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2/25/2021

TO: Local Agency Formation Commission

FROM: Crystal M. Craig, Assistant Executive Officer

**SUBJECT: REVIEW AND CONSIDERATION OF AMENDMENTS AND UPDATES TO
THE COMMISSION'S DISADVANTAGED UNINCORPORATED
COMMUNITIES (DUCS) POLICY**

EXECUTIVE SUMMARY:

The Cortese-Knox-Hertzberg (CKH) Act of 2000 requires that each LAFCO adopt written policies and procedures. Staff is in the process of compiling and reviewing all policies and procedures adopted by the Commission to incorporate into one Policy Manual that will be brought to the Commission at a future date for adoption.

On January 23, 2020, the Commission, adopted the Five-Year Strategic Plan which identified "Disadvantaged Unincorporated Communities" (DUCs) as Strategic Objective Number One for the Fiscal Year 2020/21 Annual Action Plan. This staff report is to review, and if necessary, update and revise any discretionary criteria within the Commission's current DUC policy and procedural guidelines utilized for identifying and addressing DUCs.

DUCs are already a component of Riverside LAFCO's considerations with respect to service delivery of core services. With the 2020 Census, updated data related to population and Median Household income (MHI) will be available in updating Riverside LAFCO's DUC's. With the 2020 Census data, there may be newly identified DUCs or the existing DUCs could be expanded, modified or even eliminated.

The Commission was previously advised that the methods of identifying and analyzing DUCs would evolve over time. On March 22, 2012, in agenda item 7., the Commission adopted an interim policy via a staff report to implement the new state law regarding DUCs and identify DUCs. Fast forward nine years later, it is time to re-examine the DUC policy.

Attachment "A" is the interim DUC policy initially adopted by the Commission in 2012 with current additions in red. Staff recommends that the Commission provide any additional changes, corrections, or amendments to the proposed DUC Policy.

LEGISLATIVE BACKGROUND:

Senate Bill 244 (Wolk), effective on January 1, 2012, imposed several new requirements and restrictions on LAFCOs, cities, and counties with regarding to DUCs. The requirements and restrictions are centered on disadvantaged unincorporated communities (DUCs). The Legislature found that DUCs lack access to basic infrastructure, including, but not limited to streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service.

Under CKH, DUCs are defined as **inhabited** territory that constitutes all or a portion of a community with an annual median household income (MHI) that is less than 80 percent of the statewide MHI.

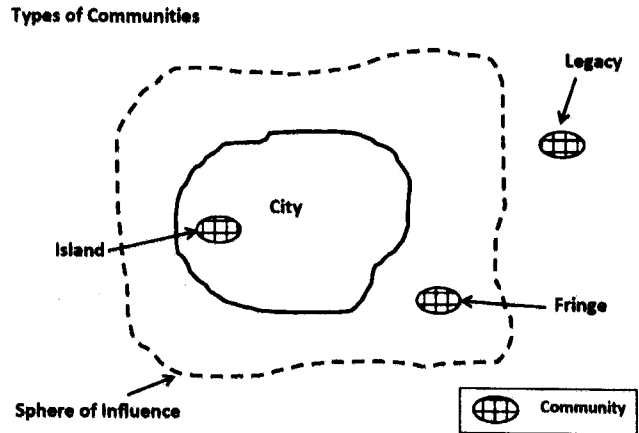
The legislation impacted LAFCO operations in three areas:

- 1) Municipal Service Review (MSR) determinations (Government Code section 56430).
- 2) Sphere of Influence (SOI) updates on or after July 1, 2012, and the requirement to make determinations (Government Code section 56425).
- 3) City Annexation approval restrictions of territory adjacent to DUCs (greater than 10 acres) (Government Code section 56375(a)(8)(A)). This is to ensure that DUCs are not excluded from a change of organization or reorganization. However, there are two exemptions to the requirement to file an application to annex a contiguous DUC, as follows:
 - i.) An application to annex the DUC has been filed in the past five years.
 - ii.) The Commission finds, based upon **written evidence**, that a majority of the residents within the affected territory are opposed to annexation.

COUNTY & CITY REQUIREMENTS:

SB 244 was not only geared towards LAFCOs but also affects cities and counties. Each city or county must review and update the land use element of its General Plan (Government Code Section 65302.10(a) and 65588) to include the following criteria prior to the next update of its Housing Element. These requirements and definitions are completely independent of CKH and do not directly impact LAFCO.

