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

AGENDA ITEM NO. 7

DATE: November 4, 2015

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

BY: George Uc, LAFCo Analyst

SUBJECT: Annual Report on the Municipal Service Review Policy

RECOMMENDATION: Receive Report and Provide Direction as Necessary

Executive Summary

On November 5, 2014, the Commission approved the Municipal Service Review Policy adding Section 107 to the LAFCo Policies, Standards, and Procedures Manual. The MSR Policy provides direction for the implementation of the Commission's MSR Program. This report provides a one year overview of the Commission's MSR Program and discusses concerns observed with local agencies.

While many local agencies have productively participated in the development of their MSRs, a majority of the Level 3 special districts have not complied with staff's request for public information. Staff discusses its option to compel special districts to share their public records, including actions pursuant to the California Public Records Act (Government Code Section 6250 *et seq.*).

Staff recommends that a copy of this report be provided, for informational purposes, to the Fresno County District Attorney's Public Integrity Unit. The Unit's mission is to investigate and where appropriate, prosecute, those public officials or public employees who commit crimes relating to their official duties, including but not limited to violations of the Brown Act, Elections Code or Political Reform Act.

Background on the MSR Policy

The Cortese-Knox-Hertzberg Local Government Reorganization CKH of 2000 (CKH) §56300 (a) encourages LAFCOs to establish written policies and procedures and exercise their powers pursuant to these policies in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands and agricultural lands within those patterns. Section 56430 of the CKH requires LAFCOs to "conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission." This service review is now known as a Municipal Service Review, or MSR.

The fundamental value of the MSR is that it is a 'governance audit' required by the Legislature to evaluate the service delivery performance of a local agency. All of LAFCo's local agencies

had their initial MSR completed in 2007. In evaluating these earlier MSRs, staff determined that their usefulness to the commission and the subject local agency could be enhanced if LAFCo resources were redirected on a more complete "MSR Program." In its FY 14-15 budget, the Fresno LAFCo established such a program to focus on MSRs as a primary activity of the Commission. A LAFCo analyst was hired to:

- Better manage the project's start-up by establishing earlier outreach and coordination with local agencies;
- Improve data collection process to ensure higher-quality data is available up front to avoid extensive revisions to drafts that were based on out-of-date or inaccurate data provided by the local agency;
- Establish more productive relationships with local agencies that support more consistent project development;
- Build a better-informed constituency served by the subject agency; and
- Develop more useful "products" by enhancing the MSR's analytical quality and including a wider scope of analysis that takes into account the interrelationship of the subject agency to other agencies.

As almost all MSRs are now developed by LAFCo staff, relationships are established between LAFCo and the subject local agency and this sharing of expertise becomes an investment that will benefit LAFCo and its local agencies into the future.

In furtherance of the MSR Program, on November 5, 2014, the Commission approved the Municipal Service Review Policy ("Policy") which added Section-107 Municipal Service Review to the LAFCo Policies, Standards, and Procedures Manual. The goal of the Policy is to independently 1) evaluate local agencies, 2) provide recommendations to encourage effective and efficient municipal service delivery, and 3) build and maintain effective relationships between LAFCo and local agencies.

The Policy established two types of local agencies:

- Municipal Local Agencies (MLA): Cities or special districts that provide municipal services that generally include municipal water, sewer treatment, parks and recreation, public facilities, public safety, police protection, and fire suppression; and
- Non-Municipal Local Agencies (NMLA): Special districts that provide services however these services do not in themselves facilitate or induce growth. Non-municipal local agencies generally include cemetery districts, resource conservation districts, California water districts, irrigation districts, memorial districts, reclamation districts, and hospital districts.

