

Metro Board Approved Policy

Guidelines for Measure R ITOC

Adopted: March 25, 2010

Historical Perspective

Full name of the policy: Guidelines for Measure R Independent Oversight Committee.

On November 4, 2008, Los Angeles County voters approved Measure R that imposed an additional 14 cent transactions and use tax to fund transportation improvements in the County. Measure R became effective July 1, 2009. The Ordinance establishes an Independent Taxpayers Oversight Committee and an oversight process to ensure that Metro complies with the terms of the Ordinance. The Committee will select and consult with an Advisory Panel when performing its duties required by the Ordinance. The oversight process also requires that an annual audit be conducted to determine whether Ordinance provisions were complied with relating to the receipt and expenditures of sales tax revenues during the previous fiscal year. Attachment A contains a draft of these proposed guidelines. Staff has established an internal working group to review and finalize the draft guidelines. The intent is to finalize these guidelines in time for the Committee's first meeting, which has not yet been scheduled.

**MEASURE R INDEPENDENT TAXPAYERS OVERSIGHT COMMITTEE
GUIDELINES**

SECTION 1. PURPOSE

On November 4, 2008, Los Angeles County voters approved Measure R also known as the Traffic Relief and Rail Expansion Ordinance, Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization ("Ordinance") (Attachment 1). Measure R became effective July 1, 2009. Section 8 of the Ordinance establishes a Proposition R Independent Taxpayers Oversight Committee of Metro ("Committee") and an oversight process to determine compliance by Metro with the provisions of the Ordinance relating to the receipt and expenditure of Measure R revenues during the preceding fiscal year. The Committee will select and consult with an Advisory Panel ("Panel") when performing its duties required by the Ordinance. The oversight process requires that an annual audit be conducted to determine whether Metro complied with Ordinance provisions relating to the receipt and expenditures of sales tax revenues. Attachment A of the Ordinance contains the expenditure plan ("Expenditure Plan") for the revenues derived from the sales tax imposed pursuant to the Ordinance, and any other identified state and local funding, as required by Public Utilities Code Section 130350.5(f).

SECTION 2. MEMBERSHIP

- 2.1 NUMBER OF MEMBERS.** The Committee shall consist of three (3) members.
- 2.2 APPOINTMENT AND QUALIFICATIONS OF MEMBERS.** The Committee shall be comprised of three persons, each of whom shall be a retired Federal or State Judge. Committee members shall be selected as follows: one member shall be appointed by the Los Angeles County Board of Supervisors; one member shall be appointed by the Mayor of the City of Los Angeles; and one member shall be appointed by the Los Angeles County City Selection Committee. The members of the Committee must reside in Los Angeles County. No person currently serving as an elected or appointed city, county,

special district, state, or federal public officeholder shall be eligible to serve as a member of the Committee.

- 2.3 TERM.** The Committee shall commence work in fiscal year 2009 – 2010 and will continue its work as long as the Measure R Sales Tax is in effect and the Ordinance requires an Oversight Committee. Currently the final year the Measure will be in effect is fiscal year 2039 – 2040 so the Committee must continue working until its review of the final year audit is completed in fiscal year 2041.
- 2.4** Each member of the Committee shall serve for a term of two years, and until a successor is appointed. A Committee member may be removed at any time by his/her appointing authority. There is no limit as to the number of terms that a Committee member may serve.
- 2.5 COMPENSATION.** No member of the Committee shall be entitled to any compensation, except that Metro may reimburse actual expenses of members arising out of the performance of their duties as Committee members.

SECTION 3: ADVISORY PANEL

- 3.1** The Committee shall select and consult with an advisory panel when performing its responsibilities required under this Ordinance. The advisory panel shall consist of at least one representative, and not more than two, of the following professions or areas of expertise:
- a. Construction trade labor union representative**
 - b. Environmental engineer or environmental scientist**
 - c. Road or rail construction firm project manager**
 - d. Public and private finance expert**
 - e. Regional association of businesses representative**
 - f. Transit system user**

- 3.2** Members of the advisory panel may be replaced by the Committee at any time by a majority vote of the Committee. No member of the advisory panel shall be entitled to any compensation, except that Metro may reimburse actual expenses of members arising out of the performance of their duties as advisory panel members.

