

Guidelines for Processing Applications and Evaluating Proposals

I. PURPOSE

To establish guidelines and standards to assist in the objective and timely processing of applications and evaluation of proposals filed with the Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.; the “Act”).

II. GUIDELINES

The Act requires the Commission to process and make determinations on all changes of organization and reorganization and establishes factors the Commission must consider when reviewing proposals. Government Code §56375(g) of the Act further requires that the Commission adopt written procedures for the evaluation of proposals and grants the Commission broad authority to set standards for the Commission’s review and consideration of proposals. Government Code §56652 authorizes the Commission to require that applications contain information the Commission deems pertinent to its evaluation of them.

The following guidelines are intended to provide guidance to applicants regarding the Commission’s processing and evaluation of proposals under the Act, especially with regard to circumstances and considerations unique to Orange County. Orange County is now largely urbanized, with existing cities and special districts providing the vast majority of municipal services to County residents. The Commission was established to encourage agencies to provide these services efficiently and economically.

These guidelines are not intended to supplant any provisions of the Act or other applicable laws or to preclude any Commission action which may conflict with these guidelines if a specific proposal warrants such action. These guidelines and standards incorporate by reference the factors identified in Government Code §56658 of the Act, which are required for evaluating proposals for changes of organization.

III. DEFINITIONS

Except as otherwise provided specifically below, the terms and phrases used herein shall have the meanings they have in the Act.

A. **Application** is defined by Government Code §56017.2 to mean any of the following:

1. A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the Commission

or Executive Officer. Once a resolution of application is deemed complete, a Certificate of Filing is issued, and the application is deemed a “proposal.”

2. A request for a sphere of influence amendment or update pursuant to Government Code §56425.
 3. A request by a city or district for Commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Government Code §56133.
 4. A request by a public agency for Commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Government Code §56134.
- B. **Certificate of Filing** is defined by Government Code §56020.6 to mean the document issued by the Executive Officer that confirms an application for a change of organization or reorganization has met submission requirements and is accepted for filing.
- C. **Change of Organization or Reorganization** is defined by Government Code §56021 to mean any of the following:
1. A city incorporation or disincorporation
 2. A district formation
 3. An annexation to a city or special district
 4. A detachment from a city or special district
 5. A district dissolution
 6. A consolidation of cities or special districts
 7. A merger of a city and a district
 8. Establishment of a subsidiary district
 9. The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.
- D. **Conflicting Proposals** are two or more proposals pending before the Commission that conflict or in any way are inconsistent with each other, as determined by the Commission.
- E. **Proposal** is defined by Government Code §56069 to mean a desired change of

organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued.

- F. **Subject Proposal** is the first of two or more related applications for a change of organization or reorganization for which a Certificate of Filing has been issued (i.e., the first application to be deemed a “proposal”).

IV. PROCESSING AN APPLICATION FOR A CHANGE OF ORGANIZATION OR REORGANIZATION

Part 3 of the Act provides for the Commission proceedings for a change of organization or reorganization (e.g., annexation, incorporation, disincorporation, consolidation.) Additionally, Part 3 authorizes the Commission to establish additional standards regarding the processing of these jurisdictional changes.

This section of the guidelines is intended to establish additional standards for the processing of applications by the Commission that support the efficient review, analysis, and consideration by the Commission.

A. Certificate of Filing

Applicants for a change of organization or reorganization must meet submission requirements established in the Act as well as Commission policies and procedures. Once these requirements are met, a Certificate of Filing will be issued by the Executive Officer deeming the application complete. Any application not deemed complete will be found incomplete and the applicant notified of the missing requirements. If the application remains incomplete for a period of six (6) months without substantial progress being made towards its completion, the Executive Officer will notify the applicant and affected agencies that the application is deemed inactive and will return any unused fees. If the applicant chooses to refile at a later date, new fees will be required.

B. Complete Proposals

Once a Certificate of Filing has been issued, the application officially becomes a proposal (Government Code §56069) and is scheduled for consideration by the Commission. When a proposal has been scheduled for hearing, no additional modification or amendment may be made to the proposal unless requested by Commission staff or the Commission’s board by majority vote. However, an applicant may withdraw its application prior to the closing of the scheduled hearing. Withdrawal of an application must be submitted in writing to the Executive Officer. If an application is withdrawn and resubmitted, the applicant must file a completely new application and associated fee.

