



**EASTERN SIERRA COUNCIL OF GOVERNMENTS (ESCOG)
Joint Powers Authority**

SPECIAL MEETING AGENDA

Friday, February 14, 2020

8:30 a.m.

**Mammoth Lakes Council Chamber
437 Old Mammoth Road, Suite Z
Mammoth Lakes, CA**

Board Members

Mono County Supervisor
Stacy Corless – Vice Chair

Mono County Supervisor
Bob Gardner

Town of Mammoth Lakes Councilmember
Lynda Salcido

Town of Mammoth Lakes Councilmember
John Wentworth

Inyo County Supervisor
Jeff Griffiths - Chair

Inyo County Supervisor
Dan Totheroh

City of Bishop Councilmember
Jim Ellis

City of Bishop Councilmember
Karen Schwartz

NOTICE TO THE PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at 760-965-3603. Notification 48 hours prior to the meeting will enable the City of Bishop or Town of Mammoth Lakes to make reasonable arrangements to ensure accessibility to this meeting. (See 42 USCS 12132, 28CFR 35.130)

NOTE: Comments for all agenda items are limited to a speaking time of three minutes.

- 1. Call to Order**
- 2. Pledge of Allegiance**

3. **Roll Call**
4. **Public Comment** – Notice to the Public: This time is set aside to receive public comment on matters not calendared on the agenda. When recognized by the Chair, please state your name and address for the record and please limit your comments to three minutes. Under California law the Eastern Sierra Council of Governments Board is prohibited from generally discussing or taking action on items not included in the agenda; however, the Eastern Sierra Council of Governments Board may briefly respond to comments or questions from members of the public. Therefore, the Eastern Sierra Council of Governments Board will listen to all public comment but will not generally discuss the matter or take action on it.
5. **Approve the Minutes of the December 13, 2019 regular meeting (of the ESCOG).**
6. **Discussion and possible action on elect new officers for the position of Chair, Vice Chair and Secretary for ESCOG -JPA.**
7. **Discussion on update regarding the filing of the needed Joint Powers Agreement Establishing the Eastern Sierra Council of Governments as a separate Legal Entity from its Member Agencies.**
8. **Discussion and possible action on the establishment of Ad Hoc Committees to review and bring recommendations back to the full ESCOG - JPA Board on matters related to the administration and operations to include at least the following: Bylaws; Budget – FY19-20; Financial Processes and member commitments and Fiscal Agent Agreement, Legal Representation, ESCOG-JPA Insurance; Conflict of Interest Code; and Executive Director Term, Selection, and Duties.**
9. **Discussion with Mono County Finance Director, Janet Dutcher regarding the ESCOG – JPA fiscal services and processes provided by Mono County Department of Finance.**
10. **Update on the Eastern Sierra Sustainable Recreation Partnership (ESSRP) including Partnership Meetings on January 6th and February 3rd, and establishment of liaison between the ESCOG-JPA and ESSRP to review future opportunities.**
11. **Update on the Prop 68/Sierra Nevada Conservancy’s “Sustainable Recreation and Tourism” Grant, administered by the Town of Mammoth Lakes on behalf of the regional partners**
12. **Update on Bishop Eastern Sierra Regional Airport (BIH) Air Service.**
13. **Discussion regarding Grant Opportunities, including Innovative Finance for National Forest grant application “Inyo Forest Campgrounds” and USDA Rural Development Rural Business Development Grants (RBDG)**

- 14. Update on housing activities from all member agencies.**
- 15. Member Reports**
- 16. Discussion and action on establishing a regular meeting schedule, time and place(s) for ESCOG-JPA and/or next meeting and Call for Agenda Items**
- 17. Adjournment**

STAFF REPORT
Eastern Sierra Council of Governments
Joint Powers Authority

Mono County Board of Supervisors
Inyo County Board of Supervisors
Bishop City Council
Mammoth Lakes Town Council

Subject: Next steps for implementation of the Eastern Sierra Council of Governments Joint Powers Authority (ESCOG-JPA)

Prepared by: Daniel C. Holler, Mammoth Lakes Town Manager

RE: Report reference: Agenda Items 6, 7, 8, and 9.

Meeting Date: February 14, 2020

BACKGROUND:

The creation of the Eastern Sierra Council of Governments Joint Powers Authority (ESCOG-JPA) has been approved by each of the four member agencies. The last approval was by Mono County on January 7, 2020. The formal first date of the new ESCOG-JPA is therefore January 7, 2020. The ESCOG-JPA filing with the Secretary of State is complete (see Agenda Item #7). As provided for in previous staff reports several steps or actions are involved in the creation and implementation (Administration and Operations) of the new ESCOG-JPA.

Adoption of the JPA created a new governmental entity in the Eastern Sierra. The JPA structure is provided for under State law and is a legal process used by multiple agencies across the state to provide regional services. The Eastern Sierra Transit Authority (ESTA) is a local example. This body will have those duties, powers and authority as provided for in the JPA formation documents (see final agreement in Agenda Item #7).

This staff report addresses a number of steps that the new ESCOG-JPA will need to complete and identifies some timelines and recommendations. This is the the first meeting of the new entity and as such, some housekeeping items need to be taken care of as well as providing direction on next steps. Rather than preparing several smaller reports, this one staff report was prepared to discuss the next steps in an overall context. The specific agenda item discussions by the Board will need to be conducted based on the specific agenda item under consideration.

NEXT STEPS

As the new ESCOG-JPA is now approved, various actions will need to be taken regarding the administration and operation of the new separate legal entity. The following steps have been identified by staff and legal counsel.

1. File the JPA formation document with the Secretary of State (**Completed - Agenda Item #7**). A copy of the filing document and the signed approvals are attached for your review and reference.
2. The JPA documentation establishes the composition of the Board of Directors including members and alternates (Section 4.02). If a member agency has not designated an alternate(s) it is recommended that this action be considered. Current members are authorized to continue under the current terms.
3. The JPA document calls for the Board to elect from its members a Chair and Vice Chair per Section 4.02(c). It is recommended that the Board take formal action to elect these two positions (**Agenda Item #6**). The term of the Chair and Vice Chair is one (1) year. The agreement provides for the current serving members in those positions to serve out their terms, which previously followed a calendar year.
4. The JPA document also provides the appointment of a Secretary from the membership and provides that this position may be an administrative staff person. The duties of the Secretary are not defined in the formation documentation. It is recommended that the duties of the Secretary be defined in the ESCOG-JPA Bylaws. If the initial intent is to simply have the Secretary perform the “clerking” duties currently provided by the Town of Mammoth Lakes, then appointment of the current Town Assistant Clerk to the position is acceptable. If the intent is for the position to take on additional administrative duties, then any appointment should be postponed until such time that the duties are defined. The Board may appoint a member to serve as Secretary, but again the specific duties are undefined (**Agenda Item #6**).
5. Provide direction on financial administration. The financial structure will be discussed under (**Agenda Item #9**). Mono County is serving as the current fiscal agent for the ESCOG-JPA. An agreement for these services will need to be drafted and approved. The initial procedures need to be discussed. Staff is recommending that each agency provide initial start up funds in the amount of \$16,500 per agency for the remainder of FY19-20 or as otherwise agreed to by the members. A previous report recommended \$16,300. Staff supports the full amount as the ESCOG-JPA will likely have some unanticipated expenses or higher than projected costs.
6. Budget Adoption. Outside of the Clerking services which are funded for the whole year (currently projected at \$20,600), a budget will need to be developed for the remainder of FY19-20. Again, an “Ad Hoc” committee may be established to prepare a preliminary budget for Board consideration (**Agenda Item #8**) and to

address any additional financial considerations. A draft budget based on current and previous estimates is provided below.