SECTION 4: COMMITTEE RESPONSIBILITIES

- 4.1** The Committee shall hold all meetings within Los Angeles County. All meetings shall be held in compliance with the provisions of the Ralph M. Brown Act (Section 54950 et seq. of the California Government Code). The Committee shall meet at least twice a year.
- 4.2** The Committee shall appoint an advisory panel as described in Section 3.
- 4.3** The Committee shall review the results of the annual audit procured by Metro and make findings as to whether Metro has complied with the terms of the Ordinance. Such findings shall include a determination as to whether recipients of Measure R Local Return funds have complied with the Ordinance and any additional guidelines developed by Metro pursuant to Section 9(b) of the Ordinance. The Local Return guidelines include maintenance of effort requirements for the local return program, matching funds, and administrative requirements for the recipients of revenue derived from the Sales Tax.
- a.** It is the intent of the Legislature and Metro that revenues provided from the Ordinance to local jurisdictions in Los Angeles County under the projects and programs described in the Expenditure Plan as "Local Return" be used to augment, not supplant, existing local revenues being used for transportation purposes.
- 4.4** The Committee shall prepare an annual report to the Metro Board of Directors presenting the results of the annual audit and any findings made. The report

shall include an assessment of the consistency of the expenditures of Sales Tax Revenues with the Ordinance, including the Expenditure Plan. The Committee shall publish a summary of the report in local newspapers, and the entire report and annual audit will be made available to every library located within Los Angeles County for public review. The Committee shall hold a public hearing on each audit and annual report and shall report the public comments to Metro.

- 4.5 The Committee shall review any proposed amendments to the Ordinance, including the Expenditure Plan, and make a finding as to whether the proposed amendments further the purpose of the Ordinance. Metro shall make any proposed amendments available to the Committee at least 30 days prior to any vote to adopt the proposed amendments.
- 4.6 Review all proposed debt financing and make a finding as to whether the benefits of the proposed financing for accelerating project delivery, avoiding future cost escalation, and related factors exceed issuance and interest costs. The maximum bonded indebtedness, including issuance costs, interest, reserve requirements and bond insurance, shall not exceed the total amount of the Gross Sales Tax.
- 4.7 Any findings made by the Committee shall be submitted to the Metro Board of Directors in advance of the next regular Board meeting.

SECTION 5. USE OF REVENUES

- 5.1 When performing its responsibilities required under the Ordinance, the Committee will consider the following requirements regarding the use of Sales Tax Revenues:
 - a. All of the Net Revenues generated from the Sales Tax plus any Interest or other earnings thereon, less any funds necessary for satisfaction of debt

service and related requirements of all bonds issued pursuant to the Ordinance that are not satisfied out of separate allocations, shall be allocated solely for the transportation purposes described in the Ordinance.

- b. Metro shall establish and administer a sales tax revenue fund with appropriate subfunds to account for the allocation categories defined in the Ordinance. All Net Revenues and Interest on Sales Tax Revenues shall be credited into the sales tax revenue fund and credited to the appropriate subfunds pursuant to the allocation ratios described on page 1 of the Expenditure Plan. The moneys in the sales tax revenue fund shall be available to Metro to meet expenditure and cashflow needs of the projects and programs described in the Expenditure Plan. Metro may expend additional funds from sources other than the Sales Tax imposed pursuant to the Ordinance on the projects and programs described in the Expenditure Plan. Funds shall be available for projects and programs described in the Expenditure Plan beginning in the fiscal years identified in the Expenditure Plan as “Funds Available Beginning.”
- c. Metro shall establish the following subfunds of the sales tax revenue fund:
 - i. Transit Capital Subfund
 - ii. Highway Capital Subfund
 - iii. Operations Subfund
 - iv. Local Return Subfund

5.2 Transit Capital Subfund: Funds in the Transit Capital Subfund shall be allocated to Capital Projects identified in the Expenditure Plan as “Transit Projects.”

- a. For those Capital Projects identified in the Expenditure Plan as “Transit Projects” and identified as “Escalated \$,” Metro shall expend no less than the amount of Net Revenues identified in the Expenditure Plan as “New Sales Tax – Total” for each Capital Project so identified.

