

**LOCAL AGENCY FORMATION COMMISSION OF
ORANGE COUNTY**

REGULAR MEETING AGENDA

**Wednesday, February 19, 2025
8:15 a.m.**

**County Administrative North (CAN)
First Floor Multipurpose Room 101**

400 W. Civic Center Drive, Santa Ana, CA 92701

Members of the public may access the audio live-streamed meeting at:

https://youtube.com/live/W0_ZlVnJ0_0?feature=share.

Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.

1. CALL THE MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION

(Communications received after agenda distribution for agenda items.)

5. PUBLIC COMMENT

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken by the Commission on off-agenda items unless authorized by law.

6. CONSENT CALENDAR

a.) January 8, 2025 – Regular Commission Meeting Minutes

The Commission will consider approval of the January 8, 2025 meeting minutes.

7. PUBLIC HEARING

No public hearing items scheduled.

8. COMMISSION DISCUSSION AND ACTION

a.) Policy for Indemnification of OC LAFCO by Applicants

The Commission will consider proposed amendments to the indemnification policy.

b.) Records Retention and Destruction Policy

The Commission will consider proposed amendments to the policies and procedural guidelines involving the retention and destruction of the agency's records.

c.) California Association of Local Agency Formation Commissions Membership Status

The Commission will receive an update on recent CALAFCO activities and discuss membership status for Fiscal Year 2025-26.

d.) LAFCO and Water Systems Consolidation Report Update

The Commission will receive an update on the stakeholder effort resulting from the report prepared by the University of California Berkeley, Division of Agriculture and Natural Resources.

9. COMMISSIONER COMMENTS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by the Commission majority.

10. EXECUTIVE OFFICER'S REPORT

Executive Officer's announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

There are no informational items or announcements.

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The next Regular Commission Meeting will be held on Wednesday, March 12, 2025 at 8:15 a.m. at the County Administrative North (CAN), First Floor Multipurpose Room 101, 400 W. Civic Center Drive, Santa Ana, CA 92701.

PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

- 1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.
- 2) **Audio Live Streaming:** The public may listen to the meeting live on YouTube using the link provided on the website homepage (www.oclafco.org). However, LAFCO cannot guarantee that the public's access will be uninterrupted, and technical difficulties may occur from time to time. The meeting will continue despite technical difficulties for participants using audio live streaming unless otherwise prohibited by State open meeting laws.
- 3) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at ccarter-benjamin@oclafco.org. Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at www.oclafco.org.

State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.

AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at www.oclafco.org. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

2025 MEETING AND EVENTS CALENDAR

Approved November 14, 2024

2025



January							April							July							October						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4			1	2	3	4	5			1	2	3	4	5				1	2	3	4
5	6	7	8	9	10	11	6	7	8	9	10	11	12	6	7	8	9	10	11	12	5	6	7	8	9	10	11
12	13	14	15	16	17	18	13	14	15	16	17	18	19	13	14	15	16	17	18	19	12	13	14	15	16	17	18
19	20	21	22	23	24	25	20	21	22	23	24	25	26	20	21	22	23	24	25	26	19	20	21	22	23	24	25
26	27	28	29	30	31		27	28	29	30				27	28	29	30	31			26	27	28	29	30	31	

February							May							August							November						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
						1					1	2	3						1	2							1
2	3	4	5	6	7	8	4	5	6	7	8	9	10	3	4	5	6	7	8	9	2	3	4	5	6	7	8
9	10	11	12	13	14	15	11	12	13	14	15	16	17	10	11	12	13	14	15	16	9	10	11	12	13	14	15
16	17	18	19	20	21	22	18	19	20	21	22	23	24	17	18	19	20	21	22	23	16	17	18	19	20	21	22
23	24	25	26	27	28		25	26	27	28	29	30	31	24	25	26	27	28	29	30	23	24	25	26	27	28	29
														31							30						

March							June							September							December						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
						1	1	2	3	4	5	6	7		1	2	3	4	5	6		1	2	3	4	5	6
2	3	4	5	6	7	8	8	9	10	11	12	13	14	7	8	9	10	11	12	13	7	8	9	10	11	12	13
9	10	11	12	13	14	15	15	16	17	18	19	20	21	14	15	16	17	18	19	20	14	15	16	17	18	19	20
16	17	18	19	20	21	22	22	23	24	25	26	27	28	21	22	23	24	25	26	27	21	22	23	24	25	26	27
23	24	25	26	27	28	29	29	30						28	29	30					28	29	30	31			
30	31																										

- OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)
Location: County Administrative North, First Floor Multipurpose Room 101, 400 W. Civic Center Dr., Santa Ana, CA 92701.
- No Scheduled Regular Meeting.
- Strategic Planning Workshop (9:00 a.m. to 1:00 p.m.)
Location: To be determined.
- Office closure due to legal holidays and flexible work schedule.
- 2025 CALAFCO Annual Conference - October 22 - 24, San Diego, CA.

DRAFT MINUTES

OC LAFCO REGULAR MEETING

Wednesday, January 8, 2025
8:15 a.m.

County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701

1. CALL TO ORDER

Chair Wagner called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:16 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Huang led the Pledge of Allegiance.

3. COMMISSION APPOINTMENT

Chair Wagner noted the recent Commission appointment and the Oath of Office was administered by Commission Clerk Cheryl Carter-Benjamin.

4. ROLL CALL

The following Commissioners were present:

City Members

Wendy Bucknum **(Vice Chair)**

Peggy Huang

Carol Moore **(Alt.)**

County Member

Donald P. Wagner **(Chair)**

Special District Members

Douglass Davert

James Fisler

Kathryn Freshley **(Alt.)**

Public Members

Derek J. McGregor

Lou Penrose **(Alt.)**

The following staff members and general counsel were present:

- Assistant Executive Officer Luis Tapia
- Policy Analyst I Aimee Diaz
- Commission Clerk Cheryl Carter-Benjamin
- General Counsel Scott Smith

**5. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION
(Received After Agenda Distribution)**

The Commission Clerk noted that no supplemental communication was received.

6. PUBLIC COMMENT

Chair Wagner requested public comments on any non-agenda items. The Commission Clerk noted that there were no requests to speak from the public.

Chair Wagner closed the hearing of public comments.

7. CONSENT CALENDAR

Chair Wagner called for requests to pull any of the consent calendar items for discussion. There were no requests from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Davert** motioned for approval of the consent calendar, and **Vice Chair Bucknum** seconded the motion.

7a. – November 13, 2024 - Regular Commission Meeting Minutes

7b. – Appointment Processes for OC LAFCO Expiring Terms and Vacancies

7c. – Fiscal Year 2024-25 Quarterly Financial Report (Second Quarter)

MOTION: Approve the Consent Calendar. (Douglass Davert)
SECOND: Wendy Bucknum
FOR: Douglass Davert, Wendy Bucknum, James Fisler,
Peggy Huang, Derek J. McGregor, Donald P. Wagner
AGAINST: None
ABSTAIN: None
MOTION PASSED: 6-0.

8. PUBLIC HEARING

Chair Wagner noted that there were no public hearing items scheduled for consideration by the Commission.

9. COMMISSION DISCUSSION AND ACTION

9a. – OC LAFCO Professional Services Agreement Update and One-Year Extension of Agreement with Davis Farr LLP

Assistant Executive Officer Luis Tapia presented the staff report and recommended actions for Commission consideration and noted that Jenniffer Farr from Davis Farr LLP was available to answer questions.

Chair Wagner called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item.

Chair Wagner called for a motion on the item. **Commissioner Davert** motioned to approve the staff recommended actions, and **Vice Chair Bucknum** seconded the motion.

MOTION: Receive and file the annual update on the professional services agreements; Approve the one-year extension with Davis Farr LLP and authorize the Executive Officer to execute the extension. (Douglass Davert)

SECOND: Wendy Bucknum

FOR: Douglass Davert, Wendy Bucknum, James Fisler, Peggy Huang, Derek J. McGregor, Donald P. Wagner

AGAINST: None

ABSTAIN: None

MOTION PASSED: 6-0.

9b. – Fiscal Year 2023-24 OC LAFCO Audited Financial Statements

Assistant Executive Officer Luis Tapia introduced Jennifer Farr, Partner with Davis Farr LLP, who presented an overview of the agency's audited financial statements for Fiscal Year ending June 30, 2024. Ms. Farr stated that an unqualified opinion was issued for the FY 2024-25 OC LAFCO audit dated November 15, 2024, which is the highest level of opinion financial statements can receive.

Chair Wagner called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Wagner** noted this is a receive and file report and requires no action by the Commission.

9c. – Fiscal Year 2024-25 Mid-Year Work Plan Update

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration.

Chair Wagner called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Wagner** noted this is a receive and file report and requires no action by the Commission.

9d. – Agreement with Kelly Associates Management Group for an Employee Classification and Compensation Assessment

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration and noted that William “Bill” Kelly, President of Kelly Associates Management Group LLC was available to answer questions.

Chair Wagner called for Commission discussion and public comments. There was no noted discussion from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Wagner** called for a motion on the item. **Vice Chair Bucknum** motioned to approve the staff recommended action, and **Commissioner Davert** seconded the motion.

- MOTION:** Approve the professional services agreement with Kelly Associates Management Group LLC for services referenced in the attached agreement and authorize the Executive Officer to execute the agreement. (Wendy Bucknum)
- SECOND:** Douglass Davert
- FOR:** Wendy Bucknum, James Fisler, Douglass Davert, Peggy Huang, Derek J. McGregor, Donald P. Wagner
- AGAINST:** None
- ABSTAIN:** None

MOTION PASSED: 6-0.

9e. – Appointment of 2025 OC LAFCO Officers

Chair Wagner called for nominations for the LAFCO Chair and Vice Chair for 2025.

Commissioner Davert nominated **Chair Wagner** and **Vice Chair Bucknum** to serve another term as Chair and Vice Chair. **Chair Wagner** called for any other nominations. There were no additional nominations, and the motion was seconded by **Commissioner Huang**.

MOTION: Appoint Commissioner Wagner to serve as OC LAFCO Chair for 2025 and Commissioner Bucknum as OC LAFCO Vice Chair for 2025. (Douglass Davert)
SECOND: Peggy Huang
FOR: Douglass Davert, Peggy Huang, Wendy Bucknum, James Fisler, Derek J. McGregor, Donald P. Wagner
AGAINST: None
ABSTAIN: None

MOTION PASSED: 6-0.

10. COMMISSIONER COMMENTS

Commissioners made general comments. **Commissioner McGregor** stated that the CALAFCO Board is meeting on Friday, January 10, to discuss the letters of concern submitted by numerous LAFCOs to the Board. He noted that an update would be provided during the next regular Commission meeting.

11. EXECUTIVE OFFICER’S REPORT

Assistant Executive Officer Luis Tapia provided an update on the teleconferencing capabilities of the Commission’s regular meetings. He noted that the Commission’s February regular meeting will be accessible to the public via live audio streaming on YouTube.

12. INFORMATIONAL ITEMS & ANNOUNCEMENTS

Chair Wagner noted that there were no informational items or announcements.

13. CLOSED SESSION

Chair Wagner and General Counsel Scott Smith noted that no closed session items scheduled for discussion by the Commission.

14. ADJOURNMENT OF THE REGULAR COMMISSION MEETING

Chair Wagner adjourned the Regular Commission Meeting at 8:45 a.m. to February 19, 2025.

Donald P. Wagner, Chair
Orange County Local Agency Formation Commission

ATTEST:

By: _____
Cheryl Carter-Benjamin
Commission Clerk

8a | Commission
Discussion

MEETING DATE: February 19, 2025

TO: Local Agency Formation Commission
of Orange County

FROM: Assistant Executive Officer

SUBJECT: Policy for the Indemnification of OC LAFCO by
Applicants

BACKGROUND

Periodically, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) is modified, requiring the Commission to amend an agency’s respective policy. During the 2024 legislative session, Senate Bill 1209, authored by Senator Cortese and signed by the Governor, modified the CKH Act by explicitly authorizing LAFCOs to require applicants to indemnify LAFCOs against litigation. The Commission adopted a support position on the bill. This report includes recommended amendments to the “Policy for the Indemnification of OC LAFCO by Applicants” to align with the implementation of Senate Bill 1209.

For ease of review, proposed amendments to the policy are indicated in redline format in Attachment 1 and are summarized in the table below.

Proposed Policy Amendments		
Section	Page	Amendment Summary
Section I: Background	1	Updated language for consistency with recent amendments to the CKH Act, which clarifies that any application submitted to the Commission should have a signed indemnification agreement by the applicant.
Section II: Policy Statement	2	Updated language for consistency with recent amendments to the CKH Act.
Section II: Policy Statement	3	Updated language to the indemnification agreement according to recent amendments to the CKH Act.

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Peggy Huang
City Member

Derek J. McGregor
Public Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

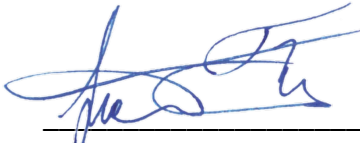
Scott Smith
General Counsel

RECOMMENDED ACTION

Staff recommends the Commission:

1. Adopt the Policy for the Indemnification of OC LAFCO by Applicants, as amended.

Respectfully Submitted,



LUIS TAPIA

Attachments:

1. Policy for the Indemnification of OC LAFCO by Applicants (Section 2, redline)
2. Policy for the Indemnification of OC LAFCO by Applicants (Section 2, as amended)

Policy for the Indemnification of OC LAFCO by Applicants

I. PURPOSE

To establish a policy requiring that all applicants to OC LAFCO, as real parties in interest, defend, indemnify, and hold harmless the Commission, its agents, officers, ~~attorneys,~~ and employees from any claim, action or proceeding against the Commission~~suits~~ brought to attack, set aside, void, or annul ~~challenge~~ the discretionary approvals of proposals by the Commission.

II. BACKGROUND

Applicants to the Commission for discretionary approvals of proposals for changes of organization are typically the real parties in interest and therefore have financial interest in the Commission's decisions on their applications. Applicants to OC LAFCO who are not the real parties in interest also have interest in the outcome of their applications. Therefore, OC LAFCO believes that it is fair and equitable for applicants and real parties in interest to defend, indemnify, and hold harmless ~~OC LAFCO~~the Commission, its agents, officers, and employees from any claim, action or proceeding against the Commission ~~suits~~ brought to attack, set aside, void, or annul ~~challenge~~ the discretionary approvals of their applications by the Commission. OC LAFCO also believes that the indemnification of OC LAFCO furthers good government practices and public policy by providing applicants and real parties in interest incentive to assist the Commission in complying with all laws, including those intended to ensure public rights.

III. POLICY STATEMENT

To further the good government practices and policies of the Commission and protect the integrity of the Commission's ability to make good government decisions, it is the policy of this Commission that:

- A. As a condition for processing a change or organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the Commission,~~As part of~~ any application submitted to the Commission, the applicant shall be required to submit a signed agreement to defend, indemnify, and hold harmless the Commission, its agents, officers, ~~attorneys,~~ and employees from any claim, action, or proceeding against the Commission ~~suits~~ brought to attack, set aside, void, annul ~~challenge~~ the discretionary approval of their application by the Commission in the form prescribed in "Exhibit A."
- B. In the event that a suit is brought to challenge the discretionary approval of a

proposal by the Commission, the Commission shall promptly notify the applicant and real party(ies) in interest of the existence of the legal challenge.

- C. The Executive Officer shall not issue a Certificate of Filing for an application if an indemnification agreement in the form prescribed in "Exhibit A" has not been executed and submitted to the Executive Officer by the applicant.

Originally Adopted: 2/10/1999

Last Reviewed: ~~3/8/2023~~ 2/19/2025

Last Revised: ~~Not Applicable~~ 2/19/2025

“EXHIBIT A”

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, and hold harmless, ~~and release~~ the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, ~~attorneys~~, and employees from any claim, action, or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, ~~attorneys~~, or employees.

An applicant who is a party to this agreement is not responsible to defend, indemnify, or hold harmless if OC LAFCO fails to notify the applicant or cooperate fully in the defense, and is not required to pay or perform any settlement relating to the agreement, unless the applicant approves the settlement.

Nothing in this agreement are to be construed to prohibit OC LAFCO from participating in the defense of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the Commission if OC LAFCO bears its own attorney’s fees and costs of the claim, action, or proceeding and the commission defends the claim, action, or proceeding in good faith.

Executed at _____, California on the day of _____, _____.

APPLICANT

By: _____

Title: _____

Mailing Address:

REAL PARTY IN INTEREST

(If different from Applicant)

By: _____

Title: _____

Mailing Address:

Policy for the Indemnification of OC LAFCO by Applicants

I. PURPOSE

To establish a policy requiring that all applicants to OC LAFCO, as real parties in interest, defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action or proceeding against the Commission brought to attack, set aside, void, or annul the discretionary approvals of proposals by the Commission.

II. BACKGROUND

Applicants to the Commission for discretionary approvals of proposals for changes of organization are typically the real parties in interest and therefore have financial interest in the Commission's decisions on their applications. Applicants to OC LAFCO who are not the real parties in interest also have interest in the outcome of their applications. Therefore, OC LAFCO believes that it is fair and equitable for applicants and real parties in interest to defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action or proceeding against the Commission brought to attack, set aside, void, or annul the discretionary approvals of their applications by the Commission. OC LAFCO also believes that the indemnification of OC LAFCO furthers good government practices and public policy by providing applicants and real parties in interest incentive to assist the Commission in complying with all laws, including those intended to ensure public rights.

III. POLICY STATEMENT

To further the good government practices and policies of the Commission and protect the integrity of the Commission's ability to make good government decisions, it is the policy of this Commission that:

- A. As a condition for processing a change or organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the Commission, any application submitted to the Commission, the applicant shall be required to submit a signed agreement to defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action, or proceeding against the Commission brought to attack, set aside, void, annul the discretionary approval of their application by the Commission in the form prescribed in "Exhibit A."
- B. In the event that a suit is brought to challenge the discretionary approval of a

proposal by the Commission, the Commission shall promptly notify the applicant and real party(ies) in interest of the existence of the legal challenge.

