

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** AUGUST 12, 2015

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**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** AGENDA ITEM #6 – REVIEW AND CONSIDERATION OF AMENDMENTS  
TO THE SAN BERNARDINO LAFCO POLICY AND PROCEDURE  
MANUAL

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## **RECOMMENDATION:**

Staff recommends that the Commission take the following actions:

1. Certify that the proposed revisions and amendments to the Policy and Procedure Manual are statutorily exempt from the provisions of the California Environmental Quality Act and direct the Executive Officer to file a Notice of Exemption within five (5) days of this action;
2. Provide staff with any additional changes, corrections or amendments to the Policy and Procedure Manual as presented;
3. Determine that the changes proposed for Section VI – Special Districts, Chapter 2 – Rules and Regulations do not require reference to a special district advisory committee as they are minor in nature and do not substantially affect the function and services of special districts subject to the provisions;
4. Adopt the Policy and Procedure Manual as revised; and,
5. Adopt Resolution No. 3202 approving the revised, amended and updated Policy and Procedure Manual and direct the Executive Officer to make the document available on the Commission's website.

## **BACKGROUND:**

At the June 2012 hearing, the LAFCO Policy and Procedure Manual was reorganized and updated. A part of the Commission's action directed that an annual review of the Manual be undertaken in August or September of every year to ensure that the document remains current and relevant. The annual updates the past two years mostly concerned amendments relative to specific policies.

The annual update for 2015, however, is comprehensive and includes a restructuring of the manual with non-substantive changes. Formatting is now uniform throughout the Manual, as previous revisions included inconsistent formatting within each section, as its present form is a combination of separate documents. These proposed amendments are deemed to be non-controversial.

The presentation which follows discusses the proposed amendments by each section of the Manual.

## **INTRODUCTION**

The Introduction of the Manual has been updated to reflect the proposed changes in this report. Further, the Introduction does not contain any policies and is a general description of the Manual's history and contents.

## **SECTION I – Mission Statement and Commission Operations**

The items below are proposed for amendment in Section I.

1. The authority section has been amended to include a sphere of influence change and to reflect the change of organization status for an activation or divestiture of a function or service for a special district;
2. Chapter 2 – Organization is amended to clearly identify the policy of the Commission for the recruitment of the public member.
3. Chapter 3 – Rules of Order is amended to designate “Chair” and “Vice-Chair” throughout the rules
  - a. Amend Rule 2 – Election of Chair and Vice Chair to eliminate the term limits provision. The choice of Chair and Vice-Chair will be made by the Commission annually at its May meeting without further restriction.
  - b. Amend Rule 12 -- Closed Sessions of Commission Language is included to clarify that all members of the Commission are encouraged to

participate in the closed session, which has been the historical practice of the Commission related to closed session.

## **SECTION II – Accounting and Financial**

The Introduction to Section II currently includes a listing of agreements with various County Departments to perform support services for LAFCO. Staff has proposed an amendment to the language regarding accounting and payroll services removing reference to the 2004 agreement since the 2014 agreement supersedes it.

This section has been reorganized to identify by chapter which policies are related to Internal Operations (Chapter 1) and Application Processing (Chapter 2).

### **CHAPTER 1 – Internal Operations**

1. Rescind “County Rules and Regulations” policy

The LAFCO office is no longer located in a County facility. Therefore, a policy adhering to County rules and regulations for County facilities is not needed.

2. Disclosure of LAFCO Compensation and Budget:

Addition of San Bernardino LAFCO’s most recent audit as one of the documents to be posted on the Commission’s website for information for the general public.

3. Expense Reimbursement and Travel

During March through July 2015 the County amended its Exempt Compensation Ordinance and County Code to reflect statutory and regulatory changes for expense reimbursement and travel, and to be consistent with current practices. The LAFCO Policy and Procedure Manual is amended to reflect these changes which are deemed to be non-substantive and non-controversial.

4. Amend “Annual Audit” policy

Language related to the Finance and Administrative Committee is removed because the committee is ad hoc and is appointed as deemed necessary by the Chair. The current language reads as if the committee was a standing committee.

For economies of scale, the Commission participates with the Coalition of California LAFCOs (CCL), the southern region of CALAFCO, in a RFP process to acquire auditing services. The current contract is for four years, and it is likely that future contracts will be for four or five years. Therefore, the language is

amended to read that the independent auditor shall be changed every five years (from three years).

## **CHAPTER 2 – Application Processing**

The following is a discussion of Accounting and Financial policies related to application processing that are proposed for amendment:

### 1. Amend “Indemnification” policy

This policy has been retitled to clearly identify it as “Indemnification” rather than its previous title of “Legal Defense Fee Responsibility”. In addition it has been proposed for amendment to clarify that the applicant and/or the real party in interest indemnifies LAFCO upon submission of an application for a change of organization or reorganization, a sphere of influence amendment, or a review of an out-of-agency service contract/agreement. The procedures for the applicant to adhere to the Commission’s policy are also clarified.

