

# **OUT OF AGENCY FIRE PROTECTION CONTRACT**

## **BACKGROUND:**

Beginning January 1, 2016, a Local Agency Formation Commission has been charged with the responsibility for reviewing and taking action on fire protection contracts that either: transfers more than 25 percent of the service area of an affected public agency or changes the employment status of more than 25 percent of the employees of an affected public agency pursuant to Government Code Section 56134. These are unique actions not directly related to the processing of other types of proposals and the following policies and procedures will provide guidance on their processing.

## **POLICIES:**

*(Adopted August 17, 2016)*

### 1. DEFINITIONS:

- A. "Affected Public Agency(ies)" for the purpose of fire protection contracts, shall be defined as the public agency(ies), as described pursuant to Government Code Section 56070, that is(are) affected by the fire protection contract, either as the agency providing or receiving the new or extended fire protection service(s).
- B. "Employment Status" for the purpose of fire protection contracts, shall be defined as either inter-agency or intra-agency transfer of employee(s), and/or employee(s) whose employment is/are terminated as a result of the contract.
- C. "Jurisdictional boundary(ies)" for the purpose of fire protection contracts, shall be as defined pursuant to Government Code Section 56134(a)(3). Any other instance, jurisdictional boundary(ies) shall mean the actual boundaries of a public agency such as the corporate boundaries of a city or the boundary of a special district."

### 2. Documentation Required - The applicant must provide the Commission with documentation on whether the fire protection contract meets either threshold outlined in Government Code Section 56134(a)(1)(A) and (B):

- Transfers service responsibility of more than 25 percent of an affected public agency's service area; or,
- Changes the employment status of more than 25 percent of the employees of an affected public agency.

If the area to be served by the fire protection contract is not the entire jurisdictional boundaries of an affected agency, a map of the contract area must be provided. If the fire protection contract affects more than 25 percent of the

employees of an affected agency, a document with a listing of all employees for the affected agency that clearly identifies all the employees affected by the fire protection contract must be provided.

3. For a fire protection contract application request made by a state agency, the director of the state agency must provide a letter, addressed to the Commission, outlining the agency's intent to provide service(s) outside its jurisdictional boundaries as defined by Government Code Section 56134. The letter must include, as an attachment, all supporting documents that are required to be submitted for a fire protection contract. In the case where the Director of Finance must provide approval of the fire protection contract, the Director must provide a letter, addressed to the Commission, outlining its support for the fire protection contract application request.
4. The required written agreement from an affected public agency shall be in the form of a resolution adopted by its legislative body. The written agreement from the employee organization shall be in a form of a letter signed by the President of the employee organization. In the case of providing written notice, proof that the notice was provided or delivered to each affected agency and employee organization shall be in the form of a signed affidavit or any similar type of proof that the written notices were provided. Such proof must be included as part of the application submission. In addition, all documents related to the public hearing on the resolution of application including, but not limited to, a copy of the agenda, staff report, and meeting minutes must also be included as part of the application submission.
5. The Plan for Service must include, but is not limited to, all the required information as outlined in Government Code Section 56134(e). In addition, the required independent Fiscal Impact Analysis must include, at a minimum, the following:
  - a five year projection of revenues and expenditures;
  - a discussion of the sufficiency of general existing revenues to provide the new or extended fire protection service; and,
  - a comprehensive review of all retirement plans impacting the affected agency/agencies and employees including any unfunded retirement obligations and the identification of retirement debt, if any, and the responsible agency or agencies to assume such debt.
6. Existing fire protection contracts, and their renewal, will not be subject to the requirements of Government Code Section 56134 unless a subsequent change to an existing fire protection contract either transfers more than 25 percent of the service area of an affected public agency or affects more than 25 percent of the employees of an affected public agency. In addition, mutual or automatic aid agreements are not subject to Government Code Section 56134.

## **APPLICATION PROCEDURES FOR AN OUT OF AGENCY FIRE PROTECTION CONTRACT**

Government Code Section 56134 charges LAFCO with the responsibility to review and approve, approve with conditions, or deny requests for approval of a fire protection contract that provide new or extended fire protection services outside an agency's jurisdictional boundaries provided such contracts meet one of the following thresholds: (1) transfers service responsibility of more than 25 percent of an affected public agency's service area; or (2) affects more than 25 percent of the employees of an affected public agency. Requests under this provision are subject to Commission review.

