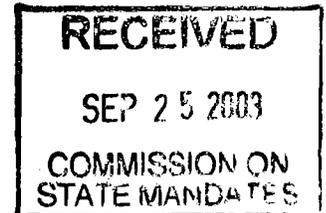


RESPONSE TO DEPARTMENT OF FINANCE

By Claimant,

Sacramento Metropolitan Fire District
Local Agency Formation Commission (LAFCO)



Chapter 439, Statutes of 1991

Chapter 761, Statutes of 2000

Chapter 493, Statutes of 2002

LAFCO Municipal Services Review Guidelines

LAFCO Municipal Services Review Guidelines Appendices

CSM-02-TC-23

The Sacramento Metropolitan Fire District hereby responds to the Department of Finance's comments to its test claim as follows:

The Sacramento Metropolitan Fire District agrees with the Department of Finance that the statute resulted in costs mandated by the state. However, the claimant takes issue with the assertions of the Department of Finance concerning the following:

- A special district may lawfully decline to sit as a member of its LAFCO
- Although LAFCO independent special district election committee membership is required by law, special districts are not required to participate in the committee's activities; many are members in name only
- LAFCOs have existing statutory fee authority that may be used to cover their operating costs. To the extent that LAFCO's elect to make use of this authority, LAFCO members would be relieved of the need to contribute toward the LAFCO's annual budget
- LAFCO's have had statutory authority to require information of local agencies since 1965.
- OPR's municipal service review guidelines and appendices do not carry the force of law

Each of the foregoing "notations" will be discussed, *infra*.

1. Participation by a Special District in LAFCO

The special districts located in Sacramento County are in a special circumstance: by statute, they are required to participate in LAFCO. In other counties, special districts can determine whether or not they wish to participate and be a member of LAFCO; special districts in Sacramento have no such option.

Chapter 439, Statutes of 1991 mandated that two members of LAFCO be elected by the special districts via the independent special district selection committee, which is also mandated to select an alternate to serve. Thus, not only if elected must the special

district representative serve, but all special districts are required to participate in the independent special district selection committee.

To date, the Sacramento Metropolitan Fire District has not been called upon to be a member of LAFCO, although there is a possibility that the district will be called upon to be the alternate member when elections are next held.

However, just because someone is elected does not mean, as the Department of Finance would have one believe, that one does not have to serve. The statute, first of all, speaks in mandatory, not discretionary terms.

Secondly, the argument that the special district member would not have to participate is ludicrous. First of all, it is analogous to the requirements of Government Code, Section 17553, which provides for the participation of the Department of Finance in matters before the Commission on State Mandates. Surely Finance does not have to participate, yet if it were not to participate, not only would its input not be known, but factors detrimentally affecting the state's budget could occur without its knowledge or participation. So too is true with regard to the participation of special districts in LAFCO.

Furthermore, the Department of Finance notes that the LAFCO has the ability to impose statutory fee authority. Without participation of special districts, the LAFCO's special statutory fee authority could be used adversely to the interests of the LAFCO.

Thus, participation in the LAFCO is statutorily mandated for those special districts within Sacramento County. For other counties, there is different legislation pertaining to the composition of the LAFCO, which allows discretion in whether special districts will participate. There is no such discretion in Sacramento County.

2. LAFCO Has Statutory Fee Authority

As noted within the test claim, prior to the enactment of Chapter 761, Statutes of 2000, the total financial requirements of the LAFCO were met by the county wherein the LAFCO was located. The only difference was that if a developer wished to submit a request for a change, or if an agency requested a change, fees were charged the requesting party to cover the costs of the application. With the test claim legislation, this is no longer true.

Now, with the new test claim legislation, if there is a special district member of the LAFCO, the LAFCO assesses charges for its operation against all special districts within the LAFCO.

In the past, the only time that the claimant would have had to contribute to the operation of the LAFCO was if it wished to consolidate, or take similar action. In that event, claimant would have had to pay a fee set by LAFCO, which defrayed the cost of the application. However, now, not only would the district have to pay a fee in the event

of its desire to make an application to the LAFCO, it now also has to underwrite the operational costs of LAFCO as well.

This is another reason why it is so important to participate actively in LAFCO: without active participation, there is no guarantee that the costs of operating the LAFCO will be subject to any fiscal constraints. As noted in the test claim, LAFCO merely assembles what it wishes to have by way of operating capital for the next fiscal year, and assesses that total cost against the county, all cities and special districts within its jurisdiction. For this purpose, participation in LAFCO, to the extent the occasion presents itself, is imperative.

Furthermore, the statutory fee authority does not address the on-going operational costs, as set forth in Government Code, Section 56381. This provision specifies the manner in which the budget is to be adopted, and the fact that it is to be levied against the county, cities and independent special districts.

Accordingly, the blanket statement that there is fee authority does not address the issues presented in this test claim. The argument posited by the Department of Finance would be similar to saying that because a city or a county has statutory fee authority for some purposes, but without any specific applicability to the program in question, there is no reimbursable mandate. Accordingly, this argument must fail.

