

FINDING	RESPONSE
<p>F1. The Tuolumne County LAFCO website fails to provide information that is commonly provided by other county LAFCO websites, which includes the following deficiencies:</p> <ul style="list-style-type: none"> No adopted budget summaries are available No roster of LAFCO commissioners including some form of contact information and when current term expires No identification of key support personnel including Executive Officer and Legal Counsel No approved Minutes documents available for review No list, description, or map of special districts subject to LAFCO review and authority 	<p>Disagree Partially. It is unclear what should be considered “commonly provided” information. The report indicates that the Grand Jury reviewed approximately 4 LAFCO websites out of the 58 County LAFCOs in California. The LAFCO website is not required to contain any specific information beyond what is required by the Brown Act, nor does it need to be managed in the same or similar manner as other LAFCOs. The Tuolumne County LAFCO website does include all legally required information. All of the additional information listed in the report is available from the Commission Executive Officer, whose contact information is on the LAFCO website. And while there are not direct links on the LAFCO homepage for the items listed in the finding, this information, with the exception of a roster, is available within the posted Agendas and accompanying Minutes on the LAFCO website.</p> <p>Larger LAFCOs have extensive staffing resources who can provide and maintain information on a website. Currently there is not funding within the LAFCO budget to dedicate to additional staff to enhance or improve the website.</p> <p>The Commission will take into consideration any enhancements or improvements that may be made to the website within the current year’s budget.</p>
<p>F2. Tuolumne County LAFCO commissioners are not given adequate preparation or orientation when assuming roles as commissioners. For example, Commissioners have served without being provided with the Policy and Procedures Manual. Some did not know such a Manual existed or was statutorily required.</p>	<p>Disagree Partially. The LAFCO Clerk completes an onboarding process with each new Commissioner. This includes providing them information about the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), the Tuolumne LAFCO policy handbook, and a roster. This year, materials from a “LAFCO 101” training that was provided by LAFCO Counsel was also included in the welcome packet.</p> <p>Commissioners are also given access to the California Association of Local Agency Formation Commissions (CALAFCO), a statewide organization who assists member LAFCOs with educational, technical, and legislative resources. CALAFCO organizes an annual conference and trainings throughout the year for Commissioners and staff.</p>

	<p>Commissioners routinely attend the trainings and annual conference. Four Commissioners, the Executive Officer, and LAFCO Counsel are planning to attend the 2024 LAFCO conference in October 2024. From time to time, subject matter experts attend local LAFCO meetings to speak to the Commission about different responsibilities and procedures related to LAFCO.</p> <p>The Commission voted in 2023 to update the policy handbook. Revisions have been ongoing and were on the agendas at four recent meetings: April 8 and May 13, June 10, and August 12, 2024. Once the updates have been completed and approved, it will be redistributed to the members and posted on the LAFCO website.</p>
<p>F3. LAFCO has no reserve fund as contributions for each fiscal year are based on actual expenditures with no carryover for the next fiscal year.</p>	<p>Agree. LAFCO does not have a reserve fund. The Commission will consider whether to include this in the updated policy handbook.</p>
<p>F4. While Sphere of Influence maps and Municipal Service Review updates were proposed in the 2019-2020 budget work plan, to catch-up to the standard 5-year review cycle, most of the updates have not been completed. As such, there are a total of 35 districts that have had no SOI or MSR updates in over 11 years.</p>	<p>Disagree Partially.</p> <p>The Government Code states that the Commission shall, as necessary, review and update each Sphere of Influence (SOI) every 5 years¹. In order to prepare and update SOIs, the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the Commission². The timing of MSRs is not strictly mandated under the Government Code, and the Commission may determine whether a review is necessary. LAFCO law also provides that “any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (h) of Section 56658 [notice on an application] and subdivision (b) of Section 56895 [requests for amendments to or reconsideration of resolutions], be deemed directory, rather than mandatory³.”</p> <p>The Commission directs the timing of MSRs in an annual workplan. The Grand Jury report specifically mentions the proposed 2019-2020</p>

¹ CA Government Code Section 56425(g)

