



Agenda Item 7A

MEETING: October 20, 2020
TO: Trinity LAFCo Commissioners
FROM: Colette Santsche, Executive Officer & Kathy Bull, Administrator/Clerk
SUBJECT: Commission Policies and Procedures Update – Section 4. Services by Contract

BACKGROUND:

Trinity LAFCo has drafted Policies and Procedures pursuant to Section 56300(a) of the Cortese-Know-Hertzberg Local Government Reorganization Act of 2000. Previously at the June 16, 2020 LAFCo meeting, the Commission approved updates to Section 1. General, “Bylaws”, and Related Administration Policies; and Section 2. LAFCo Operations and Financial Policies. Subsequently at the August 18, 2020 LAFCo meeting, the Commission approved updates for Section 3. Policies, Requirements & Criteria for Applications. Staff will continue to provide the Commission various sections of the Policies and Procedures to review until completed.

DISCUSSION:

Staff has made modifications to Section 4. Services by Contract, which includes Outside Agency Services by Contract (i.e., water and wastewater) and Fire Protection Services by Contract. Once all Sections of the Policies and Procedures have been revised and updated, staff will provide a complete Policy and Procedures document in its entirety for the Commission’s final approval.

RECOMMENDATION:

Staff recommends that the Commission provide direction to staff regarding policy revisions and consider accepting proposed changes to Section 4. Services by Contract.

Attachment:
Section 4. Services by Contract

Section 4. SERVICES BY CONTRACT

4.1. SERVICES BY CONTRACT OUTSIDE OF AGENCY BOUNDARIES & DELEGATION OF AUTHORITY TO EXECUTIVE OFFICER

4.1.1 Requests for ~~extensions of service~~ new or extended services by contract or agreement beyond the boundaries of the providing agency shall be considered and acted upon by the Commission pursuant to the provisions of Government Code Section 56133 (hereinafter referred to as "out of agency service (OAS) contracts or agreements").

4.1.2 Government Code 56133 permits approval of OAS extension requests to be delegated by the Commission to the Executive Officer. The Executive Officer shall consult with districts to determine whether OAS agreements are subject to Commission review or qualify for an exemption under 56133.

4.1.3 It is the policy of the Commission to delegate to the Executive Officer the authority to issue written approval for ~~extension of service~~ OAS requests under the following conditions:

- (a) There is an impending threat to the public health and safety of the residents of the affected territory and the affected agency or landowners have submitted documentation of such to the satisfaction of the Executive Officer; and
- (b) The Executive Officer has notified any alternate service provider that has filed a map and a statement of its service capabilities with the Commission; and
- (c) The Executive Officer has provided notice to the Trinity County Environmental Health Department of the request and has provided such agency a reasonable amount of time to review and comment upon such request.
- (d) The delegation of authority as referenced herein shall only apply to requests for extension of services that are within the Sphere of Influence of the affected agency.
- (e) The Executive Officer shall notify the Commission of his/her decision on an OAS agreement within two business days. Within ten days after the Executive Officer's decision, any member of the Commission may request the Commission to review the decision by filing a written request with the Executive Officer. The Executive Officer shall set the request for review as an agenda item for the next meeting of the Commission for which notice

can be given. After consideration of the issue, the Commission may affirm, reverse, or modify the decision of the Executive Officer.

(f) Should the Executive Officer determine, for any reason, to not exercise her/his delegated authority, the Executive Officer shall process the request consistent with the directives of Government Code Section 56133.

4.1.4 Except as otherwise stated herein, OAS requests ~~for extension~~ shall be processed consistent with Section 56133.

4.1.5 The filing requirements for review of OAS requests shall consist of:

(a) Official Request from Applying Agency. A written request signed by a designated representative of the agency requesting approval for the OAS request, or an adopted resolution from the district board proposing to serve outside its boundaries must be submitted.

(b) Payment of Appropriate Filing Fees. The applying agency must submit as part of the application the appropriate filing fees as outlined in the LAFCo Fee Schedule.