7. Adopt Bylaws for the ESCOG-JPA. As part of the administrative function a set of bylaws will need to be developed and approved by the Board. It is recommended that an “Ad Hoc” Committee to be established under (**Agenda Item #8**) be review and recommend a set of draft bylaws for the Board to consider. A very basic draft set of Bylaws are provided as a reference.
8. Adopt a Conflict of Interest Code. This will need to apply to board members and defined staff. A copy of the Code used by the Town of Mammoth Lakes is attached as a reference. An “Ad Hoc” committee may be used to prepare recommendations for the Board to consider. (**Agenda Item #8**). This Code is required to be adopted within six months of the agency formation.
9. Board members will need to file assuming office Form 700s. As a new legal entity these filings are due 30 days following the adoption of the Conflict of Interest Code.
10. Secure insurance for the JPA. This will include liability, workers compensation, crime bond, and other types of insurance that may be required for the JPA. An “Ad Hoc” committee may be used to prepare recommendations for the Board to consider. (**Agenda Item #8**).
11. Acquire legal counsel. It is recommended that the JPA initially contract with a member agency. The JPA may contract directly with other legal counsel as well. If a member agency is willing to provide legal support an agreement may be drafted by the member agency for JPA Board consideration or an “Ad Hoc” committee may be formed to recommend a means of securing legal services and/or to work on an agreement with a member agency. (**Agenda Item #8**).
12. Set regular meeting schedule. A formal adoption of the meeting schedule by a resolution is recommended. **Agenda Item #16** provides for setting a meeting schedule and/or at least your next meeting. Setting regular meetings informs the public, staff, member agencies and board members of such times. Regular scheduled meetings have specific noticing and agenda requirements. This also allows the Board to call for special meetings, which have different noticing requirements. **Schedule for next ESCOG-JPA Meeting – Agenda Item #16.**
13. Hire/Contract for an Executive Director. The primary staffing for the ESCOG-JPA was proposed to be a part-time Executive Director. The position may be filled with a current member agency staff, if available or a part-time employee or contract position. The Board will need to review benefit options and if more than a part-time employee, entering into an agreement with PERS, assuming the JPA will be a PERS agency. The Board may discuss the hiring of an interim Director to assist the above workload and to assist in the hiring process. This work may be directed through an “Ad Hoc” committee (**Agenda Item #8**).

As the ESCOG-JPA has no office or “home”, it is recommended that the Town of Mammoth Lakes mailing address and physical location be used at this time. The Clerk can handle incoming mail or other routine clerical support. The Town currently provides office support in terms of supplies, equipment for the Clerk, and related items.

The above represents a significant work program to be undertaken over the next few months. The Board will need to set priorities and realistic goals in moving forward. Current member staff may be able to assist but have limited capacity, which will likely fall to Inyo County and the Town of Mammoth Lakes.

DISCUSSION

The above items are discussed together in this report, but the Board will need to discuss each appropriate item under the noted agenda item. Compiling this list of next steps together allows the Board to see the initial steps that need to be taken and to understand the potential workload.

Under Agenda Item #8 information is provided on the use of “Ad Hoc” committees as provided by the League of California Cities. The following recommendations are made for the use of such committee(s), with a reminder the committee may only include Board Members:

- 1) Use the minimum number necessary to achieve a recommendation, with a suggestion of not more than three (in some cases two may be adequate). As the JPA documentation allows for a simple majority (5 members) which includes a member from each agency to take final action using an Ad Hoc of four members from each agency may be perceived as an effective majority quorum making a recommendation (i.e. only one additional vote is needed to pass the recommendation). Maintaining more limited numbers on Ad Hoc committees eliminates the appearance of decision-making outside of a formal meeting. This also spreads the workload among members. The focus and duration of the committees will be different.
- 2) Each Ad Hoc is to have a defined purpose and timeline. This is important to keep the committees from functioning as a standing committee which has different rules.
- 3) Determine what are the critical steps and address them accordingly. The ESCOG-JPA has no formal staff support at this time, so the work effort will primarily fall on Board Members, with limited support from the member agencies.

The following “Ad Hoc” Committees may be considered under Agenda Item #8:

- Financial process, administration and agreement with Mono County
- Budget – draft budget for FY19-20 (set member contributions)
- Bylaws
- Conflict of Interest Code (within 6 months of agency formation)

- File Form 700s within 30 days of adopted conflict of interest code
- Insurance – Type and Provider(s)
- Legal Representation – source & agreement
- Executive Director – selection process, duties, etc.

Projected Budget

Activity	Cost by Agency				
	Full Year	FY19-20 (1/2 Year)			
Executive Director ¹	50,000.00	6,250.00			
Clerk/Clerical ²	30,000.00	5,150.00			
Legal Servcies ³	10,000.00	2,500.00			
Fiscal Agent ⁴	2,400.00	600.00			
Insurance/Other	8,000.00	2,000.00			
Total	100,400.00	16,500.00			
1 Assumes part-time contracted position or member agency provided					
2 Assumes current level of servcie provided for all of FY19-20 (less than projected)					
3 Assumes contract with member agency					
4 Assumes contract with member agency					

Attachments

- 1) State Filing of Joint Powers Agreement
- 2) Conflict of Interest Code – Town of Mammoth Lakes
- 3) Draft Bylaws
- 4) Legislative Bodies – Use of “Ad Hoc” Committees

ATTACHMENT 1

State Filing of Joint Powers Agreement



State of California
Secretary of State

FILE NO. _____

NOTICE OF A JOINT POWERS AGREEMENT

(Government Code section 6503.5)

Instructions:

- 1. Complete and mail to: Secretary of State, P.O. Box 942870, Sacramento, CA 94277-2870.
2. Include filing fee of \$1.00.
3. Do not include attachments, unless otherwise specified.
4. A copy of the full text of the joint powers agreement and amendments, if any, must be submitted to the State Controller's office. For address information, contact the State Controller's office at www.sco.ca.gov.

(Office Use Only)

Name of the agency or entity created under the agreement and responsible for the administration of the agreement: Eastern Sierra Council of Governments

Agency's or Entity's Mailing Address: Eastern Sierra Council of Governments c/o Town of Mammoth Lakes
P. O. Box 1609 Town of Mammoth Lakes, CA 93546

Title of the agreement: Joint Powers Agreement Establishing the Eastern Sierra Council of Governments as an Independent Legal Entity

The public agencies party to the agreement are (if more space is needed, continue on a separate sheet and attach it to this form):

- (1) The County of Mono
(2) The County of Inyo
(3) The Town of Mammoth Lakes and (4) The City of Bishop

Effective date of the agreement: January 7, 2020

Provide a condensed statement of the agreement's purpose or the powers to be exercised: To provide a forum for discussion and study of regional issues of interest to the Member Agencies; identify and plan for the solution of selected regional issues requiring multi-governmental cooperation; facilitate actions and agreements among the Member Agencies for specific project development; conduct other region wide functions as the Members deem appropriate; identify funding sources; and upon approval of the governing bodies of each Member Agency, to apply for funding for and implement programs of regional impact or significance.

RETURN ACKNOWLEDGMENT TO: (Type or Print)

NAME Eastern Sierra Council of Governments c/o TOML
ADDRESS P. O. Box 1609
CITY/STATE/ZIP Mammoth Lakes, CA 93546

Date Jan. 16 2020
Signature [Handwritten Signature]
Jeff Griffiths, Chair
Typed Name and Title

Invoice	Inv Date	Description	PO No.	Net Amount
011620	01/16/2020	Filing fee for Notice of A Joint Powers Agreement for the Eastern		2.00
Vendor: 2063 California Secretary of State				Net Amount: \$2.00

CHECK IS VOID IF ANY OF THE FOLLOWING SECURITY FEATURES ARE ABSENT: ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER



County of Mono
 PO Box 556
 Bridgeport, CA 93517
 760-932-5490

Oak Valley Community Bank
 90-4211/1211

OPERATING ACCOUNT
 Check No: 173557

Vendor No.	Date	Check No.	Net Amount
2063	01/29/2020	173557	***2.00

PAY ***TWO DOLLARS AND 00/100

TO THE ORDER OF California Secretary of State
 PO Box 942870
 Sacramento, CA 94277-2870



void 180 days from check date
Janet Butcher

*1.00 Filing fee
 1.00 for copy of filed agreement*

RUB RED IMAGE. - DISAPPEARS WITH HEAT.

SEE BACK FOR TRUE WATERMARK

⑈ 173557⑈ ⑆ 121142119⑆ 004100670⑈

Security Features Included Details on back.

**JOINT POWERS AGREEMENT ESTABLISHING THE EASTERN SIERRA COUNCIL OF GOVERNMENTS
AS A SEPARATE LEGAL ENTITY FROM ITS MEMBER AGENCIES**

This agreement, made and entered into this 7th day of January 2020, by and among the County of Mono, a political subdivision of the State of California ("Mono"), the County of Inyo, a political subdivision of the State of California ("Inyo"), the Town of Mammoth Lakes, a municipal corporation ("Town") and the City of Bishop, a municipal corporation ("City") (collectively "Member Agencies" or "Members"), shall supersede and replace, in its entirety, that Amended Joint Powers Agreement Eastern Sierra Council of Government Entities (COG) entered into by and among the Parties on or about February 26, 1999.