² CA Government Code Section 56430

³ CA Government Code Section 56106

	<p>workplan, which was significantly curtailed due to limited staffing resources during the Covid pandemic and the resulting shutdowns that occurred. During the April 29, 2024, LAFCO meeting, the Commission approved a MSR Completion Schedule which will be used to create the annual workplan moving forward. The Commission also adopted a significantly increased budget in 2024-2025 in order to complete additional MSRs. The Commission is currently considering how to best staff LAFCO to complete multiple MSRs in a cost-effective manner.</p> <p>In summary, the Commission believes it has a duty to perform regular reviews and updates of boundaries or areas that government services are expected to cover, ensuring they remain accurate and up-to-date, and is committed to completing reviews and updates, as necessary, at least every five years.</p>
<p>F5. LAFCO staff support can be provided by County staff; however, it must be under a contractual agreement. There is no contract between Tuolumne County LAFCO and Tuolumne County, which is a violation of state law requirements.</p>	<p>Disagree Wholly. The Grand Jury misinterprets the Government Code. LAFCO law allows the Commission to “appoint an executive officer⁴,” “appoint legal counsel to advise it⁵,” and “appoint staff as it deems appropriate⁶.” The Government Code also gives the Commission the power to “appoint and assign staff personnel and to employ <i>or contract</i> for professional or consulting services to carry out and effect the functions of the commission⁷.”</p> <p>The Attorney General has addressed the designation of the Executive Officer, Legal Counsel and staff in past opinions⁸. The Attorney General noted that “personnel to assist the Commissions may be obtained in two ways: (1) County officers or other employees may serve, and in doing so, do not lose their status as county employees; or (2) the Commission may employ or contract for professional or consulting services to carry out its functions, and may further appoint and assign staff personnel where the assistance rendered by the county boundary commission is insufficient. When the Commission fails to appoint an executive officer, the County Administrator or County Clerk so serves.” The distinction made by the Attorney General in the above quote is important, in that LAFCO can</p>

⁴ CA Government Code Section 56384(a)

⁵ CA Government Code Section 56384(b)

⁶ CA Government Code Section 56384(c)

⁷ CA Government Code Section 56375(k)

⁸ 45 Ops. Cal. Atty. Gen. 82 and 51 Ops. Cal. Atty Gen. 235

	<p>either use County employees or appoint and assign their own staff from other sources. The Attorney General further notes that, where a LAFCO commission chooses to utilize county staff, the County Counsel would be available to represent and advise such commissions.</p> <p>As set forth in LAFCO’s Policy and Procedure Manual, the Commission has elected to utilize County staff to serve as Executive Officer, Assistant Executive Officer, Legal Counsel and Department Support Technician. The Community Development Department (“CDD”) Director fills the role of LAFCO Executive Officer, who then selects the appropriate support staff. The CDD Director is a County employee, appointed by the Board of Supervisors, and the duties of LAFCO EO are detailed in that job description. LAFCO does not have the legal authority to hire or fire the CDD Director. The same is true for LAFCO Counsel and supporting staff. The LAFCO Policy and Procedure Manual allows County Counsel to represent LAFCO. County Counsel is also a County employee appointed by the Board of Supervisors. County Counsel assigns its attorney staff to clients based on a combination of factors, including competency, knowledge and experience.</p> <p>Upon consultation, other County LAFCOs have advised that they typically enter contracts when they hire employees directly or when they hire independent contractors, but not when they use staff of another agency. Although a retention agreement between agencies is commonly used, it is not universal, nor is it legally required.</p> <p>If the Commission continued to use County staff to perform the functions of LAFCO, it could consider entering into a retention agreement with the County to clarify roles and responsibilities, but a retention agreement is not a requirement under the law.</p>
<p>F6. LAFCOs have the right to appoint and assign staff to support their activities. However, Tuolumne County has made personnel assignments to LAFCO staff without consulting commissioners. These assignments have not always been in the interest in maintaining continuity or accomplishing LAFCO goals.</p>	<p>Disagree Wholly. For the reasons mentioned in Response F5, LAFCO has the right to designate Tuolumne County to fulfill their staffing requirements, but LAFCO cannot directly appoint the individuals who fill the County-provided roles.</p> <p>Pursuant to the Policy and Procedure Manual, LAFCO staffing is currently provided by Tuolumne County staff. The CDD Director operates as the EO and utilizes the appropriate support staff within that department to fill the roles of Assistant Executive Officer and Department Support</p>

	<p>Technician. The County provides legal counsel through County Counsel's office.</p> <p>No evidence has been presented to LAFCO that demonstrates how personnel assignments to LAFCO have "not always been in the interest in maintaining continuity or accomplishing LAFCO goals." In fact, many of the issues addressed in the Grand Jury report are the result of budget and funding constraints, and not the result of personnel assignments.</p> <p>County staff have the competency, experience, and knowledge to assist LAFCO in accomplishing its goals, and also have access to resources and, when needed, subject matter experts. Staff attend regular CALAFCO trainings and also belong to statewide Executive Officer and Legal Counsel associations and listservs, and have an active shared staffing agreement with Marin, Santa Cruz, and San Benito LAFCOs who can provide assistance when necessary.</p> <p>Notwithstanding the above, on August 27, 2024, the County of Tuolumne provided notice to LAFCO that as of January 1, 2025, they would no longer provide any staffing or support to the Commission. As a result, the Commission will immediately begin the process of transitioning staff to a different model.</p>
<p>F7. One of the special district seats on LAFCO is to be available to multiple different special districts who provide funding for LAFCO and that seat is subject to vote of the special districts every four years through a Special District Selection Committee. A vote took place that was not in compliance with the state requirements and only a small number of eligible districts participated. However, that decision was accepted by LAFCO, and that commissioner will have that seat until 2026. The majority of eligible special districts lost their opportunity to decide who represents them on LAFCO.</p>	<p>Agree. In reviewing the process of the election of the Special District Selection Committee, the Special District appointment made in 2023 was nonstandard. This decision was indirectly accepted by LAFCO as no formal action was taken by the Commission to seat the member. If the special districts wish to revisit this action, the Government Code allows the Executive Officer to "call a noticed meeting of the Special District Selection Committee upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll⁹."</p>

