

**Subject:**

OUT-OF-AGENCY SERVICES  
(Exclusive of Fire Protection Services)

**Purpose:**

Serve as a guide to the Commission in receiving, evaluating, and acting on requests ~~for~~by cities and special districts to provide new or extended services other than fire protection outside their jurisdictional boundaries.

**Background:**

State law requires cities and special districts to request and receive Commission approval before providing new or extended outside services by contracts or agreements with limited exemptions (Government Code Section 56133).<sup>1</sup>

**Policy:**

It is the policy of the Commission:

1. Goals and Priorities:

- a) The Commission will consider out-of-agency service requests whenever otherwise merited new or extended services cannot be reasonably accommodated through annexations or other jurisdictional changes.
- b) The Commission shall only approve out-of-agency service requests for cities and special districts involving territory within their spheres of influence in anticipation of future jurisdictional changes.
  - i. The Commission will exercise ~~its~~ independent discretion in potentially prescribing the timing of future jurisdictional changes through its authority to condition out-of-agency service approvals.
- c) The Commission shall only approve out-of-agency service requests for cities and special districts involving territory outside their spheres of influence in response to existing or ~~pending~~impending public health and safety threats.
  - i. The Commission will exercise its independent discretion in determining when existing or ~~pending~~impending public health and safety threats exist based on available documentation and analysis provided by LAFCO staff.

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<sup>1</sup> Contracts involving fire protection services are separately addressed under Government Code Section 56134 and are not covered under this policy.

2. Definitions:

- a) "Agreement" and/or "contract" shall mean a formal written arrangement contemplated under Section 56133.
- b) "Service" shall mean any authorized municipal service functions and/or classes provided by cities and special districts other than fire protection as well as those exempted by the Commission within Section ~~34~~ of this policy.
- c) "New service" shall mean the actual provision of municipal service functions or classes to previously unserved non-jurisdictional lands.
  - i. New service shall also mean the re-commencement of actual services after a discontinuous period of six or more months.
- d) "Extended service" shall mean the intensification of municipal service functions and/or classes to served (actual) non-jurisdictional lands that require a zoning change by the land use authority.

3. Applicability:

- ~~a) Eligibility of all statutory exemptions under 56133(e) as well as local exemptions provided under this policy is the exclusive responsibility of the Commission.~~
- a) The Commission shall emphasize the "point of delivery" in assessing the applicability of Section 56133.
- b) Cities and special districts may request a no-cost written response determination from the Commission ~~with respect as~~ to whether any proposed out-of-agency services are eligible for exemption under 56133 (e) and/or Section 4 of this policy.
  - ~~i.~~ The Commission delegates all inquiries for exemption eligibility under 56133(e) and/or Section 3 of this policy to the Executive Officer.
  - ~~ii.~~ The Executive Officer shall provide written ~~responses~~ notice of their determination to the ~~inquiring cities~~ city or special ~~districts~~ expediently.
- ~~i. b) The following municipal service functions and/or classes are not subject district to Commission review and approval either accept,~~

deny, or deny pending additional information all exemption inquiries within five business days.

- ii. Should the Executive Officer determine an inquiry does not qualify for exemption, the city or special district may appeal directly to the full Commission. The appeal request must be made in writing and signed by the city manager or special district manager.

#### 4. Exemptions

In addition to those provided by the Legislature under Section 56133:

- a) ~~Services involving fire protection. These out-of-agency services are~~

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- i. ~~Services provided on an entirely advisory basis~~Advisory or automatic aid services provided by a city and/or special district where no monetary compensation — directly or indirectly and other than reimbursements — is received by the contracted cities or special districts.are exchanged.

- ii. ~~Services provided~~Temporary access to cities and/or special districts' potable water supplies due to an interruption – planned or otherwise.