- Cities must identify and describe "unincorporated islands" and "fringe communities," as defined, which are within their spheres.
- Counties must identify and describe each "unincorporated legacy community", as defined, outside the SOI of any city.
- The Land Use element update must include an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each of the identified communities.
- An analysis of potential financing mechanisms that could make the extension of services to identified communities financially feasible is also required.



As far as staff is assured, the County of Riverside performed its last review in 2015 and utilized 5-year American Community Survey (ACS) estimates (2009-13). The State MHI between 2009 and 2013 was \$61,094. The income for communities is 80% of that figure, \$48,875 or lower, to qualify. The Riverside County Transportation Land Management Agency (TLMA) identified 22 DUCs in the unincorporated county that met the criteria and keep in mind, the County's criteria are different than LAFCO's. DUCs on tribal (federal) land outside of the County's land use jurisdiction were included on some of their figures but were not analyzed further as they are not in the County's jurisdiction.

INTERIM POLICY BACKGROUND:

The Commission adopted implementation policies for DUCs at the March 22, 2012 meeting. Staff then proceeded with identification of DUCs based on the interim policies. The median household income data is from the U.S. Census Bureau American Community Survey (ACS) utilizing the MHI five-year dataset (2006-2010). The State MHI for the given period in 2012 was \$60,883. The qualifying income for a DUC is 80% of that figure, \$48,706. These figures were used on the first DUC mapping within the City SOIs. The ACS dataset is important for identifying trends for small communities and geographies which is critical for planning future investments and services. This data has provided communities with detailed information about people, places and the economy for the last 15 years.

Aerial imagery was then used to refine the boundaries of each potential DUC. Areas of vacant land and non-residential uses were removed. Block groups often included large areas of varying housing types. Aerial imagery was also used to exclude areas within a block group that were likely above the income threshold, for example, neighborhoods including a large proportion of larger homes, swimming pools, etc.

Staff returned to the Commission on November 29, 2012, and on January 24, 2013 to introduce the DUCs identified within the spheres of influence of cities in the Coachella Valley, Palo Verde Valley (City of Blythe) and Western Riverside County. There are currently 40 DUCs within or near city spheres of influence that are associated with 14 cities that LAFCO previously identified under the current criteria.

2020-21 CITY MSR & SOI UPDATE DISCUSSION:

The last round of City MSR and SOI reviews were adopted prior to the implementation of SB 244. On September 24, 2020, the Commission retained RSG, Inc. to review municipal services provided by all 28 cities in Riverside County for our updated MSR effort. Riverside LAFCO is proceeding with a two-phase work plan. Phase one will include the comprehensive review by subregion: 1) Western region, 2) Pass/Mountain regions, and 3) Coachella Valley/Eastern regions to be prepared as one document. The second phase will be to address any SOI changes that are recommended as part of the MSR/SOI review and update report that are not adopted by the Commission at the public hearing. Those SOI updates that require further research and discussion, will be brought back at a later date.

On December 10, 2020, the U.S. Census Bureau released new five-year 2015-19 statistics. The State MHI is \$75,235. The qualifying income for a DUC is 80% of that figure, \$61,188. It will be critical for staff to start re-identifying DUCs now that new data has been released.

CONCLUSION: In 2012, the Commission adopted interim policies to guide staff for the implementation of SB 244, which established various requirements and restrictions related to disadvantaged unincorporated communities (DUCs).

Staff requests that the Commission provide any additional changes, corrections or amendments to the proposed DUC Policy outlined in Attachment "A" of this report. This DUC Policy provides guidance to staff for the identification of DUC boundaries. Since we are currently undergoing our MSR and SOI updates for cities and special districts, it is important to move ahead with approving this Policy. Staff will continue to monitor the DUCs and recommend updates to the Commission on an as-needed basis.

STAFF RECOMMENDATION:

It is recommended that the Commission:

1. Provide staff with any additional changes, corrections, or amendments to the LAFCO Disadvantaged Unincorporated Communities (DUCs) Policy.
2. Adopt Attachment "A" to the LAFCO Disadvantaged Unincorporated Communities (DUCs) Policy.
3. This operational policy is to be included in the Policy Manual that is currently being developed. The complete Policy Manual will come to the Commission for final adoption at a later date.

Respectfully submitted,



Crystal M. Craig
Assistant Executive Officer

Attachments:

- 1) Attachment "A" Draft DUC Policy
- 2) Listing of currently identified DUCs within City SOI's

- 3) SB Relevant Code Sections
- 4) SB 244 - City Annexation DUC Program Processing Flowchart
- 5) LAFCO's Registered Voter Petition