



Week of October 19, 2020

Texas Rural Water Association (TRWA)
 Fall Management and Districts Conference – Virtual
Ensuring Financial Stability for Your District

Presented by: David S. Yanke, Managing Director – Environmental Practice



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AGENDA

- What does Stability Mean?
- Financial Stability...
- Key Components of a Financial Plan
- How to Develop a Financial Plan
- Other Issues a Financial Plan Should Address
 - Funding
 - Policies
 - Rate Design
 - Billing/Accounting System
 - Operational Metrics
 - Reports and Monitoring Frequency
- Closing Comments
- Discussion



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INTRODUCTION



Dave Yanke, NewGen Strategies & Solutions, LLC

Basis for my comments...

- Conducting water/wastewater financial analyses since 1989
- First presented at TRWA Annual Conference in 1994 – “How to calculate your cost of service”

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DEFINITION OF STABILITY

Stability – the strength to stand or endure, firmness.

– *Merriam Webster*

(i.e. For a water district that means you need to recover all your costs through user fees, connection fees, etc.)

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TO ENSURE FINANCIAL STABILITY YOU NEED A FINANCIAL PLAN

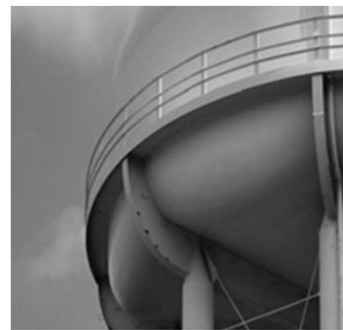


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WHY IS A FINANCIAL PLAN NEEDED?

You as a water district are responsible for:

1. Ensuring a safe, clean and reliable water supply
 - Do you have enough water?
2. Maintaining and upgrading infrastructure
 - Pumps
 - Storage
 - Water lines
 - Water treatment plant
 - Wastewater treatment plant
 - Wells



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WHY IS A FINANCIAL PLAN NEEDED? (CONT.)

3. Urban/rural issues
4. CCN issues
5. Regulations
6. Developing/growing your staff
7. Other?



The financial integrity of your utility is critical to achieving these responsibilities.

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A GOOD FINANCIAL PLAN WILL:

- Forecast population growth
- Forecast water demand
- Incorporate a capital plan
*(*Coordination with district's engineer is critical!)*
- Project O&M costs



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A GOOD FINANCIAL PLAN WILL: (CONT.)

- Evaluate / optimize capital financing
(debt service - cash - grant)
- Calculate the cost of service
- Design rates
 - Minimum bill
 - Volumetric rate structure (e.g. inclining block)
 - Capital recovery fee
 - Wholesale rates (if applicable)
 - Other



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A GOOD FINANCIAL PLAN WILL: (CONT.)

Note: Time horizon may vary for different components of the financial plan:

- Rates – 5 years
- Capital improvement plan – 10 years
- Water supply – 20+ years



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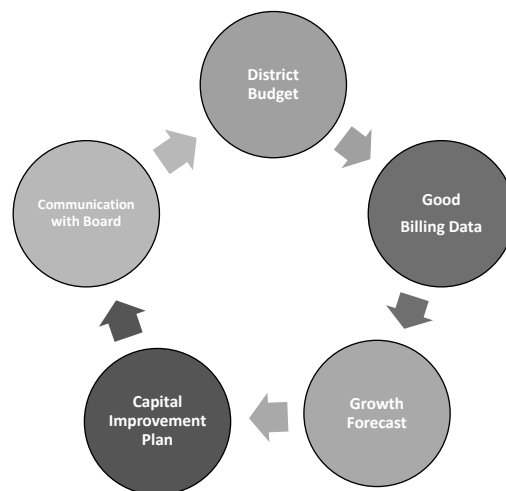
A GOOD FINANCIAL PLAN WILL: (CONT.)

“A financial plan will help you clarify where you are headed and how to get there.”



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KEY COMPONENTS OF A FINANCIAL PLAN



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HOW TO DEVELOP A FINANCIAL PLAN

Establish Your Project Team

- Staff, Engineer, Financial Consultant, Legal, Financial Advisor

Establish a Project Timeline, Tasks and Deliverables

Complete Key Tasks

- Request for Information (RFI)
- Review billing data
- Develop CIP
- Forecast revenue requirement (typically 5 years)
- Design rates
- Present draft report and recommendations to board
- Optional: Establish financial policies – days cash on hand, debt service coverage, reserve policy, etc.

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OTHER ISSUES A FINANCIAL PLAN SHOULD ADDRESS

- Funding
- Policies
- Rate Design
- Billing/Accounting System
- Operational Metrics
- Reports and Monitoring



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FUNDING

- Evaluate Financing Options
 - Financing Sources
 - TWDB
 - Commercial Banks
 - CoBank
 - Internally Generated Cash
 - Contributed Capital
 - Other
 - Match Asset Life to Financing Term (when practical)



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POLICIES

- Debt Service Coverage
 - May be Dictated by Covenants
- Reserves
 - Operating
 - Typically 90 to 120 Days O&M
 - Dependent on the Nature of Costs and Revenues
 - Capital
 - Alignment with Capital Improvement Plan as well as Renewals and Replacements
 - Debt
 - May be Dictated by Covenants



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POLICIES (CONT.)

- Renewals and Replacements
 - Keep System from Aging or Manage Aging
 - Preventative Maintenance to Reduce Emergency Maintenance and Compliance Issues
 - Asset Replacement Analysis
 - What Would You Pay to Avoid Intangible Risks?
 - Consider Failure Consequences
- Meter Replacement Policies
 - Scheduled Testing and Replacement
- Line Extension Policies
 - Contributed Capital Requirements
- Fees for Miscellaneous Services
 - e.g., Tap Fees, Account Set-Up, Turn-On, etc.

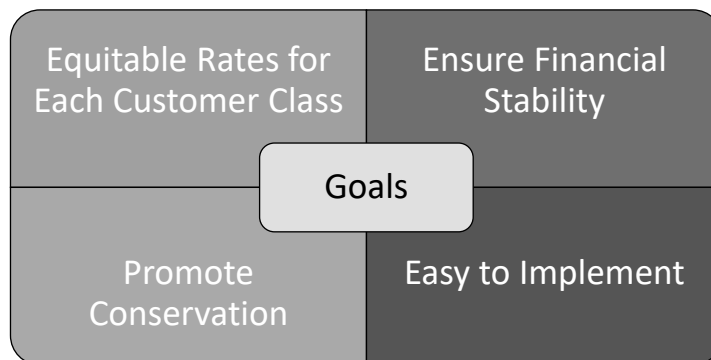
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WATER RATE DESIGN OPTIONS

General Rate Setting Goals



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WATER RATE DESIGN OPTIONS (CONT.)

- Fixed Charge
 - Recovers billing and collection costs
 - Recovers metering costs
 - Recovers fixed/costs debt service (??)
- Volumetric Charge
 - “Consumption” charge
 - Recovers cost due to amount of, and pattern of, customers’ water demand



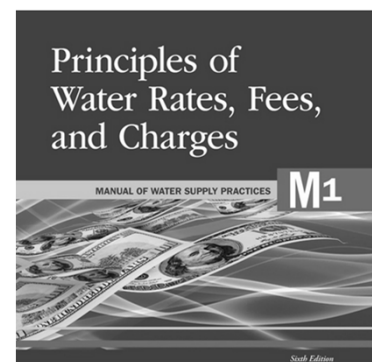
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BIG VERSUS SMALL CUSTOMER PRICING – WHAT DOES IT MEAN FOR TRWA MEMBERS?