The Policy also established three levels of MSRs:

- Level 1 MSRs provide a detailed review of *cities* and all municipal services provided by that city.
- Level 2 MSRs examine *special districts that provide municipal services*. Level 2 MSRs evaluate special districts designated as Municipal Local Agencies by Policy; these MSRs may be less detailed than Level 1 MSRs.
- Level 3 MSRs are performed for *special districts that provide non-municipal services* that do not in themselves facilitate or induce growth.

All MSRs evaluate the Commission's adopted Sphere of Influence (SOI) for the local agencies using a 20-year planning horizon, meaning that the probable expansion of an agency's service area or city limit would occur within that period.

Actions Following the Approval of the MSR Policy

To implement the MSR Program, staff prepared an “MSR Questionnaire” (Attachment A) to guide agencies toward providing the information needed by staff to develop the MSR update. The MSR questionnaire asks the basic functioning (formation principal act) and operation questions of the agencies. Staff typically initiates contact with the agency by phone, email, or in person to develop an agency point of contact and facilitate timely completion of the questionnaire.

LAFCo has also developed additional supporting resources to assist with the implementation of the MSR Program. These resources are intended to educate and improve communication streams with local agencies under LAFCo’s authority. For example, on February 18, 2015, the Commission approved the Disadvantaged Unincorporated Communities (DUC) map database which established the DUC mapping methodology consistent with the Commission’s DUC policy. Under SB 244, (Wolk, 2011), the Commission is required to identify DUC locations when updating MSRs and SOIs for cities or special districts.

Another resource was the Commission’s inactive special districts workshop on February 18, 2015. This workshop focused on special districts’ compliance with their principal acts, accountability, the expense associated with inactive (unresponsive) special districts, and options available to the Commission to address districts’ inactivity. All special districts within LAFCo’s jurisdiction were invited to attend the workshop.

Finally, on March 11, 2015, the Commission approved the MSR update schedule. Staff prepared the tentative MSR update schedule for fiscal years 2014-15 through 2017-18 to implement the next generation of MSRs.

Experiences in Implementing the MSR Policy

To date, staff has completed or initiated 25 MSR/SOI updates under the Policy ranging between Level 1, 2, and 3 categories of MSRs (Attachment B, “MSR Update Status”). Since adoption of the Policy, the Commission has adopted five second-generation MSRs:

- City of Clovis
- Bald Mountain Fire Protection District
- Panoche Water District
- Raisin City Water District
- Orange Cove Irrigation District

Participation by Local Agency is Both Essential and Revealing

Staff notes that the majority of the local agencies contacted this year have not requested an update to their adopted SOIs, which would otherwise require a MSR. As a result, few of these agencies are initially prepared to participate at a productive level. However, once staff has met with the agency to describe the MSR process, and worked out a schedule that is compatible with the agency’s current activities, the agency generally works with staff in a productive manner. There are exceptions to this and they are described later in this report.

Staff observes cities and municipal service special districts generally comply with the Commission's MSR Program in a timely fashion and usually use personnel familiar with the role of LAFCo as the agency's point of contact.

LAFCo staff observes that local agency participation in the MSR is of great value because it reduces delays, demonstrates the agency's accountability and transparency, and assists LAFCo's evaluation of the service provided by the agency. It is also indicative of the subject agency's capacity to be accountable and transparent. Those agencies may have deficiencies that may fall in the purview of the activities that the DA/PIU may investigate.

Level 3 (for non-municipal special districts) is the single largest MSR category in the Commission's inventory of local agencies. There are approximately 63 independent special district identified as Level 3. Since adoption of the Policy, LAFCo staff has initiated 12 MSRs for Level 3 category special districts.

Special District Non-compliance with LAFCo

Special districts are responsible to operate within the scope of their respective principal act and adopted by-laws. They are public agencies with governing boards that establish policy, and staff that implement these policies. These local agencies are subject to GC section 56378(a) which requires compliance with the Commission's request for information in order to prepare MSR updates pursuant to GC section 56430 and GC section 56425(g).