- C. The Executive Officer shall not issue a Certificate of Filing for an application if an indemnification agreement in the form prescribed in “Exhibit A” has not been executed and submitted to the Executive Officer by the applicant.

Originally Adopted: 2/10/1999

Last Reviewed: 2/19/2025

Last Revised: 2/19/2025

“EXHIBIT A”

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, and hold harmless the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, and employees from any claim, action, or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, or employees.

An applicant who is a party to this agreement is not responsible to defend, indemnify, or hold harmless if OC LAFCO fails to notify the applicant or cooperate fully in the defense, and is not required to pay or perform any settlement relating to the agreement, unless the applicant approves the settlement.

Nothing in this agreement are to be construed to prohibit OC LAFCO from participating in the defense of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the Commission if OC LAFCO bears its own attorney’s fees and costs of the claim, action, or proceeding and the commission defends the claim, action, or proceeding in good faith.

Executed at _____, California on the day of _____, _____.

APPLICANT

By: _____

Title: _____

Mailing Address:

REAL PARTY IN INTEREST

(If different from Applicant)

By: _____

Title: _____

Mailing Address:

8b | Commission
Discussion

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglas Davert
Special District Member

James Fisler
Special District Member

Peggy Huang
City Member

Derek J. McGregor
Public Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: February 19, 2025

TO: Local Agency Formation Commission
of Orange County

FROM: Assistant Executive Officer
Office Manager/Commission Clerk
General Counsel

SUBJECT: OC LAFCO Records Retention and Destruction Policy

BACKGROUND

OC LAFCO staff, in collaboration with general counsel, performs an annual review of the agency’s Records Retention and Destruction Policy. The Records Retention and Destruction Policy was originally adopted in 2006 and has experienced revisions since that time to conform with State law. This report includes recommended administrative amendments to the policy indicated in redline format in Attachment 1 and briefly summarized in the table below.

Table 1: Summary of Proposed Amendments

Policy	Pages	Summary of Changes
Records Retention and Destruction Policy	1-4, 7	Updated language to conform with state law by defining what is considered a “record” for OC LAFCO and clarifying procedures for permanent record retention based on the retention schedule. Government codes regarding permanent records retention were updated to conform with state law.

Table 1: Summary of Proposed Amendments (continued)

Records Retention Schedule	The schedule's language was updated to conform with state law regarding permanent record retention and to clarify procedures for the minimum retention period.
16-24	

RECOMMENDED ACTION:

Staff recommends the Commission:

1. Adopt the Records Retention and Destruction Policy, as amended.

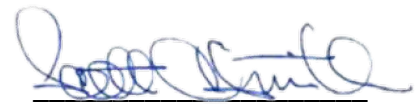
Respectfully submitted,



LUIS TAPIA



CHERYL CARTER-BENJAMIN



SCOTT SMITH

Attachments:

1. OC LAFCO Records Retention and Destruction Policy (Redline)
2. OC LAFCO Records Retention and Destruction Policy (As Amended)

Orange County Local Agency Formation Commission Records Retention and Destruction Policy

I. PURPOSE

The purpose of this policy is to provide guidelines to staff regarding the retention of records of the Local Agency Formation Commission of Orange County (OC LAFCO); provide for the identification, maintenance, and safeguarding of OC LAFCO records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and, ensure compliance with legal and regulatory requirements.

II. POLICY

It is the policy of this Commission ~~to that records must be kept indefinitely in original, photographic, or electronic form pursuant to Government Code section 56382. Documents that are not herein defined as "records" are not "records" pursuant to Government Code section 56382 and will be retained and disposed of according to the Records Retention Schedule in Exhibit B.~~ retain OC LAFCO documents and other records in accordance with the retention schedule established in the attached table. The schedule follows the minimum retention periods mandated by the California Government Code, the California Code of Civil Procedure, the Code of Federal Regulations, the Secretary of State Local Government Records Management Guidelines, and other legal authorities cited.

For purposes of compliance with Government Code §56382 and implementation of the Commission's Records Retention Schedule as set forth in Exhibit B, "records" include the following:

1. LAFCO Meeting Minutes
2. LAFCO Resolutions and Ordinances
3. Documents related to LAFCO proposals such as the:
 - a. Application, petition or other initiating documents
 - b. Assessor's Statement of Property Valuation
 - c. Agreement to Pay / Indemnification
 - d. Certificate of Completion
 - e. Certificate of Filing
 - f. Environmental Review/CEQA documents such as Initial Study, Exemptions, Notices of Completion and Determination, Comments and Response to Comments, Negative Declaration, mitigation monitoring, Statements of Overriding Consideration
 - g. Map and Legal Description

- h. Notices
- i. Order for Change of Organization
- j. Staff Reports
- k. Statement of Boundary Change
- l. Statement of Tax Rate Area

III. PROCEDURE

- A. The Commission Clerk completes and signs a “Destruction of Obsolete Records” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A.”

The Commission Clerk confirms that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Commission Clerk also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete. The Commission Clerk also verifies that the documents are not relevant to a lawsuit, a claim, a subpoena, an investigation, a litigation hold, a Public Records Act (Government Code §7920 - 7931 *et seq.*) request, an audit or similar proceeding, which is in progress or which can reasonably be anticipated.

- B. The Commission Clerk oversees the destruction of the obsolete documents, indicates the method of destruction on the form, signs the form, and retains the original signed form.
- C. The Commission Clerk will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
- D. The Commission Clerk will permanently retain a master log of all destroyed obsolete documents which includes the titles or brief descriptions of the obsolete documents that were destroyed, the method of destruction and the date of destruction.

IV. GENERAL GUIDELINES

- A. The Commission Clerk shall be responsible for the administration of this policy and shall assist all OC LAFCO personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment “B.”
- B. The following general guidelines apply to all OC LAFCO records.
1. The Commission may authorize the destruction of any duplicate records at any time. (Government Code ~~§26201 and §6020056382.~~)

2. Unless otherwise required by State or Federal law, the Commission may authorize the destruction of any original document which is more than two (2) years old if a photographic or electronic copy of the original record is made and preserved in compliance with Government Code section 56382, which shall be considered permanently retained pursuant to the Records Retention Schedule. ~~without retaining a copy of the document as long the retention and destruction of the document complies with the retention schedule as set forth in this policy.~~ (Government Code ~~§26202 and §60201~~56382.)
3. In addition to the retention periods required under this policy, the Commission shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Government Code §34090 and §60201, subd. (d)(10).)
4. Pursuant to Government Code §60201, the Commission shall not destroy any of the following records:
 - a. Records relating to the formation, change of organization or reorganization of the Commission.
 - ~~b. Ordinances and resolutions unless they have been repealed or have become invalid or otherwise unenforceable for five (5) years.~~
 - ~~c. Minutes of any meeting of the Commission.~~
 - ~~d.~~ b. Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two (2) years.
 - ~~e.~~ c. Records that are the subject of any pending request for records under the California Public Records Act (Government Code §7920-7931 *et seq.*), whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by the Commission.
 - ~~f.~~ d. Records relating to any pending construction that the Commission has not accepted or for which a stop notice claim may be legally presented.
 - ~~g.~~ e. Records relating to any non-discharged debt of the Commission.
 - ~~h.~~ f. Records relating to the title to real property in which the Commission has an interest.

~~i.g.~~ Records relating to any non-discharged contract to which the Commission is a party.

~~j.h.~~ Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.

~~k.i.~~ Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work.

~~l.j.~~ Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors.

C. Exceptions to Scheduled Destruction

Destruction of any record shall be postponed if that record is responsive to a subpoena, litigation hold or other request for preservation, a Public Records Act (Government Code §7920-7931 *et seq.*) request, an audit, or a claim filed against OC LAFCO. In addition, records that relate to any active litigation or potential litigation involving OC LAFCO shall be preserved until the litigation is resolved. OC LAFCO personnel who become aware of a subpoena, claim, Public Records Act request, etc., that affects records under their control shall use their best efforts, by any reasonable means available to them, to preserve those records. In such situations, OC LAFCO personnel shall contact the Commission Clerk regarding the affected records.

V. SPECIFIC GUIDELINES

A. Accounting Records

1. Accounting records include, but are not limited to, the following:

a. Source Documents

- Invoices.
- Warrants.
- Vouchers.
- Requisitions/Purchase Orders (attached to invoices).
- Cash Receipts.
- Claims (attached to warrants in place of invoices).
- Bank Statements.
- Bank Deposits.

- Checks.
 - Bills.
 - Various accounting authorizations taken from Commission minutes, resolutions or contracts.
- b. Journals
- Cash Receipts.
 - Accounts Receivable or Payable Register.
 - Check or Warrant Register.
 - General Journal.
 - Payroll Journal.
- c. Ledgers
- Expenditure.
 - Revenue.
 - Accounts Payable or Receivable Ledger.
 - Assets/Depreciation.
 - Warrants payable.
 - Construction.
 - General ledger.
- d. Trial Balance
- e. Adjusting Entries
- f. Statements (Interim or Certified – Individual or All Fund)
- Balance Sheet.
 - Analysis of Changes in Available Fund Balance.
 - Cash Receipts and Disbursements.
 - Inventory of Fixed Assets (Purchasing).
- g. Journal Entries
- h. Reversing Entries
- i. Payroll and personnel records include but are not limited to the following:
- Accident reports, injury claims and settlements.
 - Applications, changes or terminations of employees.
 - Earnings records and summaries.
 - Fidelity bonds.
 - Garnishments.
 - Insurance records of employees.

- Job descriptions.
- Medical histories.
- Retirements.
- Timecards.

j. Other

- Inventory Records (Purchasing).
- Capital Asset Records (Purchasing).
- Depreciation Schedule.
- Cost Accounting Records.

2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit (Code of Civ. Pro. §337). Published articles show retention periods of **four (4) to seven (7) years** as typical. However, the Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't Records Mgmt. Guidelines; Gov. Code §34090.)
3. In general, the Commission should retain original source documents that are detailed in a register, journal, ledger or statement **until audited plus four (4) years**. (Sec. of State Local Gov't Records Mgmt.) Certain source documents may be retained for a shorter period of time. Refer to the records retention schedule for specific accounting documents.
4. At any time, the Commission may destroy rough drafts, notes, working papers (except for audits) that are not retained by the Commission in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (e.g., "Post-It®" notes).
5. In addition to any required legal retention period, the Commission shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Government Code §14755, subd. (b); Government Code §subd. (d)(10))

B. Long-Term Debt Records

1. The Commission may destroy paid bonds, warrant certificates and interest coupons after **ten (10) years**. (Code of Civil Proc. §337.5.)
2. The Commission may not destroy any documents relating to any non-discharged debt. (Government Code §60201, subd. (d)(7).)

C. Commission Records

1. The Commission shall retain original records of the minutes of meetings of the Commission **indefinitely**. (Government Code §~~34090 and §6020156382~~)
 2. The Commission shall retain original ordinances and resolutions **indefinitely**. (Government Code §~~34090 and §6020156382~~.) However, ordinances or resolutions that have been repealed or are otherwise invalid or unenforceable may be destroyed after five (5) years. (Government Code §60201, subd. (2)(2).)
- D. Statements of Economic Interest (SEI) [Form 700] and Other Reports Filed Pursuant to the Political Reform Act (Government Code §81000 *et seq.*)
1. Filing officers shall retain original statements and reports for **seven (7) years**. (Government Code §81009 (c), (e).) After an original report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the original report or statement. (Government Code §81009, subd. (g).)
 2. Filing officers shall retain copies of statements or reports for **four (4) years**. The officer does not have to keep more than one copy of a statement or report. (Government Code §81009 (f).) After a copy of a report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the paper copy. (Government Code §81009, subd. (g).)
- E. Contracts
1. The Commission shall retain original contracts for **four (4) years** after completion of the contracts. (Code of Civ. Proc. §337.)
 2. The Commission shall retain contracts with any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for **ten (10) years** after the completion of the construction or improvement. (Code of Civ. Proc. §337.15.)
- F. Property Records
- The Commission shall retain original property records, such as title documents, **indefinitely**, or until the property is transferred or otherwise no longer owned by the Commission. (Government Code §34090 and §60201.)
- G. Payroll and Personnel Records

1. Payroll and personnel records include, but are not limited to, the following:
 - a. Accident reports, injury claims and settlements.
 - b. Medical histories.
 - c. Injury frequency charts.
 - d. Applications, changes and terminations of employees.
 - e. Timecards.
 - f. Job descriptions.
 - g. Performance or rating documents.
 - h. Earning records and summaries.

Records specifying amounts of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors must be retained for seven (7) years after date of payment. (Government Code §60201)

2. The Commission shall retain personnel files for **three (3) years** after an individual's employment terminates. (Labor Code §1198.5; 29 CFR 1627.3.)
3. The Commission shall retain medical records of employees who have been exposed to toxic substances or harmful physical agents for **thirty (30) years beyond the length of employment**. Such medical records shall include records made or maintained by a physician, nurse, or other healthcare personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Such medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc., which do not involve medical treatments, loss of consciousness, restriction of work or motion, or transfer to another job. (29 CFR 1910.1020; 8 Cal. Code Regs. §3204 (d)(1)(A)(B).)

For employees who are employed by the Commission for **less than one year**, the Commission does not need to retain the employee's medical records regarding exposure to hazardous substances if the Commission provides the employee with such records upon termination of employment. (Ibid.)

Routine medical records including first aid records for one-time treatment, observation of minor injuries, records relating to medical leave taken by employees with information including hours taken, notices, and policies, burns, splinters, etc., should be kept for the **length of employment plus three (3) years**. (29 CFR 825.500.)

4. The Commission may destroy personnel fidelity bonds **two (2) years** after separation. (Government Code §34090.) Wage garnishments must be retained while active until garnishment is satisfied, then retained until audited

plus **four (4) years** after separation. (Ibid.)

5. The Commission shall retain payroll records containing the name, address, date of birth, gender, job classification, hours worked, and regular and overtime wages for each employee for **three (3) years** beyond the length of employment and **seven (7) years from date of payment** (29 CFR Part 516.5; Labor Code §1174 and §1197.5; Government Code §60201.) Payroll registers listing labor costs by employee and program should be retained for a minimum of **seven (7) years from date of payment**. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. The Commission shall retain basic timecards or timesheets which are entered daily with the starting and stopping times of individual employees for a minimum of **three (3) years**. The Secretary of State Local Government Records Management Guidelines recommends retaining such documents for **six (6) years**. (29 CFR Part 516.6; Labor Code §1174; Sec. of State Local Gov't Records Mgmt. Guidelines.
7. The Commission shall retain employment applications and employment referral records and files for **two (2) years** after such records or files are created. (Government Code §12946; 29 CFR 1627.3.)
8. The Commission shall retain records regarding the race, gender, and national origin of each applicant and for the job for which such applicant applied for **two (2) years** from the date of the creation of the record or the date of the personnel action involved, whichever occurs later. The Commission may either retain the original documents used to identify applicants or keep statistical summaries of the collected information. (2 CCR §7287.0, subds. (b)(2), (c).)

H. Construction and Engineering Records

1. The Commission shall retain certain original construction records, such as bids, correspondence, and change orders, for **four (4) years** after project completion, unless the records pertain to a project which includes a guarantee or grant in which event they shall be retained for the **life of the guarantee or grant plus four (4) years**. The Commission shall retain as-built plans for any public facility or works as long as the facility exists.
2. The Commission may destroy unaccepted bids or proposals for public works after **two (2) years**. (Government Code §26202.1 and §60201.)
3. The Commission shall retain supporting documents on capital improvement projects, including bidder's lists, specifications, reports, plans, work orders,

schedules, etc., for **ten (10) years after project completion**. (Code of Civ. Proc. §337.15.)

- I. Exposure/Safety Records and Material Safety Data Sheets (MSDS).
 1. The Commission shall retain employee exposure records and exposure assessment records for at least **thirty (30) years**. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. §3204; 29 C.F.R. 1910.1020.)
 2. The Commission may destroy the material safety data sheet (MSDS) for a hazardous substance after the Commission stops using the hazardous substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for **thirty (30) years**. (8 Cal. Code Regs. §3204(d)(1)(B)(2); 29 C.F.R. 1910.1020 (d) (ii) (B).)
- J. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings
 1. The Commission shall retain recordings of **routine video monitoring** (e.g., building security recording systems) for at least **one (1) year**. After the one-year retention period, the Commission may destroy the video recording upon approval by the Commission. (Government Code §34090.6 and §53160.)
 2. Upon authorization of the Commission, recordings of telephone and radio communications maintained by the Commission may be destroyed after **100 days**. (Government Code §34090.6.)
 3. Video or audio recordings of Commission meetings made at the direction of the Commission, for whatever purposes, must be retained at **least 30 days after the meeting**. (Government Code §54953.5.)
 4. If the Commission keeps another record, such as written minutes, of an event (other than Commission meetings) that is recorded on video or digitally recorded, the Commission must keep the video recording of the event for **at least 90 days** after the occurrence of the event. **After 90 days**, the video recording may be destroyed or erased, upon approval by the Commission. (Government Code §34090.7 and §53161; 85 Ops. Cal. Atty. Gen. 256 (2002).)
- K. Records Retention Schedule

The "Records Retention Schedule" is attached to this policy as Attachment "B" and

is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time.

Originally Adopted: 2/8/2006
Last Reviewed: ~~3/13/2024~~ 2/19/2025
Last Revised: ~~3/13/2024~~ 2/19/2025

ATTACHMENT "A"

REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY

To: Records File
From: Commission Clerk
Subject: Destruction of Obsolete Records

The following obsolete records listed below were destroyed in accordance with OC LAFCO Records Retention and Destruction Policy.