### 2. Amend “Responsibility for Payment of Special Legal Counsel Costs” policy

This is a minor amendment which changes “will” to “shall”.

## **SECTION III – Human Resources**

### **REORGANIZATION**

In 2012 the Commission consolidated its former three manuals related to its human resources, compensation and benefits into a single section of its Policy and Procedure Manual. For this update, the proposed structural change consolidates the Benefits Plan into the Human Resources Policies and Procedures (Section III) as Chapter V.

### **REDUNDANT LANGUAGE**

Historically, policies related to internal operations and human resources have included a “Scope” to introduce the policy. The language of the scope is redundant with the policy and is removed through this amendment.

### **COUNTY AMENDMENTS**

From March through July 2015 the County amended its Exempt Compensation Ordinance and County Code to reflect statutory and regulatory changes for payroll and labor, and to be consistent with current practices. The LAFCO Policy and Procedure Manual is proposed to be amended to reflect these changes which are deemed to be non-controversial.

## **CHAPTER 2 – Employment**

1. Revision of the LAFCO Analyst position to reflect accurate title and corresponding revision to its salary range.
2. Special Assignment Compensation: The compensation for special assignments shall be awarded in increments of ½%, rather than 1% increments.

## **CHAPTER 3 – Time Off**

Military Leave: Updated to be consistent with the law and with extension of benefits for those employees eligible for Military Leave.

## **CHAPTER 5 – Benefits Plan**

### **1. INTRODUCTION:**

Employee Acknowledgment is redundant with the Employee Acknowledgement in Chapter 1 and is removed from this chapter.

### **2. MEDICAL AND DENTAL SUBSIDIES:**

The language has been significantly reorganized and updated to be consistent with current administration of medical and dental coverage and current law; however, there were no substantive changes made to benefits themselves.

### **3. INSURANCES AND BENEFITS:**

(Term Life, Voluntary Life, Variable Life, Short-Term Disability, Long-Term Disability, Accidental Death and Dismemberment, Dependent Care Assistance Plan, Flexible Spending Account, Vision Care): Updated the language to be consistent with the current administration of these benefits, which includes such things as clarifying the eligibility for the benefits, and adding language that clarifies that employees can continue to receive the benefits if they do not have sufficient earnings to cover deductions if they make separate payment arrangements.

### **4. SECTION 125 PREMIUM CONVERSION PLAN:**

Updated language related to paying medical premiums with either pre-tax reductions or after-tax deductions is removed from Medical and Dental Subsidy policy and added as its own policy. Minor updates to be consistent with the law and current administration of this benefit. Removed outdated Medical and Dental subsidy charts, and added language specifying that the subsidies will continue to be provided in accordance with applicable law.

**5. RETIREMENT:**

- Retirement System Contributions: Removed outdated language and other minor updates to be consistent with the California Public Employees' Pension Reform Act of 2013 (PEPRA).
- Retirement Medical Trust: Established that at separation from LAFCO for reasons other than death, all sick leave goes to the Retirement Medical Trust, and other minor updates of the section. Previously, employee who separated from LAFCO employment for disability reasons were cashed out any remaining sick leave.

**6. HEALTHY LIFESTYLES PROGRAM:**

Eliminated prepaid membership option and maintained the health club membership reimbursement option, which is up to \$324 on an annual basis.

**7. AUTO AND PORTABLE COMMUNICATION ALLOWANCES:**

Established that employees who become eligible or ineligible for these allowances in the middle of a pay period shall receive prorated auto and portable community device allowance, and that an employee must be in paid status (i.e., code at least 15 minutes of time) during a pay period to receive the allowances.

## **SECTION IV – Application/Project Processing**

The changes to this section include removal of redundant environmental language that is covered in Section V (Environmental Review), removal of outdated language, removal of statutory recitations, clarification of procedure from policy, updates due to minor changes in statute, and other non-substantive and non-controversial changes.

## **SECTION V – Environmental Review**

Section V includes updates and changes to the environmental review process that was adopted by the Commission in 2012. Amendments to this section while voluminous are non-substantive changes, which include, but are not limited to, revisions that primarily reflect existing and new statutory changes for implementing CEQA and some minor reformatting to be consistent with the entire Manual.

## **CHAPTER 1 --INTRODUCTION**

The primary changes to Chapter 1 (Introduction) includes additional CEQA sections that were not included in the 2012 version. Staff believes the supplementary statutory

language are pertinent CEQA sections that provide additional context on how the Commission will implement the provisions of CEQA.

