

# Policy and Procedural Guidelines for Processing Conflicting Proposals

## I. PURPOSE

To establish policy and procedural guidelines for reviewing, processing, and determining conflicting reorganizational changes that fairly and adequately consider alternatives without undue delay or obfuscation of the public benefit to be gained through timely processing of proposals.

## II. POLICY

In accordance with Government Code Section 56655, if two or more proposals pending before the Commission conflict or in any way are inconsistent with each other, as determined by the Commission, the Commission may determine the relative priority for conducting any further proceedings on those proposals. In addition to notifying affected applicants of its determination (see Section IV(A)), the Commission shall note its determination with terms and conditions in its final resolution on any one of the proposals it approves.

In accordance with Government Code Section 56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other conflicting proposal for a change of organization submitted to the Commission within 60 days of the first proposal's issued Certificate of Filing.

## III. DEFINITIONS

Except as otherwise provided specifically below, the terms and phrases used herein shall have the meanings they have in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq).

A. **Application** is defined by Government Code Section 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 Section 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 Section 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 Section 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 Section 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 function or classes of services, or divestiture of the power to provide particular functions or classes of services.

**D. Conflicting Proposal** is a proposal pending before the Commission that conflicts with or that is in any way inconsistent with a previously submitted proposal that has met submission requirements and is accepted for filing, as determined by the Commission.

**E. Proposal** is defined by Government Code Section 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. PROCEDURAL GUIDELINES

- A. *Notice of Conflicting Applications.*** When an application is filed that in any way conflicts with another pending application, the Executive Officer shall notify each applicant of the status of the conflicting applications and of any outstanding information, documentation, studies, fees, or service plans required to make each application complete.
- B. *Certification of Complete Applications; Subject and Conflicting Proposals.*** The Executive Officer shall issue a Certificate of Filing (COF) in accordance with State law for any application that is deemed complete. The first competing application deemed complete (i.e., the first to be deemed a “proposal”) shall be designated the “subject proposal.” Each subsequent application that is deemed complete and that conflicts or is in any way inconsistent with the subject proposal is designated the “conflicting proposal.”
- C. *No Conflicting Proposal Certified Within 60 Days.*** If no “conflicting proposal” is certified within 60 days of the issuance of a COF for the “subject proposal,” then the Executive Officer shall set a public hearing on the “subject proposal” within 90 days of issuance of the COF for the “subject proposal.”
- D. *Conflicting Proposal Certified Within 60 Days.*** In accordance with Government Code Section 56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any “conflicting proposal” issued a COF within 60 days after the issuance of the COF for the “subject proposal.”
1. If a “conflicting proposal” is issued a COF within 60 days of the issuance of a COF for a “subject proposal,” the Executive Officer shall, at the next meeting, inform the Commission that a “conflicting proposal” is also pending before the Commission and must be considered before the Commission may approve the “subject proposal.” In accordance with Government Code Section 56655, the Commission shall, at that meeting or as soon as it deems reasonably possible, determine the relative priority for conducting any further proceedings based on any of those proposals, by deciding the order in which it will consider the subject and conflicting proposals.
  2. Within 30 days after the meeting at which the Commission determines the order for considering subject and conflicting proposals, the Executive Officer shall set a meeting with the applicants who submitted the subject and conflicting proposals, as well as any other affected agencies, to inform them of the decision.

Once the Commission has set the priority for consideration of the proposals, the Commission may hold an information workshop on all the proposals 30 to 90 days prior to the first public hearing on any one of the proposals for purposes of comparing the proposals, their service plans, their financial data, and any other technical reports prepared to date by the applicants or the Commission.

- E. *Conflicting Proposal Certified After 60 Days.* If the Commission determines that a conflicting proposal is filed more than 60 days after the COF has been issued on a competing subject proposal, the Commission may either (1) continue consideration of the conflicting proposal in accordance with Government Code Section 56666(a) or (2) reject the conflicting proposal without prejudice or further analysis pending the Commission's final decision on the subject proposal.
  
- F. *Proposal Rendered Moot by Prior Approval.* If the Commission's consideration of a proposal is made moot by its prior decision on another competing proposal and the merits of the remaining proposal were considered as part of the prior proceeding, the Commission may reject the remaining proposal without further analysis, subject to applicable requirements for notice and hearing on the remaining proposal.
  
- G. *Continuances.* In accordance with Government Code Section 56666(a), the Commission may continue the hearing of a proposal from time to time but the hearing may not be continued beyond 70 days from the date specified in the original public notice of hearing on a proposal.

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