- Conduct cost of service analysis
 - Use internal staff or a consultant
 - Adhere to AWWA – M1 manual principles
- Make conscious, reasonable, and defensible rate designs
- Quantify amount of the “subsidy”
- Do not operate in a vacuum!




American Water Works
Association
The Authoritative Resource on Safe Water®

Author:
Christopher
Eaton and Frank
Eaton and Frank
Eaton

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BILLING/ ACCOUNTING SYSTEMS

- Should Be Able to Support Budgeting and Rate Design
- Compile Consumption Data by Usage
 - e.g., 0 – 500 gallons, 501 – 1,000 gallons, etc.
- Flexibility to Change Consumption Included in Rate Blocks (if applicable)



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OPERATIONAL METRICS

- Operational Data
 - Average Day Demand, Max Day Demand, Lost and Unaccounted for
 - Needs to Be Able to Support Cost of Service Allocations and Rate Design
- Any Waivers to Minimum Capacity Requirements
 - Codified in 290.45 of Texas Administrative Code (e.g., 0.6 gpm/connection)

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REPORTS AND MONITORING FREQUENCY

- **Annually**
 - Budgets/CAFRs
 - Internal Review of Rates
 - Monitor Operational Metrics
 - Capital Funding Decisions
- **1 – 3 Years**
 - Capital Improvement Plans
- **3 – 5 Years**
 - Comprehensive Rate Study
 - More frequent if material changes in operations or finances (e.g., new wholesale customers or significant CIP)
 - Updated Master Plan
- **First time is always the hardest**



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CLOSING COMMENTS

- A financial planning process will force the staff and board to “step back” and think about where their district is headed. (This is a good thing!)

Bottom line: A financial plan will help **minimize** surprises, but it won't **eliminate** them!



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DISCUSSION



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NewGen
Strategies & Solutions




**RECORDS RETENTION
FOR WATER DISTRICTS**

**TEXAS RURAL WATER
ASSOCIATION
CONFERENCE
OCTOBER 2020**


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Meet the Presenters

BONNIE ZUBER




REBECCA HANNA



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<https://www.tsl.texas.gov/slr>

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Home > **Records Management**


 Forms

 Laws and Rules

 Local Retention Schedules

 Training

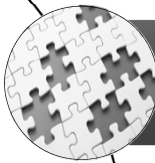
 The Texas Record Blog


 Contact Us

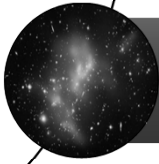
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 Fundamentals

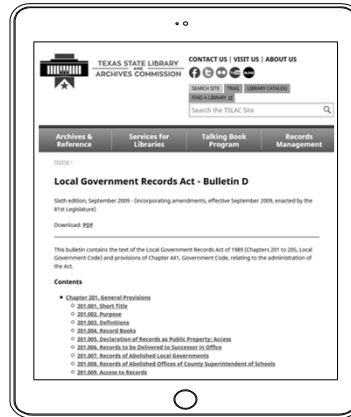
 Compliance

 Retention & Disposition

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Laws Published as Bulletin D

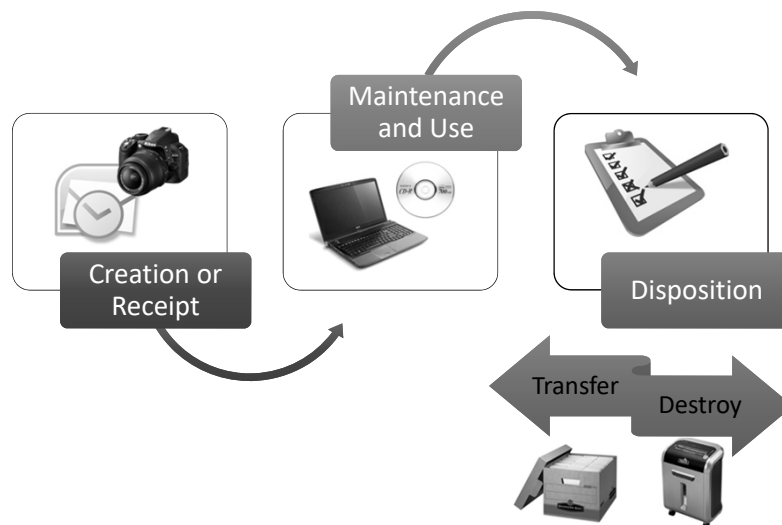
- Definitions
- Local authority
- Role of the Records Management Officer
- Compliance requirements



<https://www.tsl.texas.gov/slrmpubs/bulletind>

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The Records Life-Cycle



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Benefits of Records Management

- Legal requirement and protection
- Workflow efficiency
- Timely disposition
- Cost reduction
- Protection of essential records



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Some Consequences of *Not* Managing Records

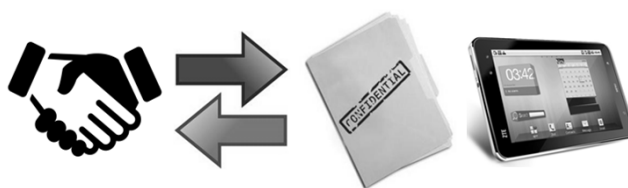
- Legal risk
- Longer retrieval times
- Higher costs
- Ongoing obligation to protect records
- Potential criminal penalties
- Negative perception



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A Local Government Record:

- Documents the transaction of public business
- Is created or received by a local government
- Is a record whether it is open or closed
- May exist in any medium



LGC §201.003

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Non-Records



Convenience Copies



Blank Forms and Stocks of Publications



Library or Museum Materials



Alternative Dispute Resolution Working Files

LGC §201.003

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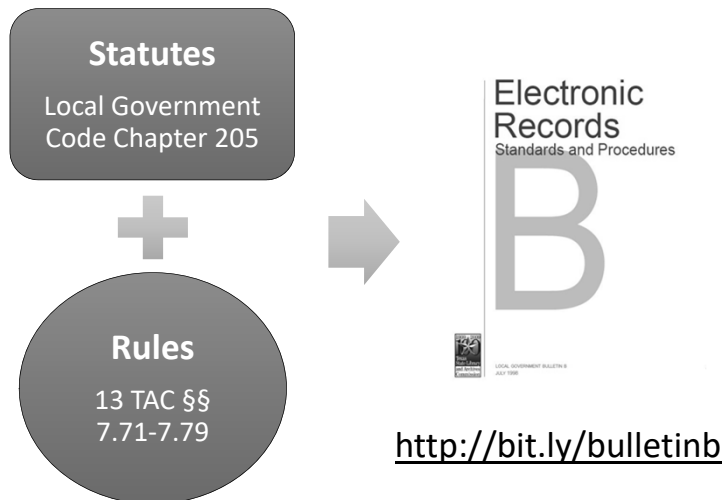
An Electronic Record:

- Any information that is recorded in a form for computer processing; **machine-readable**.
- Meets the definition of a local government record.
- **Two types:**
 - Born digital – original record was always electronic
 - Digitized – original record was analog and then made electronic.