⁹ CA Government Code Section 56632

<p>F8. Present staffing levels and expertise of Tuolumne County employees are inadequate to provide necessary and cost-effective support for LAFCO.</p>	<p>Disagree Wholly.</p> <p>There is no evidence in the report to support this finding regarding expertise of Tuolumne County employees. The report concludes that meeting cancellations and MSRs not being completed more frequently is a result of inadequate staffing. However, the report acknowledges that the LAFCO budget will need to increase in order to update SOI maps and MSRs. The budget, not staff, directly dictates how many Commission meetings can be held, how many staff members can be assigned to LAFCO, and how many SOI maps and MSRs can be performed in a fiscal year. Staffing levels are directly tied to the LAFCO budget. The Commission may consider a future budget increase to support additional LAFCO staff.</p> <p>The report further notes that, because no one is currently assigned to the Assistant EO role for LAFCO, the EO currently provides all professional support to LAFCO, and at higher rates than an Assistant EO would, which is not cost-effective. The current LAFCO EO has over 25 years of experience in community planning and LAFCO matters and projects. This depth of experience permits LAFCO work to be completed efficiently and cost-effectively, as those with less experience generally require additional time to complete the same task, which essentially eliminates any cost savings that might otherwise result.</p> <p>All staff assigned to LAFCO are competent and have the knowledge and experience in performing the work of LAFCO. As mentioned in Response F6, staff have access to resources and, when needed, subject matter experts. Staff attend regular CALAFCO trainings and also belong to statewide LAFCO Executive Officer and Legal Counsel associations and listservs, and have an active shared staffing agreement with Marin, Santa Cruz, and San Benito LAFCOs to provide assistance when necessary. The Executive Officer, in working with budget constraints, has discretion regarding how to best accomplish a project or a required task to maximize the limited funding available. Legal Counsel is competent and knowledgeable in not only LAFCO law (Cortese Knox Hertzberg Act), but also public agency law, contracts law, and all other areas of law in which legal counsel routinely engage as LAFCO counsel. To the extent that a project or issue requires complicated subject matter expertise, LAFCO</p>
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	<p>staff utilize subject matter experts, which is standard practice in the industry.</p> <p>LAFCO is not aware of any specific concerns or complaints made about the quality of the work performed by staff, and the Grand Jury report does not address any work quality issues related to LAFCO staff.</p> <p>Notwithstanding the above, on August 27, 2024, the County of Tuolumne provided notice to LAFCO that as of January 1, 2025, they would no longer provide any staffing or support to the Commission. As a result, the Commission will immediately begin the process of transitioning staff to a different model.</p>
<p>F9. Annual assignments of Tuolumne County Board of Supervisors to the LAFCO commissioner and alternate commissioner roles have fluctuated among different Supervisors every year and does not provide continuity based on experience in the role of commissioner.</p>	<p>Disagree Wholly. In 2019, County Board of Supervisor appointments were extended from one year to two years. LAFCO does not have the authority to direct the appointments of County or City commissioners, including the length of their appointments.</p>

RECOMMENDATION	RESPONSE
<p>R1. Tuolumne County LAFCO commissioners and Tuolumne County leadership and staff should fully assist and expedite the proposed move from County-staff provided support to a contract with an outside agency or firm. Any support staffing continuing to remain provided by County-staff should be subject to a formal contract between LAFCO and Tuolumne County. (Findings 8, 6, 5)</p>	<p>Recommendation requires further analysis. The Commission is currently considering whether changes to LAFCO staffing should be implemented .and has been exploring this matter for over a year. Two Requests for Proposals have recently been released and no responses for Executive Officer services have been received. A third is proposed to be released later in 2024.</p> <p>On August 27, 2024, the County of Tuolumne provided notice to LAFCO that as of January 1, 2025, they would no longer provide any staffing or support to the Commission. As a result, the Commission will immediately begin the process of transitioning staff to a different model.</p>
<p>R2. Tuolumne County LAFCO website needs improvements in order to make it easier to locate and</p>	<p>Recommendation requires further analysis. The Commission will consider whether enhancements or improvements can or should be made with the</p>