Staff's experience during the first year of Policy implementation reveals many local agencies that have not complied with LAFCo's MSR Program causing delay in the Commission's MSR update process. LAFCo staff observes such non-responsive public agencies may frequently be experiencing inefficiencies in their agency's board, staffing, and/or public record management. This is of concern to LAFCo as it potentially indicates more serious fundamental problems with the public agency.

This is not the first time that some special districts failed to comply with LAFCo's information requests. Many of the 2007 MSRs prepared for non-municipal special districts noted that those agencies did not productively participate with the development of the MSR. The MSR Program depends on an agency's participation to achieve two purposes: provide information to the Commission, and assess the agency's accountability to the public.

Of the 12 Level 3 (non-municipal local agency) special districts notified of the MSR update, 11 agencies currently have either ignored staff's information requests or returned an incomplete MSR questionnaire. In the event that a special district is not actively participating, staff may resort to using secondary sources of information, such as County Assessor and the State Controller's Office, to draft MSRs. Though this may address many of the data needs of the MSR, staff's accommodation reflects a special district's reluctance to comply with a lawful request for public information.

Discussion Regarding Compliance with the MSR Program

MSR Program outreach is currently composed of the following actions:

1. Based on the approved MSR preparation schedule, at the beginning of the fiscal year (July) staff contacts the local agency by phone or email.
2. Staff establishes a point of contact and describes the MSR process to that person.
3. Staff emails the previous MSR and the Questionnaire;

4. Staff may set up a face-to-face meeting to go over this material and address any concerns or question by the agency, including agreed-to delays in the completion of the questionnaire requested by the agency;
5. If the materials are returned to staff, staff prepares an administrative draft MSR and shares this with the agency for its final review of the factual data in the document. This ADMSR may or may not contain the draft determinations and recommendations;
6. Once agency comments/corrections are received, they are incorporated into the draft MSR which is made available to the public for 21 days on the LAFCo website;
7. A public hearing is held to take action on the MSR.

Delays in the process have been caused to-date by one or more of the following issues:

- the lack of current agency contact information (step 1);
- an absence of an agency contact (step 2);
- delays in returning the material (step 5), and/or
- poor communication between agency staff and its board which resulted in significant recomposition of the MSR (step 6).

Staff is exploring its options to address unresponsive/uncommunicative local agencies including submitting to the local agency a draft complaint pursuant to the California Public Records Act (Government Code Section 6250 *et seq.*) putting that agency on notice of the LAFCo's intent to file a PRA lawsuit to compel that agency to provide the requested public records.

Fresno Local Agency Formation Commission (LAFCo)
Municipal Service Review Request for Information

Attachment A
Municipal Service Review Questionnaire

The Fresno Local Agency Formation Commission (LAFCO) is conducting a municipal service review of local agencies under its jurisdiction, pursuant to Government Code sections 56425 and 56430. A municipal service review identifies and addresses an agency's service delivery, compliance with its principal act, coordination with other agencies, and relationship of an agency's services to its sphere of influence. In accordance with the law, the review shall include a written statement of the LAFCO's determinations 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;
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

In addition to meeting legal requirements, this data-gathering effort will benefit agencies in several ways:

- Updated information on district leadership, management, websites, phone numbers, address and services provided to be included in the LAFCo's directory of local agencies;
- Standardization and digitization (GIS) of agency maps, which LAFCO will make available to the local agencies; and
- An opportunity for agencies to shape regional policy and plan for future growth.

In order to conduct the service review, the Commission requires various documents and information about your agency. Certain information is needed more quickly than other information, and certain service reviews are being staged with different timelines than others. Thus, the MSR program is established in a three-part Request for Information (RFI) format:

Part I: Agency Information Questionnaire

Due within four (4) weeks after receipt of the questionnaire.

Part I: Questionnaire issued to local agencies. Service requests legal maps, public documents, boundary and sphere of influence information. General service questions include agency management information, customer base, agency's planning horizon, and additional information.

