CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS

Transparency in Government

Recommended Guidelines for LAFCos on Compensation and Budget Disclosure

14 December 2010

At the request of members, CALAFCO has prepared these Guidelines as suggested approaches for Local Agency Formation Commissions. The Guidelines contain three sections: 1) principles that drive transparency and accountability to our communities; 2) guidelines for disclosing compensation and budget documents; and 3) suggestions for responding to public document requests related to compensation or finances.

Principles of Transparency and Accountability

The California Constitution declares that *the people have the right of access to information concerning the conduct of the people's business*. Because public funds are the source of compensation for public officials and employees, the California Supreme Court has ruled that "that disclosure of government salary information serves a significant public interest."

As a matter of public trust, LAFCos should take measures to assure that commissioner and staff compensation levels, benefits and perquisites are made available for public review. This disclosure should be routine and made in a manner that is accurate, comprehensive, and accessible, while at the same time protective of each individual's privacy.

Guidelines for Disclosure of Compensation and Budgets

CALAFCO recommends that all commissions consider posting a staff and commissioner compensation disclosure and the current year adopted budget on the commission Web sites. The information should be easy to locate from the home page. For consistency, CALAFCO recommends a button or link on the home page entitled "Commission Budget and Compensation" that will take the visitor to the posted information.

The following documents and options are recommended for commission consideration to post:

1. Current FY Adopted Budget.
2. Annual Compensation for Each Commissioner (see options below)
3. Annual Compensation for Each Employee and/or Contractor (see options below)

Commissioner Compensation Options

A. Stipend Per Meeting

B. State Controller Model – Includes total wages paid on the most recent W-2 form for each commissioner plus any LAFCo-paid pension formula and/or LAFCo contributions for pension, deferred compensation or health/dental/vision programs.
C. All Forms of Compensation – All of the information in Option B plus total reimbursements and other monetary and nonmonetary perquisites paid to the individual (vehicle allowance, vehicle use, telecommunications allowance, housing or clothing allowances, professional dues, and others).

Staff Compensation Options

A. Position and Salary Range for Employees
B. State Controller Model for Each Employee or Contractor – Includes total wages paid on the most recent W-2 form (or 1099 form for contractors) for each employee or contractor by position plus any pension formula and employer contributions for pension, deferred compensation and health/dental/vision programs.
C. All Forms of Compensation – All of the information in Option B plus total reimbursements and other monetary and nonmonetary perquisites paid to the individual (vehicle allowance, vehicle use, telecommunications allowance, housing or clothing allowances, professional dues, and others).

Discussion

Recent events have placed demands for greater disclosure of public agency compensation. Both the public and the funding local agencies may want to know more information regarding LAFCo compensation for staff and commissioners than is contained in an adopted budget or by providing salary ranges. Responding to a Public Records Act request for compensation information can be a costly and time consuming effort, and may result in unwelcomed publicity. Further, the California Supreme Court in 2007 said the "disclosure of government salary information serves a significant public interest." Further, a "public employee's salary relates to a particular person, but ... it is a matter of public interest and not primarily a matter of the individual's private business." (*International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court* 42 cal.4th 319.) For these reasons CALAFCO recommends commissions look beyond Option A for effective transparency and openness.

CALAFCO recommends commissions consider either Option B or C disclosure. The more information clearly disclosed, the more informed the public will feel, the more transparent the LAFCo will be, and the less likely a commission will receive a public records request.

CALAFCO Suggests

- Option B or C
- Include all commissioners, alternates, employees, and contract staff
- Most recent calendar year, updated annually

The information in Option B is already disclosed for virtually every city and county employee and elected official in California – including many LAFCo employees who are county employees. The information is posted on the State Controller's Local Government Compensation Reports Web site (www.lgcr.sco.ca.gov). For LAFCos, CALAFCO suggests including disclosure of all commissioners, alternates, employees, and contract executive officers and staff. The inset includes the specific disclosure information required by the Controller. If the executive officer is a contractor, then either the most recent 1099 or the total

compensation paid in the most recent calendar year should be disclosed. CALAFCO recommends use of calendar year information so all compensation disclosures are consistent in the period covered. Disclosure posting should be updated in January after issuance of W-2 and 1099 forms.

Commissions may want to consider a more complete disclosure of total compensation included in Option C. That disclosure would include, in addition to Option B information, all other monetary and nonmonetary compensation made to each individual during the calendar year. This additional disclosure includes travel and expense reimbursements, vehicle or transportation allowance, use of vehicle, telecommunications allowance or use of equipment, other allowances, professional dues, education reimbursements and any other LAFCo expenditures made on behalf of the individual or contractor. In an October 2010 hearing before the Senate Local Government Committee there was no consensus to this issue. The public – and in LAFCo's case the funding local agencies – may have an interest in total costs of commissioners, staff, and/or contract executive officers. This information would have to be disclosed in a public records request, and including it in the posted disclosure may avoid the time and resources needed to respond to such a request.

STATE CONTROLLER COMPENSATION DISCLOSURE COMPONENTS

Classification: Local Government Civil Service Classification

Multiple Positions Footnote: A footnote is included for each employee that holds more than one position. Only the first position contains compensation information earned by the individual regardless of how many positions held.

Annual Salary Minimum: The minimum annual salary for the employee classification listed.

Annual Salary Maximum: The maximum annual salary for the employee classification listed.

Total 2009 Wages Subject to Medicare (Box 5 of W-2): This column represents the amount of total wages subject to Medicare taxes as reported in Box 5 of the employee's W-2. In the event an employee has no wages subject to Medicare, the local government was instructed to calculate this amount. The amounts listed may include, but are not limited to, wages, overtime, cash payments for vacation and sick leave, and bonus payments.

Applicable Defined Benefit Pension Formula: This formula is used to calculate an employee's pension at retirement. A defined benefit pension formula is comprised of a benefit factor, such as 2 percent at age 55, multiplied by the years of service to provide a percentage of final compensation earned at retirement. For example, an individual eligible for the 2 percent at age 55 defined benefit pension formula, with 30 years of service credit in that category, could be eligible for up to 60 percent of final compensation if retiring at age 55. Some local entities have unusual variations to the standard formulas and these will appear in this column if they exist.

2009 Employer Contribution: Employees' Share of Pension Benefits: This column represents any amount of the employee's share of pension contribution paid by the employer. For example, if the employee's contribution is 5 percent of their annual gross salary but the employer paid any portion of that contribution on behalf of the employee, that payment amount will be shown in this column.

2009 Employer Contribution: Deferred Compensation: This column represents any amounts the employer contributed to a deferred compensation plan, such as a 401(k) style plan, on behalf of the employee.

2009 Employer Contribution: Health, Dental, Vision: This column represents the total amount paid by the employer towards health, dental or vision benefits for the employee.

Suggestions for Responding to Public Records Requests

While the goal of these Recommended Guidelines is to avoid a time-consuming public records act request, LAFCos are covered by the California Public Records Act (PRA) and from time-to-time may be required to respond to records requests from the public or other entities.

Should you receive a PRA request the first step is to contact your LAFCo Legal Counsel to determine how to respond and what information should be disclosed. The objective is to be responsive and transparent without disclosing private information protected by the Act.