

POLICIES RELATED TO IMPLEMENTATION
OF LAFCO SCHEDULE OF FEES AND CHARGES

POLICY #18 -- WAIVER PROVISIONS:

1. Automatic Waivers:

The LAFCO filing fee for proposals that correct a boundary alignment problem (i.e., a divided assessor's parcel or inadvertent exclusion) will be automatically waived provided, however, that a deposit will be required for the anticipated direct costs for environmental review and the required registered voter and landowner notification. Compliance with these conditions is to be determined by the LAFCO Executive Officer.

2. Automatic Reductions:

City annexations of island areas that comply with Government Code Section 56375.3 will be assessed one-half of the LAFCO filing fee for each area of consideration within the proposal. All other fees and deposits will be assessed at full cost.

3. Request for Waiver or Reduction of Fees (to be reviewed by the Commission):

Any applicant may appeal for a waiver or reduction of the LAFCO filing fee to be charged. An appeal must be submitted in writing and accompany the submission of the application to the LAFCO Executive Officer. The Executive Officer shall present the waiver/reduction request at the next regular hearing for Commission consideration on the consent calendar. The Commission may waive the filing fee if it first determines that payment would be detrimental to the public interest (required by Government Code Section 56383). A waiver of fees is limited to those costs incurred by the Commission in processing the proposal. The Commission may authorize a reduction in the LAFCO filing fee based upon the special circumstances of the proposal, if any. Processing of the application shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

Automatic Reduction: The realignment of city or special district boundaries required by the realignment of a roadway will be reduced to a single change of organization fee per entity involved no matter how many changes or separate areas are included in the proposal. The Executive Officer is authorized to notify the entities involved and no further action is required for this reduction.

POLICY #35 – LAFCO FEE REFUNDS:

If withdrawal of an application is requested, LAFCO filing fees paid to LAFCO for processing will be refunded in the following manner (Legal Counsel, Environmental Review, Registrar of Voters, Landowner Notification and Protest Proceeding fees are subject to their own refund procedures outlined on the Fee Schedule):

1. If withdrawal is requested prior to the processing of the property tax negotiations for the item, 75% of the LAFCO Filing Fee will be refunded.
2. If withdrawal is requested following commencement of the tax negotiations process but prior to the advertisement of the Commission's consideration, 50% of the LAFCO Filing Fee will be refunded.
3. If withdrawal is requested following advertisement of the Commission's consideration, 25% of the LAFCO Filing Fee will be refunded.
4. If withdrawal is requested following Commission continuance or deferral of the application, no refund shall be provided.

POLICY #24 -- LEGAL DEFENSE FEE RESPONSIBILITY:

It is the policy of this Commission that the costs for legal defense of an issue, which has been approved by the Commission, should be the primary responsibility of the agency or person seeking that approval. Therefore, as a condition of approval for any action taken by the Local Agency Formation Commission, the Commission may impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval.

Procedure:

If the Commission determines that costs for litigation or legal defense should be borne by the applicant, the following procedures will be implemented:

1. The Commission will impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claims, actions or proceedings against them to attack, set aside, void, or annul such approval.
2. The Executive Officer shall promptly notify the applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.

3. The applicant may provide his or her own counsel in the defense of the action taken, or the applicant may elect to use the services of LAFCO Counsel in that defense. In the latter case, the Executive Officer may require a deposit of funds sufficient to cover the anticipated expense of the litigation.

POLICY #36 -- RESPONSIBILITY FOR PAYMENT OF SPECIAL LEGAL COUNSEL COSTS:

It is the policy of this Commission that the costs for Special Counsel shall be the responsibility of the applicant subject to the following determinations:

1. If Special Counsel is required due to a representation conflict with the applicant of the proposal, the applicant will be responsible for all Special Counsel charges.
2. If Special Counsel is required due a representation conflict outside the control of the applicant, the applicant will be responsible for paying the regular LAFCO Legal Counsel hourly rate. The balance of Special Counsel costs will be the responsibility of the Commission.

Procedure:

Once a determination has been made pursuant to Commission Policy #34 – Waiver of LAFCO Legal Counsel Conflicts of Interest – that Special Counsel is required, the following procedure will be followed:

1. The Executive Officer will promptly notify the proponents of the proposal that Special Counsel is required.
2. An item will be placed on the next available Commission Agenda to approve the contract for Special Counsel and to determine the method for apportioning the cost to the applicant.
3. Once a determination is made regarding the apportionment of the cost, the Executive Officer may require a deposit of the estimated costs for Special Counsel.
4. All Special Counsel costs that are the responsibility of the applicant shall be paid prior to issuance of the Certificate of Completion.