

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 8, 2020 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

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

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Certify that the proposed amendments to the Policy and Procedure Manual are 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. Adopt the amendments to the Policy and Procedure Manual as follows:
 - a. Section I – Mission Statement and Commission Operations:
 - Chapter 3: Commission Rules of Order
 - Election of Chair and Vice Chair
 - b. Section II – Accounting and Financial:
 - Chapter 1: Financial Policies for Internal Operations
 - Expense Reimbursement (various)
 - Chapter 2: Financial Policies for Application Processing
 - LAFCO Filing Fee Refund
 - c. Section III – Human Resources
 - Chapter 1: Working Environment
 - Work-at-Home/Telecommute (new policy)
 - d. Section V – Environmental Review
 - various

4. Adopt Resolution No. 3306 approving the amendments to the Policy and Procedure Manual and direct the Executive Officer to make the document available on the Commission's website.

BACKGROUND:

At this hearing, LAFCO staff is presenting the Commission with several amendments to the Policy and Procedure Manual for its consideration. The Ad Hoc Policy Committee and the Executive Officer have reviewed and discussed these policy changes.

The proposed amendments are generally minor non-substantive changes and/or deletion of obsolete language. The two substantive changes being proposed include the addition of a Work-at-Home Telecommute policy and the extensive amendments to the Environmental Review Section. To implement the proposed amendments, staff recommends that the Commission amend Section I (Mission Statement and Commission Operations), Section II (Accounting and Financial), Section III (Human Resources), and Section V (Environmental Review) of its Policy and Procedure Manual, as follows:

SECTION I – MISSION STATEMENT AND COMMISSION OPERATIONS

CHAPTER 3: COMMISSION RULES OF ORDER

- Amend "Election of Chair and Vice Chair" policy:

In order to allow for rotation among the membership to either the Chair or Vice-Chair roles, staff is recommending that the Commission reinstitute the prior policy that limits one's role as Chair or Vice Chair to two consecutive one-year terms but adding the ability of a member to be elected to their former role as Chair or Vice-Chair after a minimum of a two year separation. Staff recommends the following amendment to the policy:

*"The Chair and Vice-Chair shall be elected each year, during the first meeting in the month of May, by a majority of the Commission. **The Chair and Vice-Chair positions shall be limited to two consecutive one-year terms. Should a member serve two consecutive one-year terms as Chair or Vice-Chair, the member is not eligible for election to their former Chair or Vice-Chair position for at least two years.**"*

Note: LAFCO staff is recommending that the Commission's practice of its Ad Hoc Administrative Committee composition—Chair, Vice Chair, and the most recent Past Chair—be changed to be the Chair, Vice Chair, and a new member from the regular membership (to be selected by the Chair) in order to allow for other members of the Commission the ability to gain leadership experience.

SECTION II – ACCOUNTING AND FINANCIAL

CHAPTER 1: FINANCIAL POLICIES FOR INTERNAL OPERATIONS

- Amend “Expense Reimbursement” policy related to travel via private automobile:

Commissioners are currently reimbursed for travel that is more than 20 miles (round trip) from a Commissioner’s home to attend Commission meetings and other LAFCO related business per its policy on Commission Stipend/Per Diem Payment (Policy 4). However, there has been confusion on how reimbursement for mileage is calculated due to another conflicting policy outlined in Expense Reimbursement (part of Policy 3) since Commissioners do not have an assigned work location. Therefore, to clarify this conflict, staff recommends the following amendment to the “Expense Reimbursement” policy:

“...

F. TRANSPORTATION MODES

...

(1) Travel via private automobile

...

- a. When employees ~~or Commissioners~~, traveling on official San Bernardino LAFCO business, leave directly from their principal place of residence rather than from their assigned work location, mileage allowed to the first work contact point shall be the difference between the distance from the residence to the assigned work location and the distance from the residence to the first work contact point. If the first work contact point is closer than the assigned work location, no mileage shall be allowed. If the employee ~~or Commissioner~~ departs from the last work contact point directly to the residence, the same principle governs.*

Employees ~~or Commissioners~~ may have multiple assigned work locations. Mileage allowed is based on the assigned work location for that day. When employees ~~or Commissioners~~ have more than one assigned work location in a standard tour of duty, mileage shall be allowed between assigned work locations. In no case will mileage be allowed between the employee’s residence and the assigned work location.