## **CHAPTER 2 – LAFCO ENVIRONMENTAL PROCESS AND PROCEDURES**

The minor changes to chapter 2 includes revisions to the existing language to reflect statutory changes and to be consistent with the application of current environmental review practices that the Commission would like to emphasize.

## **CHAPTER 3 –LAFCO LEAD AGENCY PROCEDURES**

The minor changes to chapter 3 again includes revisions to the existing language to reflect statutory changes and to be consistent with the application of current environmental review practices that the Commission would like to emphasize. However, this chapter now includes the new provisions of CEQA that requires formal consultation with Native American Tribes during the CEQA Process. This new law imposes new requirements for consultation regarding projects that may affect “tribal cultural resource.”

## **CHAPTER 4 – LAFCO POLICIES**

No substantive changes are proposed for Chapter 4 except for a minor change in the existing language.

## **SECTION VI – Special Districts**

Non-substantive changes in this section includes removal of outdated language, removal of statutory recitations, updates due to minor changes in statute, and other non-substantive and non-controversial changes.

Rescinding of outdated policies are as follows:

1. Rescind “Special District Representation”, “Term of Office”, “Authorization”, “Power of the Commission”, and “Definitions” policies. These policies are a recitation of statute and are not necessary; therefore, they are proposed to be rescinded.
2. The “Authorization” policy included a listing of special districts within the county and their authorized functions and services as an exhibit to Section VI. This listing is now included as Chapter 3 to this Section as it is a requirement of law through implementation of the Cortese-Knox-Hertzberg Reorganization Act of 2000. In addition, the listing of district type and their principal acts are now included as a part of Chapter 3.

3. Rescind “Special Districts Association” policy. This is no longer a policy declaration of the Commission but a practice as a means to address issues affecting special districts in San Bernardino County and a venue to introduce candidates for the mailed balloting for seats on the Commission. This discussion has been moved to the Introduction section to reflect its continuing importance in the process.
4. Rescind “Inventory of Special Districts Services” and “Establishment of Existing Functions and Services” policies. These policies stem from when independent special districts were originally seated on LAFCO in 1976. Since then, statutory amendments and LAFCO policy have supplanted these policies. Therefore, staff recommends rescinding these policies but note that they have including in the introduction section of Chapter 1 to provide the historical context for the optional seating of Special Districts on San Bernardino LAFCO.

Staff is recommending that the Commission make the determination required by its policies that the changes outlined in this report to the Rules and Regulations are minor changes; therefore, do not require the reference to a special districts advisory committee.

## **SECTION VII - Forms**

The Commission is required to adopt its forms for use, and the Commission has adopted the full range of forms for application processing. The forms have been reformatted and include non-substantive changes which include a revision to the indemnification language, as proposed as a part of the amendment to Chapter IV – Application Processing, which is part of the Certification on the following forms:

- Application and Preliminary Environmental description Form
- Supplement – Annexation, Detachment, Reorganization Proposals
- Supplement – Sphere of Influence Amendment
- Supplement – Formation of a Special District
- Supplement – Special District: Services – Activation or Divestiture
- Application for Extension of Service by Contract

## **ENVIRONMENTAL CONSIDERATION:**

Staff has reviewed its efforts to revise, amend and reorganize the Manual with the Commission’s Environmental Consultant, Tom Dodson which resulted in the recommendation that an environmental assessment of the project be undertaken.

Mr. Dodson has reviewed the actions proposed to revise, amend and reorganize the Policy and Procedure Manual, including the Environmental Review Policies, and has indicated that it is his recommendation that the matters are statutorily exempt from the



California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the updated Manual has no potential to cause an adverse effect on the environment; and therefore, the project is exempt from the requirements of CEQA as outlined in the State CEQA Guidelines, Section 15061(b)(3) and the Commission's Environmental Guidelines. Staff recommends that the Commission adopt the Statutory Exemption for this project and direct the Executive Officer to file a Notice of Exemption within five days with the San Bernardino County Clerk of the Board of Supervisors.

## **CONCLUSION:**

Once again the staff has undertaken the arduous task of reshaping the Policy and Procedure Manual in its entirety. The amendments presented to the Commission provide for a more consistent document and hopefully one that is easier to use. Should Commissioners desire to see the range of changes in this Manual reorganization, a copy of the track change version will be available in the staff office. Staff requests that the Commission provide its additions, amendments or corrections to the amended and reorganized Manual for staff to include in the document at this hearing. It is staff's recommendation that the Commission take the actions outlined on page 1 of this report to adopt the revised Policy and Procedure Manual.

KRM/SM/MT

Attachments:

1. [Draft Policy and Procedure Manual \(August 2015\)](#)
2. [Letter Dated August 6, 2015 from Commission's Environmental Consultant Tom Dodson and Associates](#)
3. [Draft LAFCO Resolution No. 3202](#)