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**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)**  
**EXECUTIVE OFFICER'S REPORT**

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**AGENDA ITEM NO. 11**

**DATE:** September 10, 2014

**TO:** Fresno Local Agency Formation Commission

**FROM:** David E. Fey, AICP, Executive Officer 

**SUBJECT:** DISCUSSION AND DIRECTION REGARDING MUNICIPAL SERVICE REVIEW POLICIES

**RECOMMENDATION:** PROVIDE POLICY DIRECTION

**Executive Summary**

Pursuant to the Commission's August 13, 2014 direction, staff presents policy options regarding performance of Municipal Service Reviews (MSR). Staff has reviewed MSR policies from various San Joaquin Valley LAFCOs and recommends that the Commission consider the analysis in this report and any testimony and communications made during the public hearing, and direct staff to:

1. Develop a list of "Municipal Services;"
2. Use this list of services to segregate LAFCo local agencies into groups to assist in the level and/or frequency of the MSR, including consideration of SOI updates, and whether the agency provides municipal services;
3. Use these types to develop a tiered MSR review process for the various types of agencies; and
4. Provide other direction as deemed necessary by the Commission.

**Background: Function of the Review of Municipal Services**

As noted in "*Growth Within Bounds*" the report of the Commission on the Local Governance for the 21st Century, which served as the foundation for Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), Government Code Section 56000 *et seq.*,

"The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts within a geographic region. The Commissioners believe that there clearly needs to be an ongoing examination of the efficiency of governmental services, and that LAFCO is the appropriate agency to oversee this review. Where district consolidations or absorption of district functions into general purpose local governments will improve efficiency or transparency of service delivery, they should be aggressively pursued. Consolidating districts solely for the sake of reducing their numbers, however, is a disservice to the citizens who desire the services provided."

CKH (GC §56430), states that in order to prepare and update a Sphere of Influence (SOI), LAFCOs are required to first conduct a municipal service review of the municipal services provided in the county or other appropriate designated area. The Municipal Service Review (MSR) process is a comprehensive assessment of the ability of existing government agencies to effectively and efficiently provide services to residents and users. The form and content of the MSR is governed by requirements of the Act and augmented by the California Office of Planning and Research's *Local Agency Formation Commission MSR Guidelines* (Guidelines), published in August 2003. The deadline for completion of each LAFCo's MSRs was established as "On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence." (CG §56425).

As part of its review of municipal services, each LAFCO is required to prepare a written statement of its determination with respect to each of the following:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

### **Fresno LAFCo's Experience with MSRs**

The first generation of Fresno LAFCo's MSRs, completed in by a combination of staff and consultants, was conducted quickly in order to comply with the deadline established by the Legislature. Though these MSRs complied with the CKH, it was recently determined that their value can be improved, and can more closely follow the legislative intent, by a more deliberate and thorough approach to performing MSRs.

In response, the Commission approved the current fiscal year budget and work program, recognizing that its most prevalent and consistent 'product' since 2000 has been its Municipal Service Reviews (MSRs). Another influence to consider is that despite the fact that MSRs are essential to SOI updates or amendments, Fresno LAFCo's MSRs have largely initiated by LAFCo rather than as requested by local agencies. For example, of the 190+ MSRs approved by LAFCo for its 15 cities and 133 special districts (some on their second updates), only five were performed to support sphere amendments requested by the local agency, 14 resulted in recommendations for sphere amendments based on the analysis alone, and 171 reaffirmed existing spheres.

Currently, Fresno LAFCo's adopted policies reflect the minimal requirement of the existing law (GC §56430), which states that in order to prepare and update a Sphere of Influence (SOI), LAFCOs are required to first conduct a municipal service review of the municipal services provided in the county or other appropriate designated area.

LAFCo's "ongoing examination of the efficiency of governmental services," as noted in *Growth Within Bounds*, has been improved by its focus of staff resources on MSRs. Further progress in this field can be achieved by additional examination of the need and frequency for special district's MSRs and by evaluating the policies and practices of other LAFCOs.

### **Defining Municipal Services**

The term "municipal services" generally refers to the full range of services that a public agency provides or is authorized to provide. The definition is somewhat modified under CKH, however, because LAFCO is only required to review services provided by agencies with LAFCo-approved SOIs. Therefore, general county government services, such as courts and social services, are not required to be reviewed. Furthermore, the Commission has the discretion to determine that a "District" is not a District subject to meeting the criteria identifies in GC §56127 and §56128.

According to *Growth Within Bounds*, municipal type of services is identified as "Municipal services include law enforcement, fire protection, parks, recreation programs, water, sewer, trash collection, planning and building inspection. The cost of providing services to unincorporated areas varies from

county to county, based largely on the portion of the county that is outside cities and the extent of urbanization in unincorporated areas.”

Staff concludes that not all special districts provide ‘municipal services.’ The periodic service review of these types of districts can be adjusted to be performed less frequently, or—in the absence of issues of concern—by a more high-level review.

### **MSR Policy Options**

In order to examine MSR efficiency measures, and the appropriate policy options to achieve them, staff has reviewed the policies of other San Joaquin Valley LAFCoS adopted to conduct MSRs.