- iii. Temporary access to cities and/or special districts' wastewater collection, treatment, or discharge facilities

- ii.iv. Shared services between two or more cities and/or special districts through automatic aid agreements where monetary compensation is exchanged beyond reimbursements for any of the following activities:

- iii. ~~Services provided between two or more cities and/or special districts involving fleet and/or equipment sharing or management.~~

- Abandon Vehicle Abatement
- Accounting, Billing, and Payroll
- Animal Care and Control
- Building and Code Enforcement

- Dispatch
- Grant Writing
- Information Technology
- Legal
- Pooled Equipment Purchasing
- Pooled Materials Purchasing
- Pooled Services Purchasing
- Training

#### 4. Request Procedures:

a) ~~a)~~ All approval requests for out-of-agency ~~service approvals~~services shall be made in writing by cities and special districts and filed with the Executive Officer. Requests shall be made in letter form, ~~signed~~ by the city ~~or special~~ district manager, and include all of the following ~~items~~information:

- ~~i.~~ Description of the level and range of services to be provided.
- ~~ii.~~ Identification of the affected territory.
- ~~iii.~~ Description on how the services will be provided and funded.
- i. ~~iv.~~ A copy of the proposed service agreement by parcel number or ~~contract~~ another appropriate geographic marker.
- ii. ~~v.~~ Description of the ability of the agency to provide the contract service and relationship – including impacts – on existing and/or planned infrastructure and resources.

~~iii.~~ Application fee.

~~iv.~~ b) ~~As applicable, documentation substantiating existing or impending threats to public health and/or safety shall accompany any~~ Any other information required by the Executive Officer.

#### 5. Consideration Procedures:

a) The Commission shall consider all requests for out-of-agency service approvals ~~at a public meeting unless otherwise provided in this policy.~~

~~iii.i. Requests involving wastewater should include correspondence with County Environmental Health and Quality Department addressing the threats to public health and/or safety.~~

~~5. Evaluation Procedures:~~

~~a) The Commission shall follow all review procedures under Section 56133.~~

~~b) Requests for out-of-agency service approvals that are not premised on~~

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~~i. The Executive Officer shall confirm in writing within 30 days of receipt whether the out-of-agency service request is complete.~~

~~ii. Incomplete requests shall be referred back to the cities and special districts no later than 30 days from initial receipt with an enumeration of ensure all outstanding items.~~

~~iii. Complete requests shall be presented to procedures under Section 56133 are completed and responsible for placing the Commission along with Executive Officer recommendations at request on the next first available meeting.~~

~~iii. Commission shall approve, approve with conditions, or deny by majority vote of members present.~~

~~c) Requests for out-of-agency services premised on addressing public health and/or safety threats are delegated to the Executive Officer for consideration consistent with the following local procedures:~~

~~b) i. agenda thereafter. The Executive Officer shall provide notice to any known alternative service providers before taking any actions on requests, include his or her written recommendation on the request to the Commission.~~

~~ii. The Executive Officer shall take written action on completed requests as soon as reasonably practicable to either approve, approve with conditions, or deny.~~

~~c) The Should requests involve purported public health or safety threats, the Commission delegates approval authority to the Executive Officer under the following circumstances.~~

- i. ~~The request involves water and/or wastewater services only. If approved, the~~ Executive Officer shall provide notice to the Commission ~~of his or her action~~ at the next ~~available~~public meeting for information only.

~~d) All other requests involving purported public health or safety threats shall be considered by the Commission at the earliest time possible – including the scheduling of a special meeting with no less than 24-hour notice.~~

Z. Reconsideration:

- a) ~~If a~~Should an out-of-agency service request ~~is~~be approved with conditions or denied, the applicant may request reconsideration.

~~No outside party – individual or~~ 8. CEQA

~~a) All out-of-agency – may~~service request ~~reconsideration or otherwise appeal a decision by~~approvals shall be subject to concurrent review under the California Environmental Quality Act (CEQA).

~~a) b)~~ The Commission ~~or~~assigns all functions and related responsibilities provided under CEQA Guidelines Section 15025 to the Executive Officer ~~– including, but limited to, making exemption findings and related fillings.~~



## GOVERNMENT CODE - GOV

**TITLE 5. LOCAL AGENCIES [50001 - 57607]** ( Title 5 added by Stats. 1949, Ch. 81. )

### **DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT**

**REORGANIZATION ACT OF 2000 [56000 - 57550]** ( Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1. )

**PART 1. GENERAL [56000 - 56160]** ( Part 1 added by Stats. 1985, Ch. 541, Sec. 3. )

**CHAPTER 3. Introductory and General Provisions [56100 - 56134]** ( Chapter 3 added by Stats. 1985, Ch. 541, Sec. 3. )

**56133.** (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission of the county in which the affected territory is located.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 224.3 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

*(Amended by Stats. 2022, Ch. 37, Sec. 3. (AB 2957) Effective January 1, 2023.)*