...”

- Further amend the “Expense Reimbursement” policy to match the County’s approved policy changes effective January 28, 2020:

The County adopted policies related to compensation and working conditions of its Exempt Group on January 28, 2020. Said policies included changes that update and clarifies the current expense reimbursement policies; therefore, staff recommends the Commission also adopt the said changes related to the “Expense Reimbursement” policy:

“ ...

E. RECORDS AND REIMBURSEMENTS

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- (2) Requests for expense reimbursements for employees should be submitted once each month and within one year of the date that the expense was incurred, ~~except if the amount claimable for any month does not exceed twenty-five dollars (\$25.00), the submission may be deferred until the amount exceeds twenty-five dollars (\$25.00) quarterly, or until June 30th during the current fiscal year, whichever occurs first. At the end of the fiscal year, expense reimbursement claims for July 1st and beyond, must be on a separate claim from those expenses claimed for June 30th or earlier.~~
- (3) ~~Original~~ Receipts or vouchers which verify the claimed expenditures will be required for all items of expense, except:
 - a. Subsistence, except as otherwise provided in this section.
 - b. Private mileage (paid at the standard IRS rate).
 - ~~c. Taxi, bus and ferryboat fares; bridge and road tolls; and parking fees.~~
 - cd. Telephone, fax or other communication-related charges including Wi-Fi and internet connection charges access fees if needed to conduct San Bernardino LAFCO business.
 - de. Other authorized expenses of less than one dollar (\$1.00).
- (4) Claims for expense reimbursement totaling less than one dollar (\$1.00) in any fiscal year shall not be paid.

- (5) Reimbursement shall not be made for any personal expenses such as, but not limited to: entertainment, barbering, personal grooming, alcoholic beverages, etc.
- (6) Except as otherwise provided in this section, expense reimbursements shall be made on an actual cost basis.
- (7) If ~~original~~ the receipt is unavailable, the employee may submit a ~~photocopy and a~~ signed statement with an explanation of expenses (i.e., itemized list of expenses with location, date, dollar amount, and reason for expenses) ~~as to the location of the original receipt or~~ and an explanation as to why the receipt is unavailable ~~its absence~~.

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F. TRANSPORTATION MODES

...

- (1) Travel via private automobile

...

c. Travel via Ride-Share Service, Taxi, or Public/Mass Transit. Reimbursement will be provided for the cost of using a ride-share service, (e.g., Uber or Lyft), taxi, or public/mass transit (e.g., bus, streetcar, and ferry) if such expenses are incurred for County business and approved by the appointing authority.

d. Incidental Travel Expenses. Reimbursement will be provided for the cost of incidental travel expenses such as bridge tolls, road tolls and parking fees if such expenses are incurred as part of County business and approved by the appointing authority. Valet parking will not be reimbursed unless self-parking is not available or security is a concern.

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G. SUBSISTENCE

- (1) Subsistence allowances for lodging and meals shall not be allowed without prior approval of the appointing authority or designee as necessary for the purpose of conducting San Bernardino LAFCO business. Meal and lodging selections should represent a reasonable cost to San Bernardino LAFCO and be generally consistent with the rates established by the General Services Administration (GSA). Excess charges greater than the

allowances listed below in paragraph (2) and (3) may be authorized under special conditions, such as a convention or conference requirement (e.g., lodging at the hotel where the conference is held) or if San Bernardino LAFCO business requires lodging and meals in an area of unusually high cost (~~such as, but not limited to, San Francisco Bay area, Sacramento, Fresno, Los Angeles and San Diego~~ i.e., Non-Standard Areas as established by the GSA). Employees may be reimbursed for expenses in high cost areas for the actual cost incurred, but generally not to exceed the per diem amounts established by the GSA for that area and month. ~~Claims for lodging and meals which do not exceed the allowances listed below do not require r~~ Receipts are mandatory to obtain reimbursement for all lodging expenses, and except as provided below, for all meal expenses claimed.