3. LAFCO's Have Statutory Authority to Request Information and the Guidelines Have No Force of Law

The Department of Finance has noted that LAFCO has had the authority to request information from local governmental entities for years prior to the enactment of the test claim legislation, and that the OPR's guidelines have no force in law. There is no conclusion drawn from these notations.

However, although LAFCO may have had the authority to request information, the scope of the information now being requested is described in detail by the specific guidelines promulgated by OPR. This goes far beyond requesting just information, but instead requires a full report in a format described by the guidelines.

In the past, had LAFCO requested information of the claimant, claimant would have submitted its annual report, which details such items as its jurisdiction, revenue, expenditures and services provided. A true and correct copy of the 1999 Annual Report is attached hereto as Exhibit 1 and incorporated herein by reference.¹ The purpose of the annual report is to provide citizens and other interested parties with a full description of the personnel and services provided. This is not, however, what is now being requested of it as a result of the OPR's guidelines.

¹ The year when Sacramento Metropolitan Fire District underwent a reorganization, the time for the preparation and publication of such an annual report was missed; thus there is one year for which there is no annual report. As other copies of annual reports for other years are in archives, this was the most recent annual report readily available.

The various LAFCOs are now requesting that detailed reports be provided along the provisions of the guidelines. No longer is mere information being requested; rather, the LAFCOs are requesting analyses and projections which require substantial staff time and consultant time. Additionally, the LAFCOs are charging those providing the report with a fee to review and process same. Although the fee is not exorbitant, the cost of obtaining and assembling the information requested exceeds the fee substantially. It is estimated that it will cost between \$15,000 and \$25,000 to assemble the information for the Sacramento county LAFCO.

Thus, what is now required is not the mere provision of information already existing and extant, but a report which includes items such as:

- List of relevant statutory and regulatory obligations.
- Copy of most recent master services plan.
- Metes and bounds legal description of the agency's boundary.
- Service area maps.
- Excerpts from various regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies or other environmental plans or programs.
- Copies of regulatory and operating permits.
- Number of acres or square miles within the service area.
- Type of sphere or sphere boundaries.
- Assessed valuation.
- Estimate of population within district boundaries.
- Number of people, households, parcels or units currently receiving service, or number of service connections.
- Projected growth in service demand or planned new service demand/capacity.
- Special communities of interest or neighborhoods affected by service.
- Capital improvement plans.
- Current service capacity.
- Call volume.
- Response time.
- Annual operating budget.²

Additional information need to be provided as requested by the LAFCO, because it must prepare a written statement of its determination with respect to each of the following, pursuant to Government Code, Section 56430:

- Infrastructure needs or deficiencies.
- Growth and population projections for the affected area.
- Financing constraints and opportunities.
- Cost avoidance opportunities.

² See OPR's Guidelines, Test Claim, Exhibit 4, Page 11.

- Opportunities for rate restructuring.
- Opportunities for shared facilities.
- Government structure options, including advantages and disadvantages of consolidation, or reorganization of service providers.
- Evaluation of management efficiencies.
- Local accountability and governance.³

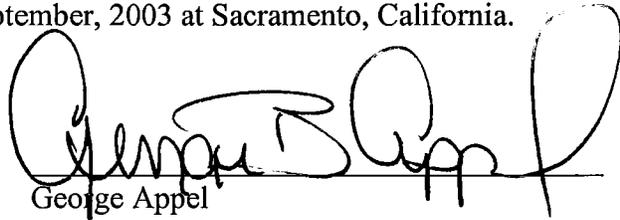
As a result, the municipal service review is not a response to a request for information; rather, it mandates that substantial information not readily located in one place be assembled and analyzed in conformance with statute and the guidelines of OPR. Just a comparison of the annual report with the type of report now required for a municipal services review indicates that there are substantial differences, and the report required by LAFCO is an entirely different matter.

Additionally, in the past, such detailed information would only be required if an agency wished to consolidate, change boundaries, or had a change in governance. This would have been an action specifically requested by the agency. However, now this information must be provided every five years, whether or not the agency requests any changes whatsoever. This is a new program and substantially higher level of service than has been provided before.

The Sacramento Metropolitan Fire District reserves the right to comment upon any additional notations or comments made by Commission staff or any state agency to the test claim.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief, and as to those items, I believe them to be true.

Executed this 22nd day of September, 2003 at Sacramento, California.



George Appel
Deputy Chief
Sacramento Metropolitan Fire Department

³ See OPR's Guidelines, Test Claim, Exhibit 4, Page 16.

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On September 24, 2003 I served a true and correct copy of the Response to Department of Finance by the Sacramento Metropolitan Fire District on Local Agency Formation Commission (LAFCO), CSM-02-TC-23, by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 24th day of September, 2003 at Sacramento, California.


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