C. Conflicting Proposals

In accordance with Government Code §56655, the Commission may determine the relative priority for conducting proceedings of two or more proposals pending before the Commission that conflict or in any way are inconsistent with each other as determined by the Commission. That determination shall be included in the terms and conditions adopted by the Commission.

In accordance with Government Code §56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or reorganization that includes any of these changes of organization until it has considered any conflicting proposal that was issued a Certificate of Filing within 60 days after the issuance of the Certificate of Filing for the subject proposal.

Additional procedures involving conflicting proposals are established in the OC LAFCO Policy and Procedures for Processing Conflicting Proposals.

D. Public Records

Applications filed with the Commission are considered public records. Requests for copies of an application filed with the Commission must be submitted to the Executive Officer in writing (or orally, with transcription by Commission staff) and will be made available for review in accordance with state laws and the Commission's Policy for the Public Review of OC LAFCO Records.

Preliminary staff reports, analyses, and recommendations prepared by Commission staff are not retained in the ordinary course of business and so are considered working-draft documents until published in final format in the monthly regular meeting agenda (See Government Code §6254, subdivision. (a)). Prior to final publishing, these documents are not available for public review.

V. CRITERIA FOR EVALUATING PROPOSALS

As it evaluates proposals, the Commission must take into account the required factors in the Act. The Commission shall also take into account the criteria and requirements below.

In addition to completing the submission requirements and prior to the Commission's scheduling an item for consideration by the Commission, the applicant must satisfy the requirements of both sections A and B below.

- A. The applicant must demonstrate that the proposed change of organization involving a city incorporation, district formation or dissolution, consolidation of cities or districts, merger of city and district, the establishment of a subsidiary district, or the establishment of new or different functions or class of services ("activation of latent powers"), or a reorganization including more than one of any

of these changes of organization, provides for more efficient or enhanced municipal service systems. The applicant must demonstrate this by providing the Commission with each of the following, with sequencing of these submittals as deemed appropriate by Commission staff:

1. A Municipal Service Review (Government Code §56430) conducted by the Commission during the most recent five-year MSR cycle or an MSR or special study conducted by the Commission that (a) analyzes the specific proposal contained in the application and (b) identifies existing deficiencies or alternatives to enhance efficiency within the municipal service systems;
 2. A detailed plan of services which clearly demonstrates that the agency has the capability to provide the service (or services) in a more cost effective and efficient manner than other alternative governance options; **and**
 3. Evidence that demonstrates that the agency has adequate funding to provide the service or services. The application must identify a permanent, dedicated source of funding for all proposed services. After an application is submitted, Commission staff shall prepare a detailed fiscal analysis of its own of all revenues and expenses. If it reveals an unaddressed shortfall, the Commission shall notify the applicant, and the applicant shall timely satisfy the requirements of this subsection.
- B. The applicant must demonstrate community or agency support of the proposed change of organization involving a city incorporation, district formation or dissolution, consolidation of cities or districts, merger of city and district, the establishment of a subsidiary district, or the establishment of new or different functions or class of services (“activation of latent powers”), or a reorganization including more than one of any of any of these changes of organization through such means as:
1. A petition signed by a substantial number of registered voters within the affected territory; *or*
 2. Substantially similar resolutions of applications adopted by two or more special districts proposing consolidation or reorganization of all or any part of the affected special districts into a single local agency. If this subsection (2) is met, in accordance with Government Code §56853(a), the Commission shall approve, or conditionally approve, the proposal; *or*
 3. A community workshop or charrette to inform the affected communities of the proposed change of organization or reorganization and to receive public input; *or*
 4. Results of a sound public survey; *or*
 5. Other evidence of community or agency support that the Commission may

deem reliable and appropriate.

- C. In order of priority, the following shall be the Commission’s preference when considering the extension or enhancement of municipal services to unincorporated territory:
1. Annexation to an existing city or district.
 2. Activation of an existing special district’s latent powers.
 3. Formation of a new agency.

The guidelines in this document do not apply to proposals filed by a city to annex an unincorporated island. The policy and guidelines for unincorporated island annexations can be found in the Commission’s “Policy and Procedural Guidelines for Addressing Unincorporated Small Islands.”

Originally Adopted: 2/10/2010
Last Reviewed: 3/8/2023
Last Revised: 2/08/2017