

## Policy and Procedures for the Review and/or Processing of Out-Of-Area Service Agreements by the Executive Officer

### I. PURPOSE

To establish the Commission's policy and procedural guidelines for 1) consulting with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review, and 2) reviewing, processing, and approving out-of-area service agreements in accordance with the provisions of Government Code §56133.

### II. POLICY STATEMENT

It is the policy of this Commission to delegate to the Executive Officer the authority to: 1) consult with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review and 2) review, process, and approve out-of-area service agreements not exempt under the provisions of Government Code §56133 to ensure that such agreements do not create growth opportunities without appropriate oversight. It is also the policy of this Commission to require that any such agreements not previously considered by this Commission be considered in connection with future applications for related changes of organization and not to unilaterally seek out and review out-of-area service agreements for compliance with G.C. §56133.

### III. PROCEDURAL GUIDELINES

A. The Executive Officer, within 30 days of receipt of a request for an OC LAFCO determination as to whether a city or district agreement to provide new or extended services outside its jurisdictional boundary is exempt from OC LAFCO review, shall:

1. Determine whether the agreement is exempt from OC LAFCO approval. The following agreements shall be exempt from OC LAFCO approval:
  - a. Agreements solely involving two or more public agencies where the public service to be provided by "Agency A" is an alternative to, or substitute for, a public service already being provided by an existing public service provider ("Agency B") and where the level of service to be provided by "Agency A" is consistent with the level of service contemplated by the existing service provider ("Agency B"). For purposes of this subsection, "already being provided" means the services are within the agency's ("Agency B") service area. "Contemplated" means: 1) the service level is anticipated in a master plan or some other long-range planning document of "Agency B", and 2) sufficient infrastructure and capacity exists by "Agency A" to provide the service.
  - b. Agreements for the transfer of non-potable or non-treated water.

- c. Agreements solely involving the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries, provided however, that agreements for the extension of surplus water service to a project that will support or induce development shall not be exempt from the provisions of this policy.
  - d. Agreements for an extended service that a city or district was providing on January 1, 1994.
  - e. Agreements involving local publicly owned electric utilities as defined by Public Utilities Code §9604, which do not involve the acquisition, construction, or installation of electric distribution facilities by a local publicly owned electric utility outside of its jurisdictional boundaries.
- B. For agreements determined not to be exempt from this policy, the Executive Officer, within 30 days of a request for OCLAFCO approval, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If the request is deemed incomplete, the Executive Officer shall immediately notify the applicant of that determination, specifying those parts of the request that are incomplete and an explanation of the manner in which the deficiencies may be made complete.
- C. Not more than 90 days from determining pursuant to a complete request that an out-of-area service agreement is subject to OC LAFCO review, the Executive Officer shall approve, disapprove, or approve with conditions the agreement for new or extended services, provided, however, that the Executive Officer shall approve or approve with conditions any such agreement only under the following conditions:
- 1. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and within its sphere of influence is in anticipation of a later change of organization.
  - 2. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and outside its sphere of influence is in response to an existing or impending threat to the public health or safety of the residents of the affected territory and both of the following requirements are met:
    - a. The applicant city or district has provided the Executive Officer with documentation of a threat to the health and safety of the public or the affected residents.
    - b. The Executive Officer has notified any alternate service provider, including any water corporation as defined in Public Utilities Code §241 or sewer system corporation as defined in Public Utilities Code §230.6 that has filed a map and a statement of its service capabilities with the Commission.

- D. If the Executive Officer disapproves the agreement or approves the agreement with conditions, the applicant may, within 30 days of the decision, request a reconsideration. This request must state the reasons for the reconsideration.

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**Last Reviewed:** 3/8/2023

**Last Revised:** Not Applicable