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Legal Obligations for E-Records



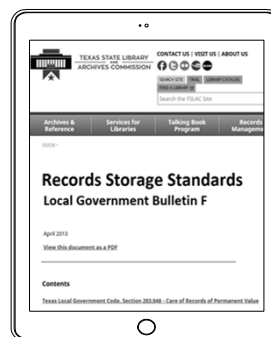
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BULLETIN F:

“...preserve valuable historic records by establishing **minimum and enhanced storage standards** for pre-1951 court records and permanent records held by local governments.”

- Records in storage
- Paper records

<https://www.tsl.texas.gov/slr/pubs/bulletinf>



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COMPLIANCE

Review the 3 Elements of Compliance:

- Designating a Records Management Officer (RMO)
- Filing a records management policy
- Declaration of Compliance

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Designation of RMO

- File RMO contact information with TSLAC
 - Form SLR 504
- Signed by the RMO designated in policy.
- Update within **30 days** of personnel change.
- Option to be subscribed to *The Texas Record* blog for news and updates.



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Policy Templates

- Must designate position of RMO.
- Requires documentation of governing body approval – meeting minutes.
- Template: Policy Model #4



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Declaration of Compliance

- **Form SLR 508** – Adopt the retention schedules that apply to the records maintained by your office
- Signed by RMO designated in policy and mail hard copy to TSLAC for filing.

I declare that this local government will comply with the retention schedule:

Schedule GR (Records Common to All Governments)

I declare compliance with the following additional retention schedules issued by the commission:
(check all that apply):

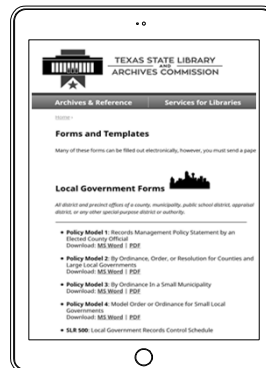
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|--|---|
| <input type="checkbox"/> Schedule CC (Records of County Clerks) | <input type="checkbox"/> Schedule PS (Records of Public Safety Agencies) |
| <input type="checkbox"/> Schedule DC (Records of District Clerks) | <input type="checkbox"/> Schedule PW (Records of Public Works and Services) |
| <input type="checkbox"/> Schedule EL (Records of Elections and Voter Registration) | <input type="checkbox"/> Schedule SD (Records of Public School Districts) |
| <input type="checkbox"/> Schedule HR (Records of Public Health Agencies) | <input type="checkbox"/> Schedule TX (Records of Property Taxation) |
| <input type="checkbox"/> Schedule JC (Records of Public Junior Colleges) | <input type="checkbox"/> Schedule UT (Records of Utility Services) |
| <input type="checkbox"/> Schedule LC (Records of Justice and Municipal Courts) | |

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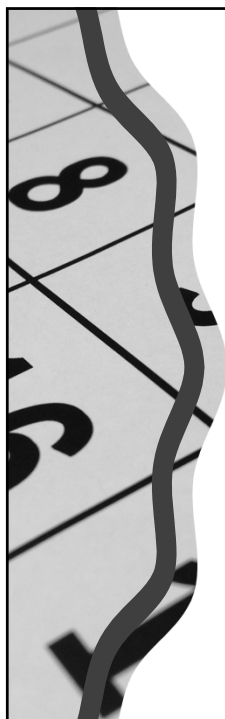
Download Forms and Templates

<https://www.tsl.texas.gov/slr/form/forms>

- SLR 504 – Designation of RMO
- SLR 508 – Declaration of Compliance
- Policy models
- Sample inventory worksheet and disposition log



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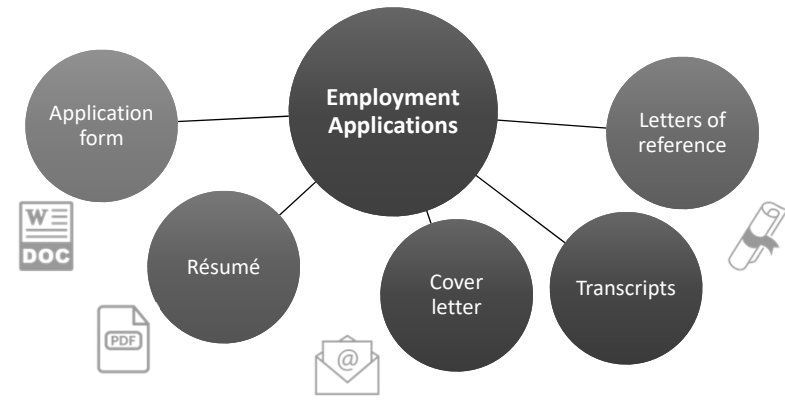
RETENTION

How to use a retention schedule to find the retention periods of your records.

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A Record Series Is:

- A grouping of records that all serve the same function and are all kept the same length of time.