- (2) An employee may be reimbursed for lodging expenses at actual cost, generally not to exceed the standard lodging per diem rate as established by the GSA, except as otherwise provided in paragraph (1) above ~~The allowance for lodging is seventy five dollars (\$75.00) plus tax, per night, single.~~
- (3) Except as otherwise provided in paragraph (1) above, reimbursement for meal expenses for up to three separate meals per day may be provided as follows: ~~The allowance for meals is fifty dollars (\$50.00 plus tax and gratuity per day, for three (3) meals, or when separate meals are claimed;~~
- a. With receipts: actual cost not to exceed eleven dollars (\$11.00) for breakfast; fifteen dollars (\$15.00) for lunch; and twenty-four dollars (\$24.00) for dinner, all plus tax and up to 15 percent gratuity.
- b. Without receipts: at per diem rates not to exceed six dollars (\$6.00) for breakfast; nine dollars (\$9.00) for lunch; and nineteen dollars (\$19.00) for dinner, all plus tax and up to 15 percent gratuity.
- ~~(3)~~(4) ~~Meal allowances for a business meeting/conference including meals are the actual cost~~ Where the cost of a meal is included as part of a registration charge for an event (e.g., continental breakfast at a conference or training seminar) or in the cost of lodging, an employee may not claim reimbursement for that meal.
- ~~(4)~~(5) Expense Advances. Advancement of funds for business expenses can be obtained from the County through submission of the

appropriate form. Advancements shall not exceed the per diem allowance set forth herein. The minimum amount to be advanced is fifty dollars (\$50.00).

H. COUNTY CREDIT/~~DEBIT~~ CARDS

- (1) The County may issue a County credit ~~or debit card~~ to the San Bernardino LAFCO Executive Officer and require business expenses be paid for with said card.

...”

CHAPTER 2: FINANCIAL POLICIES FOR APPLICATION PROCESSING

- Amend the “LAFCO Filing Fee Refund” policy:

The policy regarding refunding the LAFCO fees is based on three milestones. Staff recommends modification to two milestones. Historically, when proposals are requested for withdrawal by the applicant, it is either after the application is circulated for review or after the property tax negotiations. There is no recent record of a proposal being requested for withdrawal after the staff report is written. In order to implement this change, staff recommends the following amendment to the policy:

“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~~: 2/3 50% refund.*
- B. *Following ~~commencement~~ issuance of the ~~property tax negotiations Certificate of Filing (change of organization/reorganization) or Department Review Committee process (sphere of influence amendment)~~ but prior to the advertisement of the Commission’s consideration: 1/3 no refund.*
- C. *~~Following advertisement of the Commission’s consideration but prior to the Commission’s consideration: no refund.~~*

...”

SECTION III – HUMAN RESOURCES

CHAPTER 1: WORKING ENVIRONMENT

- Add work-at-home/telecommute policy

The social distancing and Safer-at-Home orders related to the pandemic have changed, at least temporarily, the work environment of the LAFCO office. Staff recommends that the Commission adopt a new policy related to working from home. This action would add Policy 9 (Work-at-Home/Telecommute) to Chapter 1 of Section III. The Policy is shown below. See Attachment 1 (Work-at-Home/Telecommute Policy) for the procedures related to the policy:

“9. WORK-AT-HOME/TELECOMMUTE (Adopted April 15, 2020)

