

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #5: Review and Adoption of a Retention Policy and
Schedule for San Bernardino LAFCO

RECOMMENDATION:

Staff recommends the Commission adopt the following policy related to records retention for records of proceedings and financial records.

Policy #38 - Records Retention Policy (Adopted October 21, 2009)

It is the policy of this Commission to retain LAFCO's records of proceedings and financial documents and records in accordance with the Records Retention Schedule outlined below.

<u>TYPE OF RECORD</u>	<u>RETENTION PERIOD</u>
<i>Records of Proceedings</i>	<i>Government Code Section 56382</i>
<i>Financial:</i>	
<i>Expense Reports</i>	<i>7 years</i>
<i>Budgets</i>	<i>7 years</i>
<i>Billings/Accounting Reports</i>	<i>7 years</i>
<i>Budget Change Proposals</i>	<i>7 years</i>
<i>Budget Change Concepts</i>	<i>7 years</i>
<i>Audits</i>	<i>7 years</i>
<i>Invoices</i>	<i>7 years</i>
<i>Fees/Receipts</i>	<i>7 years</i>
<i>Checks/Ledgers/Registers</i>	<i>7 years</i>
<i>Cal Stars Reports</i>	<i>7 years</i>
<i>Cost Recovery – Federal</i>	<i>7 years</i>

<i>Cost Recovery – State</i>	<i>7 years</i>
<i>Grants</i>	<i>7 years</i>
<i>Resource: California Secretary of State. "Local Government Records Management Guidelines", Feb 2006.</i>	
<i>Under the authority established by Senate Bill 742 (1999), adding Section 12236 to the Government Code.</i>	

The Commission has adopted the Financial portion of the "Local Government Records Management Guidelines", issued by the California Secretary of State pursuant to Government Code Section 12236, as may be amended from time to time by the Secretary of State, as the Commission's official retention schedule. This policy shall be reviewed, and when necessary updated, at least every five years pursuant to the Secretary of State Guidelines.

To implement the retention and destruction of the records pursuant to the Schedule, the Commission designates the Executive Officer as the Records Management Coordinator who shall present a Commission agenda item once a year related to records to be destroyed.

BACKGROUND:

Generally, every agency should have a records retention schedule approved by its governing body which sets forth the type of records retained by the agency and the prescribed retention period. Many agencies and other LAFCO's have adopted records retention policies, which, in addition to prescribing a retention schedule, address the process for reviewing and approving requests for records destruction. While the LAFCO Law maintains provisions for destruction of LAFCO documents (Government Code Section 56382), San Bernardino LAFCO's policies do not address any refinement or augmentation of these statutory provisions. It is the position of LAFCO staff that the Commission should adopt a policy and schedule for San Bernardino LAFCO's records retention pertaining to the Commission's records of proceedings and financial documents, including standards and conditions necessary for the destruction of such records.

Government Code Section 56382 outlines the requirements which allow for destruction of LAFCO records. This section specifically requires the creation of an electronic or photographic record be retained for those items more than two years old. Otherwise, by implication, the original paper records are to be kept indefinitely. For the purposes of records retention, there is no statutory definition in LAFCO Law of a "record" as in the case of the California Public Records Act (Government Code Section 6252(e)), nor do they specifically address the variety of documentation and mediums now in use. Financial documents are considered public records as they are in the custody of the Commission or the Executive Officer, and statutes require minimum retention periods depending on the document. Commission adoption of the proposed policy and schedule will provide for a specific schedule for the retention and destruction of financial records.

In addition to Government Code Section 56382, records retention requirements are found in various sections of California statutory law. Senate Bill 742, adding Section 12236 to the Government Code, was adopted by the California State Legislature in 1999 and authorized

the Secretary of State to establish the “Local Government Records Program” to be administered by the State Archives. Under the authority established by SB 742, in February 2006 the Secretary of State published the “Local Government Records Management Guidelines” (included as the Attachment to this report). The goal of the “Local Government Records Program” and corresponding “Local Government Records Management Guidelines” is to consolidate information resources and provide local government with a single source for archival and records management support and guidance.

Upon reviewing the Secretary of State’s guidelines, staff recommends that:

- The Commission adopt the Financial portion of the Secretary of State “Local Government Records Management Guidelines” (shown hereafter as Guidelines) (located on page A-1 in the Attachment to this report) as LAFCO’s official records retention schedule for financial documents, as may be amended from time to time by the Secretary of State. Given the small size and relative simplicity of LAFCO’s records management need (in comparison with larger agencies), staff’s position is that the Guidelines will meet the Commission’s needs while maintaining compliance with Government Code Section 56382.
- In referencing the Financial portion of the Guidelines, typical retention periods are four or seven years, or until audited, whichever occurs first. To err on the side of caution and ease of implementation, staff recommends that the retention period for all financial records be seven years, regardless if the statutes permit a lesser retention period.
- To implement the maintenance of the Schedule and to implement records destruction pursuant to the Schedule, staff recommends that the Commission designate the Executive Officer as the Records Management Coordinator.
- According to the Guidelines, schedules are considered current for five years unless amended sooner. The Guidelines recommend that a new schedule be prepared and approved after five years to ensure the schedule accurately and completely reflects the agency’s records holdings and dispositions. Staff’s position is that the Commission review, and update or amend as necessary, the retention schedule every five years.
- The Commission is not statutorily required to consult with legal counsel each time records are to be destroyed. However, to err on the side of caution, prior to destruction of any records, staff believes it would be appropriate to place an item on the Commission’s Consent agenda for approval that describes the types of files to be destroyed and identifies the years in which they originated. Therefore the policy should include this requirement.

Attachment:

[California Secretary of State. “Typical Retention Periods” Schedule \(Attachment A to “Local Records Management Guidelines”\), February 2006.](#)