


LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: AUGUST 10, 2016 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #8 – REVIEW AND CONSIDERATION OF AMENDMENTS
AND UPDATES TO THE LAFCO POLICY AND PROCEDURE MANUAL**

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Provide staff with any additional changes, corrections or amendments to the Policy and Procedure Manual as presented.
2. Approve additions, amendments, and rescissions to the LAFCO Policy and Procedure Manual as follows:
 - a. Add an "Apportionment" policy (Policy 8) to Section II - Accounting and Financial, Chapter 1 - Internal Operations
 - b. Amend the "Filing Fee Refund" policy (Policy 2) to Section II - Accounting and Financial, Chapter 2 - Application Processing
 - c. Amend Procedure for the "Indemnification" policy (Policy 3) to Section II - Accounting and Financial, Chapter 2 - Application Processing
 - d. Amend the "Performance Management" policy (Policy 4) to Section III - Human Resources, Chapter 2 - Employment
 - e. Amend the "Flexible Spending Account" policy (Policy 6) to Section III - Human Resources, Chapter 5 - Benefits Plan
 - f. Amend the "Disadvantaged Unincorporated Community Annexation" policy (Policy 14) to Section IV - Application Processing, Chapter 1 - Proposals
 - g. Rescind "Landowner Protest Petition" form, Section VII - Forms
 - h. Rescind "Registered Voter Protest Petition" form, Section VII - Forms
 - i. Add "Written Protest Form", Section VII – Forms

3. Adopt Resolution No. 3232 approving the amended and updated Policy and Procedure Manual and direct the Executive Officer to make the document available on the Commission's website and circulate as required.

BACKGROUND:

At the June 2012 hearing, the LAFCO Policy and Procedure Manual was reorganized and updated with the direction that an annual review be undertaken in August or September of every year to ensure that the document remains current and relevant. The previous annual update, for 2015, was extensive and included a restructuring of the manual.

The updates presented for 2016 concern amendments relative to specific policies and forms and are deemed to be non-controversial. The presentation which follows discusses the proposed amendments and updates by each section of the Manual.

SECTION II – Accounting and Financial

CHAPTER 1 – Internal Operations

1. Add "Apportionment" policy as Policy #8

In April 2008 during the discussion of the 2008-09 Proposed Budget, the Commission voiced its position to adopt a policy regarding the implementation of the mandatory apportionment process to provide some budgetary certainty to the independent special districts and cities. The Policy was to request that the County Auditor use the apportionment distribution provided for the proposed LAFCO budget review in April of each year using existing State Controller data. This would then apportion the Commission's net costs to the county, cities, and independent special districts - regardless if new State Controller data are issued prior to the July 1 billing date. The reasoning for the policy is to provide stability to the budget process for the entities which fund LAFCO by not apportioning a different amount after the final budgets are prepared for these entities..

However, our review of the policies for this annual update identified that this policy was not placed into the Manual by staff. At this time staff recommends that the Commission reaffirm its position and adopt its policy related to the apportionment process and add it as Policy #8 to Chapter 1 of Section II. The new policy would read as follows:

8. Apportionment (Adopted August 17, 2016)

In apportioning the Commission's net operating costs to the county, cities, and independent special districts pursuant to Government Code Section

56381, the apportionment distribution provided by the Auditor-Controller based upon State Controller data available at the time of the proposed LAFCO budget shall be used for billing purposes - regardless if new State Controller data are issued prior to July 1 of each year.

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 “Filing Fee Refund” policy

Staff is proposing to simplify the milestones used to determine a refund of LAFCO filing fees for a withdrawn application. Basically, withdrawal of an application following the Notice of Hearing does not warrant any refund. The proposed amendment to the policy would read as follows:

If withdrawal of an application is requested, the LAFCO Filing Fee paid for processing will be refunded in the following manner:

- A. Following issuance of the Notice of Filing but prior to the commencement of the property tax negotiations for changes of organization or Department Review Committee consideration for sphere of influence amendment: ~~75%~~ 2/3 refund.
- B. Following commencement of the property tax negotiations or Department Review Committee process but prior to the advertisement of the Commission’s consideration: ~~50%~~ 1/3 refund.
- C. Following advertisement of the Commission’s consideration: ~~25%~~ no refund.