Part II: Draft MSR sent to the local agency with responses incorporated
Within seven (7) weeks after issuance

Part II provides local agencies with the draft MSR with incorporated revisions based on questionnaire results. LAFCo staff may request additional information or clarification on matters that were not completely responded to in Part 1.

Part III: LAFCo Staff Review
Within eight (8) weeks after issuance

If adequate information has been provided in the draft MSR, or if services that the local agency provides are subject to additional in-depth review after completion of initial service review.

Part I: Agency information questionnaire is attached; local agencies have four weeks to complete the questionnaire. LAFCo staff will contact the local agency within three weeks after issuance of the questionnaire to check on its progress, or grant additional time not to exceed two weeks to complete the questionnaire.

Part II: Draft MSR issuance to Local Agency with revised information. The draft MSR will include new information based on the agency's response to the Part I questionnaire, include additional outstanding questions, provide comments, and seek information verification from the local agency.

Part III: Will provide staff opportunity to determine if adequate information has been provided by the local agency to prepare the seven written determinations for the Commission's adoption. Part III will be tailored to meet the requirements of the service review at the discretion of the Commission.

If you have questions or need assistance completing this questionnaire, please contact George W. Uc, Fresno LAFCO Analyst at (559) 600-0604 or guc@co.fresno.ca.us.

A. State the District's Legal Name:

B. Contact Information – Please identify the following contact information:

1. Does the District maintain an up-to-date website?
2. Where is the District's headquarters/office located?
3. Please complete the following Agency contact information:

- Primary Contact Name:
- Title:
- Address:
- Phone:
- Fax:
- Email:

- Alternate Contact Name:
- Title:
- Address:
- Phone:
- Fax:
- Email:

C. Governing Body / Public Accountability

1. When was the District created?
2. Has the District been consolidated or merged with another special district?
3. What is your agency's Principal Act (Law under which the District was formed)?
4. Does the District Board have adopted by-laws?
5. Does the District Board have adopted policies and procedures? Include copies.
6. How many members are on the District's governing body?
7. Are members of the Board elected or appointed?

8. Do members of the Board receive a per diem for attending meetings? List per diem amount and additional compensations that are included.
9. Please list current Board member names and term start and expiration dates:

Member Name, (position)	Appointed or	Elected Year & Expiration
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Member Name, (position)	Appointed or	Elected Year & Expiration
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Member Name, (position)	Appointed or	Elected Year & Expiration
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Member Name, (position)	Appointed or	Elected Year & Expiration
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10. Are regularly scheduled meetings held?
11. If regular meeting are not usually held: Please include the date of the most recent meeting held, identify reasons for not conducting regular board meeting.
12. Identify the location where scheduled regular meetings are held.
13. How is the public notified of upcoming meetings? I.e. posted notice location, web-site, newspaper, or mailed notices.
14. What opportunities are provided for public comment on items on the District's board meeting agendas?
15. What additional steps, if any, are taken to ensure District compliance with the Brown Act? i.e. Board Member Training and Education, California Public Records Act, or Conflict of Interest?
16. Does the agency have an active membership with a supportive association or organization? For example, California Special Districts Association (CSDA), California

Special District Alliance (CSDA), California Special District Risk Management Authority (CSDRM), or California Special District Finance Corporation (CSDFC) .

