

EL DORADO COUNTY 2021–2022 GRAND JURY

Timeliness of Municipal Service Reviews

Case #21-10 – June 27, 2022

SUMMARY

The El Dorado County (County) Grand Jury investigated the El Dorado Local Agency Formation Commission (LAFCO) because it had not completed Municipal Service Reviews (MSRs) of the agencies within its jurisdiction, as required by State law. El Dorado LAFCO staff stated that several factors contributed to its inability to meet State law requirements, including the loss of staff and its reprioritizing of MSR preparation.

BACKGROUND

County residents and communities benefit when local agencies deliver services efficiently and effectively. MSRs are a vital tool in achieving that objective.

LAFCOs serve as the California State Legislature’s watchdog over city and special district boundaries. There is one LAFCO in each county, and its cost of operation is divided among the county, the cities, and special districts represented on LAFCO. LAFCO is the entity responsible for preparing MSRs and Spheres of Influence (SOIs). State law established LAFCOs in 1963 to improve regional planning in response to the growth in California's population and economy experienced after World War II. The requirement for LAFCOs to prepare SOIs was added in 1971. The preparation of MSRs was added to LAFCOs’ mandate with the passage of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

An MSR is a comprehensive assessment designed to better inform LAFCO, local agencies, and the community of a local agency’s ability to provide municipal services to residents and users in its jurisdiction. State law specifies the information required in an MSR for the area subject to review, including growth and population projections, present and planned capacity of public facilities, adequacy of public services, infrastructure needs or deficiencies, financial ability to provide services, and any other matter related to the effective or efficient delivery of services. MSRs attempt to capture and analyze information about governance structures and efficiencies of service providers, and to identify opportunities for greater coordination and cooperation between providers.

An MSR is required in connection with developing and updating an SOI for a local government agency. An SOI is a plan for the probable physical boundaries and service area of the agency. The SOI determines how fast and how much an agency may grow within a certain timeframe, providing a process to plan for the probable future boundaries outside of the agency's existing service area. An MSR is an essential precursor to this process because it provides a "snapshot" of the agency's current ability to provide services from which projections may be made. Depending on the findings, this may also lead LAFCO to take other actions under its authority.

METHODOLOGY

Documents Reviewed:

- Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.) [<https://calafco.org/resources/lafco-law/cortese-knox-hertzberg-act>];
- Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 [[Cortese-Knox-Hertzberg \(ca.gov\)](https://www.cortese-knox-hertzberg.ca.gov)];
- Solano County Grand Jury 2016-17 Report on the Solano LAFCO and the LAFCO's response;
- LAFCO Municipal Service Review Guidelines, Governor's Office of Planning and Research;
- El Dorado LAFCO Policies and Guidelines [[LAFCO Policies and Guidelines - El Dorado Local Agency Formation Commission \(edlafco.us\)](https://www.edlafco.us)]; and
- 50 Years of LAFCOs, A Guide to LAFCOs (3d Ed., Dec. 2013), Senate Governance and Finance Committee (<https://calafco.org/resources/cortese-knox-hertzberg-act/50-years-lafco-guide-lafcos>).

Websites Reviewed:

- El Dorado LAFCO www.edlafco.us;
- San Diego LAFCO www.sdlafco.org;
- Contra Costa LAFCO www.contracostalafco.org; and

- Madera LAFCO www.maderacounty.com/government/madera-lafco.

Interviewed:

- Current and former staff of El Dorado LAFCO
- Commissioners of El Dorado LAFCO.

DISCUSSION

LAFCOs perform many regulatory functions relating to the establishment, expansion, and reorganization of cities and special districts within their jurisdiction. Among LAFCOs' other powers is authorizing cities and special districts to contract to provide new services or to provide services outside of their existing boundaries.

One of LAFCOs' primary purposes in discharging these regulatory functions is to efficiently provide government services and encourage the orderly formation and development of local agencies based on conditions and circumstances. MSR, prepared in connection with SOIs, are vital to meeting that purpose.

State law specifies the composition of LAFCOs' Commissioners. In accordance with those provisions, there are seven regular Commissioners for the El Dorado LAFCO, consisting of two members from the County Board of Supervisors, two members from the incorporated cities in the County, two members from special districts in the County, and one member from the public. In addition, there is one alternate Commissioner from each of the membership categories. El Dorado LAFCO's jurisdiction includes the two incorporated cities as well as 47 special districts and six dependent special districts in the County.

El Dorado LAFCO completed an initial MSR for each of the 55 local agencies within its jurisdiction prior to January 1, 2008. State law requires LAFCOs to prepare SOIs every five years thereafter, as necessary. The Grand Jury could find no definitive interpretation of "as necessary." To prepare or update an SOI, State law specifically requires LAFCOs to complete a review of the municipal services provided by the subject agency.

El Dorado LAFCO developed a project plan for preparing MSRs during subsequent review cycles. This plan divided the agencies into the following categories: (1) those for which an MSR would be prepared each cycle; (2) those for which an MSR would be prepared based on a scoring system that considered the agency's previous issues and activity levels, and (3) those for which no MSR would be prepared. The Grand Jury could find no justification for not preparing an MSR.

