



## Board Report

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### **MEASURE M INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE SEPTEMBER 13, 2023**

**SUBJECT: MEASURE M INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE ASSESSMENT**

**ACTION: RECEIVE AND FILE**

#### **RECOMMENDATION**

RECEIVE AND FILE the attached Assessment of the Measure M Independent Taxpayer Oversight Committee (MMITOC) report completed by BCA Watson Rice, LLP (BCA).

#### **ISSUE**

Measure M, also known as the Los Angeles County Traffic Improvement Plan Ordinance, establishes an Independent Taxpayer Oversight Committee and an oversight process to ensure that the Los Angeles County Metropolitan Transportation Authority (LACMTA) complies with the terms of the Ordinance. The MMITOC provides an enhanced level of accountability for expenditures of sales tax revenues made under the Expenditure Plan and plays a valuable and constructive role in the ongoing improvement and enhancement of project delivery contemplated under the Measure M Ordinance.

In addition, the Ordinance requires that every five (5) years, Metro conduct a comprehensive review of all projects and programs implemented under the Measure M Expenditure Plan to evaluate the performance of the overall program and make recommendations to improve its performance based on current practices, best practices, and organizational changes to improve coordination. The Measure M Five Year Comprehensive Assessment and Quality of Life Report (Assessment) will evaluate the performance and impact of the overall Measure M program and support the successful delivery of Measure M projects and programs. An objective as part of the Assessment was to determine the MMITOC's purpose, functionality, and usefulness in meeting the requirements in the Ordinance.

#### **DISCUSSION**

Management Audit Services contracted with BCA to perform the assessment of the MMITOC. The review's primary objective was to perform an analysis of the MMITOC to determine its purpose, functionality, and usefulness in meeting the requirements as stated in the Ordinance. To accomplish this BCA reviewed the Ordinance to determine the MMITOC's responsibilities, conducted interviews with committee members and pertinent staff, reviewed meeting materials, including agendas, minutes, reports and audits, received by the MMITOC, and determined whether reporting to the

Committee has been adequate through a review of the content and frequency of information conveyed to the MMITOC.

All MMITOC members interviewed clearly understand that the MMITOC does not have any policy or decision-making authority. Actual governance of the Measure M projects is the role of the Metro Board, with all decision-making the responsibility of the Board and/or CEO and Metro management as delegated to them by the Board.

The Ordinance outlines a comprehensive list of responsibilities for the MMITOC. These responsibilities are in four categories:

- Review information only, with no findings, recommendations, or report as a result of that review.
- Review and approve the scope of work for annual audits.
- Review and make a finding or report as a result of the review.
- Review and make recommendations for improvement.

BCA concluded that:

- Reporting to the MMITOC has been provided to meet its responsibilities for reviewing information.
- The MMITOC has met its requirement to meet at least four times each year to carry out its responsibilities.
- The MMITOC currently has five members, with two vacancies. The MMITOC Chair and Metro Management have made filling all the MMITOC positions a high priority. Since issuance of the Assessment report for MMITOC, one additional member was appointed.
- The MMITOC is meeting the requirements for accountability to the Public and Metro Board.

BCA identified two potential improvements to the MMITOC as part of its review.

1. Metro management should consider developing a draft charter for the MMITOC that outlines the authority and scope of the committee.
2. Staff should ensure that there is sufficient time available for discussion among the MMITOC members of the information provided.

## **NEXT STEPS**

Staff will draft a charter and will seek the MMITOC's input and approval.

## **ATTACHMENT(S)**

Attachment A - Assessment of the Measure M Independent Taxpayer Oversight Committee

Prepared by: Lauren Choi, Deputy Executive Officer, Administration (Interim),  
(213) 922-3926

Monica Del Toro, Senior Manager, Audit, (213) 922-7494

Kimberly Houston, Deputy Chief Auditor, (213) 922-4720

Reviewed by: Sharon Gookin, Deputy Chief Executive Officer, (213) 418-3101

# **Final Report**

## **Los Angeles County Metropolitan Transportation Authority**

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### **Assessment of the Measure M Independent Taxpayer Oversight Committee (MMITOC)**

April 2023

*Submitted by:*

**BCA Watson Rice LLP**

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*Certified Public Accountants & Management Advisors*  
2355 Crenshaw Blvd. Suite 150 Torrance, CA 90501  
PH 310 . 792 . 4640 . FX 310 . 792 4140 .



