

INTRODUCTION

(No.133 August 2016)

8551

The purpose of this chapter is to set forth guidelines for entering into, creating a successor agreement (renewal) , and when necessary, modifying or terminating Fire Protection Reimbursement Agreements (contracts) with local governments. These guidelines ensure consistency in evaluating the level of appropriateness of potential or existing local government contracts. By referring to these procedures, Unit Chiefs will be in a better position to respond to inquiries from local agencies about agreements.

The Public Resources Code (PRC) gives the Department authority to enter into cooperative agreements for the purpose of preventing and suppressing fires on any lands within any county, city, or district which makes an appropriation for such purpose.

The Department of Forestry and Fire Protection (CAL FIRE) has contracted with and received funds from counties since the early 1900s. Funds received prior to 1945 were primarily used to augment state fire suppression activities.

In 1945, following legislation which established criteria for state responsibility areas (PRC 4125-4128), local government financial responsibilities were clearly defined. Counties that wanted local responsibility fire service or augmented wildland protection were given the opportunity to contract with the state.

AUTHORITY

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The authority for the Director to enter into cooperative fire protection agreements is contained in Sections 4141-4145 of the Public Resources Code. Adopted in 1945, this statute authorizes the Department, with the approval of the Department of General Services, to enter into cooperative agreements "upon such terms and under such conditions as it deems wise, for the purpose of preventing and suppressing forest fires or other fires in any lands within any county, city, or district which makes an appropriation for such purpose."

California statute also allows all levels of government to contract with one another. Governing boards are encouraged to seek out the most effective methods of providing their services. An agency which provides contract services does not assume statutory responsibility for those services, but merely provides professional services on a reimbursement basis. Local control is afforded when those levels of government closest to the people have the broadest choice of options and are allowed to make independent program decisions.

Local government entities are empowered to enter into such agreements under Sections 55603-55506, and 55632 of the Government Code.

A more complete outline of authorities cited in this chapter is included in [Section 8501](#).

CAL FIRE MISSION

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The department's mission is described in statute, Board of Forestry and Fire Protection policy, and the Department's program budget structure.

The primary mission of the California Department of Forestry and Fire Protection is to serve and safeguard the people and protect the property and resources of California. The Department will provide comprehensive fire protection and other related emergency services, including protection of life and property, on State Responsibility Areas (SRA). The Department will maintain cooperative fire protection contracts and agreements where there are economic and social benefits to the people of the state. The Department will ensure that the range, forest, and watershed resources are maintained and enhanced, balancing economic, environmental, and social benefits.

To accomplish this mission, the Department has established the following goals concerning fire protection and related services:

- To provide comprehensive fire protection services in State Responsibility Areas. This protection shall include fire prevention, fire protection planning, and fire control.
- To provide comprehensive fire protection services to federal, state and local agencies under contract or by agreement when there are economic and social benefits to the people of the state.
- To effectively communicate the Department's mission to employees, partners and stakeholders
- To cultivate and strengthen relationships with stakeholders, governing bodies, cooperators and the public.
- To provide related services such as emergency medical care and other emergency and fire-related services in State Responsibility Areas.
- To provide leadership in emergency incident management, mutual aid, and fire safety planning.
- To improve operational efficiency and effectiveness by shaping, enhancing and adapting to changing circumstances.

CAL FIRE FIRE PROTECTION MISSION

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The fire protection mission of the California Department of Forestry and Fire Protection is to: "...provide policy, direction, and oversight for meeting the Department's mission to deliver emergency services to the public. Our Fire Protection Programs and Cooperative Fire, Safety and Training Units oversee the delivery systems and relationships necessary to carry out this task while ensuring the safety and training of CAL FIRE personnel." This includes the maintenance of high professional standards and a well-trained and well-equipped staff. Related programs will be conducted through contracts and agreements where these programs complement the Department's primary mission.

Local Government Fire Protection Reimbursement Agreements are entered into when, because of the Department's presence, the needs of the local populace would be most effectively and efficiently met, and these contractual arrangements are of benefit to the people of the state.

DEPARTMENT RESOURCES

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Sufficient information shall be provided to the governing board, or its representative, to give an overview of the Department's capabilities to provide fire protection services. The following should be thoroughly discussed:

1. The Department has substantial depth of resources throughout the state, including engine companies, handcrews, bulldozers, aircraft, command officers, and support staff. As part of an integrated organization, or through direct mutual aid, these resources are available for dispatch to local fire and nonfire emergencies through the department's statewide dispatching system.
2. The Department has local Units which administer these resources. With the adoption of a Cooperative Fire Protection Reimbursement Agreement, these resources become directly available through established dispatch channels for response to local emergency incidents, giving greater depth and flexibility for move-up, station coverage, and additional initial attack.
3. The Department has professional expertise in fire services administration, engineering, fire prevention and law enforcement, training, management of mobile equipment, material management, communications, and planning and construction of facilities. The Department can also provide expertise in determining potential impacts of land use on the environment in fire hazard areas, and providing plans for fire safety in such areas.