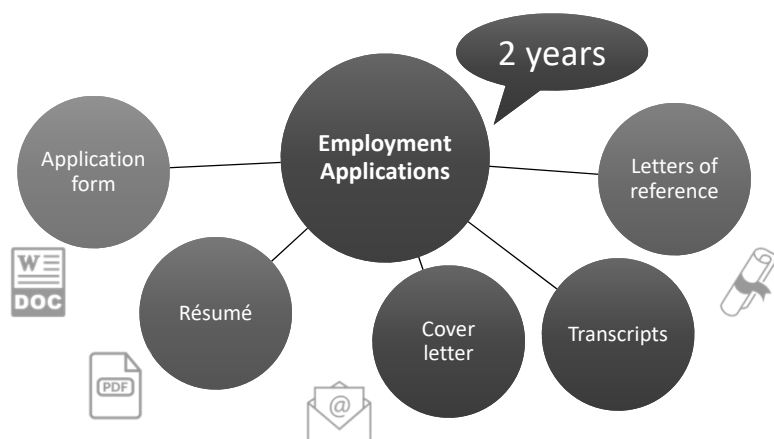
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graph TD
    EA((Employment Applications)) --- AF((Application form))
    EA --- R((Résumé))
    EA --- CL((Cover letter))
    EA --- T((Transcripts))
    EA --- LR((Letters of reference))
  
```

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A Retention Period Is:

- The minimum length of time you must keep a record.



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Common Retention Codes:

[just a number]	Add this number to the creation/receipt date of the record
AV	As long as administratively valuable
CE	Calendar Year End: December 31st
FE	Fiscal Year End: August 31st ? September 30th? http://bit.ly/FYEcalc
LA	Life of the Asset
PM	Permanent
US	Until superseded

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A Retention Schedule:

- Lists all **records series** with mandatory minimum **retention periods**.
- Schedules are format-neutral.
- **Benefits:**
 - Comply with records laws and provide some legal protection.
 - Convey retention rules to agency staff.
 - Identify, secure, and protect vital records.



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Elements of a Retention Schedule

Record Number	Record Title	Record Description	Retention Period	Remarks
UT5025-09	Sanitary Surveys	Surveys, studies, reports, summaries, or communications examining the overall sanitary condition of water and wastewater systems.	10 years	By regulation - 30 TAC 290.46(f)(3)(E)(iii).
Unique # assigned by TSLAC	General identifier for records in this group	The scope of records that would be classified here	Minimum amount of time the records must be kept.	Citations or other notes affecting the retention

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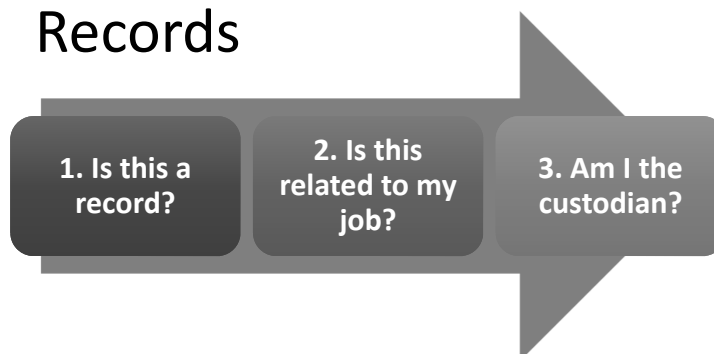
Retention Schedules for Water Districts

- Local Schedule GR (General)
 - Part 1: Administrative Records
 - Part 2: Financial Records
 - Part 3: Personnel and Payroll Records
 - Part 4: Support Services Records
 - Part 5: Information Technology Records
- Local Schedule PW (Public Works)
 - Part 5: Soil and Water Conservation Records
- Local Schedule UT (Utility Services)
 - Part 2 – Water and Wastewater Services

<https://www.tsl.texas.gov/slr/localretention>

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3-Step Drill for Managing Email Records



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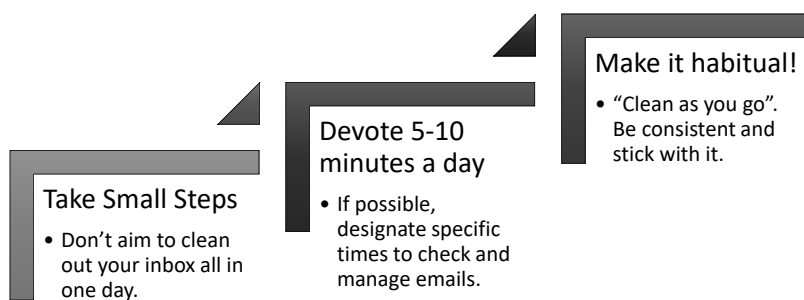
Transitory Information

- Temporary usefulness - Not essential to documenting business, fulfilling statutory obligations, and not regularly filed within your office's recordkeeping system
- Examples:
 - Outlook meeting reminder
 - Telephone message
 - "Where are you?" text



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Managing Email *Can* Become an Easier Task



Printable, super-simple 3-step drill flow-chart available at <http://bit.ly/3-stepEmail>

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Text Message Records

- Government officials texting during open meetings.
- Public Information Requests filed with the city.
- OAG: text messages about city business **are** subject to the Public Info Act.



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New Legislation: S.B. 944 – Amendment to Public Information Act

- “Temporary Custodian” – past or present officer or employee creating or receiving public government records on a personal device.
- Must:
 - Forward or transfer records to the governmental body; or
 - Preserve the public information in its original form on the privately-owned device.

<https://www.texasattorneygeneral.gov/open-government>



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Managing Text Messages

- Don't create government records in this format. Use email, phone, or talk in person.
- If necessary, use separate devices/accounts for work and personal use.
- If messages are government records, decide how to capture them:
 - Screenshot, save image
 - Forward to email



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Social Media Records

- Does your local government currently utilize a social media account?
 - Have you checked to make sure no 'ghost' accounts exist?



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Managing Social Media Records

Social Media is public information.

Usage of social media results in records retention and public access obligations.

Developing a Social Media Strategy will help satisfy those obligations.

Webinar: Managing Social Media Records:
<https://www.tsl.texas.gov/slrn/webinars/socialmedia>

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DISPOSITION

“A comprehensive term that includes destruction as well as other actions, such as the transfer of permanent records.”

– National Archives and Records Administration (NARA)

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When to Do Disposition



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Before Destroying Records

- Has the record met the retention period?
- Are there any copies?
- Did I receive internal approval?
- Do I have a disposition log?
- Is there a destruction hold?

Ask yourself...



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Types of Destruction Holds

- Litigation
- Public Information Request
- Audit
- Claim
- Negotiation



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Destruction Methods

Confidential
Records



Burning



Shredding



Pulping

Open Records



Recycle



Landfill

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Destruction of Electronic Records

- Reformat (enlist IT)
- Overwrite three times
- Degauss (neutralize magnetic field)
- Physically destroy
 - Shred
 - Pulverize
 - Drill holes



<https://www.tsl.texas.gov/slrmpubs/bulletinb>

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We Can Do Even More

- TSLAC Storage Services
 - <https://www.tsl.texas.gov/slrmpubs/storage>
- TSLAC Imaging and Microfilm Services
 - <https://www.tsl.texas.gov/slrmpubs/imaging-micro>

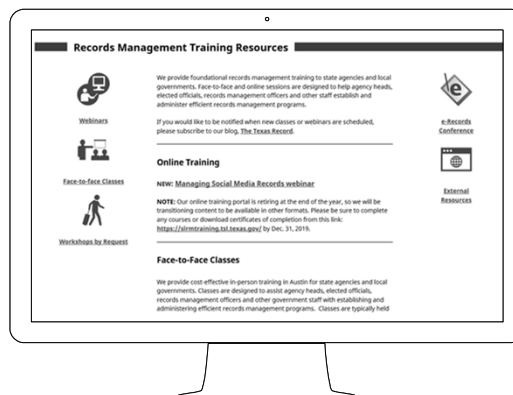


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More Training

<https://www.tsl.texas.gov/slrn/training>

- Webinars and online courses
- Conferences
- Regional workshops



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The Texas Record Blog

<https://www.tsl.texas.gov/slrn/blog/>

Subscribe for:

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QUESTIONS?

Find the analyst assigned to your county:

<https://www.tsl.texas.gov/slrinfo/contact>

Call:

(512) 463-7610

Email:

slrinfo@tsl.texas.gov



Effective Enforcement of District Service Policies

TRWA Districts Conference
October 2020



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Effective Enforcement of District Service Policies

- Laws Governing Districts
- Providing Service
- Service Policies
 - Disconnection of Service
- Protecting Your System
 - Meter Tampering/Theft of Service
 - Plumbing Restrictions
- Service Agreements
- Enforcement and Fines
- Resources



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LAWS GOVERNING DISTRICT WATER SYSTEM OPERATIONS



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Constitution Article XVI, Section 59

- The conservation and development of all of the natural resources of this State... including
 - **the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes,**
 - the reclamation and irrigation of its arid, semiarid and other lands needing irrigation,
 - the reclamation and drainage of its overflowed lands, and other lands needing drainage,
 - the conservation and development of its forests, water and hydro-electric power,
 - the navigation of its inland and coastal waters, and
 - the preservation and conservation of all such natural resources of the State
- are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.



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The Statutes

- Health & Safety Code Chapter 34I, Subchapter C
 - Sanitary Standards of Drinking Water
- Water Code Chapter 13
 - State Regulation of Water Utilities
- Penal Code Chapter 28
 - Criminal Penalties for Damaging Utility Property, etc.
- Water Code Chapter 49
 - General Statute
- Water Code Chapter 65
 - Special Utility Districts
- Water Code Chapters 51-67
 - Other types of special districts related to water



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PROVIDING SERVICE



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Providing Service

- All retail public utilities must comply with PUCT rules
 - Texas Water Code Chapter 13
 - 16 TAC Chapter 24
- Failure to do so may result in enforcement and fines
- Districts are retail public utilities (So are WSCs)



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Water Code, Chapter 13

- **STANDARDS OF SERVICE**
- Every retail public utility that possesses or is required to possess a CCN and every district ... that furnishes retail water or sewer utility service, shall furnish the service, instrumentalities, and facilities as are safe, adequate, efficient, and reasonable.
