

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## *AGENDA OF OCTOBER 24, 2007*

### *REGULAR MEETING*

**TO:** Ted Long, Chairman, and  
Members of the El Dorado County Local Agency Formation  
Commission

**FROM:** José C. Henríquez, Executive Officer

**AGENDA ITEM #7: PUBLIC HEARING TO CONSIDER AND ADOPT THE  
PROJECT PLAN FOR THE NEXT CYCLE OF MUNICIPAL  
SERVICES REVIEWS**

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#### **RECOMMENDATION**

Staff recommends that the Commission consider the following information on the various options for the next five-year municipal service review cycle and direct staff to implement the Commission's preferences. Staff's recommendations include:

1. Conducting MSRs on a per-agency basis;
2. Adopting a project plan schedule; and
3. Adopting three means of funding to complete these studies.

#### **REASON FOR RECOMMENDED ACTION**

The Cortese-Knox-Hertzberg Act requires the Commission to update the spheres of influence for all agencies every five years. Prior to such updates, however, the Commission must conduct municipal service reviews. Because the next five-year cycle begins on January 1, 2008, the Commission directed staff to recommend a project plan to handle the workload.

#### **BACKGROUND**

During the budget discussion at the February meeting, several Commissioners were concerned about the next five-year cycle for municipal service reviews (MSRs). There was no plan in place to complete these reports during the current cycle and the Commission expressed its unwillingness to enter the next cycle without instituting a methodical plan.

Over the past year, staff has researched various options in formulating and constructing a project plan. There are four components to the proposed plan: the Process, Scope,

Funding Mechanism and Timing. There will be a discussion on the proposed plan for each component, as well as a brief description of the process utilized during the current MSR cycle. Some aspects of the project plan have multiple options, requiring the Commission to consider them and select its preference. In some cases the retention of the current practice may be found to be the most feasible option.

### Process: The Parameters of Each MSR

#### *Current Practice*

Each MSR covers a particular service, or set of services, independent of the agencies; however, the required nine MSR factors are written on how each agency is providing said service(s). In addition, it appears that, initially, the intent was for each MSR to review the provision of a single service across a limited geographic region; in other words, the MSR would select a portion of the county to review, such as the west county region or the Georgetown Divide, and review how the chosen service was provided within that area of interest. This methodology was discarded for all but one MSR; all others utilized the entire county as the area of interest.

#### *Discussion*

The reasons for setting the MSRs in this county by service type is unknown; however, it may be due to a literal interpretation of Government Code §56430, which outlines the factors to analyze in each MSR. Section 56430 reads, in part:

**56430.** (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed....

As noted in the "Current Practice" section above, it appears the initial intent was to select a service and analyze its provision in a limited geographic area. However, only the first study, the *West County Parks, Open Space and Recreation MSR* (West County Parks and Rec MSR) was completed in this manner. All subsequent MSRs abandoned the regional approach and used the county as its defined area for two reasons. The first reason was to make the MSR more useful: if the intent was to determine how a service was provided, it was logical to review its provision countywide instead of in a regional manner. The second one was of practicality: the Commission was running out of time to conduct these studies and reviewing the services at once was the most efficient and cost-effective method.

Throughout the State, a minority of LAFCOs conducted their reports in a similar manner, but most opted to complete their MSRs on a per-agency basis (one review for any given agency) or by conducting a single, countywide review for all agencies and services.

#### *Analysis*

On the one hand, limiting each MSR to study one service independent of the agency provided the Commission with the opportunity to focus its review to the provision of one service across a region or across the county as whole. As such, the MSR pointed out

how consistently (or inconsistently) the agencies were exercising their duties for the given service.

While this process worked well for single-purpose agencies, from a practical standpoint, conducting these reviews in that manner was cumbersome for multi-purpose agencies. If the goal was to review how a multi-purpose agency was performing as a whole, it meant that the Commission or the public had to compile various reports in order to get a complete picture. Single-service MSR's also meant that multi-purpose agencies were required to provide information to LAFCO or its consultants multiple times. For example, El Dorado Hills Community Services District responded to four requests for information between 2003 and 2007; Cameron Park CSD replied to three requests during the same time span while El Dorado Irrigation District and Georgetown Divide Public Utility District each replied to two requests between 2006 and 2007. Multiple information requests added cost to the agency being reviewed. In addition, given the funding mechanisms available to some agencies, in a few cases it was difficult to isolate revenues and expenditures for a single service.