DATE OF RECORD	DESCRIPTION OF RECORD

The obsolete records described above were destroyed under my supervision using the following method:

- Shredding
- Other (specify method)

I certify that such destruction meets the requirements of the Records Retention and Destruction Policy of OC LAFCO and all applicable requirements of State and Federal law.

Commission Clerk

Date of Records Destruction

ATTACHMENT "B"

RECORDS RETENTION SCHEDULE

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Accident/Illness Reports (OSHA Reports)	Not a public disclosable record: For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents: <ul style="list-style-type: none"> • Includes Material Safety Data Sheets (MSDS). • Does not include records of health insurance claims maintained separate from employer’s records; first aid records of one- time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination. 	GC 6254(c) 8CCR 32304(d)(1)(A)(B)	Duration of employment plus 30 years.
Accidents/Damage to OC LAFCO Property	Risk Management Administration.	GC 340901 CCP 337.15	10 years
Accounting Records – General Ledger	General Ledger.	GC 34090 CCP 337 Sec. of State Local Gov’t Records Mgmt. Guidelines	Until audited +4 years. Published articles show 4 - 7 years retention as typical. Sec. of State Guidelines recommends permanent retention.
Accounting Records – Permanent Books of accidents	Records showing items of gross income, receipts and disbursement (including inventories per IRS regulations).	26 CFR 1.60001-1(c) & (e)	Permanent
Accounts Payable	Journals, statements, asset inventories, account postings with supporting documents, vouchers, investments, invoices and	CCP 337 26 CFR 31.6001-1(e) (2). Sec. of State Local Gov’t. Records	Until audited +4 years. 7 years after date of payment.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	<p>back-up documents, purchase orders, petty cash, postage, OCERS reports, check requests, etc.</p> <p>Expense reimbursement to employees & officers; travel expense reimbursements or travel compensation.</p>	Mgmt. Guidelines recommendation	
Accounts Receivable	Receipts for deposited checks, coins, currency; reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.	26 CFR 31.6001 – 1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines recommendation	Until audited +4 years.
Affidavits of Publication/Posting	<p><u>Affidavits for</u> Legal notices for public hearings, publication of ordinances, etc.</p> <p><u>(Actual hearing notices must be retained permanently)</u></p>	GC 34090	2 years.
Agency Report of Consultants (FPPC Form 805)	Identifies consultants hired by OC LAFCO who must file Form 700.	2 CCR 18734. GC 81009(e)	7 years.
Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)	Report of tickets/passes; identifies persons who received ticket/passes and describes the public purpose for the distribution.	GC 81009(e)	Originals – 7 years.
Agency Report of Public Official Appointments (FPPC Form 806)	Report of additional compensation received by OC LAFCO officials when appointing themselves to committees, boards or commission of other public agencies, special districts, joint powers agencies or joint power authorities. Current report must be posted on OC LAFCO's website.	2 CCR 18705.5; GC 34090.5	Recommended retention; keep a copy of report for 2 years after removal from OC LAFCO's website.

ATTACHMENT 1

Agenda/Agenda Packets	Original agendas, agenda packets, staff reports, and related attachments, supplemental items and documentation submitted by staff/public in relation to	GC 34090 GC 34090.5	Current +2 years. <u>Staff Reports related to LAFCO proposals must be retained permanently</u> Agency practice is to retain paper copies indefinitely for historical purposes.
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TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	agenda items. Paper copies of agenda packets should be maintained for 1 year as complete packets. Originals will later be imaged for permanent records retention; the imaged record may serve as the permanent record.		
Agreements (see also Contracts)	Original contracts and agreements and back-up materials, including leases, service/maintenance agreements, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/completion.
Annexations/ Reorganizations	Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.	GC 34090 GC 60201 (d)(1)	Permanent.
Annual Financial Report	May include independent auditor analysis.	GC 26201, 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines GC 34090 GC 60201	Permanent.
Articles of Incorporation		Guidelines GC 34090 (a)	Permanent.

ATTACHMENT 1

Audit Reports	Financial services; internal and/or external reports.	GC 34090; CCP 337; CCP 343 Sec. of State Local Gov't. Records Retention Guidelines	Minimum retention – Current +4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Audit Hearing or Review	Documentation created and/or received in connection with an audit hearing or review.	GC 26202, 34090	2 years.
Ballots – Special	Copies of ballots from	GC 26202, 34090,	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
District elections	elections of Special Districts (OC LAFCO members).	60201	
Bank Account Reconciliations	Bank statements, receipts, certificates of deposit, etc.	26 CFR 31,6001-1(e)(2)	Until audited + 4 years. Sec. of State recommends until audited + 5 years.
Behested Payment Report (FPPC Form 803)	FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.	GC 81009, 82015(b)(3)(B)	7 years.
Brochures/ Publications	Retain selected documents only for historic value.	GC 26202, 34090	2 years.
Budget, Annual	Annual operating budget approved by OC LAFCO.	GC 26202, 34090; Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited + 2 years. Sec. of State recommends permanent retention.
Cal-OSHA	Personnel logs, supplementary records; annual summary (Federal and State-Cal-OSHA)	LC 6410; 8 CCR 14307	5 years.

ATTACHMENT 1

Checks (issued by OC LAFCO)	OC LAFCO checks paid – expense reimbursements, payments to independent contractors, etc. Includes check copies; canceled and voided checks; electronic versions of checks. OC LAFCO check paid to vendors; other OC LAFCO payments – includes check copies; canceled or voided checks; electronic versions of checks.	GC 60201(d)(12) CCP 337 Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2)	7 years. Until audited +4 years.
Citizen Feedback	General correspondence.	GC 26202, 34090	2 years.
Claims Against OC LAFCO	Paid/Denied.	GC 60201(d)(4); GC 25105.5	Until settled +5 years.
Complaints/Requests	Various files, not related to specific lawsuits involving	GC 26202, 34090	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	the agency and not otherwise specifically covered by the retention schedule.		
Contracts	Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.	CCP 337, 337.2, 343	4 years after termination/ completion.
Correspondence	General correspondence, including letters and e-mail; various files, not otherwise specifically covered by the retention schedule.	GC 26202 34090	2 years.
Deferred Compensation Reports	Finance – pension/retirement funds.	29 CFR 516.5 29 CFR 1627.3	3 years.
Demographic/Statistical Data		GC 26202, 34090	Current +2 years.
Deposits, Receipts	Receipts for deposited checks, coins, currency.	CCP 337; 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited +4 years.

ATTACHMENT 1

DMV Driver’s Records, Reports (DMV Pull Notice System)	Part of personnel records – not a public record.	GC 34090 GC 6254(c) Sec. of State Local Gov’t. Records Mgmt. Guidelines	Until superseded (should receive new report every 12 months).
Employee Files	Personnel – information may include release authorizations, certifications reassignments, outside employment, commendations, disciplinary actions, terminations, oaths of office, evaluations, pre-employee medicals, fingerprints, identification cards.	GC 12946 29 CFR 1627.3	While current +3 years.
Employee Information Applicant Identification Records	Personnel – data recording race, sex, national origin of applicants.	2 CCR 7287(b) (c)(2)	2 years.
Employee Information,	Name, address, date of	GC 12946	3 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
General	birth, occupation.	29 CFR 1627.3 LC 1174	
Employee Information, Payment	Rate of pay and weekly compensation earned.	GC 60201	7 years.
Employee Programs	Includes EAP and Recognition.	GC 26202, 34090 GC 12946	Current +2 years.
Employee Recruitment	Alternate lists/logs, examination materials, examination answer sheets, job bulletins.	GC 12946 GC 26202, 34090 29 CFR 1602 et. Seq. 29 CFR 1627.3	Current +2 years.
Employee Reports	Employee statistics, benefit activity, liability loss.	GC 26202, 34090	Current +2 years.
Employee Rights – General		GC 12946 29 CFR 1602.31	Length of employment + 2 years.
Employment Applications – Not Hired	Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.	GC 26202, 34090 GC 12946 29 CFR 1627.3	2 years.

ATTACHMENT 1

Employment Eligibility Verification (I-9 Forms)	Federal Immigration and Nationality Act; Immigration Reform/Control Act 1986.	8 USC 1324a (b)(3) Pub. Law 99-603	3 years after date of hire, or 1 year after date of termination, whichever is later.
Employment – Surveys and Studies	Includes classification, wage rates.	GC 12946 GC 26202, 34090 29 CFR 516.6	2 years.
Employment – Training Records, Non-Safety	Volunteer program training – class training materials, internships.	GC 34090 GC 12946	Length of employment + 2 years.
Employment – Vehicle Mileage reimbursement Rates	Annual Mileage reimbursements rates.	GC 26202, 34090	Until superseded + 2 years.
Environmental Quality California Environmental Quality Act (CEQA)	Exemptions, Environmental Impact Reports, mitigation monitoring, Negative Declarations, Notices of Completion and Determination, comments, Statements of Overriding Considerations.	GC 34090, 60201 CEQA Guidelines	Permanent.
Environmental Quality Environmental Review	Correspondence, consultants, issues,	GC 26202, 34090	Completion + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	conservation.		
ERISA Records	Employee Retirement Income Security Act of 1974 – plan reports, certified information filed, records of benefits due.	29 USC 1027, 2059 <i>La Barbera v. A. Morrison Trucking, Inc.</i> 2011 US Dist. LEXIS 16343 (E.D.N.Y. Feb 17, 2011)	6 years.
Family and Medical Leave Act (FMLA) (Federal)	Records of leave taken, OC LAFCO policies relating to leave, notices communications relating to taking leave.	29 CFR 825.500 GC 12946	While employed + 3 years (Federal) or 2 years (State).
Fixed Assets Inventory	Reflects purchase date, cost, account number.	GC 26202, 34090	Until audited + 2 years.
Fixed Assets Surplus Property	Auction, disposal, listing of property.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Forms	Administrative – blank.		Until superseded.
Funds Transfers	Internal; bank transfers & wires.	GC 26202, 34090	Until audited + 2 years.

ATTACHMENT 1

General Ledgers	All annual financial summaries.	GC 34090 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Gift to Agency Report (FPPC Form 801)	FPPC form showing payment or donation made to OC LAFCO or to an OC LAFCO official and which can be accepted as being made to OC LAFCO.	FPPC Reg. 18944(c)(3)(F)(G); FPPC Fact Sheet: "Gifts to an Agency – Part 2" GC 81009(e)	Must be posted on agency website for 4 years (per FPPC Fact Sheet). Originals must be retained 7 years.
Gifts/Bequests	Receipts or other documentation.	GC 34090	Until completed + 2 years.
Grants – Successful Federal, State, or other grants	Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-	GC 34090 24 CFR 570.502 24 CFR 85.42	Until completed + 4 years. Must see each individual grant for

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.		retention requirements.
Grants – Unsuccessful	Applications not entitled.	GC 26202, 34090	2 years.
Insurance	Personnel related.	GC 26202, 34090	Current + 2 years.
Insurance, Joint Powers Agreement	Accreditation, MOU, agreements and agenda.	GC 26202, 34090	Current + 2 years.
Insurance Certificates	Liability, performance bonds, employee bonds, property; insurance certificates filed separately from contracts, includes insurance filed by licensees.	GC 26202, 34090	Current + 2 years.
Insurance, Liability/Property	May include liability, property, Certificates of Participation, deferred, use of facilities.	GC 26202, 34090	Current + 2 years.
Insurance Risk Management Reports	Federal and State OSHA forms; loss analysis report; safety reports; actuarial studies.	29 CFR 1904.44 GC 26202, 34090	5 years (Federal). 2 years (State).

ATTACHMENT 1

Investment Reports Transactions	Summary of transactions, inventory and earnings report.	GC 34090, 60201 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention.
Invoices	Copies sent for fees owed, billing, related documents.	GC 26202, 34090	Until audited + 2 years.
Legal Notices/Affidavits of Publication	Notices of public hearings <u>for LAFCO proposals, proof of publication of notices.</u>	GC 26202, 34090 <u>56382</u>	2 years. <u>Permanent</u>
Legal Opinions	Confidential – not for public disclosure (attorney-client privilege).	GC 26202, 34090	Until superseded + 2 years.
Litigation	Case files.	GC 26202, 34090	Until settled + 2 years.
Lobbying or Lobbyist Forms (FFPC forms)	FPPC Form 602 – Lobbying Firm Activity Authorization; FPPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms	FPPC Reg. 18615(f)	5 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	used when employing or contracting with a lobbying firm.		
Maintenance Manuals	Equipment service/maintenance.	GC 26202, 34090	Current + 2 years.
Maintenance/Repair Records	Equipment.	GC 26202, 34090	2 years.
Marketing, Promotional	Brochures, announcements, etc.	GC 26202, 34090	2 years.
Minutes	Meeting minutes: paper records are to be maintained permanently by the agency.	GC 34090, 60201(d)(3)	Permanent. Originals cannot be destroyed.
Newsletters	May wish to retain permanently for historic reference.	GC 26202, 34090	2 years.
Notices – Public Meetings	Special meetings.	GC 26202, 34090	2 years.
Oaths of Office	Elected and public officials – commissioners.	GC 26202, 34090 29 USC 1113 Sec. of State Guidelines	Current + 6 years.

ATTACHMENT 1

OCERS – Employee Benefits	Retirement Plan.	29 USC 1027	6 years.
OSHA	OSHA Log 200, Supplementary Record, Annual Summary (Federal & State-Cal-OSHA); OSHA 300 Log, privacy case list, annual summary, OSHA 301 incident report forms.	LC 6410; 8 CCR 14307 29 CFR 1904.2 – 1904.6M, 1904.33	5 years.
Payroll – Federal/State Reports	Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports.	GC 60201	7 years.
Payroll Deduction/ Authorizations	Finance.	29 CFR 516.6(c) GC 60201	While current +7 years.
Payroll, registers	Finance – payroll, registers, payroll reports.	9 CFR 516.5(a) LC 1174(d) GC 60201	7 years from date of entry.
Payroll records terminated employees	Finance files.	29 CRF 516.5 GC 60201	7 years from date of last entry.
Payroll, timecards/sheets	Employee.	29 CFR 516.6 LC 1174	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
		Sec. of State Local Gov't. Records Mgmt. Guidelines	Sec. of State recommendation: Until audited +6 years.
Payroll – Wage Rates/ Job Classifications	Employee records.	GC 60201	While current +7 years.
Personnel Records	Other records (not payroll) containing name, address, date of birth, occupation, etc., including records relating to promotion, demotion, transfer, lay-off, termination.	29 CFR 1627.3	3 years <u>after separation</u> .
Personnel Rules and Regulations	Including employee handbook, employee manuals, and other policies/procedures.	CFR 516.6, 1627.3(a)	Current + 3 years.
Petitions	Submitted to legislative bodies. (Does not include Initiative Petitions)	GC 26202, 34090	Current + 2 years.

ATTACHMENT 1

Policies & Procedures	All policies and procedures adopted by the Commission; directives rendered by the agency did not assign a resolution number, Commission Bylaws.	GC 26202, 34090	Current + 2 years.
Political Support/ Opposition, Requests & Responses	Related to legislation.	GC 26202, 34090	2 years.
Press Releases	Related to OC LAFCO actions/activities.	GC 26202, 34090	2 years.
Procedure Manuals	Administrative.	GC 26202, 34090	Current + 2 years.
Public Records Request	Request from the public to inspect or copy public documents.	GC 26202, 34090, 60201(d)(5)	2 years.
Purchasing FRQs, RFPs	Requests for Qualifications; Requests for Proposals – regarding goods and services.	GC 26020, 34090	Current + 2 years.
Purchasing, Requisitions, Purchase Orders	Original documents.	GC 24090 CCP 337	Until audited +4 years.
Records – audio (e.g., for preparation of	Audio recordings of Commission “made for	GC 54953.5	Minimum 30 days.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
meeting minutes)	whatever purpose by or at the direction of the local agency.”		
Recordings, video – meetings of legislative bodies	Video recordings of public meetings made by or at the direction of the Commission.	GC 54953.5	Minimum 30 days.
Recordings, video, other events	Other than video recordings of public meetings; considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording).	GC 53161	Minimum 90 days after event is recorded; if no other record of the event exists the recording must be kept 2 years.
Recordings of routine video monitoring (e.g., building security recording systems)	General recordings of building and facility security systems	GC 34090.6, 53160	1 Year

ATTACHMENT 1

Records Management Disposition/ Destruction Certification	Documentation of final disposition/ destruction of records.	GC 34090, 60201	Permanent.
Records Retention Schedules		GC 26202, 34090	Current + 2 years.
Recruitments and Selection	Records relating to hiring, promotion, selection for training.	29 CFR 1627.3	3 years.
Requests for Qualifications (RFQs); Request for Proposals (RFPs)	Request for Qualifications, Request for Proposals, and related responses.	GC 26202 – 2 Years CCP 337 – 4 Years	Current + 4 years.
Resolutions	Vital records – may be imaged, but originals can never be destroyed.	GC 34090, 60201	Permanent.
Return Checks	Finance – Adjustments – NSF, etc. (not OC LAFCO checks).	GC 26202, 34090 CCP 337	Until audited + 4 years.
Salary/Compensation Studies, Surveys	Studies or surveys of other agencies regarding wages, salaries and other compensation benefits.	GC 26202, 34090	While current + 2 years.
Social Media	Posts, comments, subscriber/follower lists, etc.	GC 26202, 34090	While current + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Statement of Economic Interest (SEI) (FPPC Form 700) (originals –designated employees	Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.	GC 81009(e), (g)	7 years (can image after 2 years).
Unemployment Insurance Records	Records relating to unemployment insurance – claims, payments, correspondence, etc.	USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343	4 years.
Vouchers – Payments	Account postings with supporting documents.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Wage Garnishment	Wage or salary garnishment.	OCP 337	Active until garnishment is satisfied; then retain until audited + 4 years.