 - 13.139(a)



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Service Area

- Districts NOT required to have CCN
 - May consider obtaining CCN to proactively secure/defend service area
- A CCN obligates the District to serve an area
 - 16 TAC Chapter 24
- A CCN also protects the District's service area from encroachment
 - Recommend Federal Debt to strengthen this protection



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Water Code, Chapter 13

- Any retail public utility that possesses or is required to possess a CCN shall serve every consumer within its certified area and shall render continuous and adequate service within the area or areas.
 - 13.250(a)



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Water Code, Chapter 13

- **PUCT Authority to Compel Service**
- **PUCT may** issue emergency orders, with or without a hearing:
 - to **compel a retail public utility** that has obtained or is required to obtain a certificate of public convenience and necessity **to provide continuous and adequate water service, sewer service, or both**, if the discontinuance of the service is imminent or has occurred because of the retail public utility's actions or failure to act; ...
 - 13.041(d)



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Water Code, Chapter 13

- **TCEQ Authority to Compel Service**
- **TCEQ may** issue emergency orders, with or without a hearing:
 - to **compel a retail public utility** that has obtained a certificate of public convenience and necessity **to provide water or sewer service, or both, that complies with all statutory and regulatory requirements** of the commission if necessary to ensure safe drinking water or environmental protection; ...
 - 13.041(h)



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Water Code Chapter 13

- **COLONIAS**
- Sec. 13.2501. CONDITIONS REQUIRING REFUSAL OF SERVICE. The holder of a certificate of public convenience and necessity **shall refuse** to serve a customer within its certified area if the holder of the certificate is prohibited from providing the service under Section 212.012 or 232.0047, Local Government Code.



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Water Code Chapter 13

- **SUBDIVISION DEVELOPMENTS**
- SERVICE EXTENSIONS BY [WSC or SUD] . A [WSC or SUD] is **not required to extend retail water or sewer utility service** within the certificated area of the [WSC or SUD] to a service applicant in a subdivision if the [WSC or SUD] documents that: ...
 - 13.2502.



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Water Code Chapter 13

- **SUBDIVISION DEVELOPMENTS (cont)**

- the developer of the subdivision has failed to comply with the subdivision service extension policy of the [WSC or SUD] as set forth in the tariff of the [WSC] or the policies of the [SUD]; AND
- the service applicant purchased the property **after the [WSC or SUD] gave notice as provided by this section** of the rules of [WSC or SUD] applicable to service to subdivisions from the corporation or special utility district.



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Water Code Chapter 13

- **SUBDIVISION DEVELOPMENTS (cont)**

- As an alternative to publication of notice, a [WSC or SUD] may demonstrate by any reasonable means that a developer has been notified for purposes of this section, including:
 - an agreement executed by the developer;
 - correspondence with the developer that sets forth the subdivision service extension policy; or
 - any other documentation that reasonably establishes that the developer should be aware of the subdivision service extension policy.



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Water Code Chapter 13

- **SUBDIVISION DEVELOPMENTS (cont)**

- "Developer" means a person who subdivides land or requests more than two water or sewer service connections on a single contiguous tract of land.
- "Service applicant" means a person, other than a developer, who applies for retail water or sewer utility service.



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If you only remember one thing from this presentation ---

**ADOPT AND IMPLEMENT
DISTRICT SERVICE POLICIES**



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TRWA Sample District Service Policies

- Available at TRWA.org
 - <https://www.trwa.org/store/ViewProduct.aspx?id=2854266>
 - Fee publication – but worth every penny
 - Complies with law and PUCT guidance
 - BUT have your legal counsel review
- READ THEM
- KEEP THEM CURRENT
- ENFORCE COMPLIANCE



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TRWA Sample District Service Policies

- District Service Rules
- Developer, Subdivision And Nonstandard Service Requirements
- Rate And Service Fee Order
- Drought Contingency And Emergency Water Demand Management Plan



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TRWA Sample District Service Policies

DISTRICT SERVICE RULES

- Activation of Nonstandard Service.
- Activation of Standard Service.
- Applicant's Recourse.
- Application Procedures and Requirements.
- Back Billing.
- Bill Adjustment Due to Meter Error.
- Billing Cycle Changes.
- Changes in Service Classification
- Charge Distribution and Payment Application
- Connection of Sewer Service
- Connection of Water Service
- Customer's Responsibility
- Deferred Payment Agreement
- Denial of Service



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TRWA Sample District Service Policies

DISTRICT SERVICE RULES

- Disputed Bills
- Due Dates, Delinquent Bills, and Service Disconnection Date
- Excluded Flow and Waste
- Inoperative Meters
- Insufficient Grounds for Refusal of Service
- Line Extension Reimbursement
- Meter Tampering and Damage To Property
- Ownership of Equipment
- Prohibited Plumbing Practices
- Prohibition of Multiple Connections to a Single Tap
- Rules for Disconnection of Service
- Service Entitlement
- Service Facility Relocation
- Standards for Sewer Service Lines
- Standards for Water Service Lines



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District Service Policies

- **BE CONSISTENT**
- Standard Service is service that **complies with EVERY** aspect of your service policy.
 - Standard Service Agreement form should reflect this (discussed later) for future disputes
- Non-standard Service is either larger scale development or **DOES NOT COMPLY with EVERY** aspect of your service policy.
 - Non-standard service agreements used to document this for future disputes



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DISCONNECTION OF SERVICE



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Water Code, Chapter 13

- Whether it has a CCN or not, a utility may not discontinue, reduce, or impair service to a certified service area or part of a certified service area except for:
 - (1) **nonpayment of charges** for services provided by the certificate holder or a person who possesses facilities used to provide utility service;
 - (2) (related to billing agreements with other utilities)...
 - (3) **nonuse**; or
 - (4) **other similar reasons in the usual course of business.**

- Water Code, Section 13.250



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Water Code, Chapter 13

- Any discontinuance, reduction, or impairment of service, must comply with the conditions, restrictions, and limitations that the PUCT prescribes.



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Disconnection of Service

- PUCT Rules
 - 16 TAC Chapter 22, Subchapter F
 - Do not apply to SUDs (or WSCs)
- TRWA advises systems to voluntarily comply with PUCT Rules and think of them as an example of the PUCT's accepted best practices when it comes to customer service.



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Disconnection of Service

- TRWA Resource:
 - <https://www.trwa.org/page/Legal-ServiceRequestandDisconnections>
 - FAQs on Service Requests and Disconnections
 - See TRWA Disconnection Notice Form in Sample Service Policies



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Disconnection of Service Best Practices

- PUCT Rules
- Utility service may be disconnected **after proper notice** for any of the following reasons:
 - failure to pay a delinquent account for utility service or failure to comply with the terms of a deferred payment agreement.
 - Payment by check which has been rejected for insufficient funds, closed account, or for which a stop payment order has been issued is not deemed to be payment to the utility.
 - Payment at a utility's office or authorized payment agency is considered payment to the utility.
 - The utility is not obligated to accept payment of the bill when an employee is at the customer's location to disconnect service;
 - violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others;



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Disconnection of Service Best Practices