- A. This Work-at-Home Policy applies to employee work-at-home arrangements, whether on a continuous basis or for a specific, limited period of time. This policy and its procedures applies to LAFCO staff, and will be administered by the Executive Officer.***
- B. Working at home is not an employee right or benefit and may be discontinued by the Commission or Executive Officer for any reason that is not arbitrary or capricious, at any time. Employees will be permitted to work at home at the discretion of the Executive Officer. Employees may be removed from the Telecommuting Program if they do not comply with the terms of this policy and its procedures.***
- C. Telecommuting does not change the duties, obligations, responsibilities, or terms and conditions of LAFCO employment. Whether or not specifically articulated in the policy and procedures, work-at-home employees are subject to the same federal and State of California laws and LAFCO policies and procedures applicable to employees at the regular LAFCO worksite.***
- D. A telecommuting employee must perform work during scheduled telecommuting hours. Employees may not engage in activities while telecommuting that would not be permitted at the regular worksite, such as child, elder, or other dependent care. Telecommuting employees may take care of personal business during unpaid lunch periods, as they would at the regular worksite. Any exceptions to deviating from the normal work hours must receive Executive Officer authorization beforehand. Additionally, orders from a health authority, safety authority, governor, etc... regarding shelter-in-place, safer-at-home, school closures, etc... may necessitate alternate working hours and must receive Executive Officer authorization before work begins.***

PROCEDURE:

...”

CHAPTER 2: EMPLOYMENT

- Amend the “Compensation” policy by deleting the policy item related to one-time incentive pay:

This policy was established as a one-time incentive pay back in 2015. This is now obsolete language; therefore, staff recommends deleting this entire item from the “Compensation” policy:

“... ”

~~E. ONE-TIME INCENTIVE PAY (Adopted April 15, 2015)~~

- ~~(1) Incentive. SB LAFCO agrees to pay eligible employees a one-time incentive up to \$1,750, to be paid in one payment.~~
- ~~(2) Eligibility. In order to be eligible for the one-time incentive:
 - ~~a. An employee must be employed on April 18, 2015; and,~~
 - ~~b. Be in paid status in pay period 10 of 2015. Employees not in paid status in pay period 10 of 2015 shall receive the one-time incentive upon return to paid status. Employees who do not return to paid status shall not be eligible for the one-time incentive.~~
 - ~~c. An eligible employee who is part-time or job-sharing shall be eligible for a prorated one-time incentive based on regularly scheduled hours.~~
 - ~~d. An employee who has separated from SB LAFCO employment for any reason prior to pay period 10 or 2015 shall not be eligible to receive the one-time incentive.~~~~
- ~~(3) Payment. SB LAFCO agrees to pay eligible employees a one-time incentive up to \$1,750, to be paid in one payment, subject to withholdings. The one-time incentive shall be payable in pay period 10 of 2015.~~
- ~~(4) Special Provisions. Prior to the payment of the one-time incentive,~~

~~eligible employees may make an election, in writing, to opt-out of receiving the incentive and defer the payment until a later date provided, however, such payment shall not be eligible to be paid later than one year from pay period 10 of 2015. Employees who opt-out and do not make a designation to receive the payment by March 19, 2016 shall have the one-time incentive automatically paid out in pay period 8 of 2016. Employees who have opted-out and separate from SB LAFCO employment, and have not yet received the one-time incentive, shall have the incentive automatically paid out upon separation.~~

...”

SECTION V – ENVIRONMENTAL

The State of California recently released a comprehensive update to the California Environmental Quality Act (CEQA) Guidelines including some changes to the Appendix G checklist that became effective on December 28, 2018. LAFCO staff, in coordination with Tom Dodson, the Commission’s Environmental Consultant, have prepared an extensive update to the Commission’s Environmental Policies. Through the Commission’s Legal Counsel, the proposed changes have been reviewed (and additional suggestions have been provided) by BB&K’s CEQA attorney(s).

To view the changes to the Environmental Section, see Attachment #2 (Section V – Environmental Review).

CONCLUSION:

Staff requests that the Commission provide staff with any additional changes or corrections to the proposed amendments to the Policy and Procedure Manual for staff to include in the document. Staff recommends that the Commission take the actions outlined on pages 1 and 2 of this report to approve the changes.

Attachments:

1. [Work-at-Home/Telecommute Policy including Procedures](#)
2. [Section V – Environmental Review \(In-line Track Changes\)](#)
3. [Resolution Exhibit A – Proposed LAFCO Policy Amendments in Track Change Format \(Section I: Mission Statement and Commission Operations, Section II: Accounting and Financial, Section III: Human Resources, and Section V: Environmental Review\)](#)
4. [Environmental Response from Tom Dodson and Associates](#)
5. [Draft LAFCO Resolution No. 3306](#)