



Legislation Text

File #: 22-1104, **Version:** 1

Department of Transportation recommending the Board adopt the revised Board of Supervisors Policy, A-8, Payment or Reimbursement to Consulting Parties on County Projects, formalizing the position of El Dorado County on providing payment or reimbursement to interested third parties requesting consultation prior to and during review under the California Environmental Quality Act and National Environmental Policy Act, for projects in the County.

FUNDING: N/A

DISCUSSION / BACKGROUND

On June 5, 2018, Item 23, Legistar 18-0234, the Board adopted Policy A-8, Payment or Reimbursement to Consulting Parties on County Projects, formalizing the County's position regarding providing payment or reimbursement to interested third parties requesting consultation prior to and during preparation and review of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) for Department of Transportation's (Transportation) and County projects. This policy has been reviewed for continued relevance, timeliness, and accuracy and requires continued ratification.

In 2014, the State of California enacted Assembly Bill 52 (AB52), Chapter 532 of the California Public Resources Code, which establishes a formal consultation process for California tribes as part of CEQA which equates significant environmental impacts on "tribal cultural resources" (TCRs). AB52 recognizes tribes may have expertise in tribal history and "tribal knowledge about land and TCRs at issue should be included in environmental assessments for projects that may have a significant impact on those resources." CEQA analysis must consider tribal resources, including "the tribal cultural values in addition to scientific and archaeological values when determining impacts and mitigation."

This consultation requirement applies to all County projects and those development proposals submitted to the County for review and approval. The policy is intended to apply to County projects whether they are sponsored by Transportation, Facilities, Parks and Trails, or any other department. The Planning and Building Department has adopted procedures relative to processing of development procedures.

In 2016, Transportation received letters from local tribes requesting payment to provide information on County project sites while consulting under CEQA. Transportation staff conferred with California Department of Transportation (Caltrans) District 3 Local Programs on the matter who responded that there is no legal requirement for Caltrans or Federal Highway Administration to pay for consultation under Section 106 and CEQA and they would not reimburse the County for costs if the County did choose to pay for consulting.

This year, Transportation consulted with Caltrans and received updated information from the Caltrans Standard Environmental Reference handbook that was revised in 2021. The handbook indicated that compensation could be considered in special cases beyond standard consultation practice and is

reflected in this revision to County Policy A-8.

Subsequently, Transportation discussed the issue with other County departments and a decision was made that adoption of a formal County policy would clarify the County's position and ensure consistent application by County departments.

ALTERNATIVES

The Board could direct staff to revise the policy and return for approval; however, the County may receive requests for payment or reimbursement and be forced to make a decision that sets precedent on this matter before a policy has been adopted.

PRIOR BOARD ACTION

See Discussion/ Background section.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

The policy was distributed to the Chief Administrative Office and all Department Heads for review. County Counsel has reviewed and approved the revised policy.

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

There is no fiscal impact or change to net County cost associated with this agenda item.

CLERK OF THE BOARD FOLLOW UP ACTIONS

The Clerk of the Board will publish the adopted Policy on the Board of Supervisors Policy Manual webpage.

STRATEGIC PLAN COMPONENT

Infrastructure, Good Governance

CONTACT

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