El Dorado LAFCO completed all MSR's according to its project plan during 2008 - 2013. Thereafter, El Dorado LAFCO chose to extend the MSR cycle from 5 to 8 years, citing a change to State law, making the next cycle's timeframe 2013 - 2021. The referenced change in State law was the adoption of Senate Bill 375 in 2008. Senate Bill 375 is focused on reducing greenhouse gas emissions and changed the period for regional transportation and Housing Element updates from five years to eight years. Regional transportation and Housing Element plans are provided to LAFCO as input for MSR's. LAFCO law, specifically Government Code §56425 which sets a five-year timeframe for MSR's, was not updated or changed. The Grand Jury could find no justification for El Dorado LAFCO's decision to change the MSR cycle from five to eight years.

According to its project plan, El Dorado LAFCO was required to complete MSR's for 55 agencies during this cycle. The Grand Jury could not find a consolidated status report of MSR's on the El Dorado LAFCO website. The Grand Jury received conflicting information on MSR's completed and MSR's outstanding. The Project & MSR Status Report, dated May 25, 2022, presented to the Commission is not consistent with the information from Grand Jury interviews. This illustrates the need for accurate information on the status of MSR's. It would be helpful if there is a status report listing the 55 agencies for which El Dorado LAFCO is responsible.

El Dorado LAFCO staff prepare MSR's or supervise their preparation by consultants. The authorized staff consists of a full-time Executive Officer, Assistant Executive Officer, Assistant Policy Analyst, and a part-time Administrative Assistant. The former Executive Officer left in July 2021, and since that time, the Assistant Executive Officer has served in that capacity on an interim basis while recruitment continues. The current El Dorado LAFCO staff consists of the Interim Executive Officer, Assistant Policy Analyst, and a part-time Administrative Assistant.

Prior to 2019, El Dorado LAFCO Commissioners made MSR preparation a low priority, therefore, some MSR's were not completed. Preparation of MSR's by El Dorado LAFCO staff has been suspended since the departure of the former Executive Officer in July 2021.

The policies and guidelines of El Dorado LAFCO contain provisions relating to the timely preparation of MSR's and the funding of its operations. Section 5.16 requires it to "prioritize service reviews" and to "identify funding resources as part of its annual work plan and budget hearing processes." Section 2.2.1 requires El Dorado LAFCO to "periodically review its fees and to adopt a fee schedule for the purpose of recovering [its operating] costs." Fees are recovered from cities, the County, and special districts.

El Dorado LAFCO policies and guidelines specifically address the efficient preparation of MSR's, requiring it to "attempt to minimize the number of required service reviews by clustering services or agencies as feasible and appropriate" (Section 5.6), to "work to

streamline service review processes, identifying certain methods for that purpose” (Section 5.7), and to “use existing information resources, technical support from the county, cities and special districts when available and adequate, staging or tiering of reviews, and similar strategies to reduce service review processing costs and timelines” (Section 5.8). Section 5.8 specifies the intent of its provisions is “to avoid unnecessary processing costs and processing time while producing high quality technical reviews.” In addition to these policies and procedures, El Dorado LAFCO Commissioners directed staff at its meeting on October 27, 2021, to contact Executive Officers of other LAFCOs to obtain information on streamlining the MSR process.

The Executive Officer position is currently vacant and has been since July 6, 2021. There are many tasks not being completed because the Commission has delayed decisions, including filling vacancies, setting priorities, and completing MSRs until the Executive Officer is hired.

FINDINGS

- F1. State law requires El Dorado LAFCO to prepare an MSR of a local agency in its jurisdiction when updating the government agency’s SOI.
- F2. Preparation of an MSR is important for the effective and efficient delivery of municipal services to the residents of El Dorado County.
- F3. In violation of its policy and guidelines, El Dorado LAFCO has not made MSR preparation a priority and has not completed MSRs as required by State law and its project plan.
- F4. El Dorado LAFCO changed the cycle for MSR preparation from five to eight years.
- F5. There is no status chart specifying the timeframe for MSR preparation of each agency.
- F6. El Dorado LAFCO has been without a permanent Executive Officer since July 6, 2021.
- F7. El Dorado LAFCO has four budgeted positions. Currently, only two and a half of the positions are filled, leaving one and a half positions vacant. This has had a direct negative effect on its ability to complete MSRs.

RECOMMENDATIONS

- R1. El Dorado LAFCO staff should present to the Commissioners a plan for the timely completion of MSRs and SOIs for the next cycle. The plan should be presented at a regular Commissioners' meeting by December 31, 2022.
- R2. El Dorado LAFCO should complete all MSRs that are delinquent by June 30, 2023.
- R3. El Dorado LAFCO should return to its MSR preparation cycle of five years.
- R4. El Dorado LAFCO should have an updated MSR status report on its website by December 31, 2022, that specifies when the last MSR for each agency was completed and when the next one is due.
- R5. El Dorado LAFCO should make hiring a new Executive Officer a high priority.
- R6. El Dorado LAFCO should hire staff for current and future vacant positions as quickly as possible.

REQUESTS FOR RESPONSE

This Grand Jury report is an account of an investigation or review. It contains findings and recommendations, and those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Please review How to Respond to an El Dorado County Grand Jury Report, a separate document included with this report.

The following responses are required in accordance with California Penal Code §933 and §933.05.

The Grand Jury requests El Dorado LAFCO respond to all findings and recommendations.