**1.0 Adopt OPR MSR Guidelines.** Several LAFCoS (San Joaquin LAFCo<sup>1</sup>, Kings LAFCo<sup>2</sup>, and Mariposa LAFCo<sup>3</sup>) have simply adopted policies to reference OPR’s August 2003 MRS guidelines.

**Preliminary assessment:** While compliant with CKH, the OPR guidelines do not provide the degree of latitude that staff is seeking to best use the Fresno LAFCo’s limited staff resources. And having been written relatively close to the adoption of CKH, the Guidelines do not reflect discoveries of the state’s many LAFCoS in implementing the statute.

**2.0 Create “Tiers” of Special Districts for the MSR Process.** Other LAFCoS have tiered their MSR review process depending on the type of local agency/special district:

Stanislaus LAFCo recognizes that cities and special districts require slightly different approaches to MSRs and SOI documents. Cities are municipal service providers that are generally created to provide a full range of urban services to dense populations at relatively high standard levels. In contrast, most special districts, such as community services districts, sanitary districts, irrigation districts, and water districts can also provide municipal services, but generally on a smaller scale to unincorporated communities.

In recognition of this, Stanislaus LAFCo established different levels and types of services provided by the public agencies in Stanislaus County, and corresponding levels of MSRs;

- Level 1 MSRs are generally be less detailed and may not include all the factors in GC §56430, as some generally do not apply. They will include special districts providing non-municipal services, such as a cemetery, mosquito abatement, hospital, county service area, irrigation water, non-municipal flood and drainage control, and soil conservation districts.
- Level 2 will include a detailed review for those agencies associated with urban development and will include such services as water, sewer, police, and fire.”<sup>4</sup>

**Preliminary assessment:** Separating agency MSRs by their relative complexity is appropriate.

**3.0 Develop a Refined and agency-type specific MSR Policy.** Tulare LAFCo policies stipulate cities’ 20-year growth projections to ensure that the SOI continues to be up-to-date. Every five years the SOI is verified for any proposed amendments, the executive officer will contact the City to request either verify the current SOI or ascertain whether a SOI amendment is needed. Cities have an additional two years within which to reply to the executive officer’s request. After that period (seven years from the last SOI amendment), the existing Sphere of Influence shall be brought back before the Commission for certification as meeting the purpose and intent of the Policy.

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<sup>1</sup> San Joaquin LAFCo Policies and Procedures, Amended Dec. 14, 2014 Page 1, [http://www.sjgov.org/lafco/Policies/New%20Policy\\_Procedures/8%20MSR%20POLICIES%2012.14.12.pdf](http://www.sjgov.org/lafco/Policies/New%20Policy_Procedures/8%20MSR%20POLICIES%2012.14.12.pdf)

<sup>2</sup> LAFCo of Kings County, [http://www.kingslafco.com/Procedures/Lafco\\_Procedures.pdf](http://www.kingslafco.com/Procedures/Lafco_Procedures.pdf)

<sup>3</sup> Mariposa LAFCo Policy and Procedures, page 12-1, <http://www.mariposacounty.org/DocumentCenter/View/31619>

<sup>4</sup> Stanislaus LAFCo/Appendices-Section 8, page 7

Regarding special districts, Tulare LAFCo Special District policy states,

Should a period of seven years elapse from the time of adoption of a Sphere of Influence for a Special District without any subsequent amendments, the Executive Officer shall contact the Special District and the County Resource Management Agency to request confirmation that the existing Sphere of Influence includes sufficient areas to accommodate projected growth for twenty years. In the case of Special Districts, an unchanged Sphere of Influence will not be brought back before the Commission for certification and further amendments may be considered at any time after a period of five years from the last amendment has elapsed.<sup>5</sup>

**Preliminary assessment:** Similar to Stanislaus LAFCo's tiering, Tulare LAFCo also seeks to modify its MSR frequency based on the inherent differences between cities and special districts. Given that the MSR is necessary for a SOI amendment, Tulare LAFCo also establishes a practice to account for times when a special district's SOI will not be amended.

## **Conclusion**

Staff has reviewed MSR policies from various San Joaquin Valley LAFCOs and concludes that each of those LAFCOs has established distinct and viable policies that comply with GC §56430 (*MSR statute*) within the framework permitted by GC §56300 (*...each commission shall establish written policies and procedures...*). The Fresno LAFCo's current policies can be brought to a more contemporary standard of performance by taking into account lessons learned from its first 'generation' of MSRs as well as the experiences of other LAFCOs.

Note that amending the MSR policies this does not preclude the LAFCo from conducting other special studies under GC §56378 (*In addition to its other powers, the commission shall initiate and make studies of existing governmental agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities*) nor would the Commission be prevented from offering assistance, guidance, and other forms of support to local agencies.

Staff therefore recommends that the Commission consider the analysis in this report and any testimony and communications made during the public hearing, and direct staff to:

1. Develop a list of "Municipal Services;"
2. Use this list of services to segregate LAFCo local agencies into groups to assist in the level and/or frequency of the MSR, including consideration of SOI updates, and whether the agency provides municipal services;
3. Use these types to develop a tiered MSR review process for the various types of agencies; and
4. Provide other direction as deemed necessary by the Commission.

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<sup>5</sup> Tulare LAFCo Policies and Procedures, <http://co.tulare.ca.us/lafco/>