#### *Recommendation*

LAFCO staff recommends that the next set of MSR's be conducted on a per agency basis; that is, an MSR will cover all services provided by that agency. While the Commission and the public loses the ability to see how a service is provided across a given area, it gains the ability to gauge the performance an agency's for all of its operations. An argument can be made that members of the public are less interested on how a single service is being provided than an analysis on how well a *particular* agency is performing. At the same time, it would be easier for agency staff and LAFCO to conduct a more comprehensive MSR, since multi-purpose agencies would have to turn over information only once during the five-year cycle. The result would be a "one-stop shop" study for the Commission and the public on all aspects of an agency.

#### Scope of the Next Five-Year Cycle

##### *Current Practice*

The current scope is to analyze all of the agencies because this was the first cycle of the MSR/SOI as required in Cortese-Knox-Hertzberg Act of 2000. Half of the MSR's were ultimately outsourced to consultants at a cost of \$176,000. The first round of MSR's were instrumental in identifying which agencies had services that they were authorized to provide but were currently not providing.

##### *Discussion*

There was also a concern expressed by several officials whether there was a need to review all public agencies in the county, since several districts have low levels of activity. On the other hand, the Law required an updated SOI for all agencies by January 1, 2008. As a side benefit, these MSR's provide valuable background information on these agencies that the Commission would not have otherwise. The decision was made to study all public agencies and all services in the county.

It is unknown whether the original intent was to complete these studies in-house or outsource them; however, near the end of the current cycle, time constraints were certainly a factor. Staff workload, technical expertise plus the impending deadline of January 1, 2008 led to the Commission to outsource four MSR's.

A few LAFCOs determined that some services within the county would not be studied, such as cemetery services, mosquito abatement or resource conservation services. An even smaller number of LAFCOs plan on not studying certain districts in the next cycle, deciding that those agencies would not require a comprehensive review of their operations after this cycle.

### *Analysis*

The scope of the MSR project will drive the costs. If the Commission opts not to study certain districts, then the number of MSRs that have to be prepared is smaller. If certain services are omitted from review in the next cycle, then the information that must be covered for an agency is less. For example, there are 59 public agencies that provide a total of 24 different services in the county. If the Commission determines that cemetery services will not be studied in the next cycle, that means two districts will not be reviewed at all (Kelsey and Happy Homestead Cemetery Districts) and one service that will not be covered in the MSR for two other agencies (City of Placerville and County Service Area 9).

The scope should also encompass whether any MSR would be outsourced. One of the biggest drivers for outsourcing four MSRs during the current cycle was time; however, a secondary driver was that certain services demand a level of expertise that may be beyond LAFCO staff. The adoption of a five-year schedule, requiring staff to complete a certain number of specified MSRs per year, would correct the first driver. The second one may be more difficult to correct. While the first round of MSRs created a foundation of information to build upon, additional training may be required for staff to adequately address certain highly technical services.

### *Recommendation*

Staff recommends against a blanket exclusion from reviewing any specific agency or service. All agencies should be reviewed in the next cycle because, among other things, the current group of MSRs has set a benchmark for each one. Agencies that are not doing well should be monitored to establish the direction they are heading: Whether the noted difficulties were corrected, whether they are on their way to being corrected, or whether the situation is getting worse. A similar trend could be established for agencies that are performing adequately or were on firm financial footing.

On the issue of outsourcing studies, staff recommends against setting a preference at this time. Some issues of expertise may be addressed through training, allowing for MSRs to be conducted in-house for the next cycle. Other areas may also be easier to study because there is already a report setting benchmarks that could be followed. In the cases where staff could identify that neither benchmarks nor further training could assist it with writing the MSR, staff would bring the issue to the Commission for it to consider whether it should be outsourced.

### Funding Mechanism: Financing Each MSR

#### *Current Practice*

Currently the agency is absorbing almost all of the costs associated with the MSRs. The 2004 *West County Parks and Rec MSR* and the 2006 *Countywide Fire Suppression and Emergency Medical Services MSR (Fire MSR)* were completed in-house but were partially paid for by applicants whose petitions were dependent on the

completion of these studies. All subsequent MSR's were fully funded by LAFCO. In Fiscal Year 2006-2007, the Commission utilized its budgetary carryover and salary savings to fund the *Water, Wastewater and Power MSR*, *Streets and Highways MSR*, and most of *General Government Services I MSR* while the *Cemetery Services MSR* was initiated as part of staff's work plan. For Fiscal Year 2007-2008, the Commission raised the agency contributions to complete the MSR program by funding the remainder of *General Government Services I*, fully funding *General Government Services II MSR* and adding the *Resource Conservation Districts MSR* to its work plan.