<p>find minutes, identify commissioners, list and status of all districts subject to LAFCO, current and previous budgets, and any other information necessary to make LAFCO more transparent and accountable. (Finding 1)</p>	<p>current budget and/or whether to increase the budget in the next fiscal year to address website modifications.</p>
<p>R3. Tuolumne County LAFCO staff should prepare a realistic schedule to review and update all Sphere of Influence (SOI) and Municipal Service Reviews (MSR) for all districts that have not been so updated within the last 5 years. Once approved by LAFCO, that schedule of progress should be available for all to view on the LAFCO website and updated at least twice per year. (Finding 4)</p>	<p>Recommendation will not be implemented because it is not warranted. As noted in Response F4, LAFCO law gives the Commission discretion regarding how often to update SOIs and MSRs and how to prioritize those MSRs. The Commission must also consider budget restraints when determining how many MSRs can be completed and how often. Additionally, the Commission approved a MSR Completion Schedule in April, 2024, which will be used to create the work plan.</p>
<p>R4. All decisions regarding personnel responsible for staff support for LAFCO, including but not limited to Executive Officer, Assistant Executive Officer, and Legal Counsel, should be at the discretion of LAFCO commissioners after careful consideration of experience, cost-effectiveness, and subject to at least one interview with LAFCO or an ad-hoc committee determined by LAFCO. (Finding 6)</p>	<p>Recommendation will not be implemented because it is not warranted. LAFCO already has the options of utilizing County staff, hiring its own staff, or contracting with another individual or agency. However, as explained in Response F6, the Commission does not control County staff and does not have the authority to select individual County staff members to fill LAFCO roles.</p> <p>LAFCO is currently assessing what staffing changes it will implement. LAFCO has published two recent Requests for Proposals seeking an Executive Officer and/or Legal Counsel. There were no responses to the request for an EO, and the Commission did not elect to move forward with the one proposal received for a Legal Counsel due to cost. A third RFP is under consideration for release later in 2024.</p> <p>On August 27, 2024, the County of Tuolumne provided notice to LAFCO that as of January 1, 2025, they would no longer provide any staffing or support to the Commission. As a result, the Commission will immediately begin the process of transitioning staff to a different model.</p>
<p>R5. Tuolumne County LAFCO should budget for participation by commissioners and staff in formal education opportunities such as CALAFCO conferences. LAFCO staff should provide local workshops for new commissioners to attend to introduce them to LAFCO laws and practices. These should also be advertised on the website and open to the public to attend at no cost. (Findings 2, 8)</p>	<p>Recommendation has been implemented. Commissioners and staff have routinely attended CALAFCO trainings in the past, and LAFCO brings in subject matter experts from time to time to present to the Commission. Tuolumne County also offers occasional training for all Committees and Commissions regarding AB1234, Contracts and the Public Records Act. Four Commissioners will be attending the CALAFCO conference in October of 2024 as the expenses were paid for with available funding in the 2023-24 fiscal year budget. There is also funding in the 2024-25</p>

	<p>budget to provide local training to the Commissioners by subject matter experts. For trainings that occur during Commission meetings, they will be available for the public to attend at no cost. The Commission will consider the appropriateness of advertising workshops on the website.</p>
<p>R6. Tuolumne County LAFCO budgets should include a contribution to a reserve fund to be carried over from year to year. In a year when the estimated budget contributions are not fully expended, those remaining contributions should roll to the reserve fund. (Finding 3)</p>	<p>Recommendation requires further analysis. The Commission will consider including provision of a reserve fund in the Policy and Procedure Manual that is currently under review. The handbook update is anticipated to be completed by the end of 2024.</p>
<p>R7. Tuolumne County LAFCO should complete an update of Policy and Procedures Manual as soon as possible. Any detail necessary to remove ambiguities about how and when the Special Districts Selection Committee determines the succession of representatives from the special districts to the two Commission seats should be addressed in that update. Orientation for new commissioners should take place immediately after their appointment, and understanding the Policy and Procedures Manual should be a point of emphasis during all orientation and subsequent training. (Findings 2, 7)</p>	<p>Recommendation is being implemented. The handbook is anticipated to be updated by the end of 2024 and will include Policy Guidelines regarding the Special District Selection Committee.</p> <p>Commissioners are attending the CALAFCO Conference in October 2024 which serves as a component of their orientation. This year, local trainings will be provided by subject matter experts.</p> <p>LAFCO staff will continue to provide resources to new Commissioners that include the Cortese Knox Hertzberg Act and the Tuolumne LAFCO policy handbook.</p>