- Utility service may be disconnected **after proper notice** for any of the following reasons:
 - operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;
 - failure to comply with deposit or guarantee arrangements where required by §24.159 of this title (relating to Service Applicant and Customer Deposit);
 - failure to pay charges for sewer service provided by another retail public utility in accordance with subsection (e) of this section; and
 - failure to pay solid waste disposal fees collected under contract with a county or other public agency.



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Disconnection Notice Best Practices

- Proper notice is a separate written statement mailed or hand delivered to a customer before service is disconnected.
- English and Spanish if necessary to adequately inform the customer



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Disconnection Notice Best Practices

Notice Contents (16 TAC 22.167(a)(1))

- the words “termination notice” or similar language that stands out from other information on the notice;
- the action required to avoid disconnection
- the date by which the required action must be completed (at least ten days from the date the notice)
- the intended date of disconnection;
- the office hours, telephone number, and address of the utility’s local office;
- the total past due charges;
- all reconnect fees that will be required to restore service



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Disconnection of Service Best Practices

- Utility service may be disconnected **without prior notice** for the following reasons:
 - where a known and dangerous condition related to the type of service provided exists.
 - where reasonable, given the nature of the reason for disconnection, a written notice of the disconnection, explaining the reason service was disconnected, shall be posted at the entrance to the property, the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected;
 - where service is connected without authority by a person who has not made application for service;



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Disconnection of Service Best Practices

- Utility service may be disconnected **without prior notice** for the following reasons:
 - where service has been reconnected without authority following termination of service for nonpayment under subsection (a) of this section;
 - or in instances of tampering with the utility's meter or equipment, bypassing the same, or other instances of diversion as defined in §24.169 of this title (relating to Meters).



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Disconnection of Service

- Customers may appeal disconnection to PUCT
 - Informal Process First (letters and emails)
 - Then Formal Process (pleading, evidence and judge)
- Service Agreements and District Records are critical to responding to a complaint



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PROTECTING YOUR SYSTEM



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Operation of System

- All public water systems (PWS) must comply with TCEQ rules
 - Texas Health & Safety Code Chapter 341
 - 30 TAC Chapter 290
- Failure to do so may result in enforcement and fines



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Texas Health & Safety Code

- Public drinking water must be free from deleterious matter and must comply with the standards established by the TCEQ or EPA
- **In a public place or an establishment catering to the public, a common drinking cup may not be used.**
- 341.031



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Texas Health & Safety Code

- Public drinking water supply systems shall:
 - supply safe drinking water in adequate quantities;
 - be financially stable; and
 - be **technically sound**.
- Each public drinking water supply system shall provide an adequate and safe drinking water supply.
- 341.0315



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Protecting Your System

- Meter Tampering, etc.
- Plumbing Restrictions
- Cross Connections
- Customer Service Inspections



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METER TAMPERING AND THEFT OF SERVICE



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Meter Tampering

- A person commits an offense if, without the effective consent of the owner:
 - (1) he intentionally or knowingly damages or destroys the tangible property of the owner;
 - (2) he intentionally or knowingly tampers with the tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person;
or
 - (3) he intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.
- Penal Code Sec. 28.03(a)



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Meter Tampering/Theft

- An offense under this section is: ...
 - a Class A misdemeanor if: ...
 - the actor causes in whole or in part **impairment or interruption of any public water supply, or causes to be diverted** in whole, in part, or in any manner, including installation or removal of any device for any such purpose, **any public water supply**, regardless of the amount of the pecuniary loss;
- Penal Code 28.03(b)



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Meter Tampering/Theft

- Criminal Complaint
 - CALL YOUR LOCAL LAW ENFORCEMENT OFFICE
- Class A Misdemeanor
 - a fine not to exceed \$4,000;
 - confinement in jail for a term not to exceed one year; or
 - both such fine and confinement.
- Enforceable by Law Enforcement/District Attorney in
 - County Court, or
 - District Court



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Meter Tampering/Theft

- Presumed that a person who is receiving the economic benefit of ... public water ... supply, has knowingly tampered with the tangible property of the owner if the ... supply has been:
 - **diverted** from passing through a metering device; or
 - **prevented** from being correctly registered by a metering device; or
 - **activated** by any device installed to obtain ... public water, ... supply **without a metering device.**
- Sec. 28.03 (c)



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PLUMBING RESTRICTIONS



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Plumbing Restrictions

- Ensure that neither cross-connections nor other unacceptable plumbing practices are permitted
- Prohibit use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than 0.2% lead
 - may be waived for lead joints that are necessary for repairs to cast iron pipe.
- 290.46



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Cross-Connection Law

- The distribution system of a PWS may not be physically connected to any other water supply unless the other water is of a safe and sanitary quality and the commission approves the connection.
- A PWS may not be connected to a sprinkling, condensing, cooling, plumbing, or other system unless the connection is designed to ensure against a backflow or siphonage
- 341.0315 and 30 TAC 290.46(k)



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Cross-Connection Control

- Cross-connection control (CCC) programs
 - identify locations where the risk of cross connection is high
 - ensure that the proper measures are taken to minimize that risk
 - high-grade backflow prevention assemblies and have them tested by a certified tester annually:
 - Mortuaries, minor surgery centers, hospitals, chemical plants, etc.



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Cross-Connection Control

- Customer service inspection (CSI)
 - Required for:
 - All new construction.
 - Existing customers that have had substantial plumbing modifications.
 - Existing customers whenever there is a reason to suspect that a hazard or a source of contamination may be present.
- Notify customers that a CSI is required
 - May have licensed staff who perform the CSIs and then bill the customer
 - May require the customer to hire a licensed person to conduct the CSI



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Customer Service Inspection

- Limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials.
 - Before providing service to new construction
 - On any existing service where there is reason to believe that cross-connections or other potential contaminant hazards exist, or
 - After any material improvement, correction, or addition to private water distribution facilities.



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Bring it all together in your

SERVICE AGREEMENTS



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Service Agreement

- TCEQ Rules Sec. 290.47(b) Appendix B.
Sample Retail Service Agreement.
 - <https://texreg.sos.state.tx.us/fids/201502634-2.html>
- TRWA Sample District Service Application and Agreement Form
 - From TRWA Sample District Service Policies:
 - Section I: Sample Application Packet



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Service Agreement

- Agreement with EVERY customer
- Compliance with District Service Policies