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## **Background**

In November 2016, the Measure M Ordinance, Los Angeles County's comprehensive plan to improve transportation and ease traffic congestion, was approved by a two-thirds majority vote. The Measure M Ordinance imposes a retail transactions and use tax at the rate of one-half of one percent (.5%) within Los Angeles County to be operative on the first day of the first calendar quarter commencing not less than 180 days after the adoption of the Ordinance by the voters. The Measure M Ordinance (Ordinance) requires an annual independent audit to be completed within six (6) months after the end of the fiscal year being audited for purpose of determining compliance with the provisions of the Measure M Ordinance relating to the receipt and expenditure of Sales Tax Revenues during such fiscal year.

The Ordinance requires that every five (5) years, Metro conduct a comprehensive review of all projects and programs implemented under the Measure M Expenditure Plan (Plan) to evaluate the performance of the overall program and make recommendations to improve its performance based on current practices, best practices, and organizational changes to improve coordination. The Measure M Five Year Comprehensive Assessment and Equity Report (Assessment) will evaluate the performance and impact of the overall Measure M program and support the successful delivery of Measure M projects and programs. Key among the steps towards completing the Assessment was the development of objectives and criteria that measure Metro's implementation of the Plan in the initial five years (FY18 – FY22). The five key Assessment areas to be measured are Financial Analysis, Project Delivery, Program Management, Compliance, and Transparency/Accountability and Equity.

The Ordinance also requires the establishment of a Measure M Independent Taxpayer Oversight Committee of Metro (MMITOC) to provide an enhanced level of accountability for expenditures of sales tax revenues made under the Expenditure Plan. The Committee carries out the responsibilities laid out in the Ordinance and plays a valuable and constructive role in the ongoing improvement and enhancement of project delivery contemplated under the Measure M Ordinance. The committee is responsible for reviewing the annual financial and compliance audits as well as reviewing the Assessment and making findings and/or providing recommendations for improving the program. The results of the Committee's review will be presented to the Metro Board of Directors as part of the adoption of the Assessment.

## **Objectives and Methodology**

The primary objective of this review was to perform an analysis of the Committee to determine its purpose, functionality, and usefulness in meeting the requirements as stated in the Ordinance. To accomplish this objective we:



- Reviewed the Ordinance to determine Committee responsibilities.
- Conducted interviews with Committee members:
  - Virginia Tanzman, Committee Chair
  - Linda Briskman
  - Richard Stanger
  - Paul Rajmaira
  - Ryan Campbell
- Conducted interviews with Metro staff that support or interact with the Committee:
  - Sharon Gookin, Deputy CEO
  - Ronald Stamm, Deputy County Counsel
  - Collette Langston, Board Clerk
  - Lauren Choi, DEO, (Interim), Management Audit Services
  - Monica Del Toro, Senior Manager, Audit
- Reviewed meeting agendas, minutes, and reports received by the Committee during the Assessment review period.
- Reviewed Committee annual audit reports for FY18-22 audits.
- Determined whether reporting to the Committee has been adequate through a review of the content and frequency of information conveyed to the Committee.

## **MMITOC Purpose and Responsibilities**

Effective committees have a strategic focus and clear mission or statement of purpose that communicates what the committee is, what it does and why it does it. With an appropriate strategic focus all members of the committee have a clear understanding of its purpose, the approach used to achieve that purpose and the progress being achieved.

The Ordinance provides a clear and focused purpose for the MMITOC. That purpose is: “to provide an enhanced level of accountability for expenditures of sales tax revenues made under the Expenditure Plan.”

Given this, the MMITOC serves as an important element and is very useful as part of the overall checks and balances for Measure M expenditures. There is tremendous value in having a diverse group of committed members of the public reviewing information about Measure M projects and expenditures and providing very focused approval findings and recommendations relative to these expenditures.

The MMITOC provides added oversight for the Board and the public that Measure M projects and expenditures are being reviewed in more detail than the Board may be able to do themselves, including the detailed reviews of the annual Measure M audits. In the future, the MMITOC may also be required to review, make findings and report on potential



debt financing and changes to the Measure M Ordinance. This would also be a very useful role for the MMITOC.

All MMITOC members interviewed clearly understand that the MMITOC does not have any policy or decision making authority. Actual governance of the Measure M projects is the role of the Metro Board of Directors (Board), with all decision making the responsibility of the Board and/or CEO and Metro management as delegated to them by the Board.

The Ordinance outlines a comprehensive list of responsibilities for the MMITOC. These responsibilities are in four categories:

- Review information only, with no finding, recommendations or report as a result of that review.
- Review and approve the scope of work for annual audits.
- Review and make a finding or report as a result of the review.
- Review and make recommendations for improvement.