I. Recitals

- 1.01 In 1995, the Counties of Inyo and Mono and the Town of Mammoth Lakes executed a joint powers agreement (JPA) establishing the Eastern Sierra Council of Governments (ESCOG). The 1995 JPA was amended in 1999 to add the City of Bishop as a party.
- 1.02 Since its establishment, the ESCOG has functioned as a forum for communication among Member Agencies regarding issues of regional concern and, more recently, for the planning and implementation of regional communications and broadband solutions through the establishment of the Inyo-Mono Broadband Consortium. The ESCOG has not historically operated as a joint powers authority independent from its Members, nor taken the necessary steps to become such an independent legal entity.
- 1.03 The Member Agencies acknowledge and agree that there are circumstances where it is necessary or desirable for the Member Agencies to function collectively on a regional basis, such as where regionalization enhances funding opportunities, provides resources and capabilities that would not otherwise be available, or improves the delivery of services to benefit the interests of the Members' constituents.
- 1.04 The Member Agencies further agree that the creation of a regional joint powers authority that is a separate legal entity from the Members would position the ESCOG to maximize and take advantage of these opportunities.
- 1.05 Article 1 of Chapter 5 of Division 7 of Title 1, commencing with section 6500, of the California Government Code authorizes two or more public agencies, by joint powers agreement approved by their governing bodies, to jointly exercise any powers common to them and/or to create a separate legal entity for the purpose of exercising such powers.
- 1.06 It is the intent of the Parties to enter into a joint powers agreement pursuant to the provisions of sections 6500 et seq. to establish a joint powers authority, the Eastern Sierra Council of Governments, which would supersede and replace the historic ESCOG established in 1995 (and modified in 1999), for the purposes of enhancing funding and resource opportunities and providing such programs, services or functions that the Member Agencies, by approval of their governing bodies, deem necessary or desirable.

II. Purposes

- 2.01 The ESCOG shall continue to be organized to: (1) provide a forum for discussion and study of regional issues of interest to the Member Agencies; (2) identify and plan for the solution of selected regional issues requiring multi-governmental cooperation; (3) facilitate actions and agreements among the Member Agencies for specific project development; (4) conduct other region wide functions as the Members deem appropriate.
- 2.02 In addition to the above, the ESCOG shall be organized to identify funding sources and to apply for and receive funding for the planning and implementation of programs of regional impact or significance, and to implement such programs, upon approval of the governing bodies of each Member Agency.

III. Powers

- 3.01 To contract or otherwise participate in, and to accept grants, funds or services from the State or Federal government, their agencies or instrumentalities or from any civic organization or private person (including but not limited to corporations) in connection with any program judged by the ESCOG Board to be relevant to its purposes, and upon approval of the governing bodies of the Member Agencies.
- 3.02 To accept gifts, bequests or donations in support of current programs of the ESCOG or to support ongoing operating expenses.
- 3.03 To contract for any services judged by the ESCOG to be necessary or convenient for carrying out its purposes and to pay the costs of such services in accordance with section 5.02. Such contracts may be with an ESCOG Member, upon agreement by that Member and the ESCOG, or with an outside agency or firm and may include contracts for:
- a. General legal services.
 - b. Litigation or specialized legal services.
 - c. Liability Insurance and, where applicable, workers' compensation insurance.
 - d. Human Resources services.
 - e. Other governmental services required to operate the ESCOG may be provided by a Member, JPA staff or an independent contractor.
- 3.04 The debts, liabilities or obligations of the ESCOG shall not become the debts, liabilities or obligations of the Member Agencies. The ESCOG may incur debts, liabilities or obligations in accordance with the above. However, notwithstanding the foregoing, and as required by Government Code sections 6508.1, 6508.2, 20574.1 and 20575, in the event of dissolution of the JPA, the Member Agencies shall apportion any PERS liability among themselves and allow CalPERS to make the apportionment if the Members cannot agree.
- 3.05 To employ personnel including an Executive Director and/or such other staff as the ESCOG Board of Directors deems appropriate and to establish the powers and duties of such personnel.

- 3.06 To invest, in accordance with Government Code section 6509.5, monies in the treasury of the ESCOG that is not immediately required for necessities of the ESCOG.
- 3.07 With the approval of the governing bodies of each of the Member Agencies, to raise revenues through the imposition of fees, assessments, taxes or the issuance of bonds, in accordance with applicable laws.
- 3.08 To own, lease or license real or personal property and/or equipment which is necessary or proper to carry out the purposes of the ESCOG.
- 3.09 All other powers that are necessary or proper to carry out the purposes of the ESCOG.
- 3.10 To take official positions on matters of policy and/or to support or oppose legislation which is consistent with a legislative platform of the ESCOG, which platform has been approved by the governing bodies of the Member Agencies.
- 3.11 In establishing the ESCOG, is not the intention of the parties to create a council of governments as that term is defined in subdivision (b) of Government Code sections 65582. Accordingly, the ESCOG shall have none of the powers or obligations set forth in Article 10.6, of Article 3, of Division 1, Title 7 of the Government Code related to the development of Housing Elements, nor shall it have any powers or obligations as may be set forth in any other statutes or regulations applicable to a "council of governments," unless this agreement is modified, by approval of the governing bodies of all of the Member Agencies, to provide such powers.

Each of the above powers may be exercised by the ESCOG in the same manner, and subject to the same restrictions, as such powers are exercised by the Town of Mammoth Lakes.

IV. Organization - The internal organization of the ESCOG shall be as follows:

- 4.01 Membership. Members shall consist of the County of Inyo, the County of Mono, the Town of Mammoth Lakes and the City of Bishop, upon approval of this agreement by the governing body of each, and the execution of this agreement by an authorized representative of each Member. Each Member shall be entitled to be represented by two representatives, each of whom shall be a member of the legislative body of such Member.
- 4.02 Board of Directors, Officers and Meetings.
 - a. The ESCOG shall have a Board of Directors comprised of two representatives, and up to two alternates, appointed by each of the governing bodies of its Members. The term of office of each director shall not exceed his or her term of office on the legislative body he or she represents.
 - b. Upon execution of this agreement by all four Member Agencies, the ESCOG representatives having previously been appointed by the governing bodies of the Member Agencies shall

continue to serve as directors of the ESCOG for the terms for which they were previously appointed. If a vacancy occurs on the board, it shall be filled by appointment of the governing body of the affected Member and such appointed representative shall serve for the remainder of the term.

- c. The Board of Directors shall elect from among its members a Chair, Vice-chair and Secretary for a term of one (1) year. The members currently serving in those offices shall continue to serve for the remainder of their appointed terms, except that the member, if any, previously appointed to serve as Secretary/Treasurer shall instead serve as Secretary. Notwithstanding the above, the office of Secretary may be an administrative staff person of the ESCOG or of a Member Agency designated by the Board of Directors.
- d. The ESCOG shall establish regular meetings of the Board of Directors which shall be not less than one (1) such meeting each calendar quarter.
- e. Meetings of the ESCOG shall be noticed and carried out in accordance with the provisions of the Ralph M. Brown Act.
- f. A majority of the Board of Directors shall constitute a quorum for the transaction of business. A majority of the Board of Directors for purposes of a quorum shall include at least one representative of each Member Agency. No resolution or motion shall be passed or become effective without affirmative vote of at least a majority of the membership of the ESCOG board and at least one affirmative vote by the representative of each Member Agency. Additionally, for those actions requiring approval by the governing bodies of the Member Agencies as specified in Article III of this agreement, each and every Member Agency must also approve the resolution or motion.

V. Financial Provisions

- 5.01 Each Member shall contribute to the administrative support of the ESCOG. Administrative support is understood as those costs, expenditures and obligations which maintain up to one (1) 0.5 FTE agency administrative staff person. Each Member's contributions to administrative time and support shall be accounted for. It is intended that each Member will provide twenty-five percent (25%) of the administrative staff person, unless otherwise agreed by the Board of Directors, and shall agree in advance regarding any additional administrative support.
- 5.02 Members may make financial contributions to the ESCOG in any manner authorized by Government Code section 6504. All contract costs incurred pursuant to section 3.03 and section 5.04 of this JPA shall be divided equally among the Members. Any financial contributions other than for costs under section 3.03 or 5.04 shall be provided on an individual project basis and approved by the governing body of the Member Agency providing such support. Any advances of public funds to the ESCOG shall be repaid in the manner provided in the document authorizing the advance.