While all of the costs were absorbed by the agency, the matter in which they were budgeted differed. Funds for outsourcing MSR's had their own budget line item. The costs for the MSR's conducted in-house were absorbed by the personnel salary budget line item.

### *Discussion*

Staff is currently researching whether the MSR requirement is an unfunded mandate and, if so, whether LAFCO could be reimbursed by the State. At this point, it is unknown whether this LAFCO would qualify for reimbursement; however, the fate of Senate Bill 167 (Negrete-McLeod) may be somewhat indicative of the State's inclination on reimbursement. This bill would have provided funding to LAFCOs to conduct MSR's and sphere of influence updates for the next cycle. This piece of legislation's fate is uncertain; it has been called a "two-year bill" but is considered dead by most Capitol insiders. Because of its introduction, the State is de facto admitting there is no funding mechanism currently in place for MSR/SOIs; on the other hand, its lack of momentum may signal that the State has no interest in funding these studies. Nevertheless, staff continues to explore this option until the State denies funding.

Other LAFCOs have taken the position that it is unlikely that the State would reimburse their agencies for this cost. Consequently, they instituted various funding mechanisms for this current cycle and, from all accounts, will retain them for the next cycle.

- Butte LAFCO – That Commission instituted an "MSR/SOI fee" into their fee schedule, similar to a "general plan fee" most counties and cities charge their applicants to fund their general plans. The calculation for determining these fees is to project the total costs, divide those costs by five years and divide the yearly cost by the workload (the yearly average number of proposals). A surcharge similar to this was recommended in 2004 for this LAFCO but was not pursued.
- Santa Cruz LAFCO – The Commission determined the reasonable level of an "MSR reserve" to fund the hiring of consultants for their reviews or any other study that may be needed. Santa Cruz LAFCO allocates funds every year to build up to the designated level across a five-year span. When this reserved is used, any monies left over are re-allocated to serve as the foundation for the next five-year reserve buildup.
- Stanislaus LAFCO – Cities may be required to prepare and fund their own MSR/SOIs on behalf of LAFCO.
- Yolo LAFCO – Any project requiring altering the scheduled date of an MSR/SOI may be required to pay for the full cost of that study.

### *Analysis*

The “total cost” of the MSR’s would have to be defined: would this number only encompass how much it costs to outsource them or the total cost of the MSR project (consultant costs for outsourced studies plus staff costs for preparing them in-house). If the latter, the Commission would have to determine whether it would budget for the in-house studies separately or continue the practice of absorbing it as part of personnel costs.

Setting that issue aside, while each of these funding mechanisms help offset the total cost of the MSR project, none of these mechanisms hold the “magic bullet” for funding these reports. In addition, all of these mechanisms have fiscal impacts to someone. The Santa Cruz and Stanislaus LAFCOs methods rely on agencies bearing the cost of the MSR’s, whether indirectly through the LAFCO budget or directly by requiring cities to prepare the project on LAFCO’s behalf. The Butte and Yolo LAFCOs methods hinge on new development to pay for the project; albeit, the former approach is structured so that all applicants pay an incremental amount. The current methodology of partial funding coming from applicants shifts the burden to a few project proponents annexing to a small number of active districts. On the other hand, those who fell in this category had large, well-funded projects.

### *Recommendation*

Staff recommends that the Commission direct staff to calculate the total costs to complete all MSR’s, regardless of whether they were conducted in-house or outsourced. The calculation of the in-house costs are possible because of the manner in which staff currently tracks its time. Staff recommends that the Commission institute a separate budget line item for MSR’s for budgetary transparency purposes. In-house MSR’s will be billed against that line item. However, another option would be to have two line items, one for in-house MSR’s and a second for outsourced MSR’s. Staff also recommends the adoption of a modified Butte-Santa Cruz-Yolo LAFCOs approach:

- The Commission retains the discretion to require developers with proposals that necessitate “bumping up” an MSR/SOI ahead of schedule (see below) to pay for the full costs. A fee for an MSR/SOI request has already been established in the LAFCO fee schedule; however, staff recommends tying this requirement with the MSR schedule listed below and with said fee.
- An incremental MSR/SOI fee is set and adopted for projects impacting active agencies, such as EID, Cameron Park and El Dorado Hills CSDs, fire districts and the City of Placerville. The logic is that these agencies have sufficient activity to generate enough fees to adequately fund for their MSR’s. MSR/SOI fees generated from petitions to these agencies will only be utilized on the studies for these agencies.
  - o Potential drawback: Any decrease in activity to any designated agency would undermine the Commission’s ability to fund the MSR.
- The Commission establishes a fund to cover the MSR’s for the less active districts. A funding level target is set and budgeted for each year so that reserves are built up incrementally. The issue of whether to set one of two funds would have to be addressed, however, since the “in-house fund” would be utilized to bill staff time

against MSR's completed in-house. If the Commission decides that the costs for in-house MSR's should be absorbed by the personnel cost budget line item, then setting up a funding level will determine the number and/or the types of MSR's that will be outsourced.