ATTACHMENT 1

Warrant Register/Check Register	Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information).	GC 26202, 34090	Until audited + 2 years.
Workers Compensation Files	Work-injury claims (including denied claims); claim files, reports, etc.	8 CCR 10102 C CCR 15400.2	Until settled + 5 years.

Orange County Local Agency Formation Commission Records Retention and Destruction Policy

I. PURPOSE

The purpose of this policy is to provide guidelines to staff regarding the retention of records of the Local Agency Formation Commission of Orange County (OC LAFCO); provide for the identification, maintenance, and safeguarding of OC LAFCO records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and, ensure compliance with legal and regulatory requirements.

II. POLICY

It is the policy of this Commission that records must be kept indefinitely in original, photographic, or electronic form pursuant to Government Code section 56382. Documents that are not herein defined as “records” are not “records” pursuant to Government Code section 56382 and will be retained and disposed of according to the Records Retention Schedule in Exhibit B. The schedule follows the minimum retention periods mandated by the California Government Code, the California Code of Civil Procedure, the Code of Federal Regulations, the Secretary of State Local Government Records Management Guidelines, and other legal authorities cited.

For purposes of compliance with Government Code §56382 and implementation of the Commission’s Records Retention Schedule as set forth in Exhibit B, “records” include the following:

1. LAFCO Meeting Minutes
2. LAFCO Resolutions and Ordinances
3. Documents related to LAFCO proposals such as the:
 - a. Application, petition or other initiating documents
 - b. Assessor’s Statement of Property Valuation
 - c. Agreement to Pay / Indemnification
 - d. Certificate of Completion
 - e. Certificate of Filing
 - f. Environmental Review/CEQA documents such as Initial Study, Exemptions, Notices of Completion and Determination, Comments and Response to Comments, Negative Declaration, mitigation monitoring, Statements of Overriding Consideration
 - g. Map and Legal Description
 - h. Notices
 - i. Order for Change of Organization

- j. Staff Reports
- k. Statement of Boundary Change
- l. Statement of Tax Rate Area

III. PROCEDURE

- A. The Commission Clerk completes and signs a “Destruction of Obsolete Records” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A.”

The Commission Clerk confirms that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Commission Clerk also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete. The Commission Clerk also verifies that the documents are not relevant to a lawsuit, a claim, a subpoena, an investigation, a litigation hold, a Public Records Act (Government Code §7920 - 7931 *et seq.*) request, an audit or similar proceeding, which is in progress or which can reasonably be anticipated.

- B. The Commission Clerk oversees the destruction of the obsolete documents, indicates the method of destruction on the form, signs the form, and retains the original signed form.
- C. The Commission Clerk will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
- D. The Commission Clerk will permanently retain a master log of all destroyed obsolete documents which includes the titles or brief descriptions of the obsolete documents that were destroyed, the method of destruction and the date of destruction.

IV. GENERAL GUIDELINES

- A. The Commission Clerk shall be responsible for the administration of this policy and shall assist all OC LAFCO personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment “B.”
- B. The following general guidelines apply to all OC LAFCO records.
 1. The Commission may authorize the destruction of any duplicate records at any time. (Government Code §56382)
 2. Unless otherwise required by State or Federal law, the Commission may authorize the destruction of any original document which is more than two (2)

years old if a photographic or electronic copy of the original record is made and preserved in compliance with Government Code section 56382, which shall be considered permanently retained pursuant to the Records Retention Schedule. (Government Code §56382)

3. In addition to the retention periods required under this policy, the Commission shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Government Code §34090 and §60201, subd. (d)(10).)
4. Pursuant to Government Code §60201, the Commission shall not destroy any of the following records:
 - a. Records relating to the formation, change of organization or reorganization of the Commission.
 - b. Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two (2) years.
 - c. Records that are the subject of any pending request for records under the California Public Records Act (Government Code §7920-7931 *et seq.*), whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by the Commission.
 - d. Records relating to any pending construction that the Commission has not accepted or for which a stop notice claim may be legally presented.
 - e. Records relating to any non-discharged debt of the Commission.
 - f. Records relating to the title to real property in which the Commission has an interest.
 - g. Records relating to any non-discharged contract to which the Commission is a party.
 - h. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.
 - i. Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work.

- j. Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors.

C. Exceptions to Scheduled Destruction

Destruction of any record shall be postponed if that record is responsive to a subpoena, litigation hold or other request for preservation, a Public Records Act (Government Code §7920-7931 *et seq.*) request, an audit, or a claim filed against OC LAFCO. In addition, records that relate to any active litigation or potential litigation involving OC LAFCO shall be preserved until the litigation is resolved. OC LAFCO personnel who become aware of a subpoena, claim, Public Records Act request, etc., that affects records under their control shall use their best efforts, by any reasonable means available to them, to preserve those records. In such situations, OC LAFCO personnel shall contact the Commission Clerk regarding the affected records.

V. SPECIFIC GUIDELINES

A. Accounting Records

1. Accounting records include, but are not limited to, the following:

- a. Source Documents

- Invoices.
- Warrants.
- Vouchers.
- Requisitions/Purchase Orders (attached to invoices).
- Cash Receipts.
- Claims (attached to warrants in place of invoices).
- Bank Statements.
- Bank Deposits.
- Checks.
- Bills.
- Various accounting authorizations taken from Commission minutes, resolutions or contracts.

- b. Journals

- Cash Receipts.
- Accounts Receivable or Payable Register.
- Check or Warrant Register.
- General Journal.
- Payroll Journal.

- c. Ledgers
 - Expenditure.
 - Revenue.
 - Accounts Payable or Receivable Ledger.
 - Assets/Depreciation.
 - Warrants payable.
 - Construction.
 - General ledger.
- d. Trial Balance
- e. Adjusting Entries
- f. Statements (Interim or Certified – Individual or All Fund)
 - Balance Sheet.
 - Analysis of Changes in Available Fund Balance.
 - Cash Receipts and Disbursements.
 - Inventory of Fixed Assets (Purchasing).
- g. Journal Entries
- h. Reversing Entries
- i. Payroll and personnel records include but are not limited to the following:
 - Accident reports, injury claims and settlements.
 - Applications, changes or terminations of employees.
 - Earnings records and summaries.
 - Fidelity bonds.
 - Garnishments.
 - Insurance records of employees.
 - Job descriptions.
 - Medical histories.
 - Retirements.
 - Timecards.
- j. Other
 - Inventory Records (Purchasing).
 - Capital Asset Records (Purchasing).
 - Depreciation Schedule.
 - Cost Accounting Records.

2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit (Code of Civ. Pro. §337). Published articles show retention periods of **four (4) to seven (7) years** as typical. However, the Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't Records Mgmt. Guidelines; Gov. Code §34090.)
 3. In general, the Commission should retain original source documents that are detailed in a register, journal, ledger or statement **until audited plus four (4) years**. (Sec. of State Local Gov't Records Mgmt.) Certain source documents may be retained for a shorter period of time. Refer to the records retention schedule for specific accounting documents.
 4. At any time, the Commission may destroy rough drafts, notes, working papers (except for audits) that are not retained by the Commission in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (e.g., "Post-It®" notes).
 5. In addition to any required legal retention period, the Commission shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Government Code §14755, subd. (b); Government Code §subd. (d)(10))
- B. Long-Term Debt Records
1. The Commission may destroy paid bonds, warrant certificates and interest coupons after **ten (10) years**. (Code of Civil Proc. §337.5.)
 2. The Commission may not destroy any documents relating to any non-discharged debt. (Government Code §60201, subd. (d)(7).)
- C. Commission Records
1. The Commission shall retain original records of the minutes of meetings of the Commission **indefinitely**. (Government Code §56382)
 2. The Commission shall retain original ordinances and resolutions **indefinitely**. (Government Code §56382.) However, ordinances or resolutions that have been repealed or are otherwise invalid or unenforceable may be destroyed after five (5) years. (Government Code §60201, subd. (2)(2).)
- D. Statements of Economic Interest (SEI) [Form 700] and Other Reports Filed Pursuant to the Political Reform Act (Government Code §81000 *et seq.*)
1. Filing officers shall retain original statements and reports for **seven (7) years**.

(Government Code §81009 (c), (e).) After an original report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the original report or statement. (Government Code §81009, subd. (g).)

2. Filing officers shall retain copies of statements or reports for **four (4) years**. The officer does not have to keep more than one copy of a statement or report. (Government Code §81009 (f).) After a copy of a report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the paper copy. (Government Code §81009, subd. (g).)

E. Contracts

1. The Commission shall retain original contracts for **four (4) years** after completion of the contracts. (Code of Civ. Proc. §337.)
2. The Commission shall retain contracts with any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for **ten (10) years** after the completion of the construction or improvement. (Code of Civ. Proc. §337.15.)

F. Property Records

The Commission shall retain original property records, such as title documents, **indefinitely**, or until the property is transferred or otherwise no longer owned by the Commission. (Government Code §34090 and §60201.)

G. Payroll and Personnel Records

1. Payroll and personnel records include, but are not limited to, the following:
 - a. Accident reports, injury claims and settlements.
 - b. Medical histories.
 - c. Injury frequency charts.
 - d. Applications, changes and terminations of employees.
 - e. Timecards.
 - f. Job descriptions.
 - g. Performance or rating documents.
 - h. Earning records and summaries.

Records specifying amounts of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors must be

retained for seven (7) years after date of payment. (Government Code §60201)

2. The Commission shall retain personnel files for **three (3) years** after an individual's employment terminates. (Labor Code §1198.5; 29 CFR 1627.3.)
3. The Commission shall retain medical records of employees who have been exposed to toxic substances or harmful physical agents for **thirty (30) years beyond the length of employment**. Such medical records shall include records made or maintained by a physician, nurse, or other healthcare personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Such medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc., which do not involve medical treatments, loss of consciousness, restriction of work or motion, or transfer to another job. (29 CFR 1910.1020; 8 Cal. Code Regs. §3204 (d)(1)(A)(B).)

For employees who are employed by the Commission for **less than one year**, the Commission does not need to retain the employee's medical records regarding exposure to hazardous substances if the Commission provides the employee with such records upon termination of employment. (Ibid.)

Routine medical records including first aid records for one-time treatment, observation of minor injuries, records relating to medical leave taken by employees with information including hours taken, notices, and policies, burns, splinters, etc., should be kept for the **length of employment plus three (3) years**. (29 CFR 825.500.)

4. The Commission may destroy personnel fidelity bonds **two (2) years** after separation. (Government Code §34090.) Wage garnishments must be retained while active until garnishment is satisfied, then retained until audited plus **four (4) years** after separation. (Ibid.)
5. The Commission shall retain payroll records containing the name, address, date of birth, gender, job classification, hours worked, and regular and overtime wages for each employee for **three (3) years** beyond the length of employment and **seven (7) years from date of payment** (29 CFR Part 516.5; Labor Code §1174 and §1197.5; Government Code §60201.) Payroll registers listing labor costs by employee and program should be retained for a minimum of **seven (7) years from date of payment**. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. The Commission shall retain basic timecards or timesheets which are entered

daily with the starting and stopping times of individual employees for a minimum of **three (3) years**. The Secretary of State Local Government Records Management Guidelines recommends retaining such documents for **six (6) years**. (29 CFR Part 516.6; Labor Code §1174; Sec. of State Local Gov't Records Mgmt. Guidelines.)

7. The Commission shall retain employment applications and employment referral records and files for **two (2) years** after such records or files are created. (Government Code §12946; 29 CFR 1627.3.)
8. The Commission shall retain records regarding the race, gender, and national origin of each applicant and for the job for which such applicant applied for **two (2) years** from the date of the creation of the record or the date of the personnel action involved, whichever occurs later. The Commission may either retain the original documents used to identify applicants or keep statistical summaries of the collected information. (2 CCR §7287.0, subds. (b)(2), (c).)

H. Construction and Engineering Records

1. The Commission shall retain certain original construction records, such as bids, correspondence, and change orders, for **four (4) years** after project completion, unless the records pertain to a project which includes a guarantee or grant in which event they shall be retained for the **life of the guarantee or grant plus four (4) years**. The Commission shall retain as-built plans for any public facility or works as long as the facility exists.
2. The Commission may destroy unaccepted bids or proposals for public works after **two (2) years**. (Government Code §26202.1 and §60201.)
3. The Commission shall retain supporting documents on capital improvement projects, including bidder's lists, specifications, reports, plans, work orders, schedules, etc., for **ten (10) years after project completion**. (Code of Civ. Proc. §337.15.)

I. Exposure/Safety Records and Material Safety Data Sheets (MSDS).

1. The Commission shall retain employee exposure records and exposure assessment records for at least **thirty (30) years**. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. §3204; 29 C.F.R. 1910.1020.)
2. The Commission may destroy the material safety data sheet (MSDS) for a hazardous substance after the Commission stops using the hazardous

substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for **thirty (30) years**. (8 Cal. Code Regs. §3204(d)(1)(B)(2); 29 C.F.R. 1910.1020 (d) (ii) (B).)

J. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings

1. The Commission shall retain recordings of **routine video monitoring** (e.g., building security recording systems) for at least **one (1) year**. After the one-year retention period, the Commission may destroy the video recording upon approval by the Commission. (Government Code §34090.6 and §53160.)
2. Upon authorization of the Commission, recordings of telephone and radio communications maintained by the Commission may be destroyed after **100 days**. (Government Code §34090.6.)
3. Video or audio recordings of Commission meetings made at the direction of the Commission, for whatever purposes, must be retained at **least 30 days after the meeting**. (Government Code §54953.5.)
4. If the Commission keeps another record, such as written minutes, of an event (other than Commission meetings) that is recorded on video or digitally recorded, the Commission must keep the video recording of the event for **at least 90 days** after the occurrence of the event. **After 90 days**, the video recording may be destroyed or erased, upon approval by the Commission. (Government Code §34090.7 and §53161; 85 Ops. Cal. Atty. Gen. 256 (2002).)

K. Records Retention Schedule

The “Records Retention Schedule” is attached to this policy as Attachment “B” and is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time.

Originally Adopted: 2/8/2006
Last Reviewed: 2/19/2025
Last Revised: 2/19/2025

ATTACHMENT "A"

REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY

To: Records File
From: Commission Clerk
Subject: Destruction of Obsolete Records

The following obsolete records listed below were destroyed in accordance with OC LAFCO Records Retention and Destruction Policy.

Table with 2 columns: DATE OF RECORD, DESCRIPTION OF RECORD. The table contains 6 empty rows for data entry.

The obsolete records described above were destroyed under my supervision using the following method:

- Shredding
Other (specify method)

I certify that such destruction meets the requirements of the Records Retention and Destruction Policy of OC LAFCO and all applicable requirements of State and Federal law.

Commission Clerk

Date of Records Destruction

ATTACHMENT "B"

RECORDS RETENTION SCHEDULE

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Accident/Illness Reports (OSHA Reports)	Not a public disclosable record: For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents: <ul style="list-style-type: none"> • Includes Material Safety Data Sheets (MSDS). • Does not include records of health insurance claims maintained separate from employer’s records; first aid records of one- time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination. 	GC 6254(c) 8CCR 32304(d)(1)(A)(B)	Duration of employment plus 30 years.
Accidents/Damage to OC LAFCO Property	Risk Management Administration.	GC 340901 CCP 337.15	10 years
Accounting Records – General Ledger	General Ledger.	GC 34090 CCP 337 Sec. of State Local Gov’t Records Mgmt. Guidelines	Until audited +4 years. Published articles show 4 - 7 years retention as typical. Sec. of State Guidelines recommends permanent retention.
Accounting Records – Permanent Books of accidents	Records showing items of gross income, receipts and disbursement (including inventories per IRS regulations).	26 CFR 1.60001-1(c) & (e)	Permanent
Accounts Payable	Journals, statements, asset inventories, account postings with supporting documents, vouchers, investments, invoices and	CCP 337 26 CFR 31.6001-1(e) (2). Sec. of State Local Gov’t. Records	Until audited +4 years. 7 years after date of payment.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	<p>back-up documents, purchase orders, petty cash, postage, OCERS reports, check requests, etc.</p> <p>Expense reimbursement to employees & officers; travel expense reimbursements or travel compensation.</p>	Mgmt. Guidelines recommendation	
Accounts Receivable	Receipts for deposited checks, coins, currency; reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.	26 CFR 31.6001 – 1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines recommendation	Until audited +4 years.
Affidavits of Publication/Posting	<p>Affidavits for Legal notices for public hearings, publication of ordinances, etc.</p> <p>(Actual hearing notices must be retained permanently)</p>	GC 34090	2 years.
Agency Report of Consultants (FPPC Form 805)	Identifies consultants hired by OC LAFCO who must file Form 700.	2 CCR 18734. GC 81009(e)	7 years.
Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)	Report of tickets/passes; identifies persons who received ticket/passes and describes the public purpose for the distribution.	GC 81009(e)	Originals – 7 years.
Agency Report of Public Official Appointments (FPPC Form 806)	Report of additional compensation received by OC LAFCO officials when appointing themselves to committees, boards or commission of other public agencies, special districts, joint powers agencies or joint power authorities. Current report must be posted on OC LAFCO's website.	2 CCR 18705.5; GC 34090.5	Recommended retention; keep a copy of report for 2 years after removal from OC LAFCO's website.