- Conditions for Disconnection
- Prohibited Activities
 - Plumbing Fixtures
 - Cross Connections
- Access to District facilities
 - Customer Service Inspections
- Notice of Potential Rationing



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Service Agreement

- **BE CONSISTENT**
- Standard Service is service the **complies with EVERY** aspect of your service policies.
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- Non-standard Service is either larger scale development or **DOES NOT COMPLY with EVERY** aspect of your service policies.
 - Non-standard service agreements used to document this for future disputes



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ENFORCEMENT AND FINES



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Water Code Chapter 65

- **A district may adopt and enforce reasonable rules to:**
 - **secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;**
 - **preserve the purity and the sanitary condition of all water controlled by the district;**
 - **prevent waste or the unauthorized use of water controlled by the district;**

- 65.205



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Water Code Chapter 65

- **A district may adopt and enforce reasonable rules to:**
 - **regulate privileges on any land or easement owned or controlled by the district;**
 - **provide and regulate a safe and adequate freshwater distribution system; and**
 - **ensure adequate safeguards in the performance of the district's fire-fighting activities.**

- 65.205



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Water Code Chapter 65

- After the **required publication**, rules adopted by the district under Section 65.205 of this code shall be **recognized by the courts as if they were penal ordinances of a city.**
 - Sec 65.206
- Penalty for violation of a rule is **not effective and enforceable until five days after the last publication of the notice.** Five days after the last publication, the published rule takes effect and ignorance of the rule is not a defense to a prosecution for the enforcement of the penalty.
- 65.208



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Water Code Chapter 65

- **Publish a substantive statement of each rule and the penalty** for its violation once a week for two consecutive weeks in one or more newspapers with general circulation in the area in which the district is located.
- Substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by each rule.
- 65.207



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Water Code Chapter 65

- Notice must advise that breach of a rule will subject the violator to a penalty and that the full text of each rule is on file in the principal office of the district at which it may be read by any interested person.
- Any number of rules may be included in one notice.
- 65.207



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Water Code Chapter 49

- May set **reasonable civil penalties** for the breach of any rule of the district that shall not [more than \$20,000, exclusive of interest].
- A penalty under this section is in addition to any other penalty provided by the law of this state and **may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.**
- If the district prevails ... it **may ... recover reasonable fees for attorneys, expert witnesses, and other costs** incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.
- 49.004.



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City Penal Ordinance

- MAY provide guidance on reasonableness of penalty.
- A fine or penalty for the violation of a municipal rule, ordinance, or police regulation may not exceed \$500 except that:
 - **a fine or penalty** for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or **public health and sanitation**, other than the dumping of refuse, **may not exceed \$2,000**; and
 - Local Government Code, 54.001



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Texas Courts

- Justice of the Peace Courts
 - Exclusive jurisdiction over civil matters where the amount in controversy \$200 or less
 - Jurisdiction by statute over matters up to \$20,000, exclusive of interest
- County Court (Constitutional)
 - One per County
 - Jurisdiction by statute over civil matters exceeding \$200 and up to \$20,000, exclusive of interest
 - Exclusive original jurisdiction of misdemeanors ... and cases in which the highest fine that may be imposed is \$500 or less.
 - Jurisdiction over appeals from Justice of the Peace Court for judgements exceeding \$250, exclusive of costs
- County Courts at Law
 - Jurisdiction by statute and particular to each court
 - Established in more populous counties to handle case loads
- District Court
 - Jurisdiction over any action not exclusive to another court



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REGULATORY RESOURCES



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Organizations/Agencies for Assistance

- Texas Commission on Environmental Quality
(Utility Operations)
 - Enforcement Process
- Public Utility Commission of Texas
(Utility Rates and Service Obligations)
 - Complaint Process



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Helpful Websites

- TX Rural Water Association
 - www.trwa.org
- TCEQ
 - www.tceq.texas.gov
- PUCT
 - www.puc.texas.gov
- Texas Attorney General
 - www.oag.state.tx.us
- Texas Comptroller of Public Accounts
 - www.window.state.tx.us
- Texas Secretary of State
 - www.sos.state.tx.us



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TRWA Sample District Service Policies

- Available at TRWA.org
 - <https://www.trwa.org/store/ViewProduct.aspx?id=2854266>
 - Fee publication – but worth every penny
 - Complies with law and PUCT guidance
 - BUT have your legal counsel review
- READ THEM
- KEEP THEM CURRENT
- ENFORCE COMPLIANCE



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Questions?

Effective Enforcement of District Service Policies



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Thank you!

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Traps For the Unwary

Information that a Public Officer Needs to Know

Amber McKeon-Mueller
Assistant General Counsel
Texas Municipal League



1

Topic Overview

We'll definitely cover:

- **Nepotism** – Government Code Chapter 573
- **Dual Office Holding/Incompatibility**

If there's enough time:


- **Conflict of Interest**
 - Local Government Code Chapter 171
 - Local Government Code Chapter 176



2

Nepotism

**Government Code
Chapter 573**



3


What is Nepotism?

Gov. Code § 573.041

Prohibits a *public official* from:

- Appointing,
- Confirming the appointment of, OR
- Voting on the appointment of

a close relative of certain public officials to a *paid public position or employment*




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Nepotism: Government Code Chapter 573

Which Public Officials Does Nepotism Apply To?

- Public official who has **final hiring authority** or member of the governing body that has **final hiring authority**.
- **Final Hiring Authority** means the individual or entity that has control over hiring decisions.

Gov. Code § 573.001(3)




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Nepotism: Government Code Chapter 573

Who is Considered a Close Relative?

Close relative is a relative who is either in the:

1st, 2 nd or 3 rd degree of Consanguinity (blood)	1 st or 2 nd degree of Affinity (marriage)
<ul style="list-style-type: none"> • 1st degree: mother, father, son, daughter • 2nd degree: brothers, sisters, grandparents, grandchildren • 3rd degree: aunts, uncles, nieces, nephews <p><i>Adopted children and half brothers/sisters are considered full blooded under consanguinity.</i></p> <p><i>Step brothers/sisters are not.</i></p>	<ul style="list-style-type: none"> • 1st degree: wife, husband, stepchildren, son-in-law, daughter-in-law • 2nd degree: brother-in-law, sister-in-law, spouse's grandparents, spouse's grandchildren



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Nepotism: Government Code Chapter 573

What Happens if a Public Official has a Nepotism Conflict?

Neither the public official nor the other members of the governing body can hire the close relative, unless a specific statutory exception applies.

Gov. Code § 573.041



7

Nepotism: Government Code Chapter 573

Prior Continuous Employment Exception

Employee may continue employment if the employee has been continuously employed for a **sufficient uninterrupted time period immediately prior** to the appointment or election of the close relative.

- *30 days* if the public official is appointed
- *Six months* if the public official is elected in an election other than the general county and state election
- *One year* if the public official is elected in the general county and state election

Gov. Code § 573.062




8

Nepotism: Government Code Chapter 573

Consequences for Violating The Nepotism Law


- Public official commits official misconduct