## **Responsibilities to Review**

The majority of the responsibilities assigned to the MMITOC involve reviewing information only, with no finding, recommendations or report anticipated as a result of the review. The following MMITOC responsibilities are in this category:

- For Local Return funds, review the programmed revenues and uses for each of the local jurisdictions.
- For Transit and Highway (Capital), review comparison of budget expended to project milestone completion, comparison of contingency spent to project completion, and review of soft costs expended.
- For Active Transportation Program, review programmed revenues and uses.
- For State of Good Repair, review budget and expenses.
- For Transit Operating and Maintenance (which includes Metro Rail Operations, Transit Operations, ADA Paratransit for the disabled/Metro discounts for seniors and students, and Regional Rail), review budget and expenses.
- For major corridor projects, review:
  - Project costs, established LOP budgets, and any significant cost increases and/or major scope changes of the major corridor projects identified in the Expenditure Plan.
  - The funding available and programmed for the projects included in the Expenditure Plan, as well as any funding gaps for each of these projects.





- Performance in terms of project delivery, cost controls, schedule adherence, and related activities.

Over the five-year period the MMITOC has been presented with substantial information covering each of the topics listed above. At each meeting numerous presentations are made, with PowerPoint presentations. These include:

- **Program Management Quarterly Major Project Status Reports** – Provides major construction project updates including the budget, schedule, safety and injury statistics, and overall progress. The overall progress updates include percentage completion, as well as specific progress made on each project.
- **Transit Planning Updates** – Provides major transit construction project updates including the current phase of each project, the most recent cost estimate, recent activities, and next actions. An overview map showing all transit projects, as well as detailed maps showing the location of each project is also included. The presentation also includes all the projects included in the Measure M Expenditure Plan from groundbreaking to opening date with the current and planned status of each.
- **Complete Streets and Highway Project Updates** – Provides major street and highway project updates including the current phase of each project, the current phase budget and amount spent to date, the purpose and scope, multimodal elements, current status, and challenges identified. The presentation also includes detailed maps showing the location of each project.
- **Active Transportation Project Updates** – Provides active transportation project updates include bike path and 1st/Last Mile projects. This includes information on the amount of Measure M funding included, and the status of each project.
- **State of Good Repair Updates** – Provides an update on Metro assets including the number and value, the replacement value, state of good repair needs, and the current backlog in meeting state of good repair needs. The update also provides detailed information on Metro rolling stock (buses and rail vehicles), equipment, facilities and infrastructure. The updates also provide information on Metro asset management accomplishments and efforts in progress.
- **Local Return Updates** – Provides an overview of the requirements for Measure M local return funds and an overview of how those funds are allocated.
- **Metro Proposed Budget Updates** – Provides information on the proposed budget for Metro for each fiscal year. Includes information on budget priorities, and both the total budget amount and amounts for each major program. The presentation also includes the budget specifically for Measure M.



## **Responsibility to Approve**

The MMITOC has been assigned responsibility for approving the scope of work and directing the work of the auditors conducting the annual audits. During each of the five years that annual audits have been performed the MMITOC has reviewed and approved the scope of work for the annual audits.

## **Responsibilities to Make a Finding and Report**

The MMITOC has also been assigned responsibilities related to annual audits that require reviewing and making findings and reporting as a result of the review. These responsibilities include:

- For each Subfund, make findings on the effective and efficient use of funds.
- Preparing an annual report on the results of the annual audits.

During each of the five years that annual audits have been performed the MMITOC has reviewed and, with staff's assistance, issued an annual report on the results of the audits. This includes reviews of each subfund. The exhibit to the right shows the documentation of the MMITOC's review as well as their findings for FY 2022. This information was included in the report provided to Metro management and the Metro Board of Directors.

### **MEASURE M OVERSIGHT COMMITTEE REVIEW**

The Measure M Oversight Committee received the three audit reports in February 2023. The Committee reviewed the reports and met on March 1, 2023. At that meeting, the Committee received a formal presentation of the audit reports from each of the three audit firms.

The Committee asked questions and received satisfactory answers to questions regarding administrative costs, proper subfund allocations and jurisdictions with repeat findings and possible mitigations to late form submissions.

The Committee was satisfied with the audit reports.

### **MEASURE M OVERSIGHT COMMITTEE FINDINGS**

(1) The audits were performed in accordance with the Ordinance that the voters approved in 2016;

(2) Metro complied, in all material respects, with the Ordinance requirements applicable to the Measure M revenues and expenditures for the year ended June 30, 2022; and

(3) The County and Cities complied in all material respects with the Measure M Ordinance and guidelines that are applicable to the Measure M Local Return program for the year ended June 30, 2022.

The audits found eighteen (18) instances of non-compliance which according to Metro staff, have all been resolved.

