

Richard Clarke and Jim de la Loza
Copy: Phillip Washington
Bcc: James Butts

The South Bay Cities Council of Governments (SBCCOG) strives to have a positive productive working relationship with Los Angeles County Metropolitan Transportation Authority (Metro) and organization staff. It is because of our commitment to this relationship that we are requesting reassignment of our program from Isidro Panuco to an experienced multi-modal planner who reports to Jim de la Loza. This letter will outline the reason for our request, our specific areas of concern with Mr. Panuco's performance and the more encompassing reason for our concern.

INVOICING

After numerous conversations, meetings, phone calls, and e-mail exchanges, the SBCCOG continues to have a difficult working relationship with Isidro. Most of the issues with Isidro are based on his inability and inconsistency to approve and process payment on invoices as far back as FY 2018-19. The result of his actions, and in-action, have caused the SBCCOG financial hardship and accounting and auditing complexities.

Currently, there are several outstanding as well as partially paid invoices with at least a quarter of the charges in dispute and over half unpaid. On October 11 we received payments for Measure M invoices Jul-Sept'18 & Oct-Dec'18 and these were partial payments from what we submitted. We have now received partial payments for 6 out of 7 invoices covering June'18-Mar'19. The current outstanding account payable amount as of October 11 is \$45,079.39. Of that remaining balance, the amount still due from the partial payments is \$14,987.91. And we are still owed for the Measure M invoice for Jan-Mar'19 for \$30,091.48.

Isidro is inconsistent in the tasks he approves, gives contradictory direction (either requiring more detail or less), and provides samples that are incomplete. The SBCCOG has been proactive in trying to resolve issues to the point of comparing Isidro's invoicing requirements with sample invoices from other COGs. We found that all of the formats are inconsistent with varying detail. The SBCCOG feels strongly that all of our charges are within our funding agreement contract scope, are within, and actually under, budget, and are required to meet deliverables. The SBCCOG has spent many hours revising invoices to provide clarity based on Isidro's direction, but to date no final resolution has been achieved.

MEASURE M FUND ACCOUNTABILITY

In October 2018, Isidro provided an estimate of the five-year funding available through fiscal year 2022-23 in the three Measure M South Bay Multi-Year Sub-Regional Programs. Isidro estimated that approximately \$218 million is available within the three programs, as follows:
Highway Operational Improvements Program - \$70 million
Transportation System Mobility Improvement Program #1 - \$23 million
Transportation System Mobility Improvement Program #2 - \$125 million

In March 2018, SBCCOG submitted our initial list of 37 candidate projects in each of the three programs and requested that Metro program a total of \$125 million in Measure M MSP funds consistent with anticipated cash-flow reimbursements indicated in the project applications over a six-year period as follows:

Highway Operational Improvements Program - \$13 million for 6 projects

Transportation System Mobility Improvement Program #1 - \$28.7 million for 13 projects

Transportation System Mobility Improvement Program #2 - \$83.3 million for 18 projects

The SBCCOG request for TSMIP #1 funds was \$5.3 million above the available funding to correspond with the category of funding requested by the lead agencies and with the understanding that available funds in one category could be lent to another category that was oversubscribed.

Although Isidro had participated alongside SBCCOG staff in the development of the list, subsequent to the SBCCOG submittal, Isidro and other Metro Highway Department staff worked directly with project sponsors, and without SBCCOG participation, to determine the eligibility of SBCCOG's recommended projects. SBCCOG was not invited to participate in these negotiations and Metro did not keep the SBCCOG informed of their deliberations.

As a result of this post-submittal analysis and negotiation, the Metro Board programmed \$115.65 million at its September 2019 meeting, six months after the project applications were submitted, with funding allocated to the three sub-regional programs, as follows:

Highway Operational Improvements Program - \$2.95 million for 1 project

Transportation System Mobility Improvement Program #1 - \$79 million for 13 projects

Transportation System Mobility Improvement Program #2 - 33.7 million for 11 projects

Included in the TSMIP #1 projects were three South Bay projects that previously had been denied for Measure R SBHP funds and were added by Metro Staff to the Measure M program without SBCCOG Board approval. This oversight ignored the administrative guidelines that requires SBCCOG to approve projects and Metro to review the project for eligibility.