- 5.03 The ESCOG's fiscal year shall commence on July 1 of each year and terminate on June 30 of the following year.
- 5.04 The Finance Director of the County of Mono shall serve as the Fiscal Agent, Treasurer and Auditor (hereinafter "Treasurer") for the ESCOG, unless otherwise directed by a majority of the board. The Treasurer shall be responsible for all money of the ESCOG from whatever source, shall be the depository and have custody of the money of the ESCOG, and shall perform all duties and functions of the Treasurer as set forth in Government Code sections 6505, 6505.5, or any other applicable state, federal or local law or regulation. All funds of the ESCOG shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements during the fiscal year. Members shall share the costs of this service equally.
- 5.05 Nothing contained in this agreement shall bind any Member to a financial commitment on behalf of the ESCOG, except as specifically provided.

VI. Property and Records

- 6.01 Upon any dissolution of the ESCOG, any surplus money or property shall be disposed of by division among the Members in the same proportion as such Members contributed to the ESCOG.
- 6.02 The Town of Mammoth Lakes shall serve as the repository of all records of the ESCOG. Record retention shall conform to the requirements of law. Any record destruction shall first be approved by the Board of Directors. The Board of Directors may provide for record retention beyond the requirements of law.

VII. General Provisions

- 7.01 Amendments. This agreement may be amended at any time by all of the Member Agencies acting through a majority vote of their governing bodies. In the event the ESCOG should determine that an amendment to this agreement would be in the best interests of the ESCOG and its Member Agencies, it may propose such amendment for ratification by the governing bodies of each Member Agency. This agreement shall be deemed and be so amended upon the date the last governing body approves such amendment.
- 7.02 Voluntary Association. It is understood and agreed that membership and participation in the ESCOG as described in this agreement is voluntary. Any Member may withdraw by giving written notice to the governing bodies of the other Member Agencies in the manner provided in this agreement for the communication of notices.
- 7.03 Withdrawal. A Member may withdraw from the ESCOG by providing written notice to the remaining Members at least ninety (90) days prior to the end of the fiscal year, and shall remain liable for its share of financial support and/or contribution to the ESCOG through the end of that fiscal year. Except for payments required by AB 1912 (2018) and described in section 3.04, a

withdrawing Member shall not be liable to the ESCOG nor any of the other Members for payment of contributions or financial support to the ESCOG not previously committed by that Member.

7.04 Dissolution and Termination. The ESCOG may be dissolved and this agreement terminated at any time in the same manner as provided for amendment in section 7.01. The ESCOG shall automatically be dissolved upon withdrawal of 2 of its Members.

7.05 Effective Date and Term of Agreement. This agreement shall be and become effective for all purposes when approved by the governing bodies of each of the Member Agencies and shall remain in full force and effect unless and until dissolved or terminated in the manner provided in this agreement.

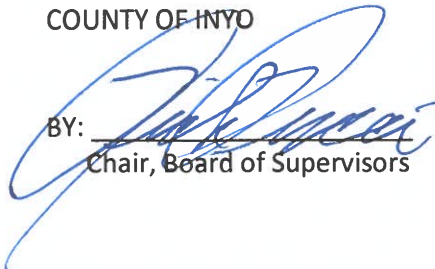
7.06 Notices. In the event it is or becomes necessary for a party to this agreement to serve or give notice to any other party, such notice shall be deemed validly served and given if deposited in a United States Post Office with postage thereof fully prepaid, sent registered or certified mail and, if to Inyo County, addressed to the County Administrator, Administrative Center, County of Inyo, PO. Box N, Independence, California 93526; if to Mono County, addressed to the County Administrative Officer at P.O. Box 696, Bridgeport, California 93517; if to the Town of Mammoth Lakes, addressed to the Town Manager at P.O. Box 1609, Mammoth Lakes, California 93546; and, if intended for the City of Bishop, addressed to the City Manager at 337 West Line Street, Bishop, California 93514.

7.07 Inurement. This agreement shall inure to the benefit of and be binding upon the parties hereto and their successors.

VIII. Execution

IN WITNESS WHEREOF, the Member Agencies have executed this agreement as of the date last written below.


COUNTY OF INYO

BY: 
Chair, Board of Supervisors

DATED: Nov. 26, 2019

ATTEST: 
Clerk to the Board

APPROVED AS TO FORM:


Inyo County Counsel

COUNTY OF MONO

DATED: _____

BY: *Stacy Corless*
Chair, Board of Supervisors

ATTEST: *Johanna*
Clerk to the Board

APPROVED AS TO FORM:
Stacy Simon
Mono County Counsel

TOWN OF MAMMOTH LAKES

DATED: *January 7, 2020*

BY: _____
Town Mayor

ATTEST: _____
Town Clerk

APPROVED AS TO FORM:

Town Attorney

CITY OF BISHOP

DATED: _____

BY: _____
City Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

BY: _____
Chair, Board of Supervisors

ATTEST: _____
Clerk to the Board

APPROVED AS TO FORM:

Mono County Counsel

TOWN OF MAMMOTH LAKES

DATED: 12/18/19

BY: Bill Swann
Town Mayor

ATTEST: Janice Deary
Town Clerk

APPROVED AS TO FORM:
Andrew Morris
Town Attorney

CITY OF BISHOP

DATED: _____

BY: _____
City Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

BY: _____
Chair, Board of Supervisors

ATTEST: _____
Clerk to the Board

APPROVED AS TO FORM:

Mono County Counsel

TOWN OF MAMMOTH LAKES

DATED: _____

BY: _____
Town Mayor

ATTEST: _____
Town Clerk


APPROVED AS TO FORM:

Town Attorney

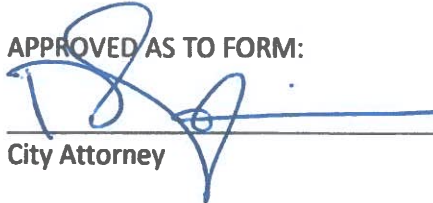
CITY OF BISHOP

DATED: 11/25/2019

BY: 
City Mayor

ATTEST: 
City Clerk

APPROVED AS TO FORM:


City Attorney

ATTACHMENT 2

Conflict of Interest Code – Town of Mammoth Lakes

RESOLUTION NO. 18-59

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Town of Mammoth Lakes (the "Town") and requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the Town Council adopted a Conflict of Interest Code (the "Code") which was amended on November 16, 2016, in compliance with the Act; and

WHEREAS, subsequent changed circumstances within the Town have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the Town's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the Town being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and


WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Town Council of, the proposed amended Code was provided each affected designated employee and publicly posted for review at the offices of the Town Clerk; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the Town Council on August 1, 2018, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of The Town of Mammoth Lakes as follows:

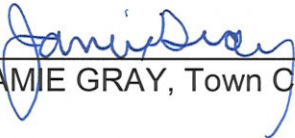
1. The Town Council does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and which shall remain on file with the Town Clerk and shall be available to the public for inspection and copying during regular business hours; and
2. Said amended Conflict of Interest Code shall become effective immediately after the adoption and approval of this Resolution ("Effective Date").

APPROVED AND ADOPTED THIS 1st day of August, 2018.



V. CLELAND HOFF, Mayor

ATTEST:



JAMIE GRAY, Town Clerk

**LAW OFFICES OF
BEST BEST & KRIEGER LLP**

**CONFLICT OF INTEREST CODE
OF THE
TOWN OF MAMMOTH LAKES**

TOWN OF MAMMOTH LAKES CONFLICT OF INTEREST CODE

(Amended August 1, 2018)

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **Town of Mammoth Lakes (the "Town")**.

All officials and individuals holding designated positions required to submit a statement of economic interests shall file their statements with the **Town Clerk** as the Town's Filing Officer. The **Town Clerk** shall make and retain a copy of all statements filed by the Mayor, Members of the Town Council and Planning Commission, the Town Manager, the Town Attorney and the Town Treasurer, and forward the originals of such statements to the Fair Political Practices Commission. The **Town Clerk** shall retain the original statements of all other designated positions and make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX

TOWN OF MAMMOTH LAKES CONFLICT OF INTEREST CODE

(Amended August 1, 2018)

PART "A"

The Mayor, Members of the Town Council and Planning Commission, the Town Manager, the Town Attorney, the Town Treasurer, and All Other Town Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to the Town's Conflict of Interest Code but must file disclosure statements under Government Code section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other Town Officials who manage public investments.¹ These positions are listed here for informational purposes only.