D. District Information

1. Does the District have a Mission Statement?
2. Does the District have a Master Plan?
3. Identify all services provided by the District (i.e. irrigation water, Fire Protection, Police Service, Water, Solid Waste Collection etc.).
4. Does the District provide services directly or does it contract for services with another agency?
5. If contracted with another agency what services does the contracted agency provide and duration of contract?
6. District Service Area (total acres or square miles) and Population Served?
7. How many employees does the District have on its current pay roll?
 - Full-time employees: _____
 - Part-time employees: _____
 - Reserve or Contracted employees: _____
 - Volunteer or Interns: _____
8. Describe the type of services the agency provides:
9. List positions/members of District senior management staff? District Manager, District Administrator, Chief, Assistant Manager, etc.
10. Is existing staff levels adequate to provide services within the District's service area?
_____ (Yes/No) If "No," how many additional staff members are needed, and of what job classifications?
11. Are services provided at the level desired by District, for example "residents per service provider, square area per Officer, or area served per resource availability?
_____ (Yes/No)

12. Please describe how the District determines or measures the adequacy of services it provides to its customers.
13. Is the District engaged in any activities or infrastructure projects designed to improve or maintain existing service levels. If yes, please identify.

E. Growth and Population Projections - Service Area

1. What is the size of the area served by the District?
2. Is the District service area coterminous with the sphere of influence?
3. Is there opportunity for the expansion of the District's sphere of influence and service area within the next 5 to 10 years? _____ (Yes/No) If "Yes", please describe foreseeable growth opportunity.
4. Does the District's existing boundary accommodate planned growth for the next 20 years? _____ (Yes/No)

If "No", please describe the agencies plan for growth. Does the agency anticipate a service area or SOI update in the next 5 years?

5. Approximately how many people (or residences/businesses/farms) are served by the District?
6. Does the District coordinate with the County or affected city on projects that may affect or influence District service levels? If yes, please explain.
7. If applicable, how does the District plan for increased/expanded services in the future?
8. If applicable, describe the existing and planned land uses in the District's service area. Do these land uses impact the District service levels? (For example: What impact would planned higher density residential uses have on the District?)
9. If applicable, what type(s) of impact(s) to the services provided does the District foresee as a result of growth in the District service area or surroundings?
10. Does the District provide any services outside of its boundaries? _____ (Yes/No) If "Yes", please describe.

11. Are there any overlaps in the District boundary with another District that provides similar services to customers? List names and service of overlapping Districts. If "Yes", describe. If "No", skip next question.
12. Could the areas served by the District be more efficiently served by another agency? Please describe.

F. Location of potential Disadvantaged Unincorporated Communities (DUCs) - Additional DUC information is provided on the Fresno LAFCo website:
<http://www.fresnolafco.org/DUC.asp>

1. Does the agency provide public facilities or public services related to sewer, municipal and industrial water, structural fire protection? If "No" skip to section G of the questionnaires. If "Yes", continue to complete this section.
2. Does the Agency have an adopted Urban Water Management Plan?
3. Does the Agency annex territory to extend public services? If "NO", skip to section G.
4. Only identify areas within the District Boundary/Jurisdiction: Are there areas currently not being served within the agency's sphere of influence that can be identified as an unincorporated community? For example, a cluster of residential homes, a rural neighborhood, area where multiple families reside, or an area where non-related people reside that is not currently served by the District. If "NO" skip to section G.
5. If yes, identify the nearest major street intersections or geographic description of unincorporated community.

G. Agency Financial Information

1. Does the District adopt an annual budget? Please provide a copy.
2. How are District funds generated, Tax Base, Rate Fee, User Fees, State or Federal Grants, etc.? Include fee schedule or documentation.
3. When were assessments or fees last revised, raised, or updated?
4. If the District charges fees for any of its services, please provide a copy of the District's fee schedule.
5. Are fees and other sources of revenue sufficient to cover operation costs of providing services?