The SBCCOG Board was never informed of the over-programming, scope changes in six projects, or additional projects prior Metro approving the item in September. Without a collaborative effort with Metro staff, it is very difficult for the SBCCOG to give guidance to our cities for future requests for Measure M dollars.

Additionally, we are baffled by the assignment of funding within the three sub-funds which we were first informed of in the Metro Board packet staff report. Only \$2.95 million was allocated to the HOIP, which Metro estimated has \$70 million available. Conversely, \$79 million was allocated to TSMIP #1 when Metro estimated that only \$23 million is available over the next five years. And \$33.7 million was allocated within the TSMIP #2 program which has \$125 million available over the next five years. These allocations are important since Metro Administrative Guidelines prohibit spending more than is available within each program. As a consequence, SBCCOG is concerned that only \$13 million of the \$79 million in TSMIP#1 projects can be committed in funding agreements, leaving \$56 million unfunded. If this is true, the South Bay

will only be able to proceed with \$59.65 million in MSP projects over the next six years, which is less than half of the \$125 requested and is in effect a denial of our projects

Isidro did not discuss his recommended funding assignments with the SBCCOG so we can only assume that the assignments were either a grievous error or were an intentional tactic to limit the funding available for South Bay projects. While it is clear there was more than adequate aggregate funding available last October, we do not understand why \$79 million in candidate projects were assigned to the \$13 million TSMIP#1 program while only \$33 million in projects were assigned to the \$125 million TSMIP #2 program. As far as we know, the only difference between the TSMIP #1 and TSMIP #1 program is the deadline by which the funds must be allocated, the soonest of which is still more than a decade away and of no relevance to this programming cycle. This programming decision is unacceptable and must be rectified immediately so that the project commitments that the Metro Board approved can be achieved.

The SBCCOG has taken Mr. Clarke's advice seriously and tried in good faith to work through issues, but at this point we do not see a way to proceed as Isidro cannot even provide to us a listing of what invoiced tasks within our funding agreement he has approved and his justifications for the tasks that were not approved. This situation has caused "gobbledygook" in accounting. SBCCOG is having the same concerns with Isidro's programming of funding for South Bay projects. Isidro has worked with our cities and programmed funds without explaining how and why he is making his decisions.

Aside from Isidro's performance, the SBCCOG believes it is time to re-consider the administrative structure of the MSP programs. Historically, grant programs at Metro have been administered by the Multi-Modal Planning and Development Department. When Metro created a new project delivery department to improve Metro's oversight of Caltrans and delivery of major Metro highway projects, the South Bay Highway Program was transferred to the new Program Management department. As a result, Metro senior staff responsible for delivering major rail and highway capital projects is also responsible for programming and administering funding agreements and overseeing progress on hundreds of small highway projects within Measure R and M sub-regional programs across the county.

The passage of Measure M, with its bottoms-up multi-modal emphasis has exacerbated the tension between Metro highway section staff that administers the MSP programs and cities that wish to implement non-traditional mobility projects using highway funds. We believe the MSP programs should be returned to the multi-modal Planning and Development Department which has long experience administering multi-modal calls for projects and funding agreements, and overseeing local programs over a wide variety of project types. With the new bottoms-up process required by Measure M, we believe that the Planning and Development Department is better positioned than the Program Management Department to administer the new Measure M sub-regional programs.

We strongly believe that our staffing change request would best be accomplished by transferring the Measure R South Bay Highway Program and the three Measure M Multi-Year Sub-regional Programs back to the Planning and Development Department and assigning experienced staff within that department to the South Bay programs.

With a new representative, the SBCCOG is hopeful that together we will obtain payment for our services and expedite delivery of the South Bay M & R programs as well as work in partnership to plan, program and implement projects.

Please transfer our programs and let us know who our new Metro representative will be as well as when to expect full payment on outstanding invoices and discuss re-programming of our funds into categories that meet the cash flow. We welcome the opportunity to facilitate a meeting within the next few weeks with our new representative.