- o Potential drawback: LAFCO receives funding from contributions from almost all agencies in the county. Setting up a fund for less-active districts could create a situation where active agencies are indirectly contributing to this fund. On the other hand, more active districts would have their MSR's partially or fully funded by private parties.

Staff does not recommend adopting a policy similar to Stanislaus LAFCO that requires cities to fund their own MSR's. Among other reasons, staff believes that the circumstances behind that policy were unique to Stanislaus County; consequently, that environment would be difficult to replicate here. If the Commission considers the Stanislaus approach, then staff advises that large districts also be subject to this requirement along with the cities. Staff cautions that the potential drawback to the MSR fund discussed immediately above is also valid for this approach.

#### Timing: When Each MSR is Completed

##### *Current Practice*

No timeline was established in the current cycle. In 2002, the Commission considered the following criteria to attempt to prioritize the MSR's:

- 1 – SOI's are substantially deficient
- 2 – Services are provided by agencies affected by pending applications
- 3 – Services are deteriorating; there is an anticipated inability to provide services; there are identified adverse public health or environmental issues; or studies in-process
- 4 – Service reviews have been requested
- 5 – All of partial funding is available from outside agency resources
- 6 – Reviews are less complex and may be completed with minimal technical analysis

As time was running out, however, the Commission prioritized MSR's based upon the level of demand for certain services.

##### *Discussion*

Some LAFCO's established timelines for conducting MSR's. Most focused on cities first or on districts and cities that provide "core" municipal services (such as public safety, water and wastewater). After finishing these, they moved on to other types of services and/or smaller districts. Yolo LAFCO uses its MSR/SOI timeline as a funding mechanism. That Commission requires an applicant to pay the full cost of a sphere of influence amendment or update if the applicant's project necessitates bumping an agency out of order. This requirement is imposed on a case-by-case basis.

There should be some methodical process for deriving an MSR timeline. The criteria listed above provide a first step, but need further refinement. In theory, the first criterion would no longer apply since the Commission will have updated all spheres by early 2008. Other factors should still be included for consideration.

### *Analysis*

The intent behind the MSR/SOI requirement was to review each agency every five years. In addition, to make the project plan work, it will be necessary to space the 57 agencies across the next five years in an appropriate fashion to give staff sufficient time to conduct the studies. The problem is that the vast majority of agencies were studied near the end of the current cycle, meaning that some districts may need to be studied twice within five years. However, if in the next cycle the studies are completed on schedule, thereafter agencies should expect to hear from LAFCO only once every five years.

### *Recommendation*

Staff recommends that the Commission adopt the proposed schedule for the next round, found in Attachment A to this report, which was created utilizing the following criteria:

- 1 – The length of time that has passed since the agency was last reviewed;
- 2 – How critical the services provided by that are viewed agency;
- 3 – Region of the county;
- 4 – Services are provided by agencies affected by pending applications;
- 5 – Services are deteriorating; there is an anticipated inability to provide services; there are identified adverse public health or environmental issues; or studies in-process;
- 6 – Service reviews have been requested by the Commission, another agency or the public;
- 7 – All of partial funding is available from outside agency resources;
- 8 – Reviews are less complex and may be completed with minimal technical analysis;

Staff also recommends that the Commission adopt the following language to incorporate at the end of Policy 4.2:

“If, upon initial review, LAFCO staff determines that no sphere of influence update is warranted or necessary for an agency (that is, no applications have been filed or expected to be filed), the services provided by such an agency are not in demand and the agency has provided its services at or near the same level as the last immediate review, staff will recommend that the Commission determine that no municipal service review will be conducted for that agency in the current cycle and affirm said agency’s existing sphere.”

This language ensures that agencies with little or no activity that have experienced no significant change since the adoption of the current MSR would not have to go through another comprehensive review within five years.

### Attachments:

Attachment A:       Next MSR Cycle - Agency Schedule/Timeline