- b. For those Capital Projects identified in the Expenditure Plan as “Transit Projects” and identified as “Current 2008 \$,” Metro shall expend no less than an amount of Net Revenues equal to the value of the amount identified in the Expenditure Plan as “New Sales Tax – Total” for each Capital Project identified. The amount of Net Revenues equal to the value of the amount identified in the Expenditure Plan as “New Sales Tax – Total” shall be determined by adjusting the amount identified as follows, at the discretion of Metro:
- i. Up to four percent (4%) annually for the fiscal years 2010 through 2014; and
 - ii. Up to three percent (3%) annually for the fiscal years 2015 and thereafter.
- c. Capital Project Contingency (Transit): Metro shall allocate no less than the amount of Net Revenues identified in the Expenditure Plan as “New Sales Tax – Total” for the project identified in the Expenditure Plan as “Capital Project Contingency (Transit).” Funds allocated to “Capital Project Contingency (Transit)” shall be expended as needed to provide additional funding for Capital Projects identified in the Expenditure Plan as “Transit Projects.” Metro may expend such funds for debt service, excluding payments for principal, to offset the costs of inflation, or for any other purpose. Metro shall not expend an amount of Net Revenues from Capital Project Contingency (Transit) that is greater than the amount permitted in paragraph 5.2(b) for any Capital Project.
- d. In the event that a Capital Project identified in the Expenditure Plan as a “Transit Project” is completed without the expenditure of the amount of Net Revenues allocated by the Ordinance, any surplus Net Revenues allocated to that Capital Project shall be credited to the Transit Capital Subfund and expended for Capital Projects located within the same subregion as the

project so completed. The Board of Directors of Metro shall determine by a two-thirds vote whether a Capital Project is complete.

- 5.3 Highway Capital Subfund: Funds in the Highway Capital Subfund shall be allocated to Capital Projects identified in the Expenditure Plan as "Highway Projects."**
- a. For those Capital Projects identified in the Expenditure Plan as "Highway Projects" and identified as "Escalated \$," Metro shall expend no less than the amount of Net Revenues identified in the Expenditure Plan as "New Sales Tax – Total" for each Capital Project identified.**
 - b. For those Capital Projects identified in the Expenditure Plan as "Highway Projects" and identified as "Current 2008 \$," Metro shall expend no less than an amount of Net Revenues equal to the value of the amount identified in the Expenditure Plan as "New Sales Tax – Total" for each Capital Project. The amount of Net Revenues equal to the value of the amount identified in the Expenditure Plan as "New Sales Tax – Total" shall be determined by adjusting the amount identified as follows, at the discretion of Metro:**
 - i. Up to four percent (4%) annually for the fiscal years 2010 through 2014; and**
 - ii. Up to three percent (3%) annually for the fiscal years 2015 and thereafter.**
 - c. Metro shall allocate no less than the amount of Net Revenues identified in the Expenditure Plan as "New Sales Tax – Total" for the project identified in the Expenditure Plan as "Capital Project Contingency (Highway)." Funds allocated to "Capital Project Contingency (Highway)" shall be expended as needed to provide additional funding for Capital Projects identified in the Expenditure Plan as "Highway Projects." Metro may expend such funds for debt service, excluding payments for principal, to offset the costs of inflation,**

or for any other purpose. Metro shall not expend an amount of Net Revenues from Capital Project Contingency (Highway) that is greater than the amount permitted in paragraph 5.3(b) for any Capital Project.

- d. In the event that a Capital Project identified in the Expenditure Plan as a “Highway Project” is completed without the expenditure of the amount of Net Revenues allocated by the Ordinance, any surplus Net Revenues allocated to that Capital Project shall be credited to the Highway Capital Subfund and expended for Capital Projects located within the same subregion as the project so completed. The Board of Directors of Metro shall determine by a two-thirds vote whether a Capital Project is complete.

5.4 Operations Subfund: Funds in the Operations Subfund shall be allocated to the projects and programs described in the Expenditure Plan as “Operations.” Metro shall expend the percentage of Net Revenues identified in the Expenditure Plan as “Percent of New Sales Tax” for each project and program described in the Expenditure Plan as “Operations.”