Agenda/Agenda Packets	Original agendas, agenda packets, staff reports, and related attachments, supplemental items and documentation submitted by staff/public in relation to agenda items Paper copies of agenda packets should be maintained for 1 year as complete packets. Originals will later be imaged for permanent records retention; the imaged record may serve as the permanent record.	GC 34090 GC 34090.5	Current +2 years. Staff Reports related to LAFCO proposals must be retained permanently Agency practice is to retain paper copies indefinitely for historical purposes.
Agreements (see also Contracts)	Original contracts and agreements and back-up materials, including leases, service/maintenance agreements, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/ completion.
Annexations/ Reorganizations	Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.	GC 34090 GC 60201 (d)(1)	Permanent.
Annual Financial Report	May include independent auditor analysis.	GC 26201, 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines GC 34090 GC 60201	Permanent.
Articles of Incorporation		Guidelines GC 34090 (a)	Permanent.
Audit Reports	Financial services; internal and/or external reports.	GC 34090; CCP 337; CCP 343 Sec. of State Local Gov't. Records Retention Guidelines	Minimum retention – Current +4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Audit Hearing or Review	Documentation created and/or received in connection with an audit hearing or review.	GC 26202, 34090	2 years.
Ballots – Special	Copies of ballots from	GC 26202, 34090,	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
District elections	elections of Special Districts (OC LAFCO members).	60201	
Bank Account Reconciliations	Bank statements, receipts, certificates of deposit, etc.	26 CFR 31,6001-1(e)(2)	Until audited + 4 years. Sec. of State recommends until audited + 5 years.
Behested Payment Report (FPPC Form 803)	FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.	GC 81009, 82015(b)(3)(B)	7 years.
Brochures/ Publications	Retain selected documents only for historic value.	GC 26202, 34090	2 years.
Budget, Annual	Annual operating budget approved by OC LAFCO.	GC 26202, 34090; Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited + 2 years. Sec. of State recommends permanent retention.
Cal-OSHA	Personnel logs, supplementary records; annual summary (Federal and State-Cal-OSHA)	LC 6410; 8 CCR 14307	5 years.
Checks (issued by OC LAFCO)	OC LAFCO checks paid – expense reimbursements, payments to independent contractors, etc. Includes check copies; canceled and voided checks; electronic versions of checks. OC LAFCO check paid to vendors; other OC LAFCO payments – includes check copies; canceled or voided checks; electronic versions of checks.	GC 60201(d)(12) CCP 337 Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2)	7 years. Until audited +4 years.
Citizen Feedback	General correspondence.	GC 26202, 34090	2 years.
Claims Against OC LAFCO	Paid/Denied.	GC 60201(d)(4); GC 25105.5	Until settled +5 years.
Complaints/Requests	Various files, not related to specific lawsuits involving	GC 26202, 34090	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	the agency and not otherwise specifically covered by the retention schedule.		
Contracts	Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.	CCP 337, 337.2, 343	4 years after termination/ completion.
Correspondence	General correspondence, including letters and e-mail; various files, not otherwise specifically covered by the retention schedule.	GC 26202 34090	2 years.
Deferred Compensation Reports	Finance – pension/retirement funds.	29 CFR 516.5 29 CFR 1627.3	3 years.
Demographic/Statistical Data		GC 26202, 34090	Current +2 years.
Deposits, Receipts	Receipts for deposited checks, coins, currency.	CCP 337; 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited +4 years.
DMV Driver's Records, Reports (DMV Pull Notice System)	Part of personnel records – not a public record.	GC 34090 GC 6254(c) Sec. of State Local Gov't. Records Mgmt. Guidelines	Until superseded (should receive new report every 12 months).
Employee Files	Personnel – information may include release authorizations, certifications reassignments, outside employment, commendations, disciplinary actions, terminations, oaths of office, evaluations, pre-employee medicals, fingerprints, identification cards.	GC 12946 29 CFR 1627.3	While current +3 years.
Employee Information Applicant Identification Records	Personnel – data recording race, sex, national origin of applicants.	2 CCR 7287(b) (c)(2)	2 years.
Employee Information,	Name, address, date of	GC 12946	3 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
General	birth, occupation.	29 CFR 1627.3 LC 1174	
Employee Information, Payment	Rate of pay and weekly compensation earned.	GC 60201	7 years.
Employee Programs	Includes EAP and Recognition.	GC 26202, 34090 GC 12946	Current +2 years.
Employee Recruitment	Alternate lists/logs, examination materials, examination answer sheets, job bulletins.	GC 12946 GC 26202, 34090 29 CFR 1602 et. Seq. 29 CFR 1627.3	Current +2 years.
Employee Reports	Employee statistics, benefit activity, liability loss.	GC 26202, 34090	Current +2 years.
Employee Rights – General		GC 12946 29 CFR 1602.31	Length of employment + 2 years.
Employment Applications – Not Hired	Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.	GC 26202, 34090 GC 12946 29 CFR 1627.3	2 years.
Employment Eligibility Verification (I-9 Forms)	Federal Immigration and Nationality Act; Immigration Reform/Control Act 1986.	8 USC 1324a (b)(3) Pub. Law 99-603	3 years after date of hire, or 1 year after date of termination, whichever is later.
Employment – Surveys and Studies	Includes classification, wage rates.	GC 12946 GC 26202, 34090 29 CFR 516.6	2 years.
Employment – Training Records, Non-Safety	Volunteer program training – class training materials, internships.	GC 34090 GC 12946	Length of employment + 2 years.
Employment – Vehicle Mileage reimbursement Rates	Annual Mileage reimbursements rates.	GC 26202, 34090	Until superseded + 2 years.
Environmental Quality California Environmental Quality Act (CEQA)	Exemptions, Environmental Impact Reports, mitigation monitoring, Negative Declarations, Notices of Completion and Determination, comments, Statements of Overriding Considerations.	GC 34090, 60201 CEQA Guidelines	Permanent.
Environmental Quality Environmental Review	Correspondence, consultants, issues,	GC 26202, 34090	Completion + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	conservation.		
ERISA Records	Employee Retirement Income Security Act of 1974 – plan reports, certified information filed, records of benefits due.	29 USC 1027, 2059 <i>La Barbera v. A. Morrison Trucking, Inc.</i> 2011 US Dist. LEXIS 16343 (E.D.N.Y. Feb 17, 2011)	6 years.
Family and Medical Leave Act (FMLA) (Federal)	Records of leave taken, OC LAFCO policies relating to leave, notices communications relating to taking leave.	29 CFR 825.500 GC 12946	While employed + 3 years (Federal) or 2 years (State).
Fixed Assets Inventory	Reflects purchase date, cost, account number.	GC 26202, 34090	Until audited + 2 years.
Fixed Assets Surplus Property	Auction, disposal, listing of property.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Forms	Administrative – blank.		Until superseded.
Funds Transfers	Internal; bank transfers & wires.	GC 26202, 34090	Until audited + 2 years.
General Ledgers	All annual financial summaries.	GC 34090 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Gift to Agency Report (FPPC Form 801)	FPPC form showing payment or donation made to OC LAFCO or to an OC LAFCO official and which can be accepted as being made to OC LAFCO.	FPPC Reg. 18944(c)(3)(F)(G); FPPC Fact Sheet: "Gifts to an Agency – Part 2" GC 81009(e)	Must be posted on agency website for 4 years (per FPPC Fact Sheet). Originals must be retained 7 years.
Gifts/Bequests	Receipts or other documentation.	GC 34090	Until completed + 2 years.
Grants – Successful Federal, State, or other grants	Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-	GC 34090 24 CFR 570.502 24 CFR 85.42	Until completed + 4 years. Must see each individual grant for

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.		retention requirements.
Grants – Unsuccessful	Applications not entitled.	GC 26202, 34090	2 years.
Insurance	Personnel related.	GC 26202, 34090	Current + 2 years.
Insurance, Joint Powers Agreement	Accreditation, MOU, agreements and agenda.	GC 26202, 34090	Current + 2 years.
Insurance Certificates	Liability, performance bonds, employee bonds, property; insurance certificates filed separately from contracts, includes insurance filed by licensees.	GC 26202, 34090	Current + 2 years.
Insurance, Liability/Property	May include liability, property, Certificates of Participation, deferred, use of facilities.	GC 26202, 34090	Current + 2 years.
Insurance Risk Management Reports	Federal and State OSHA forms; loss analysis report; safety reports; actuarial studies.	29 CFR 1904.44 GC 26202, 34090	5 years (Federal). 2 years (State).
Investment Reports Transactions	Summary of transactions, inventory and earnings report.	GC 34090, 60201 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention.
Invoices	Copies sent for fees owed, billing, related documents.	GC 26202, 34090	Until audited + 2 years.
Legal Notices/	Notices of public hearings for LAFCO proposals,	GC 56382	Permanent
Legal Opinions	Confidential – not for public disclosure (attorney-client privilege).	GC 26202, 34090	Until superseded + 2 years.
Litigation	Case files.	GC 26202, 34090	Until settled + 2 years.
Lobbying or Lobbyist Forms (FFPC forms)	FFPC Form 602 – Lobbying Firm Activity Authorization; FFPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms	FFPC Reg. 18615(f)	5 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	used when employing or contracting with a lobbying firm.		
Maintenance Manuals	Equipment service/maintenance.	GC 26202, 34090	Current + 2 years.
Maintenance/Repair Records	Equipment.	GC 26202, 34090	2 years.
Marketing, Promotional	Brochures, announcements, etc.	GC 26202, 34090	2 years.
Minutes	Meeting minutes: paper records are to be maintained permanently by the agency.	GC 34090, 60201(d)(3)	Permanent. Originals cannot be destroyed.
Newsletters	May wish to retain permanently for historic reference.	GC 26202, 34090	2 years.
Notices – Public Meetings	Special meetings.	GC 26202, 34090	2 years.
Oaths of Office	Elected and public officials – commissioners.	GC 26202, 34090 29 USC 1113 Sec. of State Guidelines	Current + 6 years.
OCERS – Employee Benefits	Retirement Plan.	29 USC 1027	6 years.
OSHA	OSHA Log 200, Supplementary Record, Annual Summary (Federal & State-Cal-OSHA); OSHA 300 Log, privacy case list, annual summary, OSHA 301 incident report forms.	LC 6410; 8 CCR 14307 29 CFR 1904.2 – 1904.6M, 1904.33	5 years.
Payroll – Federal/State Reports	Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports.	GC 60201	7 years.
Payroll Deduction/ Authorizations	Finance.	29 CFR 516.6(c) GC 60201	While current +7 years.
Payroll, registers	Finance – payroll, registers, payroll reports.	9 CFR 516.5(a) LC 1174(d) GC 60201	7 years from date of entry.
Payroll records terminated employees	Finance files.	29 CRF 516.5 GC 60201	7 years from date of last entry.
Payroll, timecards/sheets	Employee.	29 CFR 516.6 LC 1174	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
		Sec. of State Local Gov't. Records Mgmt. Guidelines	Sec. of State recommendation: Until audited +6 years.
Payroll – Wage Rates/ Job Classifications	Employee records.	GC 60201	While current +7 years.
Personnel Records	Other records (not payroll) containing name, address, date of birth, occupation, etc., including records relating to promotion, demotion, transfer, lay-off, termination.	29 CFR 1627.3	3 years after separation.
Personnel Rules and Regulations	Including employee handbook, employee manuals, and other policies/procedures.	CFR 516.6, 1627.3(a)	Current + 3 years.
Petitions	Submitted to legislative bodies. (Does not include Initiative Petitions)	GC 26202, 34090	Current + 2 years.
Policies & Procedures	All policies and procedures adopted by the Commission; directives rendered by the agency did not assign a resolution number, Commission Bylaws.	GC 26202, 34090	Current + 2 years.
Political Support/ Opposition, Requests & Responses	Related to legislation.	GC 26202, 34090	2 years.
Press Releases	Related to OC LAFCO actions/activities.	GC 26202, 34090	2 years.
Procedure Manuals	Administrative.	GC 26202, 34090	Current + 2 years.
Public Records Request	Request from the public to inspect or copy public documents.	GC 26202, 34090, 60201(d)(5)	2 years.
Purchasing FRQs, RFPs	Requests for Qualifications; Requests for Proposals – regarding goods and services.	GC 26020, 34090	Current + 2 years.
Purchasing, Requisitions, Purchase Orders	Original documents.	GC 24090 CCP 337	Until audited +4 years.
Records – audio (e.g., for preparation of	Audio recordings of Commission “made for	GC 54953.5	Minimum 30 days.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
meeting minutes)	whatever purpose by or at the direction of the local agency.”		
Recordings, video – meetings of legislative bodies	Video recordings of public meetings made by or at the direction of the Commission.	GC 54953.5	Minimum 30 days.
Recordings, video, other events	Other than video recordings of public meetings; considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording).	GC 53161	Minimum 90 days after event is recorded; if no other record of the event exists the recording must be kept 2 years.
Recordings of routine video monitoring (e.g., building security recording systems)	General recordings of building and facility security systems	GC 34090.6, 53160	1 Year
Records Management Disposition/Destruction Certification	Documentation of final disposition/destruction of records.	GC 34090, 60201	Permanent.
Records Retention Schedules		GC 26202, 34090	Current + 2 years.
Recruitments and Selection	Records relating to hiring, promotion, selection for training.	29 CFR 1627.3	3 years.
Requests for Qualifications (RFQs); Request for Proposals (RFPs)	Request for Qualifications, Request for Proposals, and related responses.	GC 26202 – 2 Years CCP 337 – 4 Years	Current + 4 years.
Resolutions	Vital records – may be imaged, but originals can never be destroyed.	GC 34090, 60201	Permanent.
Return Checks	Finance – Adjustments – NSF, etc. (not OC LAFCO checks).	GC 26202, 34090 CCP 337	Until audited + 4 years.
Salary/Compensation Studies, Surveys	Studies or surveys of other agencies regarding wages, salaries and other compensation benefits.	GC 26202, 34090	While current + 2 years.
Social Media	Posts, comments, subscriber/follower lists, etc.	GC 26202, 34090	While current + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Statement of Economic Interest (SEI) (FPPC Form 700) (originals –designated employees	Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.	GC 81009(e), (g)	7 years (can image after 2 years).
Unemployment Insurance Records	Records relating to unemployment insurance – claims, payments, correspondence, etc.	USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343	4 years.
Vouchers – Payments	Account postings with supporting documents.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Wage Garnishment	Wage or salary garnishment.	OCP 337	Active until garnishment is satisfied; then retain until audited + 4 years.
Warrant Register/Check Register	Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information).	GC 26202, 34090	Until audited + 2 years.
Workers Compensation Files	Work-injury claims (including denied claims); claim files, reports, etc.	8 CCR 10102 C CCR 15400.2	Until settled + 5 years.

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STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

MEETING DATE: February 19, 2025

TO: Local Agency Formation Commission
of Orange County

FROM: Assistant Executive Officer

SUBJECT: California Association of Local Agency Formation
Commissions Membership Status Update

BACKGROUND

The California Association of Local Agency Formation Commissions (CALAFCO) was founded in 1971 as a non-profit organization dedicated to supporting LAFCOs and providing statewide coordination of LAFCO activities. CALAFCO is responsible for providing educational and legislative resources to its member LAFCOs and a conduit to the Legislature and other governmental agencies throughout the state on LAFCO-related matters.

CALAFCO has a 16-member Board of Directors that oversees the agency's activities and a full-time Executive Director to administer the daily day-to-day activities of the agency. The Board is composed of LAFCO Commissioners elected from the four CALAFCO regions: central, coastal, northern, and southern. The southern region (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego) is represented by four Board members, including Commissioner Derek McGregor.

Due to recent CALAFCO activities, OC LAFCO has expressed concerns with the decision-making of the Board and the agency's organizational direction. The following section provides a summary of OC LAFCO's concerns for the Commission's review and consideration of not renewing its membership with CALAFCO for Fiscal Year 2025-26.

DISCUSSION

On November 1, 2024, Executive Officer Carolyn Emery sent a letter to CALAFCO's Executive Director René LaRoche expressing several concerns, including:

- Lack of transparency and membership engagement involving the restructuring of the CALAFCO legislative platform.

- Inconsistent and potentially disadvantageous actions relative to a legislative proposal vetted through the CALAFCO process.
- Seemingly prioritization of external group interests over LAFCO practitioners.
- There was a continuous absence of collaboration among the Executive Officers and the CALAFCO Executive Director, as well as a lack of responsiveness from the former Executive Director to OC LAFCO staff and Board member McGregor.

As of the publishing of this agenda item, a response to OC LAFCO's letter has not been received from the CALAFCO Board.

In addition to OC LAFCO's letter, other LAFCOs and groups of LAFCO staff members submitted letters outlining mutual concerns and suggesting improvements to the CALAFCO Board. In response to the letters, the Board scheduled a meeting on January 10, 2025, to discuss and address the concerns outlined in the letters. The meeting was attended in person by staff from numerous LAFCOs, including Commissioner McGregor and OC LAFCO staff. At the culmination of the meeting, the CALAFCO Board did not take any action to address the concerns expressed by its membership. Since the January 10 meeting, CALAFCO's Executive Director resigned, and the CALAFCO Board recently held an additional meeting on February 7, 2025, to further discuss its membership concerns.

Based on CALAFCO's recent activity, the San Bernardino LAFCO Commission unanimously voted not to renew its CALAFCO membership starting FY 2025-26. San Diego LAFCO also sent a formal notice stating that it will not renew its membership. Los Angeles LAFCO is also taking an item at its February 12 meeting not to renew its CALAFCO membership. Other LAFCOs throughout the state also intend to discuss with their commissions their future membership with CALAFCO. The Board's lack of response and leadership to address OC LAFCO's concerns and those presented by other LAFCOs, its inability to engage the membership to find solutions, and coupled with the extensive amount of hours spent by Commissioner McGregor and staff during this process, lead staff to recommend that the Commission consider not renewing its CALAFCO membership for FY 2025-26 and redirect resources to other opportunities benefiting OC LAFCO. The opportunities include working with other LAFCOs that are ending their membership with CALAFCO to focus on commissioner and staff learning events (education, training, and networking) and legislative advocacy services.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Direct staff not to renew OC LAFCO's membership with CALAFCO for Fiscal Year 2025-26 and send a letter to notify the CALAFCO Board of the Commission's action not to renew its membership with CALAFCO.