6. Does the District currently have a balanced budget?
7. Does the District share any facilities or equipment with another agency? ____ (Yes/No)
If "Yes", please identify the facilities and/or equipment and the agency. If "No", please state if opportunities for sharing facilities with another agency exist.
8. Does the District own any vehicles or other infrastructure necessary for District operations? (For purposes of this questionnaire, infrastructure includes any facilities not already identified as well as equipment used to provide services.) Please describe.
9. Are District facilities and other infrastructure adequate to meet current District's needs? _____ (Yes/No) If "No", please describe what type(s) of additional facilities and infrastructure may be needed by the District.
10. Does the District have plans for new facilities improvements or upgrade any existing facilities/infrastructure?
11. Does the District have any outstanding debts? _____ (Yes/No) If "Yes", please state the amount of debt, describe what the debt is for, and when the debt is scheduled to be retired.
12. With what source of revenue is the District paying down its debt?
13. Has the District undertaken or identified any measures to avoid potential costs? Please describe.
14. Has the District identified or taken advantage of opportunities for shared, joint power agency agreements, or partnerships with other local agencies? Please describe.
15. Does or has the District outsource financial, administrative, and/or other functions? _____ (Yes/No) If "Yes" please describe, as appropriate.
16. Has the District considered consolidation with another agency? _____ (Yes/No) If "Yes", please describe. If "No" skip question 17.
17. Has the District identified any areas in which it could more efficiently run its operations? Please describe the areas and indicate what actions/measures are necessary to allow the District to achieve improved efficiencies.

H. Other

Please provide any additional relevant information you believe may help LAFCo in its Municipal Service Review. (You may use additional or separate sheets to provide this information)

- a. Does the agency have adopted policies, partnerships or programs to address the current California drought conditions? i.e. water conservation policies

Please provide copies of the following documents:

- District By-laws, Master Plans, Policies (If applicable)
- Current and prior year budgets
- Rate schedule, if applicable
- Mission statement (if applicable)
- Organizational chart
- Any long-range planning documents
- Any Joint Power Agreements (JPA) and contracts with other agencies
- Copy of the District's latest audit

Attachment B – MSR Update Status

Level 1 MSRs, Cities:

- City of Clovis MSR/SOI Revision – Adopted April 1, 2015
- City of Fowler MSR/SOI Update – In progress
- City of Fresno MSR/SOI Update – In progress
- City of Kingsburg MSR/SOI Update – Sent notice July 7, 2015
- City of Orange Cove MSR/SOI Update- Sent Notice July 7, 2015
- City of Sanger SOI/MSR Update– Sent notice July 7, 2015
- City of Selma MSR/SOI Update – In progress

Level 2 MSRs, Special Districts (Municipal Local Agencies):

Fire Districts

- Bald Mountain Fire Protection District MSR/SOI Update – Adopted June 3, 2015
- Fig Garden Fire Protection District MSR/SOI Update – In progress
- North Central Fire Protection District MSR/SOI Update – In progress
- Orange Cove Fire Protection District MSR/SOI Update- In progress

County Water Districts

- Malaga County Water District MSR/SOI Update – In progress
- Pinedale County Water District MSR/SOI Revision – In progress

Community Service Districts

- Lanare Community Service District – Independent reports in anticipation for MSR update

Level 3 MSRs, Special Districts (Non-Municipal Local Agencies):

California Water Districts

- Firebaugh Canal Water District MSR/SOI Update- In progress (limited district participation)
- Garfield Water District MSR/SOI Update – Initiated on December 12, 2014, Non-participating District, limited participation
- Mercy Springs Water District MSR/SOI Update- In progress
- Panoche Water District MSR/SOI Update - Adopted August 21, 2015
- Pleasant Valley Water District MSR/SOI Update – In progress
- Raisin City Water District MSR/SOI Update – Adopted October 14, 2015
- Tri-Valley Water District MSR/SOI Update- Initiated on December 12, 2014, Non-participating, limited participation

Irrigation Districts

- Hills Valley Irrigation District MSR/SOI Update – Initiated on December 12, 2014, Non-participating District, limited participation
- James Irrigation District MSR/SOI Update – In progress (on hold), new information
- Orange Cove Irrigation District MSR/SOI Update - Adopted October 14, 2015
- Tranquillity Irrigation District MSR/SOI Update – In progress

Resource Conservation Districts

- Sierra Resource Conservation District – In progress