5.4 Local Return Subfund: Funds in the Local Return Subfund shall be allocated to the projects and programs described in the Expenditure Plan as “Local Return.” Metro shall expend the percentage of Net Revenues identified in the Expenditure Plan as “Percent of New Sales Tax” for each project and program described in the Expenditure Plan as “Local Return.”

- a. No Net Revenues distributed to a local jurisdiction pursuant to Paragraph 5.4 shall be used for other than transportation purposes. Any jurisdiction that violates this provision must fully reimburse Metro, including Interest thereon, for the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues for a period of three (3) years.

b. To the extent that funds are returned to local jurisdictions pursuant to this paragraph, the receipt, maintenance and expenditure of such funds shall be distinguishable in each jurisdiction's accounting records from other funding sources, and expenditures of such funds shall be distinguishable by program or project. Interest earned on funds allocated pursuant to this paragraph shall be expended only for those purposes for which the funds were allocated.

5.5 Metro may enter into an agreement with the Board of Equalization to transfer Sales Tax Revenues directly to a bond trustee or similar fiduciary, in order to provide for the timely payment of debt service and related obligations, prior to Metro's receipt and deposit of such Sales Tax Revenues into the sales tax revenue fund; provided, however, that such payments of debt service and related obligations shall be allocated to the appropriate Capital Project Contingency line item or to such subfund within the sales tax revenue fund consistent with the expenditure of the proceeds of the corresponding debt.

5.6 Metro shall propose the projects and programs in the Expenditure Plan for inclusion in the Long Range Transportation Plan for Los Angeles County.

5.7 The Expenditure Plan must include the following projects, programs, and funding levels:

- a. Exposition Boulevard Light Rail Transit Project from downtown Los Angeles to Santa Monica. The sum of nine hundred twenty-five million dollars (\$925,000,000).**
- b. Crenshaw Transit Corridor from Wilshire Boulevard to Los Angeles International Airport along Crenshaw Boulevard. The sum of two hundred thirty-five million five hundred thousand dollars (\$235,500,000).**
- c. San Fernando Valley North-South Rapidways. The sum of one hundred million five hundred thousand dollars (\$100,500,000).**

- d. **Metro Gold Line (Pasadena to Claremont) Light Rail Transit Extension.** The sum of seven hundred thirty-five million dollars (\$735,000,000).
- e. **Metro Regional Connector.** The sum of one hundred sixty million dollars (\$160,000,000).
- f. **Metro Westside Subway Extension.** The sum of nine hundred million dollars (\$900,000,000).
- g. **State Highway Route 5 Carmenita Road Interchange Improvement.**
The sum of one hundred thirty-eight million dollars (\$138,000,000).
- h. **State Highway Route 5 Capacity Enhancement (State Highway Route 134 to State Highway Route 170, including access improvement for Empire Avenue).**
The sum of two hundred seventy-one million five hundred thousand dollars (\$271,500,000).
- i. **State Highway Route 5 Capacity Enhancement (State Highway Route 605 to the Orange County line, including improvements to the Valley View Interchange).** The sum of two hundred sixty-four million eight hundred thousand dollars (\$264,800,000).
- j. **State Highway Route 5/State Highway Route 14 Capacity Enhancement.** The sum of ninety million eight hundred thousand dollars (\$90,800,000).
- k. **Capital Project Contingency Fund.** The sum of one hundred seventy-three million dollars (\$173,000,000).
- l. **Alameda Corridor East Grade Separations.** The sum of two hundred million dollars (\$200,000,000).
- m. **MTA and Municipal Regional Clean Fuel Bus Capital (Facilities and Rolling Stock).** The sum of one hundred fifty million dollars (\$150,000,000).
- n. **Countywide Soundwall Construction (MTA Regional List and Monterey Park/State Highway Route 60).** The sum of two hundred fifty million dollars (\$250,000,000).
- o. **Local return for major street resurfacing, rehabilitation, and reconstruction.**
The sum of two hundred fifty million dollars (\$250,000,000).
- p. **Metrolink Capital Improvements.** The sum of seventy million dollars (\$70,000,000).
- q. **Eastside Light Rail Access.** The sum of thirty million dollars (\$30,000,000).