Respectfully Submitted,



LUIS TAPIA

Attachment:

1. Notice Letter - Non-renewal of CALFCO Membership for FY 2025-26.

February 19, 2025

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Carolyn Emery

Executive Officer

Scott Smith

General Counsel

Gay Jones, Chair
CALAFCO Board of Directors
1451 River Park Drive, Suite 185
Sacramento, CA 95815

SUBJECT: Non-renewal of CALAFCO Membership for FY 2025-26

Dear Ms. Jones,

This letter is to inform you that the Local Agency Formation Commission of Orange County (OC LAFCO) is giving notice to CALAFCO that it will not be renewing its membership starting Fiscal Year 2025-26. On February 19, 2025, OC LAFCO took action not to renew its CALAFCO membership. This notice is being provided to inform CALAFCO of OC LAFCO's upcoming non-payment of its FY 2025-26 membership dues.

Prior to July 1, 2025, as a current CALAFCO member in good standing, OC LAFCO will continue to participate in CALAFCO activities as feasibly possible.

If you have any questions concerning the information outlined above, please do not hesitate to contact me at (714) 640-5100.

Sincerely,

Luis Tapia
Assistant Executive Officer

cc: CALAFCO Board of Directors
CALAFCO Southern Region Board Members

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MEETING DATE: February 19, 2025

TO: Local Agency Formation Commission
of Orange County

FROM: Assistant Executive Officer
Policy Analyst

SUBJECT: LAFCO and Water System Consolidation Report
Update

BACKGROUND

During the Commission general meeting in March of 2024, staff provided a summary of a report published by the University of California Berkeley Division of Agricultural and Natural Resources titled “LAFCO and Water System Consolidation: *Bridging the gap between local and state regulators to stop and reverse water system fragmentation.*” Staff noted that the report provided information on the legislative efforts of the State involving the human right to water and ongoing discussions around the consolidation of small water systems in California. The report also acknowledged the lack of communication and coordination amongst state and local regulators, including LAFCOs. A list of generalized key highlights of the report previously presented to the Commission is attached to this staff report for your convenience. Additionally, staff informed the Commission that the report was distributed to the 58 LAFCOs, numerous drinking water stakeholders, shared with the State Water Resources Control Board (SWRCB), and presented to the California Public Utilities Commission (CPUC).

Since the March meeting, staff participated in discussions held by a stakeholder group attended by the authors of the report, staff members from other LAFCOs, representatives from the Community Water Center, and the Leadership Counsel for Justice and Accountability. The discussions focused on the report’s conclusions and recommendations and identifying the next steps. The following section provides an update on the outcome of the discussions and the next steps identified by the stakeholder group.

DISCUSSION

Following numerous discussions held by the stakeholder group, the group developed three recommendations to improve coordination among state and local regulators and water quality provided by small water systems

through consolidation efforts and MSRs. The three recommendations are listed below.

- **Providing LAFCOs with the Authority to Initiate Annexations and Reorganizations**

Currently, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) does not provide LAFCOs with the authority to initiate annexations, which can present challenges when addressing critical service needs, such as water and wastewater. The proposed change would allow LAFCOs to initiate annexations or reorganizations to ensure timely and adequate water supply and wastewater services. Before proceeding, LAFCOs must notify the affected community and hold at least one meeting in the affected community, ensuring outreach materials are translated and meetings are held at convenient times, with options for teleconferencing and phone participation for public comment.

- **Amplifying MSR's Role in Communicating Community Needs**

The primary purpose of MSRs is to give the Commission a comprehensive understanding of an agency's capacity to provide municipal services, such as water and wastewater, to its community. However, in many cases, MSRs remain with LAFCO unless there is a concerted effort to share them with the broader public. This proposed change would modify the CKH Act to allow LAFCOs to actively engage affected agencies by holding a public hearing and provide written notice of services evaluated within thirty days following the Commission's action, including determinations.

- **Address Service Barriers for Mutual Water Companies and Mobile Home Parks**

The proposed change will include private water systems, mobile home parks, and mutual water companies in MSR determinations when reviewing disadvantaged, unincorporated communities within or contiguous to spheres of influence. Additionally, LAFCOs would be authorized to request information from mobile home parks with a water system during the MSR process.

The three recommendations have been submitted to the California Office of Legislative Counsel for review and comments. This step is part of the ongoing process of refining and finalizing the proposed recommendations that will be used to propose legislative changes to current state law. The stakeholder group intends to continue refining the language of the recommendations and hold discussions with legislators for possible bill authors.

STAFF COMMENTS


This staff report is intended to continue to inform the Commission of the ongoing effort by the stakeholder group regarding the UC Berkeley report and proposed legislative efforts. Staff is not making a formal recommendation at this time. However, it is important to note that the

recommendations provide LAFCOs with the ability to address troubled small water systems in an MSR and have the ability to assist when a community has a troubled water or wastewater system.

RECOMMENDED ACTION

This is a receive and file report and requires no action by the Commission.

Respectfully Submitted,



LUIS TAPIA



AIMEE DIAZ

Attachments:

1. Generalized Key Highlights of LAFCO and Water Consolidation Report (prepared by UC Berkeley)
2. LAFCO and Water System Consolidation Report (prepared by UC Berkeley)

Generalized Key Highlights of the Report: “LAFCO and Water System Consolidation: *Bridging the gap between local and state regulators to stop and reverse water system fragmentation.*”

- Achieving the human right to water in California requires ongoing commitment and investment by state legislators and regulators.
- Consolidation and merging of water systems in California has increasingly become a focus to achieve the human right to water effort due to the benefits they offer.
- Implementing consolidations in an efficient and equitable manner is a difficult task due to local politics and funding. LAFCO commissioners may be reluctant to engage in a consolidation discussion or process if a local agency’s board does not favor consolidation.
- LAFCOs play a critical role in water system consolidations through their charge to ensure that drinking water provision happens in an orderly manner that does not create additional burdens on residents; however, their role may be impeded by their lack of authority involving private water systems and associated fees.
- LAFCOs evaluation of municipal services within their county through municipal service reviews (MSRs) plays an important role for evaluating water system consolidation; however, it is noted that some LAFCOs do not conduct MSRs regularly, the conducting of MSRs is impacted by budget and capacity constraints, and the level of detail provided in an MSR varies by county.
- Some LAFCOs MSRs are broad in nature with a focus on the determinations provided within CKH Act. While state regulators focus is on human right to water through compliance with the Safe Drinking Water Act.
- There is a lack of coordination and sharing of information between LAFCOs, CPUC, and drinking water regulators, in particular the SWRCB and a need to improve communication amongst these agencies and regulators involving the sustainability and governance of local water systems. The report offers the following key recommendations to improve in this area:
 - Transmission and connecting of information from MSRs and the annual state drinking water needs assessment prepared by the SWCRB.
 - Early coordination of state regulators and LAFCOs involving water system consolidation projects.
 - Standardizing the assessment of consolidation feasibility as part of the MSR process and recommend consolidation, as appropriate.
 - Robust and regular MSRs for drinking water service providers.
- There is ambiguity about the role of LAFCOs in addressing the fragmentation of water systems and consolidation because of their lack of oversight involving investor-owned utilities. To address

this, LAFCOs were granted the ability to include a discussion of private water systems in MSRs. However, this is often inhibited by resource and information constraints that may lead to a water system most suitable for consolidation falling through the crack.

LAFCo and Water System Consolidation:

*Bridging the gap between
local and state regulators
to stop and reverse
water system fragmentation*

JANUARY 2024



Authors

Kristin Dobbin, Assistant Professor of Cooperative Extension at the University of California Berkeley and the Division of Agriculture and Natural Resources

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Introduction

In 2012, California passed AB 685 enshrining the human right to water into state law. Achieving this vision is not a simple task, instead it requires ongoing commitment and investment by state legislators and regulators. Water system consolidation, or the merging of two or more water systems, has increasingly become a focus of these efforts due to a wide array of potential benefits. This is particularly true for the state's very small water systems, many of which struggle to achieve consistent regulatory compliance. In the hopes of halting and reversing the proliferation of small water systems, California has implemented policy changes including developing financial incentives for larger water systems to consolidate small systems, introducing new powers to mandate consolidation under specific circumstances, and working to limit permits for new water systems in favor of extending existing systems. With these efforts as well as unprecedented financial investments in consolidation through the new Safe and Affordable Funding for Equity and Resilience (SAFER) program, the state has reduced the total number of public water systems by more than 3% in the last 9 years.¹

Despite these successes, implementing consolidations in an efficient and equitable manner continues to be a difficult task. A large array of challenges from local politics to funding regularly delay and sometimes prevent consolidations, both between existing systems and for systems intended to serve new industrial or residential development. This report focuses on one such challenge, the need to coordinate and align actions by state and local regulators. Under the Federal Safe Drinking Water Act, the state of California is responsible for ensuring compliance among public water systems. This role has put the State Water Resources Control Board (SWRCB) at the forefront of efforts to reduce the number of small water systems. Nonetheless, changes to drinking water services often implicate changes to local government, thus requiring consultation with, and sometimes the approval of, local regulators.

In particular, in California, county Local Agency Formation Commissions, known as LAFCo, are regional planning and regulatory agencies tasked with “coordinating logical and timely changes in local government boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure and preparing a sphere of influence for each city and special district within each county.”² In this capacity, they have a critical role to play in promoting and implementing water system consolidations for existing and proposed water systems. Because LAFCos regulate boundaries between most public agencies, they often have the final say over water system consolidation projects that involve a local government entity including special districts and cities. Yet in practice, many water system consolidations are conceived of and planned without input from local planners and may only come before LAFCo for formal review after significant resources have already been invested in the project. Much the same can be said for local development plans. To the extent a new development relies on a new public water system, local project proponents may find themselves at odds with state regulators who wish to avoid the creation of additional small water systems they perceive as unsustainable. In these cases, there is significant potential for frustration on all sides when plans are delayed or must be changed due to inadequate coordination, conflicting policies and/or competing priorities.

These examples highlight what can be a wide gulf between drinking water regulators and LAFCos when implementing water system consolidations, whether for existing or new systems. Though intertwined in practice, the two often approach questions of water system fragmentation with distinct perspectives and priorities. Such differences can reverberate beyond individual projects, impacting broader efforts to rationalize drinking water services, increase equitable access, and ensure sustainability under a changing climate. Overwhelmingly LAFCos and state drinking water regulators share goals for promoting equitable,

efficient, and sustainable local drinking water service. Yet we are a long way from the policy alignment necessary to stop, let alone reverse, the proliferation of small water systems.

Drawing on interviews with state regulators and LAFCo representatives, input from state technical assistance providers, and a survey of county LAFCo Executive Officers, this report

aims to: 1) Highlight important intersections between LAFCos' local planning and regulatory roles and state policies and programs that prioritize water system consolidation as a safe drinking water solution; 2) Identify challenges at these intersections that limit progress on shared goals; and 3) Provide recommendations to begin to address these challenges.

Section I: Understanding LAFCos and Their Role in Water System Consolidation

About LAFCos

Local Agency Formation Commissions (LAFCos) are county-specific independent governmental agencies charged with conducting studies to evaluate, reorganize, and streamline local government functions and services. LAFCos were first created by the State of California in 1963 to manage sprawl. Subsequent legislative updates have gradually increased the scope of LAFCo powers and authorities over time. The most important of these updates occurred in 2000 with the passage of the [Cortese-Knox-Hertzberg Act](#) (CKH).³ Though amended periodically, the CKH Act remains the most important reference for understanding LAFCo powers and processes.

Each LAFCo is governed by a commission comprised of elected and appointed individuals. Every LAFCo includes representatives of the county's Board of Supervisors and city councils from cities within the county boundaries along with one appointed member of the general public.

Many LAFCos also include board members from special districts within the county. The exact structure of individual LAFCo commissions varies, but a typical commission has at least five, and up to seven, members who serve four-year terms. Though geographically coterminous with every county, LAFCos are politically independent from the county government where they operate. Commission decisions are not subject to oversight, review, or approval by the County Board of Supervisors.

LAFCo commission meetings are public meetings, and as such must be regularly held, open to the public, and are subject to the Ralph M. Brown Act.⁴ The work of the commission is carried out by staff, led by an Executive Officer. Staffing levels vary substantially between counties. Some have full-time Executive Officers and up to eight additional full-time staff members, and others have only part-time Executive Officers and minimal, or even no, additional staff ([See Appendix](#)).

The Cortese-Knox-Hertzberg Act of 2000

The Cortese-Knox-Hertzberg Act of 2000 was the most recent major overhaul of LAFCo powers. It establishes procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations. In carrying out these functions, the Act specifically directs LAFCos to:

- Limit urban sprawl;
- Ensure orderly boundaries between governmental agencies;
- Preserve open space and agricultural lands.

Though LAFCos may have other priorities related to local political preferences, these three mandates are shared to some extent by all LAFCos in accordance with state law.

LAFCoS are funded from two primary sources. First, all LAFCoS receive annual funding from the local governments represented on the commission (county, cities, and sometimes special districts). The size of these contributions varies by county, as each LAFCo sets its own budget. Second, LAFCoS may charge fees for some types of applications or services. These fees are typically borne by the relevant agencies or other applicants (such as landowners) applying for the action in question, for example, an adjustment to a district's jurisdictional boundary.

LAFCoS and water system consolidations

To avoid the duplication of services and ensure that growth occurs in an orderly fashion, one of LAFCoS' primary roles is to regulate and approve changes to the jurisdictional boundaries and planning boundaries of all cities and most special districts (the most notable exception is school districts). As a result, LAFCo will be involved in any consolidation project if one or more of the systems — either consolidating or receiving — is a public agency, specifically a city or a special district.⁵ If a consolidation project involves no such water systems, there is no formal role for LAFCo, although if the consolidation involves one or more Investor-Owned Utilities, the California Public Utilities Commission (CPUC) will play a similar oversight role. If a project involves both public and private water systems, LAFCo may only be involved in certain components. For example, if an Investor-Owned Utility takes over water provision in a community previously served by a local agency (as in the case of the Sativa Water District in Los Angeles County), LAFCo would be involved in the dissolution of the public district but not in the “annexation” by the Investor-Owned Utility of the new service area which would instead be approved by the CPUC.

It is important to keep in mind that while a LAFCo's purview includes districts that provide drinking water, LAFCoS do not primarily regulate drinking water providers or their day-to-day operations. Rather, their role is to ensure that drinking water provision happens in an orderly manner that does not create additional burdens on residents, does not conflict with established

local policies or encourage unwanted urban sprawl, and does not create wasteful duplication of services. In other words, in many cases LAFCoS will be concerned with the question: How will this consolidation fit into our broader planning priorities for the county?

The answer to this question will largely depend on the structure of the proposed consolidation. Water system consolidation can be accomplished in many ways including not only district or city consolidation but also through extensions of service, annexations, etc. (See ‘*Bridging differences in terminology*’ box). Any one of these procedures may also trigger reorganizations or dissolutions, all of which may have distinct procedures and requirements for implementation. In some cases, LAFCoS have a preferred pathway for how to accomplish consolidations that will need to be adhered to in order to receive the necessary approvals. However, in other cases, LAFCoS may prefer to make recommendations or determinations based on the specifics of an individual project. We recently surveyed LAFCoS across the state and received responses from 23 of the state's 58 LAFCoS. Nearly 40% of respondents indicated they preferred outright annexation to extraterritorial service agreements whereas 52% reported having no pre-set preference.

Even when a LAFCo has a preference, however, they may still approve exceptions based on specific circumstances. For example, under California law, LAFCoS may (but are not required to) approve a request for a service extension outside of a service providers' jurisdictional boundary and sphere of influence to respond to an “existing or impending threat to the health and safety of the public or the residents of the affected territory”.⁶ More than two thirds of survey respondents indicated they had approved such a request in their county. Notably the requirements for doing so vary between counties. Some counties require only a letter from an affected local government body, while others require expert documentation of the threat.

Beyond the need to coordinate with LAFCo on the structure of a proposed consolidation, LAFCo involvement has another important implication: Fees. Given that LAFCoS are authorized to collect

Bridging Differences In Terminology

This report uses the term “consolidation” in a broad sense to mean the formal merging of some or all functions of drinking water provision between two or more water providers or communities. Consolidation, in this drinking-water focused sense, can happen through a variety of different pathways that vary in not only their implementation but also outcomes (for more information see the 2022 guide [Designing Water System Consolidations](#)). Under this definition, consolidation can include the physical interconnection of existing water system infrastructure (physical consolidation) but it does not have to. Consolidation may instead entail merging only the governance and management functions of two pre-existing systems (managerial consolidation) or extending a water system to serve a domestic well community or new development. This inclusive definition is informed by, and aligned with, the definition state drinking water regulators and community water advocates employ.

However, for a LAFCo, the term consolidation refers to a narrowly defined legal process, closely constrained by state law. The CKH Act defines consolidation as “the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.” Consolidation in a LAFCo sense always entails the creation of an entirely new district.

While largely semantic, this difference can cause confusion. Projects such as the extension of a community water system to serve residents previously reliant on a state small water system or where a special district like a County Service Area is absorbed into a neighboring city would both be commonly referred to as consolidations among drinking water stakeholders. To a LAFCo representative, however, many such “consolidations” are instead understood as extensions of service, annexations, reorganizations, and/or dissolutions.

fees for services and studies and that some rely on these fees to cover the associated costs of those additional reviews, those seeking to consolidate drinking water services may have to bear the cost of any related study required by state law. LAFCOs have some degree of autonomy in setting fees to compensate for staff time. As such, relevant fees vary significantly between counties. Of the 23 LAFCOs that responded to our survey, estimated total fees associated with a consolidation project ranged from \$0 to \$50,000, depending on the LAFCo and the complexity of the project. Seventy percent of survey respondents said that they waive fees under specific circumstances, the remainder indicated that fee waivers were not available.