(c) A completed application form including the submission of a copy of the proposed contract or agreement that has been signed by the property owner(s) and the agency extending service(s), and maps showing the location of the property to be served and the location of existing and proposed infrastructure to be extended.

(d) Any other information deemed appropriate by the Executive Officer in order to review the OAS request based upon local conditions and circumstances.

4.1.65 As a condition of approval the Commission may require the completion of the annexation within a specified time frame or may impose other conditions as necessary. Annexations to districts involving territory located within the affected agency's sphere of influence are generally preferred to OAS agreements. The Commission recognizes, however, there may be instances when OAS agreements are appropriate given local circumstances.

4.1.7 The Commission and the Executive Officer shall limit OAS agreements to public health and safety emergencies and circumstances where:

(a) Sufficient service capacity exists;

(b) Annexation would not be practicable (in determining whether an annexation is practicable, the Commission shall consider the sphere of influence

determinations for the affected territory in accordance with Government Code 56425(e); and

- (c) The out of agency service request is determined by the Commission to be consistent with the policies adopted in and pursuant to the Cortese-Knox-Hertzberg Act.

4.2 FIRE PROTECTION SERVICES BY CONTRACT

4.2.1 Effective January 1, 2016, Government Code Section 56134 requires the Commission to approve fire protection contracts or agreements for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries if the contract meets any of the following thresholds:

- (a) Transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement; or
- (b) Changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.
- (c) A contract or agreement for fire protection services outside a public agency's jurisdictional boundaries that, in combination with other contracts or agreements, would produce the results described in either threshold (a) or (b) above.

Note: This section applies primarily to fire protection contracts and agreements between public agencies as they relate to Amador Agreements and Joint Powers Agreements. The provision of new or extended services by contract or agreement outside jurisdictional boundaries to support existing or planned uses involving public or private properties are subject to Government Code Section 56133 (see Chapter 4.1 Service by Contract Outside of Agency Boundaries).

4.2.2 Except for the specific situations exempted by Government Code Section 56134, a public agency may provide new or extended services pursuant to a fire protection contract that meets the above-defined thresholds only if it first requests and receives written approval from the Commission.

4.2.3 Public agencies shall consult with the Executive Officer to determine whether fire protection contracts or agreements are subject to Commission review. Pursuant to Government Code Section 56134 and Mendocino LAFCo policy, the following contracts and agreements are exempt from LAFCo review:

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- (a) Renewal of existing contracts, unless the renewal included amendments or the inclusion of new territory that triggered the 25% change in service area or employment status.
- (b) Ambulance service agreements.
- (c) Pre-hospital emergency medical services.
- (d) Mutual or automatic aid agreements.
- (e) Subordinate or subsidiary fire protection activities including, but not limited to the following: pre-planning, subdivision review, use permit review, administrative permit review and inspections; fire alarm system plan review and inspections; defensible space inspections and enforcement; business/occupancy inspections in existing structures; vehicle maintenance and repair; sharing of management or other personnel between or among multiple agencies; sharing or loaning of equipment or property between or among multiple agencies.
- (f) Cooperative agreements with the California Department of Forestry and Fire Protection, pursuant to Sections 4143 and 4144 of the Public Resources Code.

4.2.4 Fire Protection Contracts and Agreements, except those determined to be exempt from LAFCo review, shall be considered using the following procedures:

- (a) A request by a public agency for Commission approval of new or extended services provided pursuant to a fire protection contract shall be made by resolution of application and include all information regarding proposed services and financial information as required by Government Code Section 56134.
- (b) The Commission will review proposals for consistency with the required findings of 56134(h)(2)(i) and (j), as well as the overall purposes of LAFCo that encourage the efficient provision of government services. Notably, the Commission shall not approve an application for approval of a fire protection contract unless the Commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or extended fire protection services outside its jurisdictional boundaries.