (619) 699-1997  
John.Kirk@sandag.org

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Erika Li**, Program Budget Manager, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.ca.gov

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**Elizabeth McGinnis**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Elizabeth.McGinnis@csm.ca.gov

**Michelle Mendoza**, *MAXIMUS*  
17310 Red Hill Avenue, Suite 340, Irvine, CA 95403  
Phone: (949) 440-0845  
michellemendoza@maximus.com

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

**Debra Morton**, Manager, Local Reimbursements Section, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street,  
Suite 740, Sacramento, CA 95816  
Phone: (916) 324-0256  
DMorton@sco.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*  
Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932  
Phone: (530) 458-0424  
ppacot@countyofcolusa.org

**Arthur Palkowitz**, *Artiano Shinoff*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122

apalkowitz@as7law.com

**Jai Prasad**, *County of San Bernardino*

Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018

Phone: (909) 386-8854

jai.prasad@atc.sbcounty.gov

**Theresa Schweitzer**, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3140

tschweitzer@newportbeachca.gov

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

camille.shelton@esm.ca.gov

**Carla Shelton**, *Commission on State Mandates*

980 9th Street, Suite 300, Sacramento, CA 95814

Phone: (916) 323-3562

carla.shelton@esm.ca.gov

**Natalie Sidarous**, Chief, *State Controller's Office*

Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717

NSidarous@sco.ca.gov

**Jim Spano**, Chief, Mandated Cost Audits Bureau, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-5849

jspano@sco.ca.gov

**Dennis Speciale**, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

DSpeciale@sco.ca.gov

**Joe Stephenshaw**, Director, *Senate Budget & Fiscal Review Committee*

California State Senate, State Capitol Room 5019, Sacramento, CA 95814

Phone: (916) 651-4103

Joe.Stephenshaw@sen.ca.gov

**Brittany Thompson**, Budget Analyst, *Department of Finance*

Local Government Unit, 915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

Brittany.Thompson@dof.ca.gov

**Jolene Tollenaar**, *MGT of America*

2251 Harvard Street, Suite 134, Sacramento, CA 95815

Phone: (916) 243-8913  
jolenetollenaar@gmail.com

**Evelyn Tseng**, *City of Newport Beach*  
100 Civic Center Drive, Newport Beach, CA 92660  
Phone: (949) 644-3127  
etseng@newportbeachca.gov

**Brian Uhler**, Principal Fiscal & Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8328  
Brian.Uhler@LAO.CA.GOV

**Renee Wellhouse**, *David Wellhouse & Associates, Inc.*  
3609 Bradshaw Road, H-382, Sacramento, CA 95927  
Phone: (916) 797-4883  
dwa-renee@surewest.net

**Hasmik Yaghobyan**, *County of Los Angeles*  
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012  
Phone: (213) 974-9653  
hyaghobyan@auditor.lacounty.gov