Municipal Service Reviews

Beyond regulating local government boundaries, LAFCOs also play an important role in evaluating municipal services within their county and making recommendations for improvements. The CKH Act mandates that every five years, as necessary, LAFCOs review and update the designated sphere of influence for each city and special district under their jurisdiction.⁷ Prior to establishing or updating a sphere of influence, LAFCOs must

perform a special study called a Municipal Service Review (MSR). MSRs are comprehensive studies designed to better inform LAFCo, local agencies, and the community about the provision of municipal services. MSRs can be conducted individually for specific cities or districts, covering all services, or on a county-wide or regional basis focused on specific services.

Based on these requirements, some LAFCOs conduct regular MSRs while others do so only when necessary, such as when a sphere of influence issues arise. Budget and capacity constraints are a major factor influencing how frequently MSRs are conducted. Some LAFCOs reported in interviews that they did not conduct MSRs as frequently as they would like due to high costs.

The requirements related to MSR contents are also loosely bounded, meaning that in practice, the content and level of detail varies by county. Ideally an MSR will have insights into the kinds of things those pursuing consolidation would likely be interested in — water quality, water source reliability, fiscal stability, managerial capacity, and technical expertise. Take for example the recent [Countywide Water Service and Sphere Review](#) by Santa Cruz County which provides significant detail

on system finances, water rates, transparency and local accountability among other items.⁸ In other cases, MSRs may have few of these details and thus provide little in the way of local insights either supporting or challenging consolidation efforts (capacity can also be a factor here). By statute, LAFCos are authorized to request information from privately owned water systems as part of their reviews including from mutual water companies.⁹ Notably, very few LAFCos currently do so and some LAFCos report mutual water companies have failed to respond to requests for information when they have attempted to include them in MSRs.

Approval of new public water systems

Recognizing the importance of stopping the further proliferation of potentially unsustainable small water systems throughout the state, recent regulatory changes now require that all applications for new public water systems¹⁰ must be approved by the SWRCB. Applicants wishing to construct a new system must apply at least six months before initiating water-related development with an accompanying “preliminary technical report.” The preliminary technical report must analyze the feasibility of connecting to any public water systems within three miles, assess the twenty-year costs of operating the proposed system, and evaluate the sustainability and

38% of LAFCos report that they evaluate the feasibility of consolidation as part of their MSR process and 61% report that they recommend consolidation in MSR findings where warranted.

resilience of the proposed system long-term. As part of the assessment of consolidation feasibility, an applicant needs to document contact with LAFCo regarding the identified existing water systems. Approval of non-water system related development (e.g., a warehouse facility to be served by the proposed water system), however, remains a local decision and LAFCos retain final authority on areas where services can be provided by the existing water systems of cities and special districts. Thus, there is potential for inconsistent determinations between state and local authorities, which could cause delays and/or lead to potential litigation. These changes increase the need for coordination between state drinking water regulators and local authorities regarding when and where the creation of new water systems is appropriate.

Section II: Challenges

Based on our interviews and survey results, in this section we describe seven key challenges that limit effective coordination between state and local regulators with respect to water system consolidation, both among existing and new systems.

Lack of communication and information sharing between LAFCos and drinking water regulators

Although LAFCos, the State Water Resources Control Board (SWRCB), and the California Public Utilities Commission (CPUC) all play key roles relevant to drinking water system consolidations, each has a unique niche in the enforcement patchwork, and

communication between these agencies is limited.

While, in many cases, LAFCos rely on publicly available SWRCB data in developing their MSRs for water services, the MSR process also often generates new information about the status of local water providers, especially regarding the state of system governance and finances. This information can be highly relevant to understanding the potential of a system to encounter future challenges. Yet only 30% of surveyed LAFCos report sharing their MSR findings with drinking water regulators. And while some SWRCB staff do independently seek out and use MSRs when working with a system, not all MSRs are publicly available online.

This lack of information sharing mirrors a general lack of communication between local planners and state drinking water regulators. Nearly all LAFCo Executive Officers we interviewed reported only infrequent contact with state drinking water regulators. The lack of communication creates issues in both directions. On the one hand, the SWRCB may have information about the challenges of local agencies unavailable to LAFCos who often only have infrequent communications with the small water providers under their jurisdiction. Similarly, a LAFCo might be aware of issues which could merit consolidation in the future. These systems might be good candidates for SWRCB intervention, but intervention is unlikely if information does not flow between agencies. On the other hand, the SWRCB may pursue solutions such as consolidation without a clear understanding of locally specific challenges such as conflicting policies, or potential political barriers.

California's other key water agency, the CPUC, regulates Investor-Owned Utilities. The CPUC communicates even less frequently with LAFCos than the SWRCB. This is not surprising, given that LAFCos do not regulate private utilities. But in some cases, LAFCos might be ignorant of potential privately-owned consolidation partners for troubled local government systems or vice-versa, of struggling private systems where governmental systems could expand their service area. Additionally, consolidations involving Investor-Owned Utilities (referred to by the CPUC as acquisitions) can significantly impact local development. Currently there are no specific mechanisms for LAFCos to provide feedback to the CPUC on these matters except to file a motion for party status in an acquisition proceeding which is subject to approval and conditions by a judge.

Lack of shared language and vision

Sometimes, when drinking water stakeholders interested in water system consolidations encounter LAFCos, they find the experience to be frustrating. Often, part of the problem is that LAFCos do not share a common vision or even use the same language to talk about consolidations. As previously mentioned, for LAFCo staff the term

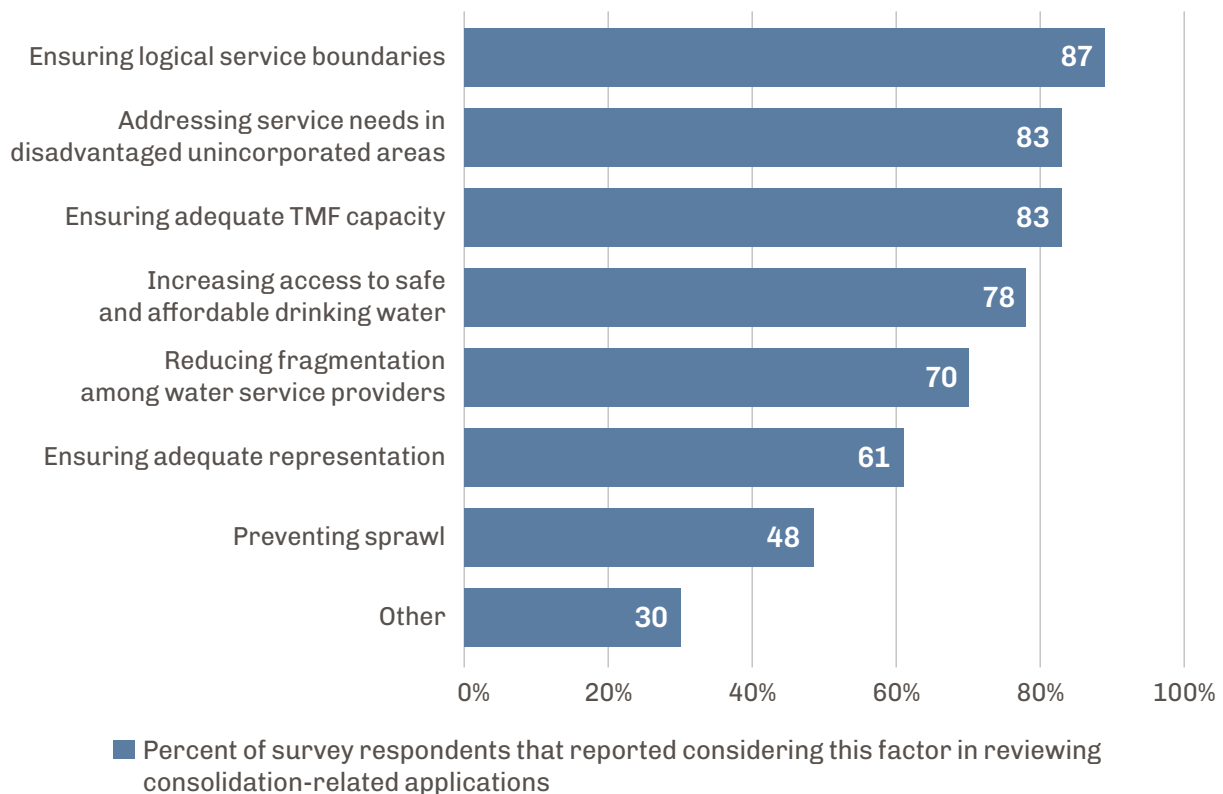
“consolidation” refers to a specific legal process, not a broad suite of options. Conversations that casually use the term consolidation can thus create confusion, since many water system consolidation projects fall under LAFCo descriptions for annexations, dissolutions, extraterritorial service agreements, or other arrangements.

But this challenge is not only semantic. While all parties share a commitment to ensuring efficient, equitable local services, the goals that motivate system consolidation and the metrics by which “success” is assessed in these projects can also vary. State regulators tend to prioritize projects on the basis of Safe Drinking Water Act compliance, cost, and improving system sustainability (i.e., targeting “at-risk” systems). Overall LAFCos take a broader perspective, including considering impacts to different community services as well as county-wide impacts and consistency in long-term planning. This is well demonstrated by the fact that surveyed LAFCos reported considering, on average, more than five different factors when reviewing consolidation-related applications (*Figure 1*). Among these considerations, 30% of LAFCos reported that ensuring adequate Technical, Managerial, and Financial (TMF) capacity was the most important, followed by ensuring logical service boundaries and increasing access to safe and affordable drinking water, each of which was voted most important 26% of respondents. Notably, whereas preventing and reversing water system fragmentation is a top priority of the SWRCB, this consideration did not rise to the top among LAFCos, only 70% of which said they consider system fragmentation when reviewing consolidation-related applications.

Diversity in local implementation

All LAFCos are governed by the CKH Act, but policy occurs just as much in implementation as in statute. Because the CKH leaves substantial autonomy for local LAFCos to tailor their operations to local conditions, implementation varies substantially from LAFCo to LAFCo. The state's rules have few hard guidelines except when it comes to specific procedural actions.

For example, according to statute, LAFCos are supposed to interpret any requests to

Figure 1. LAFCo considerations in reviewing consolidation related applications by frequency.

accommodate a system consolidation based on the potential costs and savings, as well as other impacts to local residents. This open-ended set of criteria leaves room for interpretation leading LAFCos to review a wide range of factors as mentioned above. This statute language also allows for LAFCos to have different local policies leading some LAFCos to prioritize specific planning goals, like the prevention of urban sprawl or addressing service needs in unincorporated areas.

LAFCos vary substantially in their preferences regarding consolidation pathways. Technical assistance providers may select a consolidation pathway which they think will best suit the needs of the community they work with. LAFCos will tend to take a more holistic view and measure the proposed benefits of any consolidation project against the potential impact on development and services county-wide. For example, if a consolidation of private wells into a nearby municipal system would extend that city's sphere of influence into

an area slated for non-development purposes, the LAFCo may oppose the project for fear of losing open space. In many cases there are workable compromises that can be found if these goals and constraints are clearly communicated, for example pursuing an Extraterritorial Service Agreement (also called Out-of-Agency, Out-of-Boundary or Outside Service Agreements depending on the county).¹¹

Unclear roles and responsibilities

While the SWRCB is committed to stopping and reversing the proliferation of small water systems as part of advancing the Human Right to Water (AB 685), precisely because of the planning and local government implications, there are practical and political limits to their ability to do this work on their own. Yet there is ambiguity, and even disagreement, regarding what the role and responsibilities of local planners such as LAFCos is, or should be, with respect to advancing the same mission.

Generally, LAFcos rely on the SWRCB to flag struggling systems and initiate consolidation processes rather than do so themselves (although in certain counties, LAFcos do sometimes play a more central role in promoting projects). However, LAFcos do not necessarily view this as a positive from a local policy standpoint. Several LAFcos indicated that state-level policymakers and agencies generally lacked an understanding of the intricacies of local implementation of consolidations. Some also regarded state-initiated projects without adequate state financial support as unfunded burdens for the affected communities and for LAFcos themselves.

But locally initiating projects has its own challenges. California state law is clear that, in some circumstances, LAFcos have the power to initiate water system consolidations through district dissolution, even without the consent of targeted district.¹² These types of consolidations are rare, however, for several reasons. Perhaps unsurprisingly, LAFco commissioners are often reluctant to go against locally elected political leaders—some of whom may even sit on the LAFco commission themselves. Second, such actions are subject to public hearings and can be blocked by formal protests from residents, an outcome which is more likely because the threshold for popular motions to block the action is lower in LAFco-initiated proceedings. Third, LAFcos are generally reluctant to force other systems to take

Nearly 40% of LAFcos report facilitating or supporting local consolidation projects whereas less than 9% report initiating consolidation projects.

on new customers, even if the receiving system is best suited to serve those communities. LAFcos generally operate under tight budgets and with limited staff, and thus generally require a project proponent to fund any necessary studies to proceed with a dissolution rather than take on the cost from their own budget. Additionally, LAFcos are prohibited from initiating certain consolidation pathways, such as annexations. Thus, even if a LAFco knows consolidation is the best choice, they rarely act as proponents. An exception to this trend is when a local scandal erupts, either around system governance or water quality.

This does not mean, however, that LAFcos do not view themselves as having any role in consolidations. For some LAFcos, considering consolidation options is already a part of their standard operations. Thirty-two percent of surveyed LAFcos reported assessing the feasibility of consolidations as part of MSRs for drinking water service providers. Sixty percent reported recommending system consolidation as part of

Consolidating Sativa County Water District Post-Scandal

When some Compton residents began to notice discolored water in their taps in the spring of 2018, popular protests erupted. One entity was not surprised. Los Angeles (LA) LAFco had flagged the water provider, the Sativa County Water District, as struggling in multiple categories as early as 2005, and staff had recommended outright dissolution of the agency to the commission in 2012. However, despite these red flags, the agency continued to operate, and no consolidation efforts were formally initiated, either locally or by the SWRCB. When the protests began, however, LA LAFco was prepared to spring into action. With the changed political winds following the fallout from the scandal, the commission was able to initiate a dissolution process for Sativa just two months after complaints first arose and soon thereafter work with the state to allow the county to temporarily takeover operations while all parties looked for a new permanent provider.

The case of Sativa highlights just how effective a well-resourced LAFco can be in dealing with a local crisis. But the case also provides an example of how a lack of coordination around system dissolution priorities and political inertia can lead to a crisis in the first place. A more aggressive approach locally, or better coordination from the SWRCB, might have dealt with the issues at Sativa before brown water flowed out of residents' taps. Nonetheless, LA LAFco's quick response and effective collaboration between local and state regulators headed off the problem before things got worse.

MSRs based on assessments of water supply, governance, proximity to other systems, or other factors. In these cases, our interviews reveal that most LAFCoS view the initiative to then fall on the individual system boards to explore possible options for consolidations or alternatively, for the SWRCB to intervene if a system is underperforming to such a degree to require consolidation.

As a result, most consolidation projects in California are initiated by, or in partnership with, the SWRCB. Due to the SWRCB's responsibilities under the Safe Drinking Water Act, these consolidations tend to target existing or imminent health and safety concerns. A more proactive approach to other types of potentially challenged systems — such as small systems with governance issues, those unable to raise capital or with retiring staff or those particularly vulnerable to climate disasters — has so far not been on the agenda for lack of a clear responsible party or champion.

Gaps in relevant authorities

In addition to ambiguity about the role of LAFCoS in reversing water system fragmentation, the fact that not all water systems are subject to the jurisdiction of LAFCoS limits even the potential for LAFCoS to support consolidation projects. Water systems are regulated by a patchwork of state and local agencies, depending on the structure of the system and other key factors. Because of this, some of the systems most suitable for consolidation fall between the cracks.

LAFCoS only regulate and review cities and special districts, not private firms. Yet many struggling water systems are private systems, like mobile home parks or mutual water companies, which unlike Investor-Owned Utilities, are not regulated by the CPUC. State policymakers have noticed this oversight and granted LAFCoS the ability to include information for private water systems operating in their county in MSRs. However, doing so is optional, and often inhibited by resource and information constraints. Because most LAFCoS have their hands full performing MSRs for the public agencies under their jurisdiction, very few have included mutual water companies, mobile home parks, or other small systems in their MSR cycles, and most do not anticipate doing so in

Resident Support Is Often Non-Negotiable

Most LAFCo actions, such as district dissolutions and annexations, are subject to protest by registered voters and landowners in the affected territory. Generally, if more than 25% of the voters or landowners representing 25% of the assessed value of land in the area submit written protests, the change must then be approved by voters in an election which is a costly and time-consuming undertaking. In some instances, namely if LAFCo initiates the boundary change itself, this threshold is lowered to 10%. Moreover, some LAFCo actions that can be needed for a consolidation project, like the creation of new special district, always require a local election. This means that regardless of whether a consolidation project is initiated by the state or a local proponent, resident support is usually critical to successful implementation.

the future. While LAFCoS might seem to be natural agencies to promote consolidation for these types of systems, they ultimately do not have either the statutory mandate, funding, or powers to do so.

Competing local priorities

LAFCoS are political organizations primarily composed of elected officials. As such, local politics matter a lot. If a local agency's board does not favor consolidation, even for a consolidation that is logical and feasible, LAFCo commissioners may be reluctant to force the issue to avoid controversy or protect local relationships. The same can be true for supporting new development. To the extent that a new water system is tied to a politically favored development project or powerful local interests, LAFCoS may be subject to significant political pressure to support the preliminary technical report required by the SWRCB.