~~D. Following the Commission’s consideration: no refund.~~

The current language of the deposit categories provides for a refund of unexpended deposit revenues.

2. Amend Procedure for the “Indemnification” policy

This policy identifies that the applicant and/or the real party in interest indemnifies LAFCO upon submission of an application. The procedures for the applicant to adhere to the Commission’s policy do not clearly include a fire protection contract. The proposed amendment to Procedure A would include a fire protection contract and delineate initiations by resolution and written request as follows:

A. Acknowledgement of LAFCO Indemnification Requirement:

1. When a ~~local~~ public agency adopts a resolution of application to initiate an application for a change of organization or reorganization, ~~or~~ a sphere of influence amendment, or a fire protection contract, the resolution shall include a provision acknowledging the Commission's requirement for indemnification as outlined in this Manual.
2. When a state agency or a real party of interest initiates an application for a change of organization or reorganization, a sphere of influence amendment, or a fire protection contract, the written request shall include a statement acknowledging the Commission's requirement for indemnification as outlined in this Manual.

SECTION III – Human Resources

On December 15, 2015, the County Board of Supervisors approved a variety of amendments to its Exempt Compensation Plan to include, among other things, (1) across-the-board salary increases, (2) a 15-year longevity pay effective December 2016, (3) increase in Medical Premium Subsidy effective July 2018, and (4) an increase in the top entrance step for new employees - a technical change. In January 2016, the Commission approved the above-listed modifications to its Policy and Procedure Manual, Human Resources and Benefits Section as its policies mirror those of the County's Exempt Compensation Plan.

However, the County's December 2015 ordinance included two technical amendments not known to LAFCO staff. To formally implement the changes, staff recommends that the Commission amend its Policy and Procedure Manual, Section III (Human Resources), as follows:

Chapter 2 (Employment)

1. Amend "Performance Management" policy

The amendments include minor changes to the language to include disability payments and medical emergency leave as not counting towards step advancements. The County's ordinance related to this change is included as Attachment #2 to this report, with the related language beginning on page 10.

Chapter 5 (Benefits Plan)

2. Amend “Flexible Spending Account” policy

Effective July 23, 2016 the Commission match to an employee’s flexible spending account will have no minimum (currently \$10) and will simply match dollar for dollar. There is no change to the maximum matching amount. This Policy is to be retroactive to July 23, 2016 to coincide with the plan year. The County’s ordinance related to this change is included as Attachment #2, with the related language on page 12.

SECTION IV – Application/Project Processing

CHAPTER 1 – Proposals

1. **Amend “Disadvantaged Unincorporated Community Annexation” policy**

The policy currently directs that LAFCO staff will annually develop the demographic data needed to define “disadvantaged unincorporated communities”. However, annually revising the mapping does not provide for certainty for those landowners and cities that may be affected by the requirement to annex adjacent disadvantaged unincorporated communities. Developing the maps every five years would provide for a five-year certainty of the requirement, can be based upon distributed information on updates, and can be included without qualm in the service reviews prepared for the Commission. The proposed amendment to the Policy would read as follows:

A. LAFCO shall utilize the ESRI Community Analyst Online, a web-based application, to develop the demographic data needed to **annually** define the “disadvantaged unincorporated community” as outlined in Government Code Section 56033.5. The data shall be developed and mapped every five years in years ending in 1 and 6 (for example 2011 and 2016) and made available on the LAFCO website.

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SECTION VII - Forms

At the May 18, 2016 hearing, the Commission was provided a copy of the “Written Protest Instructions and Form” document. The new form was developed in an effort to eliminate confusion over protest forms for landowner versus registered voter. Staff modified the form and notified the Commission that it would be used starting with the Needles protest hearing. To formalize the update, the following actions are recommended:

1. Rescind "Landowner Protest Petition" form
2. Rescind "Registered Voter Protest Petition" form
3. Add "Written Protest Form"

CONCLUSION:

Staff requests that the Commission provide its additions, amendments or corrections to the amended and updated Manual for staff to include in the document at this hearing. Staff recommends that the Commission take the actions outlined on pages 1 and 2 of this report.

KRM/MT

Attachments:

1. [Materials Related to County Ordinance Relating to Compensation and Working Conditions of the Exempt Group](#)
2. [Draft LAFCO Resolution No. 3232](#)