Financial Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Airport Maintenance Coordinator	5
Airport Manager	2, 3, 5
Assistant Engineer	2, 3, 5, 6
Assistant to the Town Manager	5
Associate Planner	2, 3, 5, 6
Building Official	5, 6
Community and Economic Development Director	1, 2
Engineering Assistant	2, 3, 5, 6
Engineering Manager	1, 2
Executive Assistant to the Police Chief	5
Executive Director, MLH	1, 2
Executive Director, MLR	1, 2
Executive Director, MLT	1, 2
Finance Manager	4
Fleet Superintendent	5
Human Resources Manager	5
Industry Relations & Sales Manager	2, 3, 5
Parks Manager	5
Permit Technician	6
Plans Examiner/Engineer	5, 6
Police Chief	5
Public Works Director	1, 2
Public Works Maintenance Manager	5
Parks and Recreation Director	2, 3, 5
Recreation Supervisor	5

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Sales Manager	5
Senior Public Works Inspector	2, 3, 5, 6
Program and Facilities Coordinator	5
Tourism Marketing Manager	5
Town Attorney (not filing under GC 87200)	1, 2
Town Clerk	5

MEMBERS OF BOARDS, COMMITTEES & COMMISSIONS

Building Advisory Committee/Board of Appeals	1, 2
Mammoth Lakes Housing	1, 2
Mammoth Lakes Recreation	1, 2
Mammoth Lakes Tourism	1, 2
Recreation Commission	1, 2

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg 18700.3(a) or in a new position created since this Code was last amended, that makes or participates in making decisions must file under the broadest disclosure requirements set forth in this Code subject to the following limitation:

The Town Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code § 82019; FPPC Regs 18219 and 18734.) The Town Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code § 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Town.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in or own real property within the jurisdiction of the Town.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Town.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, which engage in land development, construction, or acquisition or sale of real property within the jurisdiction of the Town.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, or equipment of a type purchased or leased by the Town.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit, or licensing authority of the department, unit or division.

Category 7: All Investments, business positions and income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is of the type to receive grants or other monies from or through the Town.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

STATE OF CALIFORNIA)
COUNTY OF MONO) ss.
TOWN OF MAMMOTH LAKES)

I, JAMIE GRAY, Town Clerk of the Town of Mammoth Lakes, DO HEREBY CERTIFY under penalty of perjury that the foregoing is a true and correct copy of Resolution No. 18-59 adopted by the Town Council of the Town of Mammoth Lakes, California, at a meeting thereof held on the 1st day of August, 2018, by the following vote:

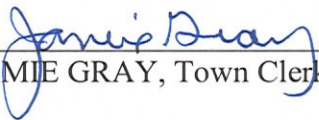
- AYES: Councilmembers Salcido, Stapp, Wentworth, Mayor Pro Tem Sauser, and Mayor Hoff

- NOES: None

- ABSENT: None

- ABSTAIN: None

- DISQUALIFICATION: None



JAMIE GRAY, Town Clerk

ATTACHMENT 3

Draft Bylaws

DRAFT

Bylaws
Of
The Eastern Sierra Council of Governments Joint Powers Authority (ESCOG-JPA)

ARTICLE I
MEETINGS

Section 1: Regular Meetings.

The Eastern Sierra Council of Governments Joint Powers Authority (ESCOG-JPA) shall hold regular meetings of at least one per quarter. The time and place of such meetings shall be set by the ESCOG-JPA Board (Board) in accordance with the requirements of the Ralph M. Brown Act (Government Code §§ 54950 et seq.) (the “Brown Act”).

Section 2: Special Meetings.

Special meetings may be called by the Chair at his or her discretion, or by the Chair upon request by a Director, in accordance with the requirements of the Brown Act.

Section 3: Cancellation of Meetings.

The Chair may cancel any regular or special meeting, unless there is an objection by a Director. The Chair, any Director, or Secretary may cancel a meeting for lack of a quorum.

Section 4: Committee Meetings.

The ESCOG-JPA may establish standing committees with the meetings of such committees to be set be called by the designated Chair or by the Committee.

Section 5: Notice and Conduct of Meetings.

All meetings shall be noticed and conducted in accordance with the requirements of the Brown Act.

ARTICLE III
OFFICERS

Section 1. Chair

The Directors shall elect from among them a Chair. The Chair shall be elected annually at the first regular meeting of each calendar year.

Section 2: Vice-Chair

The Directors shall elect from among them a Vice-Chair. The Vice-Chair shall be elected annually at the first regular meeting of each calendar year. The Vice-Chair shall act in the place of and have all of the powers and duties of the Chair in the Chair’s absence.

DRAFT

Section 3: Secretary

The Secretary shall prepare an agenda and take minutes of all meetings of the ESCOG, maintain a public record of the ESCOG's meetings, transactions and business. The Secretary may be a Board Member, an employee of the ESCOG-JPA, a regular paid employee of a Member Agency, or a person or firm retained by contract as determined by the Board. The secretary shall be elected annually at the first regular meeting of each calendar year.

Section 4: Executive Director

The ESCOG-JPA may employ an Executive Director to serve at the pleasure of the Board. Such Executive Director may be a regular paid employee of any Member Agency or an outside individual or firm as determined by the Board.

ARTICLE V
COMMITTEES

Section 1: Committees

The Directors may establish such technical and/or advisory committees as determined to be necessary or desirable to serve the needs and accomplish the purposes of the ESCOG-JPA.

ARTICLE VI
AMENDMENTS

These Bylaws may be amended by a majority vote of the Directors at any regular meeting provided that notice of the proposed amendment has been submitted in writing by the Secretary to the Directors at least fifteen (15) calendar days prior to the meeting at which the amendment is proposed to be considered.

ADOPTED this _____ day of _____, 2020.

Chair
Eastern Sierra Council of Governments

ATTEST:

Secretary

ATTACHMENT 4

Legislative Bodies – Use of “Ad Hoc” Committees



Chapter 2

LEGISLATIVE BODIES

What is a "legislative body" of a local agency? 12

What is not a "legislative body" for purposes of the Brown Act? 14

Chapter 2

LEGISLATIVE BODIES

The Brown Act applies to the legislative bodies of local agencies. It defines "legislative body" broadly to include just about every type of decision-making body of a local agency.



What is a "legislative body" of a local agency?

A "legislative body" includes:

- **The "governing body"** of a local agency" and certain of its subsidiary bodies; "or any other local body created by state or federal statute."² This includes city councils, boards of supervisors, school boards and boards of trustees of special districts. A "local agency" is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision or other local public agency.³ A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.⁴ The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.⁵ Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.⁶

- **Newly-elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.⁷ Thus, meetings between incumbents and newly-elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

Q. On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

A. *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

- **Appointed bodies** — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the

PRACTICE TIP: The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate; and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.⁸

- **Standing committees** of a legislative body, irrespective of their composition, which have either: (1) a continuing subject matter jurisdiction; or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.⁹ Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates long-term committees on budget and finance or on public safety, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee “shall not exercise continuing subject matter jurisdiction” or the fact that the committee does not have a fixed meeting schedule is not determinative.¹⁰ “Formal action” by a legislative body includes authorization given to the agency’s executive officer to appoint an advisory committee pursuant to agency-adopted policy.¹¹
- The governing body of any **private organization** either: (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company or other entity; or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity’s governing board.¹² These include some nonprofit corporations created by local agencies.¹³ If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.¹⁴ When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.¹⁵

Q: The local chamber of commerce is funded in part by the city. The mayor sits on the chamber’s board of directors. Is the chamber board a legislative body subject to the Brown Act?

A: *Maybe. If the chamber’s governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*

Q: If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?

A: *Yes. But, if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital)

PRACTICE TIP: It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a non-exempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee’s charge, or whether the committee exists long enough to have “continuing jurisdiction.”

first leased under Health and Safety Code subsection 32121(p) after January 1, 1994, which exercises "material authority" delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.¹⁶

What is not a "legislative body" for purposes of the Brown Act?