Additional MMITOC responsibilities that require reviewing and making a finding or report as a result of the review include:

- Reviewing all proposed debt financing and making 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.
- Reviewing 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.

During the five-year period there has not been any debt financing of Measure M funded projects. There have been no proposed amendments to the Ordinance. As a result, the MMITOC has not reviewed nor made findings related to these responsibilities.



## Responsibilities to Make Recommendations for Improvement

The MMITOC has been assigned the responsibility for reviewing information and making recommendations for improvement in the two following areas:

- For major corridor projects the MMITOC is to review the funding available and programmed for the projects included in the Expenditure Plan, as well as any funding gaps for each of these projects and provide recommendations on possible improvements and modifications to deliver the Plan.
- After reviewing the 5 year Comprehensive Program Assessment conducted by Metro the MMITOC is to make findings and/or provide recommendations for improving the program.

The Ordinance does not provide clear guidance regarding the form or content of recommendations on possible improvements, which provides flexibility for both the MMITOC and Metro to confirm an efficient process.

Metro is currently in the process of conducting the 5 year assessment, so the MMITOC has not had the opportunity to review the assessment nor to make findings and/or provide recommendations for improving the program. Once completed, the assessment will be presented to the MMITOC for review. Following the review, the MMITOC will have the opportunity to make findings and/or provide recommendations for improving the program.

***Conclusion: The reporting to the MMITOC has provided information required to meet its responsibilities for reviewing information that does not require a finding, recommendation or report, for reviewing information, approving specific items, making a finding or report as a result of the review, for reviewing information and making recommendations for improvement as a result of the review.***

## MMITOC Meetings

The Ordinance requires the MMITOC to meet at least four (4) times each year to carry out its responsibilities. Effective committees require that structures and practices define how a Committee such as the MMITOC carries out its responsibilities. A best practice is to develop specific documents that define its functions, activities, and the specific roles of the Committee and its members. This is often contained in a set of bylaws.

During the June 2022 meeting, the Chair recommended that the MMITOC formalize rules for the establishment of officers and their rotation. Staff took the action to develop bylaws in response to this recommendation. Subsequently, staff drafted the bylaws and sought feedback from the MMITOC.

During the December 2022 meeting, staff presented the bylaws to the MMITOC. At that time, the MMITOC requested staff add language to clarify the reporting relationship of the



MMITOC. Additional comments from the MMITOC members were also received following the December Board meeting to clarify the reporting to the Board and public. Staff updated the proposed bylaws to incorporate comments received by the MMITOC. The proposed bylaws were adopted at the March 2023 MMITOC meeting.

The Bylaws adopted by the MMITOC are consistent with the Ordinance and clearly define the roles and responsibilities for members and officers. The Bylaws also establish rules and procedures for members and meetings, officer selections and duties.

***Conclusion: The MMITOC has met its requirement to meet at least four times each year to carry out its responsibilities. These four meetings each year are adequate to fulfill the responsibilities assigned to the MMITOC in the ordinance. In addition, the Bylaws adopted by the MMITOC provide for clear rules and procedures for members and meetings.***

## Committee Membership

The Ordinance establishing the MMITOC states that it will be comprised of seven (7) voting members representing the following professions or areas of expertise:

- A retired Federal or State judge.
- A professional from the field of municipal/public finance and/or budgeting with a minimum of ten (10) years of relevant experience.
- A transit professional with a minimum of ten (10) years of experience in senior-level decision making in transit operations and labor practices.
- A professional with a minimum of ten (10) years of experience in management and administration of financial policies, performance measurements, and reviews.
- A professional with demonstrated experience of ten (10) years or more in the management of large-scale construction projects.
- A licensed architect or engineer with appropriate credentials in the field of transportation project design or construction and a minimum of ten (10) years of relevant experience.
- A regional association of businesses representative with at least ten (10) years of senior-level decision making experience in the private sector.

The MMITOC has never had a full complement of members. This is partially due to the specific professional or other requirements, as well as the conflict of interest requirements. Members are selected by the Committee Membership Selection Panel, comprised of three members of the Metro Board of Directors or their designee.



***Conclusion: The MMITOC currently has five members, with two vacancies. The MMITOC Chair and Metro Management have made filling all the MMITOC positions a high priority.***

## **Committee Reporting**

The Ordinance establishing the MMITOC requires it to be accountable to the public and the Metro Board. The following Ordinance provision outlines this requirement.

Accountability to the Public and the Metro Board. All audit reports, findings, and recommendations will be available and accessible to the public (through various types of media) prior to the public hearing and upon request. Metro will establish a website dedicated to the Oversight of this Measure and include all pertinent Ordinance information for the public. The Committee shall review all audits and hold an annual public hearing to report on the results of the audits.