County specific priorities and policies can also impede consolidation efforts. One such example is the issue of limiting urban sprawl. If a consolidation project is seen to have the potential for increasing development in an area the county has earmarked for light or no development, a LAFCo might be unlikely to approve the consolidation. Notably, such concerns are county specific. Only 48% of survey respondents listed preventing sprawl as a factor for approving consolidation-related

applications. However, it is increasingly common for municipalities or special districts to implement their own moratoriums on new connections. Such moratoriums serve to arrest new development, but they can also prevent the consolidation of water services for existing peripheral residents.

Importantly, local priorities and interests can also have positive effects on efforts to increase water system consolidation. When locals identify system fragmentation as a major concern, LAFCo staff can work effectively to foster consolidation in unique ways. Tulare County, for example, has completed more than 16 consolidations since 2015, in part due to the active involvement and support from the Board of Supervisors.

Limited and uneven LAFCo resources

LAFCos have uneven funding levels across the state. Because represented agencies are a primary source of funds, counties with small numbers of cities,

special districts, or both, typically have small LAFCo budgets. In some of these counties, LAFCo work may be handled on a contract basis by the county planning department or be contracted out to a private firm. By contrast, counties with large amounts of regulated agencies, like San Diego or Los Angeles, often have relatively large LAFCo budgets.

In many cases, funding levels can directly correspond to staffing levels. LAFCos in counties with low staffing levels may be harder to contact and necessary procedures may take longer, especially if there is no full-time staff. MSRs in such counties may also be updated less frequently than would be preferred if local capacity was higher. Limited resources can also lead to over-reliance on fees associated with studies and applications, which can in turn increase costs and impede a county's ability to offer fee waivers. As previously mentioned, only about two-thirds of the 23 LAFCos who responded to our survey offered fee waivers for studies.

Section III: Recommendations

Based on the challenges outlined in the previous section, the following recommendations highlight potential pathways for addressing the existing gaps and improving alignment between local and state regulators organized around three key themes: Improving information sharing and communication between regulators; Identifying consolidation opportunities; and Advancing locally-driven consolidation projects.

Improving information sharing and communication between regulators

- **Ensure regular, sustained communication between LAFCos and state drinking water regulators:** Locally, LAFCo, the SWRCB, and the CPUC (as applicable) should routinely meet to discuss failing and at-risk systems within each county. Such meetings would present the opportunity for each party to share the information on specific systems as well as identify promising partnerships across a range of system types that are consistent with local plans and policies. When distinct from LAFCo staff, county planners

should also be included. At the state-level, biannual LAFCo conferences and SWRCB's internal staff training programs present opportunities for cross-learning on relevant topics with the potential to increase collaboration. Regular communication would go a long way to increasing mutual understanding of relevant priorities and limitations as well as overcoming terminology and other barriers.

- **Transmit and connect information from MSRs and the annual state drinking water needs assessment:** Currently, both MSRs and the annual SWRCB drinking water needs assessments contain information helpful for assessing the functioning and sustainability of community water systems operated by cities and special districts. Systematically sharing these findings would help connect relevant knowledge from the local and state agencies and align with the Open and Transparent Water Data Act. At a minimum, MSRs should be readily accessible online and county-level meetings can support their use by the SWRCB. Most LAFCos that responded to the

survey support this type of information sharing (See Figure 2). In the future, the SWRCB could create formal pathways for integrating MSR data and/or the state legislature could consider changes to require information sharing and coordination.

- **Clarify and message relevant state goals:** Many LAFCoS are eager to support state efforts for advancing safe, accessible, and affordable drinking water and climate resilience but do not have a clear understanding of state priorities on these topics nor the type of performance metrics they could use to assess and advance these goals locally. The state should develop clear resources that can guide LAFCoS in the development of MSRs and inform local decision-making about service boundaries.
- **Ensure early coordination on system consolidation projects:** For project proponents, ensuring early coordination between communities, the SWRCB, technical assistance providers and LAFCo staff is essential. Consolidation can be accomplished through many potential pathways that must be matched with local conditions. It is therefore important to learn what pathways are preferred or even possible locally and why. If a LAFCo has formal or informal policies related to consolidation, they should be shared as soon as possible. Having this information as a project is developed will help ensure alignment with local planning and promote success. Early communication can also help avoid unnecessary delays in planning or implementation by anticipating fees, processing times, etc.
- **Ensure early coordination on proposals that implicate new public water systems:** State regulators, LAFCoS, and counties should communicate as early as possible about development proposals that explicitly or implicitly could lead to the creation of a new public water system. Early coordination on priorities and limitations at both levels will help prevent inconsistencies that could lead to conflict and delay.

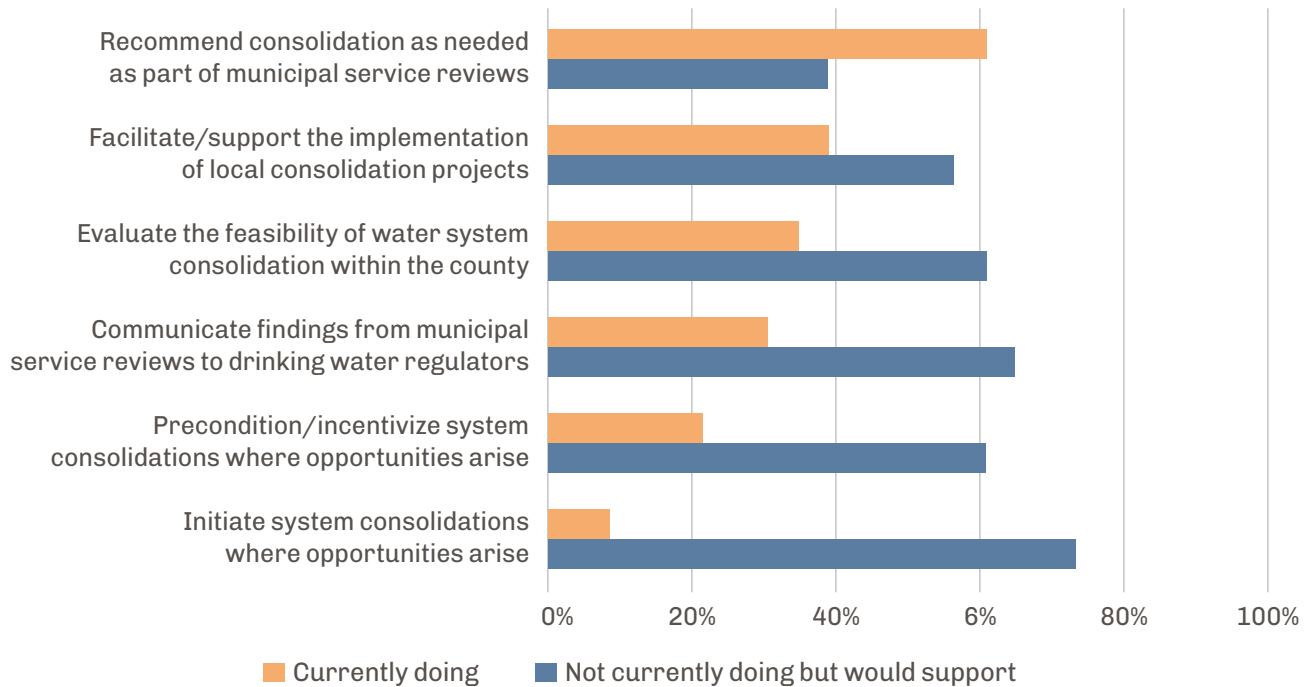
Identifying consolidation opportunities

- **Ensure robust and regular MSRs for drinking**

water service providers: Municipal Service Reviews (MSRs) are a valuable opportunity to both assess the functioning of local service providers and make recommendations for improvements. Ensuring that thorough MSRs are conducted regularly throughout the state could go a long way towards identifying and advancing consolidations. Importantly, identifying funding sources to support this work is likely key to achieving this goal.

- **Standardize assessment of consolidation feasibility as a part of the MSR process and recommend consolidation, as appropriate, in the findings:** California state law requires that LAFCoS explore “opportunities for shared facilities” for public water systems as a part of their MSR process. Some LAFCoS go beyond this requirement to assess consolidation opportunities for some or all systems under their jurisdiction. All LAFCoS should do so with an eye not only for physical consolidations but also managerial consolidations and water system partnerships (e.g., shared staff). Where appropriate based on these findings, LAFCoS should make formal recommendations for consolidation as part of their MSR findings. While not all counties responded to our survey, the results demonstrate unanimous support for both actions among those who did.
- **Fill data and oversight gaps for under-regulated water systems:** LAFCoS collect and maintain important information about the water systems operated by municipalities and special districts in their jurisdictions. The CPUC maintains similar information for the state’s Investor-Owned Utilities. For other private water systems like mutual water companies and mobile home parks data collection is limited to the drinking water needs assessment which necessarily provides very limited insights on system governance and management. Figuring out how to fill this gap should be a state priority. For example, these systems could be subject to reporting and oversight by the CPUC or included in MSRs.
- **Proactively identify priority consolidations and tie these into other opportunities for boundary expansion:** Some systems are reluctant to receive

Figure 2. Existing practices and policy preferences among surveyed LAFCoS for addressing local water challenges.



customers from struggling systems but are happy to expand with greenfield development. Working with both state drinking water regulators and local water managers (e.g. Groundwater Sustainability Agencies), LAFCoS should develop and maintain a list of priority consolidation projects in their county. LAFCoS should then use their existing authorities to tie these projects to locally promoted boundary changes, for example, annexations or sphere of influence updates, when feasible. More than 80% of LAFCoS that responded to the survey support this type of approach.

- **Clarify roles for identifying and promoting potential consolidations:** Currently the SWRCB is the primary entity identifying potential consolidation projects and initiating conversations with a particular focus on “failing systems” with pressing health and safety concerns and those at-risk of failing. There is a need to clarify who else, if anyone, should take responsibility for identifying and initiating potential consolidations among different subsets of systems such as

privately-owned non-Investor-Owned Utilities and low-hanging fruit consolidations (e.g., based on proximity or where system managers wish to retire).

Advancing locally-driven consolidation projects

- **Reduce financial impediments to locally-driven consolidations:** Proposed consolidations entail LAFCo related costs to be borne by a project proponent and/or the LAFCo itself. As such, promising projects can languish if they are not financially supported by the SWRCB and/or a local government proponent. Establishing a funding source to support LAFCoS or other local proponents to advance consolidation projects could help increase the number of locally initiated projects. Similarly, state and federal funding and technical assistance is often essential to make consolidation feasible. Creating clear pathways for accessing these resources for locally-initiated projects could similarly increase local leadership on the issue.

- **Reduce administrative and procedural hurdles to implementing consolidations:** Consolidation is a complicated and difficult process constrained by convoluted statutes with significant limitations and even contradictions. Often a single consolidation project may trigger several concurrent actions which only further increases the administrative burden and associated costs. To every extent possible, the associated statutory requirements should be clarified and streamlined.
- **Create local pathways for consolidation of mutual water companies, mobile home park systems, and other small private systems:** LAFcos do not have authority over private water systems and therefore cannot initiate consolidation among them. Thus, the state must explore possibilities to promote the consolidation of small private systems that are not Investor-Owned Utilities.
- **Allow LAFcos to initiate annexations:** Currently LAFcos can initiate dissolutions but not annexations. Given that annexation is a common and often preferred mechanism for consolidating water systems, granting LAFcos the ability to initiate annexations could increase the number of projects advanced locally.
- **Ensure technical assistance providers working on consolidations have a clear understanding of work plan elements and project requirements related to LAFCo:** The SWRCB should provide technical assistance providers clear guidance for addressing the local planning dimensions of consolidations including working with LAFCo. Ensuring that LAFCo tasks and expenses are accounted for in work plans and budgets will streamline implementation.

Resources and Further Reading

Assembly Committee on Local Government. (2023). Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. <https://alcl.assembly.ca.gov/system/files/2024-01/ckh-local-goverment-reorganization-act-of-2000-2023.pdf>

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State Water Resources Control Board (SWRCB). (2021). Permits for Water Systems. https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Permits.html

State Water Resources Control Board (SWRCB). (2023). Drinking water system partnerships and consolidations. https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/waterpartnership.html

US Water Alliance. (2022). Catalyzing Community-Driven Utility Consolidations and Partnerships. https://uswateralliance.org/wp-content/uploads/2023/09/Catalyzing-Community-Driven-Utility-Consolidations-and-Partnerships-PAGES_0.pdf

Appendix

LAFCo information and select survey results by county

County	# of Staff	Offers Fee Waivers?	Approx. Range for Consolidation-Related Fees
Alameda	2	N	\$6,500 - \$13,000
Alpine	1	Did not respond to survey	Did not respond to survey
Amador	4	Did not respond to survey	Did not respond to survey
Butte	4	Y	\$1,000 – \$25,000
Calaveras	2	Did not respond to survey	Did not respond to survey
Colusa	2	Did not respond to survey	Did not respond to survey
Contra Costa	2	Y	\$4,000 - \$8,500
Del Norte	2	Did not respond to survey	Did not respond to survey
El Dorado	2	Y	\$1,000 – \$50,000
Fresno	5	Did not respond to survey	Did not respond to survey
Glenn	1	Did not respond to survey	Did not respond to survey
Humboldt	3	Did not respond to survey	Did not respond to survey
Imperial	4	Did not respond to survey	Did not respond to survey
Inyo	2	Did not respond to survey	Did not respond to survey
Kern	3	Did not respond to survey	Did not respond to survey
Kings	2	Did not respond to survey	Did not respond to survey
Lake	2	Did not respond to survey	Did not respond to survey
Lassen	3	Did not respond to survey	Did not respond to survey
Los Angeles	7	Y	\$6,000 - \$30,000
Madera	2	N	\$3,000 - \$6,000
Marin	2	Did not respond to survey	Did not respond to survey
Mariposa	1	Did not respond to survey	Did not respond to survey
Mendocino	2	Did not respond to survey	Did not respond to survey
Merced	2	N	\$2,000 - \$5,000
Modoc	2	Did not respond to survey	Did not respond to survey
Mono	1	Did not respond to survey	Did not respond to survey
Monterey	4	Did not respond to survey	Did not respond to survey
Napa	2	Y	\$8,500 - \$34,000

County	# of Staff	Offers Fee Waivers?	Approx. Range for Consolidation-Related Fees
Nevada	2	Did not respond to survey	Did not respond to survey
Orange	5	N	\$10,000 - \$30,000
Placer	2	Y	\$20,000 - \$40,000
Plumas	2	Did not respond to survey	Did not respond to survey
Riverside	5	Did not respond to survey	Did not respond to survey
Sacramento	2	Y	\$3,000 - \$10,000
San Benito	2	Did not respond to survey	Did not respond to survey
San Bernardino	4	Did not respond to survey	Did not respond to survey
San Diego	10	Y	\$6,500 - \$25,000
San Francisco	1	Did not respond to survey	Did not respond to survey
San Joaquin	3	N	\$2,000 - \$2,500
San Luis Obispo	3	Y	\$3,000 - \$7,500
San Mateo	3	Y	\$2,000 - \$10,000
Santa Barbara	2	Y	\$2,000 - \$6,000
Santa Clara	2	Y	\$4,000 - \$8,500
Santa Cruz	2	Y	\$1,000 - \$2,000
Shasta	2	Did not respond to survey	Did not respond to survey
Sierra	1	Did not respond to survey	Did not respond to survey
Siskiyou	2	Did not respond to survey	Did not respond to survey
Solano	3	N	\$7,500 - \$35,000
Sonoma	3	Y	\$4,000 - \$6,000
Stanislaus	3	Y	\$500 - \$3,500
Sutter	3	Did not respond to survey	Did not respond to survey
Tehama	1	Did not respond to survey	Did not respond to survey
Trinity	2	Did not respond to survey	Did not respond to survey
Tulare	3	Y	\$3,500 - \$4,000
Tuolumne	2	Did not respond to survey	Did not respond to survey
Ventura	3	Did not respond to survey	Did not respond to survey
Yolo	2	Y	\$1,500 - \$6,500
Yuba	2	Did not respond to survey	Did not respond to survey

References and Notes

- 1 Dobbin, K. B., McBride, J., & Pierce, G. (2023). Panacea or placebo? The diverse pathways and implications of drinking water system consolidation. *Water Resources Research*, 59(12), <https://doi.org/10.1029/2023WR035179>.
- 2 CALAFCo website, What Are LAFCos responsibilities? Accessed 11/6/23. <https://caLAFCo.org/LAFCo-law/faq/what-are-LAFCos-responsibilities>
- 3 CA Government Code §56000 et seq.
- 4 CA Government Code §54950 et seq.
- 5 A consolidating water system is a system that will stop providing drinking water service after a consolidation is completed. In contrast, a receiving water system is a system that continues to provide drinking water service including to new customers/territory added through the consolidation.
- 6 CA Government Code §56133(c)
- 7 CA Government Code §56425(g); A sphere of influence or SOI is a planning boundary outside of an agency's jurisdictional boundary (such as the city limit line or water service area) that designates the agency's probable future boundary and service area.
- 8 Countywide Water Service and Sphere Review. Local Agency Formation Commission of Santa Cruz County. Accessed 01/22/24. <https://santacruzlafco.org/wp-content/uploads/2022/09/Countywide-Water-MSR-Adopted-Version.pdf>
- 9 CA Government Code §56430(7)(d)
- 10 A public water system is a water system serving at least 15 connections or 25 people for a minimum of 60 days per year. This is the body of water systems that is regulated by the SWRCB under the Federal Safe Drinking Water Act.
- 11 Extraterritorial, Out-of-Agency, Out-of-Boundary or Outside service agreements all refer to situations where a city or special district extend services outside of their jurisdictional boundaries. For drinking water service this means outside of their approved service area. Prior to 1994 service extensions only required LAFCo approval if they involved annexation. Since 1994 service extensions always require approval by LAFCo (with some exceptions such as the transfer of non-treated water).
- 12 CA Government Code §56035; For a LAFCo, a dissolution entails the “disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers.”