### 1. Application for Review:

The filing requirements for review of a fire protection contract shall include:

- A. Official Request from Applicant. The request must be made by adoption of a Resolution of Application pursuant to Government Code Section 53134(c).
- The resolution of application shall not be submitted to LAFCO unless the provisions outlined in Government Code Section 56134(d) have been met: 1) Submission of written agreement from each affected public agency and each affected employee organization consenting to the proposed fire protection contract, or proof that written notices were provided to each affected agency and employee organization at least 30 days prior to the public hearing on the resolution of application is held; and 2) the applicant conducts an open public hearing on the resolution of application. The resolution of application must also include a provision acknowledging the Commission's requirement for indemnification pursuant to Commission policy (see Policy and Procedure Manual, Chapter 2 - Accounting and Financial Section, Policy #3)

In addition, all documents related to the applicant's hearing on the resolution of application such as agenda, staff report, minutes, etc. shall also be submitted.

- The resolution of application must be submitted with a Plan for Service that includes, but is not limited to, all the required information as outlined in Government Code Section 56134(e).
- The resolution of application must be submitted with an independent Fiscal Impact Analysis pursuant to Government Code Section 56134(f) that includes, at a minimum, the following: a) a five year projection of revenues and expenditures, b) a discussion of the sufficiency of general existing revenues to provide the new or extended fire protection service, and c) a comprehensive review of all retirement plans impacting the affected agencies and employees including any unfunded retirement

obligations and the identification of retirement debt, if any, and the responsible agency or agencies to assume such debt.

B. Documentation Required to Establish Thresholds Related to Service Area and Employment Status:

- Service Area: The applicant must submit a map of the fire protection contract area if the fire protection contract area is not the entirety of the affected public agency. *If the applicant already serves the affected public agency (agency receiving service) by contract to a portion of its current jurisdictional boundaries, the map must clearly identify the area it currently serves by contract and the new area it is proposing to serve by contract.*
- Employment Status: The applicant must submit a document with a listing of all employee classifications/titles of an affected public agency that clearly identify the employee classifications/titles that are affected by the fire protection contract.

C. Payment of Appropriate Filing Fees. The applicant must submit, as part of the application, the appropriate filing fee as outlined in the LAFCO Schedule of Fees, Deposits, and Charges in effect at the time of submission. In addition, a review of a fire protection contract is also subject to the following deposits: legal counsel, environmental review, and individual notice. Applicants will be required to reimburse the Commission for all charges and costs in excess of the deposits outlined above. If charges billed are less than the amount of deposits, the balance will be refunded at the close of the application.

Should a fire protection contract require the extension of an existing per parcel special fee or charge, the applicant will be required to submit an additional deposit for the direct costs associated with mailing individual notices to each billed landowner within the fire protection contract area.

D. A completed Application Form for Fire Protection Contracts including the submission of a copy of the fire protection contract that has been signed by the affected public agencies. Submission of additional map(s) showing the jurisdictional boundaries of the affected public agencies may also be required.

E. Any other information deemed appropriate by the Executive Officer in order to review the fire protection contract based upon its special circumstances.

2. Environmental Review Requirements:

The review of a fire protection contract is subject to environmental review procedures as outlined in Section V of this Manual.

## **REVIEW PROCEDURES FOR AN OUT OF AGENCY FIRE PROTECTION CONTRACT:**

A fire protection contract will require the following review:

1. The applicant must submit to LAFCO a completed Application Form for Fire Protection Contracts, with all its component parts as previously defined, for review and consideration. Within 30 days, the LAFCO Executive Officer will notify the applicant and any other affected public agency whether or not the application filing is complete. If incomplete, the applicant and any other affected public agency will be notified of the specific insufficiencies.
2. The LAFCO staff shall forward a copy of the application to various County departments, all local fire authorities and other affected/interested agencies for their review and comment.
3. Completion of the CEQA review process will be required prior to placement on the Commission's agenda.
4. A meeting with the applicant and any other affected public agency, and/or the various County departments and other affected/interested agencies will be held to discuss the circumstances and/or issues related to the fire protection contract.
5. Once these required elements have been completed and the application deemed complete, the item will be placed on the next agenda for which notice can be provided but no more than 90 days from the date the application is deemed complete. At least 21 days prior to the date of the hearing, notice of the hearing will be mailed to each affected local agency or affected county, and to any interested party who has filed a written request for notice. In addition, at least 21 days prior to the hearing, notice of hearing will be published in a newspaper of general circulation and posted on the Commission's website.

At least 21 days prior to the date of the hearing, individual notice will be mailed to each billed landowner within the fire protection contract area if the fire protection contract will require the extension of an existing per parcel special fee or charge.

6. At a noticed public hearing, the Commission will consider the staff's presentation and presentations, if any, by interested and affected parties, and make a determination.
7. The Commission has the authority to approve, approve with conditions, or deny a fire protection contract. The Commission's determination regarding 56134(h)(2)(i) and (j) and any required findings will be set out in a resolution which specifies the area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.

8. Reconsideration: Following an action by the Commission on the contract request, reconsideration by the Commission may be requested pursuant to existing Commission policies.