- A temporary advisory committee composed **solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.¹⁷ Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.¹⁸
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.¹⁹

Q. A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?

A. *No, because the committee has not been established by formal action of the legislative body.*

Q. During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?

A. *Possibly, because the direction from the city council might be regarded as a formal action of the body notwithstanding that the city manager controls the committee.*

- Individual decision makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads are not subject to the Brown Act since such assemblies are not those of a legislative body.²⁰
- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.²¹
- County central committees of political parties are also not Brown Act bodies.²²

ENDNOTES:

1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127

- 2 California Government Code section 54952(a) and (b)
- 3 California Government Code section 54951; Health and Safety Code section 34173(g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Education Code section 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.
- 4 *Torres v. Board of Commissioners of Housing Authority of Tulare County* (1979) 89 Cal.App.3d 545, 549-550
- 5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990)
- 6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354, 362
- 7 California Government Code section 54952.1
- 8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 804-805
- 9 California Government Code section 54952(b)
- 10 79 Ops.Cal.Atty.Gen. 69 (1996)
- 11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793
- 12 California Government Code section 54952(c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996 who, after that date, is made a non-voting board member by the legislative body. California Government Code section 54952(c)(2)
- 13 California Government Code section 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862, 876; see also 85 Ops.Cal.Atty.Gen. 55 (2002)
- 14 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal* (1999) 69 Cal. App.4th 287, 300 fn. 5
- 15 "The Brown Act, Open Meetings for Local Legislative Bodies," California Attorney General's Office (2003), p. 7
- 16 California Government Code section 54952(d)
- 17 California Government Code section 54952(b); see also *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821, 832.
- 18 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1129
- 19 56 Ops.Cal.Atty.Gen. 14, 16-17 (1973)
- 20 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870, 878-879
- 21 *Golightly v. Molina* (2014) 229 Cal.App.4th 1501, 1513
- 22 59 Ops.Cal.Atty.Gen. 162, 164 (1976)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at www.cacities.org/opengovernment. A current version of the Brown Act may be found at www.leginfo.ca.gov.





DEPARTMENT OF FINANCE

AUDITOR-CONTROLLER

COUNTY OF MONO

Vacant
Assistant Finance Director
Auditor-Controller

Janet Dutcher, CPA, CGFM, MPA
Director of Finance

P.O. Box 556
Bridgeport, California 93517
(760) 932-5490
Fax (760) 932-5491

To: JPA Members, Eastern Sierra Council of Governments (ESCOG or JPA)

From: Janet Dutcher, Mono County Director of Finance

Date: February 14, 2020

Re: Fiscal services and processes for ESCOG

The purpose of this agenda item is to communicate the set-up of the ESCOG JPA account in the Mono County Investment Pool and to recommend processes for making deposits, disbursements, and financial reports.

Background

The Joint Powers Agreement section 5.04 appoints Mono County Director of Finance as the JPA's fiscal agent, treasurer and auditor, to deposit money, have custody of funds, and perform all treasury related functions. Members of the JPA share equally in the cost of the JPA, at 25% each. The first year (2019-20) share of costs were estimated at \$16,300 each.

ESCOG JPA Account in Mono County Investment Pool

Fund 308 is established in the Mono County accounting system. This fund is to track all JPA deposits, make disbursements, and to prepare reports to the ESCOG members, the State, and the public. At this time, no annual audit is required. The JPA is required to report to the State Controller's Office in its financial transaction reporting system, upon notification from the State.

We anticipate providing the JPA members periodic balance sheet and income statement reports.

Initial Deposit from JPA Members

Initial first year (2019-20) JPA costs were estimated at \$65,200, or \$16,300 by each member. Costs supporting these estimates are as follows:

Attachment A JPA START-UP COST ESTIMATE

<u>ACTIVITY</u>	<u>ANNUAL COST</u>	<u>FY19-20 AGENCY COST</u>	<u>ANNUAL AGENCY COST</u>
Executive Director ¹	\$50,000	\$6,250	\$12,500
Clerk/Clerical ²	\$30,000	\$7,500	\$7,500
Legal Services ³	\$10,000	\$1,250	\$2,500
Fiscal Agent ³	\$2,400	\$300	\$600
Insurance/Other	<u>\$8,000</u>	<u>\$1,000</u>	<u>\$2,000</u>
Total	<u>\$100,400</u>	<u>\$16,300</u>	<u>\$25,100</u>

1 – Assumes work provided by existing Member agency staff on a part-time basis/or limited contract for service

2 – Assumes work provided by existing Mammoth Lakes staff is ongoing

3 – Assumes work provided by existing member staff (Mono County/Other)

The JPA requires some level of immediate contribution from its members in order to pay expenses. Otherwise, the JPA is indirectly borrowing from other Mono County pooled participants every time a disbursement is made. Contributions can be made by check or warrant made out to the County of Mono and mailed to Mono County Department of Finance, P.O. Box 556, Bridgeport CA 93517. If your agency has an existing account in the Mono County accounting system, contributions can also be made by journal entry, by using the Finance Department's usual process (complete the appropriate form and transmit to your Mono County Finance Department contact). ***We recommend an immediate contribution from each JPA member of \$16,300.***

Paying ESCOG Costs

Mono County Finance Department will ensure ESCOG vendors are paid promptly and timely. We ask that all invoices (originals) be sent directly to: Mono County Finance Department, P.O. Box 556, Bridgeport CA 93517, with an attention of ESCOG if possible.

Internal Controls and Accounting Processes

Public agencies in California are required to have proper internal controls in place. One type of internal controls designed to protect ESCOG assets involves segregating incompatible duties between separate positions or individuals. Here, authorization to pay vendor invoices should be segregated from those having custody of cash, including the ability to prepare and remit checks or warrants. *We recommend the JPA's chair provide authorization to pay vendors. By doing so, internal control segregation of incompatible duties has been achieved.*



Eastern Sierra Sustainable Recreation Partnership (ESSRP)
Monday February 3, 2020 – 3:30 PM
USFS Inyo NF Mammoth Ranger District – Mammoth Lakes, CA

Items Highlighted in Yellow are attached to the Agenda or will be presented during the meeting

1. Introductions

2. The Partnership *Partnership Signatories: Alpine County*; City of Bishop*; Inyo County*; Mono County; Town of Mammoth Lakes; Inyo National Forest; Humboldt-Toiyabe National Forest - *have voted to sign partnership agreement* **Web Page:** <https://www.essrp.org>

3. Partnership: Wins and Actions

a. ESSRP “Innovative Finance for National Forests Grant Program” – Inyo NF and MLTPA

i. February 3 update: Full application due February 18:

1. IFNF Pre-Application approved for Full Proposal Submission - 01

a. **01_IFNF-Pre-Proposal-Application-2019_MLTPA**

b. **02_IFNF Full Proposal Invite**

2. Upgrade 72 campgrounds on Inyo NF and adjacent county lands

a. Grant application is for feasibility & profitability study

b. Grant request is for \$150,000 to create a business plan.

ii. Project Update – Nora Gamino, Inyo NF

1. Phone call with USDA Rural Development

a. Kim Vann, CA Director; Timothy W. O'Connell, West Region Coordinator

2. Requests for Letter of Support

3. Partnership Discussion

4. Action Items

b. National Parks System (NPS) “Rivers Trails and Conservation Assistance” - MLTPA

i. February 3 update: NPS/RTCA Staff

1. **03_Visitor Capacity Guidebook Primer_Edition 1_IVUMC**

2. **04_VUM_Framework_Primer_IVUMC**

ii. Next Steps:

1. Partnership Discussion

2. Action Items

c. Eastern Sierra Sustainable Recreation Coordinator – Matthew Paruolo

i. February 3 updates:

1. External Funding Opportunities

a. SNC - Vibrant Recreation and Tourism Grant - Buckeye Hotsprings



**Eastern Sierra Sustainable Recreation Partnership (ESSRP)
Monday February 3, 2020 – 3:30 PM
USFS Inyo NF Mammoth Ranger District – Mammoth Lakes, CA**

Items Highlighted in Yellow are attached to the Agenda or will be presented during the meeting

- b. OHV Grants and Agreements - OSV Education Grant - “Winter Recreation Handout”
 - c. Recreational Trails Program - Motorized - “Backroad Tours of the Eastern Sierra” Guidebook
 - 2. Adopt-A-Trail Program
 - a. Pilot Program to launch April, 2020
 - 3. “Enjoy and Care for the Eastern Sierra” Gateway Monument
 - a. Update
- ii. **Next Steps:**
 - 1. Partnership Discussion
Action Items