4. Functional consolidation, including the sharing of facilities and common services such as dispatching, fire prevention, communications purchasing, etc., can provide operational effectiveness and cost savings.
5. Department fire protection forces and facilities and common services such as dispatching, fire prevention, communications purchasing, etc., can provide operational effectiveness and cost savings.
6. The Department operates a modern, well-equipped CAL FIRE Academy where personnel receive professional college-level training in current wildland and structural fire protection techniques and emergency incident command.
7. In 1987, the legislature increased the Department's authority to include responses to medical aid and other nonfire emergency incidents. This authority is extended to those local governments contracting with the Department for fire protection services.
8. The emergency response function can provide services and standby or on-call availability to local government through use of existing state-funded command and support personnel.
9. The Department has mandatory training requirements for each class of employee brought into state service. A portion of the cost of joint apprenticeship training will be billed to the local agency. The local agency will pay employee's salaries and benefits while they are attending training.
10. Any contract for local government fire protection must conform to the Department's standards as set forth in Section 8552.4. Local government will be strongly encouraged to fund adequate support staff.
11. All fire protection contracts include an administrative charge to recover shared indirect Department cost in such areas as administration, personnel, accounting, health standards, etc.
12. The Department needs to obtain certain resolutions from the governing board, automotive and liability insurance certification, and information on timing of payments.
13. The Department uses a standard statewide contract for all agreements. This contract has been approved by the Department of General Services and individual modifications shall not be negotiated. The current contract should be explained to the extent necessary.

TRANSFER OF EXISTING LOCAL AGENCY EMPLOYEES TO CAL FIRE

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Article VII, Section 6 (c) of the California Constitution states that when the state assumes work performed by a governmental agency, the board (State Personnel Board) **shall** provide for the employees who previously performed this work to qualify to continue in their positions in the state civil service. Typically, when CAL FIRE enters into a new Local Government Fire Protection Reimbursement Agreement the local government employees who previously performed the work assumed by CAL FIRE are transferred or "blanketed" into state service by State Personnel Board resolution. Unless the Director grants an exception, only the fire suppression personnel required to meet the proposed agreement are blanketed into CAL FIRE. If all the local agency fire department employees are not blanketed into the positions established by the agreement the excess employees will be provided for in some other way. The following options are available to CAL FIRE:

- Offer vacancies within the Department (this option requires the approval of the Director).
- Establish state service departmental reemployment list eligibility for the excess local agency employees. (Eligible employees on a departmental reemployment list have first priority when civil service lists are used to fill vacancies.)

The Unit Chief or his/her designee must work very closely with the Departmental Human Resources Office on meeting the intent of the Constitution. If CAL FIRE does not assume all the functions of the local agency fire department (i.e., paramedic) it is not obligated to provide for employees employed in that function. The local agency is obligated to consider employee welfare in such situations. The intentions to meet the Constitution must be clearly documented in the State Personnel Board resolution.

Phasing

Phasing in local agency employees to state service status is allowed, if previously stated within the SPB Resolution. The SPB Resolution must contain a goal in years for completion of phasing. The methodology for the order of employees to be phased to state employment, preferably seniority, must be identified.

Red Circle

When appropriate, salaries of employees blanketed into state service may be "red circled." This means the employee may receive a salary rate above the salary range for the class being appointed to. This requires approval by the Director of CAL FIRE and the California Department of Human Resources. Approved red circle rates will continue to be paid through the agreement subject to the conditions listed in section 8552.3.1. Those conditions shall be shown in the body of the Local Government Reimbursement Agreement (LG-1). The agreement shall continue to cover the salary costs even if the employee moves to a position not directly tied to the local agency agreement, until such time as the red circle rate ceases.

Return Rights

New agreements are not to be approved without local agency "Return Rights" for former employees. These rights are mandatory for the first three years of the agreement only. Local Return Rights affect the original employees only and shall be documented in a separate addendum to the cooperative agreement.

Injured Employee

Injured employees can eventually be brought into state service under these specific conditions:

- A statement of liability for known injuries, that assigns costs to the local agency, is required to be an addendum to the agreement.
- Risk Management will monitor the injured employee and associated costs.
- Injured employees remain local employees and will not be carried on the Schedule C until medically/physically cleared or retired.
- A medical examination can be required when documentation supports. Department staff shall make the appropriate referral and CAL FIRE shall pay for the physical.
- A position shall be held vacant in the Schedule A for the injured employee or a replacement employee.

Leave Credits

As referenced in Government Code §19994(a), leave credits shall be transferred to CAL FIRE when a new agreement is being considered.

Vacation / Annual Leave - In no instance will the maximum leave credits carried into state service exceed those credits a local employee given their years of service would accrue for maximum of one year, if they had been employed by the State of California.

Sick Leave - In no instance will the maximum leave credits carried into state service exceed those credits a local employee given their years of service would accrue in total, if they had been employed by the State of California.

To further clarify, local employees are limited to a total of one year of vacation/annual leave carry-over into state service while there is no limitation on the number of years of sick leave which may be carried-over. Again, these leave credit carry-over amounts are based on the credits a local employee, given their years of service, would accrue if they had been employed by the State of California.

Additional information relating to blanketing employees into CAL FIRE may be found in the Personnel Procedures [Handbook 1000](#).

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[\(see Forms or Forms Samples\)](#)