A website is available and accessible to the public that provides information regarding the MMITOC and the Ordinance. In addition, all MMITOC meetings are open to the public and posted as required. An annual public hearing is also held to report on the results of the audits.

***Conclusion: The MMITOC is meeting the requirements for accountability to the Public and Metro Board.***

## **Potential MMITOC Improvements**

We identified a number of potential improvements to the MMITOC as part of this review. These are not formal recommendations, but improvement ideas that should be considered by the MMITOC and Metro management. Many of these potential improvements came from MMITOC members and Metro management and staff.

## **MMITOC Charter to Clarify Purpose and Responsibilities**

The Ordinance establishing the MMITOC is fairly clear in defining its responsibilities. However, there is some ambiguity within the Ordinance. The following two provisions in the Ordinance do not provide for any action by the MMITOC, but could be taken by some to define a larger role than the Ordinance actually provides:

*It is the intent that the Committee will assist Metro and take advantage of changing situations in the future with regard to technologies and transportation developments. Therefore, the provisions contained in this Ordinance are based on a 2016 perspective and are not meant to be unduly restrictive on the Committee's and Metro's roles and responsibilities.*



*The Committee Members established for oversight shall carry out the responsibilities laid out in this Ordinance and play a valuable and constructive role in the ongoing improvement and enhancement of this Ordinance.*

Many committees such as the MMITOC find it helpful to develop a committee charter. A committee charter is a document that outlines the specific purpose, authority, and responsibilities of a committee. This committee charter could outline the authority and scope of the committee. It could include information on what has been delegated to the committee and confirm the limits of the decision-making authority of the committee. The charter could also outline the specific duties and responsibilities of the committee. Some committees find it useful to recite the key elements of the charter at the beginning of each meeting to ensure meetings stay on track.

Metro management should consider developing a draft charter for the MMITOC, reviewing and discussing it with the MMITOC. The MMITOC could then adopt the charter. This process would be comparable to the process used to develop and adopt the MMITOC Bylaws.

## **Ensuring Meetings Allow Time for Committee Discussion**

Several MMITOC members stated they felt there was little to no time available for discussion among the members during each public meeting. Members felt this was especially important given that the Brown Act requiring open meetings limits their ability to discuss Metro matters within their subject matter jurisdiction outside of public meetings.

There is a substantial amount of information the MMITOC is responsible for reviewing during each meeting. This requires Metro staff to prepare numerous long and fairly detailed presentations during each MMITOC meeting. The MMITOC should assess which items warrant a presentation at the meeting and potentially use the receive and file option for some items without hearing the presentation. In addition, Metro staff should attempt to make these presentations more succinct and focused on the actual responsibilities of the MMITOC. Staff supporting the MMITOC should ensure there is sufficient time available for discussion among the MMITOC members of the information provided.

April 2023

*BCA Watson Rice, LLP*

# Measure M Independent Taxpayer Oversight Committee Review

## Measure M Independent Taxpayer Oversight Committee Meeting

September 15, 2023





# Background and Scope

- The Measure M Ordinance requires an Independent Taxpayer Oversight Committee (MMITOC) to provide an enhanced level of accountability for expenditures.
- Review objective was to determine the MMITOC's purpose, functionality, and usefulness in meeting the requirements in the Ordinance.



# Overall Conclusions

- The MMITOC serves as an important element and is very useful as part of the overall checks and balances for Measure M expenditures.
- There is tremendous value in having a diverse group of committed members of the public reviewing information about Measure M projects and expenditures and providing very focused approval findings and recommendations relative to these expenditures.
- The MMITOC provides added oversight for the Board and the public that Measure M projects and expenditures are being reviewed in more detail than the Board may be able to do themselves
- In the future, the MMITOC may also be required to review, make findings and report on potential debt financing and changes to the Measure M Ordinance.

# Key Conclusions



## The MMITOC:

- Has been provided the information required to meet its responsibilities.
- Has met its requirement to meet at least four times each year to carry out its responsibilities.
- Currently has six members, with one vacancy - filling all the positions is a high priority.
- Is meeting the requirements for accountability to the Public and Metro Board.

# Potential Improvements

- Develop a MMITOC charter to:
  - Outline the authority and scope of the committee.
  - Include information on what has been delegated to the committee and confirm the limits of the decision-making authority.
  - Outline the specific duties and responsibilities of the committee.
  - Ensure meetings stay on track by reciting the key elements of the charter at the beginning of each meeting.
- Ensure meetings allow time for Committee discussion.