4. Partnership: Governance

- a. **Eastern Sierra Council of Governments (ESCOG) Joint Powers Authority – Partners**
 - i. **Action by Local Jurisdictions:**
 - 1. Notice of JPA and Filing Fee (mailed) to the Secretary of State
 - 2. Copy of executed Agreement (mailed) to the State Controller’s Office
 - ii. **Update: ESCOG Meeting – February 14, 2020 @ 08:30 in Bishop**
 - iii. **Next Steps:**
 - 1. Partnership Discussion
Action Items
- b. **ESSRP Governance Committee**
 - i. **February 3 Update: “Proposed Decision-Making Guidelines” – Bob Gardner**
 - 1. **05_025_30 ESSRPMoA1-25-2020_04_EXCERPTS**
 - ii. **Members of Governance Committee**
 - 1. Jan Cuts – (*Humboldt-Toiyabe NF*)
 - 2. Jeff Griffiths – (*Inyo County*)
 - 3. Nora Gamino (or Tammy Randall Parker) – (*Inyo National Forest*)
 - 4. Dan Holler - (*to assign from TOML*)
 - 5. David Griffith – (*Alpine County*)
 - 6. *Participant needed from City of Bishop*
 - iii. **Next Steps**
 - 1. Partnership Discussion
 - 2. Action Items



Eastern Sierra Sustainable Recreation Partnership (ESSRP)
Monday February 3, 2020 – 3:30 PM
USFS Inyo NF Mammoth Ranger District – Mammoth Lakes, CA

Items Highlighted in Yellow are attached to the Agenda or will be presented during the meeting

c. Partner Updates

- i. Alpine County
- ii. City of Bishop
- iii. Inyo County
- iv. Inyo National Forest, USFS
- v. HT National Forest, USFS
- vi. Town of Mammoth Lakes
- vii. Mono County
- viii. ESSRP Partners in Process
 1. BLM
 2. LA DWP
 3. CALTRANS

5. Partnership: Housekeeping

a. Meeting Schedule for 2020 (First Monday of the Month @ 3:30)

- i. Monday March 2 @ 3:30 (Bishop)
- ii. Monday April 6 @ 3:30 (Mammoth)
- iii. Monday May 4 @ 3:30 (Bishop)
- iv. Monday June 1 @ 3:30 (Mammoth)
- v. Monday July 6 @ 3:30 (Bishop)
- vi. Monday August 3 @ 3:30 (Mammoth)
- vii. **Monday September 7 @ 3:30 (Labor Day – Bishop)**
- viii. Monday October 5 @ 3:30 (Mammoth)
- ix. Monday November 2 @ 3:30 (Bishop)
- x. Monday December 7 @ 3:30 (Mammoth)

b. NOTE: New Conference Call Dial In Number

- i. **Dial in Number:** 1-800-839-9416
- ii. **Participant PIN:** 9728681

c. Meeting Packets

- i. Distributed by Friday Morning Prior to Monday Meeting

d. Overview

- i. Partnership Discussion
- ii. Action Items

6. Partnership: Agenda Items for Next Regular Meeting (Monday March 2 @ 3:30 in Bishop)

Eastern Sierra Sustainable Recreation Partnership (ESSRP)
“Proposed Decision-Making Guidelines”
Excerpted from “Draft Memorandum of Agreement (MOA)”

The ESSRP is:

1. A unique public/public partnership developing innovative public lands stewardship solutions for California and across the country.
2. An example of a replicable public/public partnership for local, state and federal agencies.
3. As a collaborative ESSRP is not a corporate person, and cannot enter into contracts, apply for funding, have employees, sue or be sued, or pay taxes. There is also no legal protection for individuals acting on behalf of ESSRP.

Expectations of ESSRP Partners:

1. Attend ESSRP meetings regularly (not miss three consecutive meetings), participate in ESSRP deliberations and decisions, and as and when appropriate, be involved in activities supported or sponsored by the ESSRP.
2. Treat others in the ESSRP with respect and expect to be treated with respect.
3. Work towards collaborative resolutions of ESSRP issues.
4. Share pertinent information with the ESSRP, its workgroups and individual members.
5. Assist in and advocate for the achievement of the collaborative goals of the ESSRP.
6. Share experience and expertise as a means of advancing the ESSRP’s common interests.
7. Educate others in the community and member’s workplace on the ESSRP and its activities.
8. Support and share as appropriate and available resources for achieving the projects, initiatives, funding proposals, and related activities collaboratively approved by the ESSRP.
9. Voice opinions and concerns openly and listen to the opinions and concerns of others.
10. Expectations for ESSRP Meetings:
11. ESSRP deliberations and discussions occur in meetings of the ESSRP, in standing and in ad hoc Work Groups assigned by a meeting of the ESSRP, and among members and other stakeholders between meetings.
12. ESSRP decisions occur only at a meeting duly noticed with an agenda sent to the members and interested party’s distribution list or other approved notification method.
13. ESSRP meetings are to consider items listed on the agenda with attached supporting material distributed at least five (5) calendar days prior to the meeting.
14. A meeting quorum consists of (?) members.
15. The meeting agenda is merely a method for the ESSRP to provide an orderly meeting process and a meeting with a quorum may among other actions add to, change order, table or refer agenda items to an ad hoc group for deliberation and recommendation.

16. Regularly scheduled ESSRP meetings are normally held on the first Monday of the month at (?), but the time and place may be changed provided that such change is noted in the meeting agenda
17. The ESSRP can schedule additional meetings when and if needed.
18. Much of the work, deliberations and actions resulting from ESSRP decisions occurs between full ESSRP meetings in standing and ad hoc groups, and the ESCOG as needed.
19. Ad hoc group deliberations and recommendations are brought forth to the ESSRP through the meeting agenda process.
20. Moderators for ESSRP meetings facilitation should be rotated amongst willing MOA signatories or their representative.
21. ESSRP meetings are generally moderated in an informal manner that encourages broad discussion and input. More formal facilitation may occur when and if needed in order to make a clear decision.
22. Agenda items and issues brought to the attention of a meeting may be discussed for general information, to coordinate resources and opportunities, or any other reason and not require the ESSRP approval by a formal consensus or vote.
23. Attendees who are not members may regularly participate in meeting deliberations, but they are not included in any decisions.

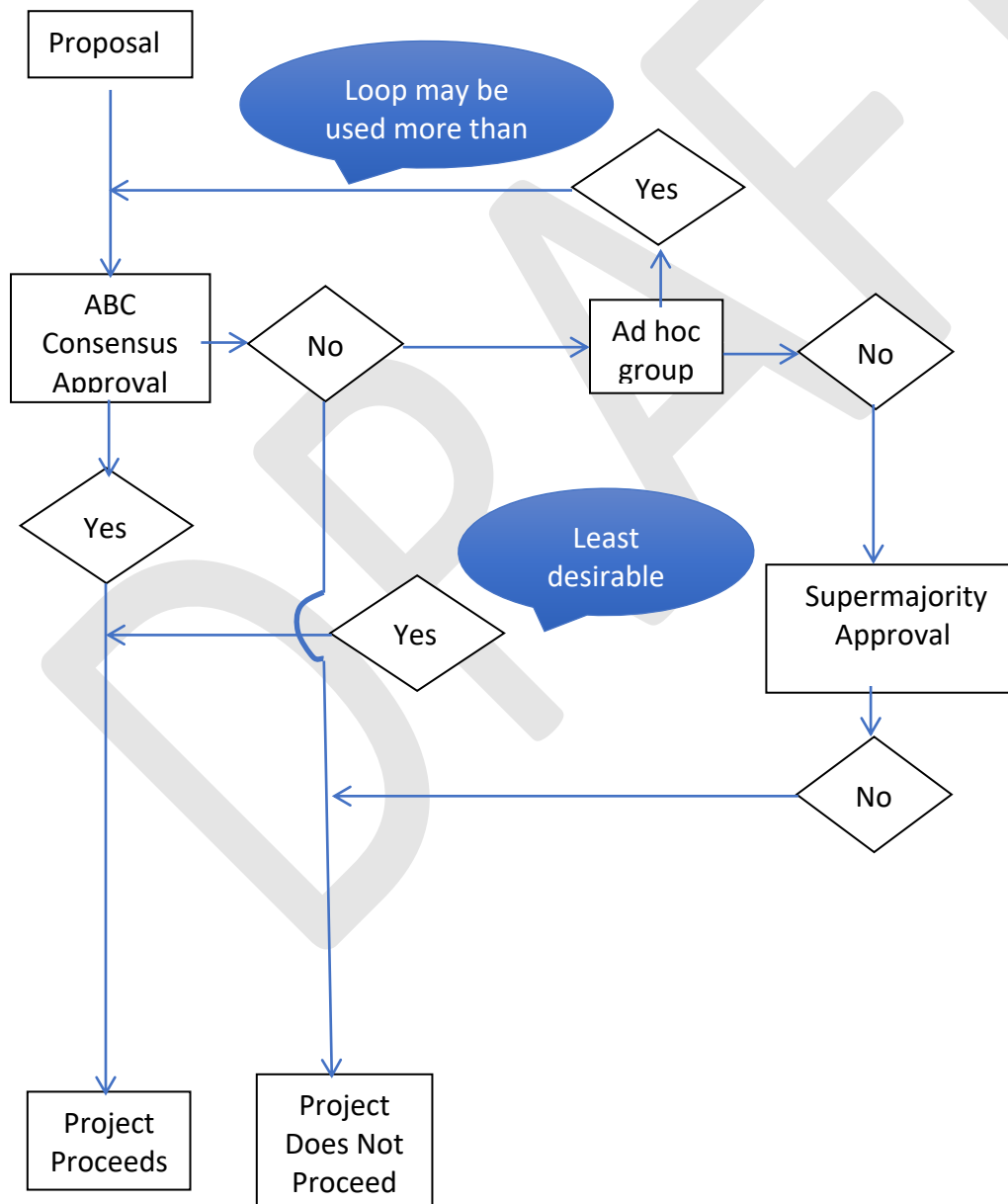
The ESSRP makes decisions using the following:

1. If there is no objection, meeting items discussed and considered routine or obvious may be stated as an ESSRP action by the Moderator and noted for the minutes.
2. After ESSRP discussion and deliberation of an issue any member may make a motion for a consensus decision, a second by any other member is needed for consideration.
3. If a motion is considered the meeting Moderator asks for and facilitates discussion on the motion, which is then approved, disapproved or referred to an ad hoc group.
4. When canvassed by the Moderator for a decision, a member may approve, abstain, or disapprove of a consensus decision; all of the members eligible to participate in the decision at a meeting must approve or abstain for a consensus approval decision.
5. A consensus approval decision at a minimum requires a quorum including at least two directors of the ESCOG (?).
6. If extended deliberation is needed to benefit the decision on the motion (a referred motion), the issue may be referred to an ad hoc group appointed to include at least the points of view represented by proponents, opponents and those neutral to meet and work out a resolution and recommendation for a future meeting.
7. If disapproved the decision is recorded in the meeting minutes.
8. The ad hoc group assigned a referred motion returns a recommendation whereby every reasonable effort is made to seek a solution crafted to achieve ESSRP consensus.
9. If the ad hoc group cannot with good faith effort craft a likely consensus it will develop an inventory report listing the strengths, weaknesses, opportunities and threats identified from their deliberations related to not finding a consensus resolution.
10. The ESSRP will consider the ad hoc group's recommendations on an agenda of a duly called meeting with a quorum, and deliberations will result in a consensus decision of

approval or disapproval; or, the item may be sent back for another try at finding a solution.

11. In the event that there is no consensus decision, and the proponents still wish to proceed, the ad hoc group may recommend that the ESSRP consider a supermajority decision by the ESSRP. A supermajority decision requires 75% of the members to vote in favor at a regular meeting of the ESSRP to pass.
12. If a consensus decision is approved, it is assigned to a member, an ad hoc group, or the ESCOG for implementation and to make status reports to the ESSRP at future meetings.

The graphic below illustrates the process.



Innovative Finance for National Forests Grant Program

[Grant Programs & Resources](#) » Innovative Finance for National Forests Grant Program

Program Update

UPDATE October 22, 2019 - 45 Preproposals have been received!

Preproposal review is underway. Applicants can expect to be contacted over the next 5-6 weeks.

Preproposal applicants will be notified no later than January 17, 2020, regarding an invitation to submit a full proposal.

We are no longer accepting Preproposals for this rounds of the program.

[DONATE](#)

Program Summary

The Innovative Finance for National Forests (IFNF) is a grant program for local communities and stakeholders looking for new ways of funding healthy forests, project developers who can help connect investment capital to forested landscapes, and Forest Service managers and collaborators with projects that are ripe for private investment capital.





Rural Business Development Grants (RBDG)

What does this program do?

RBDG is a competitive grant designed to support targeted technical assistance, training and other activities leading to the development or expansion of small and emerging private businesses in rural areas that have fewer than 50 employees and less than \$1 million in gross revenues. Programmatic activities are separated into enterprise or opportunity type grant activities.

Who may apply for this program?

Rural public entities including, but not limited to:

- Towns
- State agencies
- Nonprofit Corporations
- Federally recognized Tribes
- Communities
- Authorities
- Institutions of Higher Education
- Rural Cooperatives

What is an eligible area?

RBDG funds must be directed for projects benefitting rural areas or towns outside the urbanized periphery of any city with a population of 50,000 or more. **Check eligible areas.**

How much funding is available?

There is no maximum grant amount for enterprise or opportunity type grants; however, smaller requests are given higher priority. Generally, grants range from \$10,000 up to \$500,000. There is no cost sharing requirement. Total opportunity type grant funding is limited statutorily to up to 10% of the total RBDG annual funding.

How may funds be used?

Enterprise type grant funds must be used on projects to benefit small and emerging businesses in rural areas as specified in the grant application. Uses may include:

- Training and technical assistance, such as project planning, business counseling/training, market research, feasibility studies, professional/technical reports, or product/service improvements
- Acquisition or development of land, easements, or rights of way; construction, conversion, renovation, of buildings, plants, machinery, equipment, access streets and roads, parking areas, utilities

- Pollution control and abatement
- Capitalization of revolving loan funds including funds that will make loans for start-ups and working capital
- Distance adult learning for job training and advancement
- Rural transportation improvement
- Community economic development
- Technology-based economic development
- Feasibility studies and business plans
- Leadership and entrepreneur training
- Rural business incubators
- Long-term business strategic planning

Opportunity type grant funding must be used for projects in rural areas and they can be used for:

- Community economic development
- Technology-based economic development
- Feasibility studies and business plans
- Leadership and entrepreneur training
- Rural business incubators
- Long-term business strategic planning



Rural Business Development Grants (RBDG)

How are applications evaluated for competitive funding?

RBDG applications compete at the state office level, which are dependent on appropriations.

All applications are evaluated based on:

- Evidence showing job creation to occur with local businesses;
- Percent of nonfederal funding committed to the project;
- Economic need in the area to be served;
- Consistency with local economic development priorities;
- Experience of the grantee with similar efforts; and
- Other factors described in the current Notice of Solicitation of Applications (NOSA), if one is published.

How do we get started?

Applications are accepted through USDA Rural Development's **local or State offices** once per year. Applicants are advised to view program information specific to your **local or State office** to learn about local application timelines, concept paper requirements, etc.

Grant awardees will need to complete required paperwork and comply with the terms and conditions of the award. Contact your **local or State office** for details.

Who can answer questions?

Contact your **local office**.

What governs this program?

- Basic Program – **7 CFR Part 4280, Subpart E**
- This program is authorized by the Consolidated Farm and Rural Development Act (ConAct)

What governed the predecessor programs of RBEG and RBOG, as well as all awards given before FY 2015?

- RBEG Basic Program - **RD Instruction 1942-G**
- RBOG Basic Program - **7 CFR Part 4284**
- This program was authorized by the Consolidated Farm and Rural Development Act (ConAct)

Why does USDA Rural Development do this?

This program provides grants for rural projects that finance and facilitate development of small and emerging rural businesses, help fund distance learning networks, and help fund employment related adult education programs. To assist with business development, RBDGs may fund a broad array of activities.

NOTE: Because citations and other information may be subject to change please always consult the program instructions listed in the section above titled "What Law Governs this Program?" You may also contact **your local office** for assistance. You will find additional forms, resources, and program information at www.rd.usda.gov. *USDA is an equal opportunity provider, employer, and lender.*



EASTERN SIERRA COUNCIL OF GOVERNMENTS MEETING SCHEDULE – 2020

Friday, February 14	8:30 AM	Mammoth Lakes Town Council Chamber
Friday, April 10	8:30 AM	Bishop City Council Chamber
Friday, June 12	8:30 AM	Mammoth Lakes Town Council Chamber
Friday, August 14	8:30 AM	Bishop City Council Chamber
Friday, October 16	8:30 AM	Mammoth Lakes Town Council Chamber
Friday, December 11	8:30 AM	Bishop City Council Chamber