- Fine not less than \$100 nor more than \$1000
- Public official can be removed from office if convicted and the conviction is final
- Employment contract is void

Gov. Code §§ 573.081 – 573.084



9

**Dual Office Holding
&
Incompatibility**



10

Dual Office Holding

Dual Office Holding

Texas Constitution Art. XVI, Section 40

- ▶ “No person shall hold or exercise at the same time, more than once civil office of emolument...”
- ▶ What is “civil office of emolument”?
 - A paid public office



11

Dual Office Holding

Distinction Between “Public Office” and “Public Employment”

Public Office is determined by:

1. The officeholder’s authority to exercise governmental power for the benefit of the public, AND
2. Officeholder’s independence from the control of other governmental bodies or officials

Aldine Independent School District v. Standley, 280 S.W.2d 578 (Tex. 1955)



12

Dual Office Holding

Definition of Emolument

Pay or some other benefit, compensation or thing of value received in exchange for the person's service as an officer.

Reimbursement for actual governmental related expenses is not considered emolument.

Tex. Att'y Gen. LO-93-33 (1993)



13

Dual Office Holding

Incompatibility

- ▶ Prohibition against a person holding certain public offices at the same time because of a practical conflicts of interest that might arise.
- ▶ Three types of Incompatibility
 - Self Appointment
 - Self Employment
 - Conflicting Loyalties



14

Incompatibility

Incompatibility: Self Appointment

Prevents a governing body from appointing one of its own members to a public office.

Ehlinger v. Clark, 8 S.W.2d 666 (Tex. 1928)

Incompatibility: Self Employment

A member of a governing body may not simultaneously serve as an employee of his/her entity.

Tex. Att'y Gen. LO-97-34



15

Incompatibility

Incompatibility: Conflicting Loyalties

Prevents a person from holding two public offices when the interest of the two entities may conflict and when voting on behalf of one public entity would possibly compromise the interest of the other public entity.

Thomas v. Abernathy County Line Indep. Sch. Dist., 290 S.W. 152 (Tex. Comm'n App. 1927, judgment adopted)



16

Dual Office Holding / Incompatibility

Consequences for Violating the Dual Office Holding or Incompatibility

There are no criminal penalties for holding two conflicting public offices or for other types of prohibited dual office holding. Such a violation would have to be challenged through a civil action in a district court.



17

**Conflict of Interest
Part 1**

**Local Government Code
Chapter 171**



18

Conflict of Interest: Local Gov. Code Chapter 171

What is Conflict of Interest in Local Government Code Chapter 171?

Prohibits *local public officials* from:

- Discussing,
- Deciding, OR
- Voting on

Issues that the local public official has a *Substantial Interest in a Business Entity or Real Property*.



19

Conflict of Interest: Local Gov. Code Chapter 171

Who is Considered a Local Public Official?

Local Gov. Code § 171.001(1)

Local Public Officials include:

- Elected Officials, and
- Appointed Officials,

Whether paid or unpaid, who exercise responsibilities that are more than advisory in nature.



20

Conflict of Interest: Local Gov. Code Chapter 171

Two Types of Conflict of Interest

1. Substantial Interest in a Business Entity: Conflict due to a local public official's substantial financial interest in a *business entity* that has an issue before the governmental unit.
2. Substantial Interest in Real Property: Conflict due to a local public official's substantial financial interest in *real property* that would be affected by the governmental unit's action.



21

Conflict of Interest: Local Gov. Code Chapter 171

What does a Local Public Official do if He/She has a Conflict of Interest?

Local Gov. Code § 171.004(a) & (b)

1. File an Affidavit stating the nature and extent of the official's interest with the governmental body's record keeper;
2. Abstain from discussion or other proceedings regarding the item; and
3. Abstain from voting on the item.



22

Conflict of Interest: Local Gov. Code Chapter 171

Consequences for Violating Conflict of Interest Law

Local Gov. Code § 171.003

1. **Civil:** Action taken is voidable
2. **Criminal:** Four situations in which a public official may be prosecuted for action or inaction that is a *Class A misdemeanor punishable by a fine not to exceed \$4,000 and/or up to one year in jail:*
 - a. Failure to file an affidavit
 - b. Participating in discussion regarding an item when there is a conflict
 - c. Serving as surety for a business entity that has work, business, or a contract with the governmental body
 - d. Serving as surety on any official bond required for an official of a governmental body
3. **Possible Removal from office**



23

**Conflict of Interest
Part 2**

**Local Government Code
Chapter 176**



24

Conflict of Interest: Local Gov. Code Chapter 176

What is Conflict of Interest in Local Government Code Chapter 176?

Requires a vendor or a local government officer of a local governmental entity to disclose certain business relationships.



25

Conflict of Interest: Local Gov. Code Chapter 176

Who are the “Conflict Disclosure Statements” and “Conflict of Interest Questionnaires” Filed With?

Local Gov. Code §§ 176.003(b) & 176.006(a-1)

- The statements and questionnaires must be filed with the record administrator of the local governmental entity.
- **Record Administrator** is the director, county clerk, city secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity, or another person who is designated by the local governmental entity to maintain the statements and questionnaires. Local Gov. Code § 176.001(5)
- If the local governmental entity maintains a website, then the statements and questionnaires must be posted on the website. Local Gov. Code § 176.009



26

Conflict of Interest: Local Gov. Code Chapter 176

When is Chapter 176 Triggered?

Local Gov. Code §§ 176.003, 176.006

Two-Part Test

Part 1

- The Vendor enters into a contract with a Local Governmental Entity;
- OR
- The Local Governmental Entity considers entering into a contract with the Vendor.

Part 2

1. A **LGO** (or LGO's close family member*) has an **employment or business relationship** with a vendor resulting in taxable income that is more than **\$2,500** in the preceding twelve months before becoming aware that person was/is vendor.
2. A **LGO** (or LGO's close family member*) accepts from a vendor in the preceding twelve months one or more **gifts** (including transportation, lodging, and entertainment) that have an aggregate value of **more than \$100**.
3. A **LGO** has a **family relationship* with a vendor**.

[*A person within the third degree by blood or second degree by marriage.]



27

Conflict of Interest: Local Gov. Code Chapter 176

When is the “Conflict Disclosure Statements” Required to be Filed?

Local Gov. Code § 176.003(b)

No later than 5:00 p.m. on the seventh business day after the date in which the officer becomes aware of facts that require a filing of the statement.



28

Conflict of Interest: Local Gov. Code Chapter 176

Consequences of Not Filing “Conflict Disclosure Statement”?

Local Gov. Code § 176.013

- ▶ An officer commits an offense if:
 - ▶ Is requires to file a statement; AND
 - ▶ Knowingly fails to file the statement when the officer becomes aware of the facts that requires the filing of the statement.
- ▶ **Exception to prosecution** if officer files a statement or questionnaire not later than the seventh day after the date the person receives notice from the local governmental entity of the alleged violation.
- ▶ Local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply.



29

Conflict of Interest: Local Gov. Code Chapter 176

Possible Offenses for Knowingly Failing to file the Statement or the Questionnaire

Local Gov. Code § 176.013(c)

1. Class C misdemeanor if the contract amount is less than \$1 million or if there is no contract amount for the contract;
2. Class B misdemeanor if the contract amount is at least \$1 million but less than \$5 million; or
3. Class A misdemeanor if the contract amount is less than \$5 million.



30

For More Information

- **Nepotism**
 - Texas Nepotism Laws Made Easy:
<https://www.tml.org/DocumentCenter/View/267/Texas-Nepotism-Laws-Made-Easy-PDF>
- **Dual Office Holding / Incompatibility**
 - Dual Office Holding/Incompatibility Laws Made Easy:
<https://www.tml.org/DocumentCenter/View/268/Dual-Office-Holding-and-Incompatibility-Made-Easy-2018-PDF>
- **Conflict of Interest – Local Government Code Chapter 171 & 176**
 - Conflict of Interest/Disclosure Laws Applicable to City Officials, Employees, and Vendors:
<https://www.tml.org/DocumentCenter/View/264/Chapter-171-Conflicts-of-Interest-Requirements-PDF>
<https://www.tml.org/DocumentCenter/View/265/Chapter-176-Conflicts-Disclosure-Requirements-PDF>



31

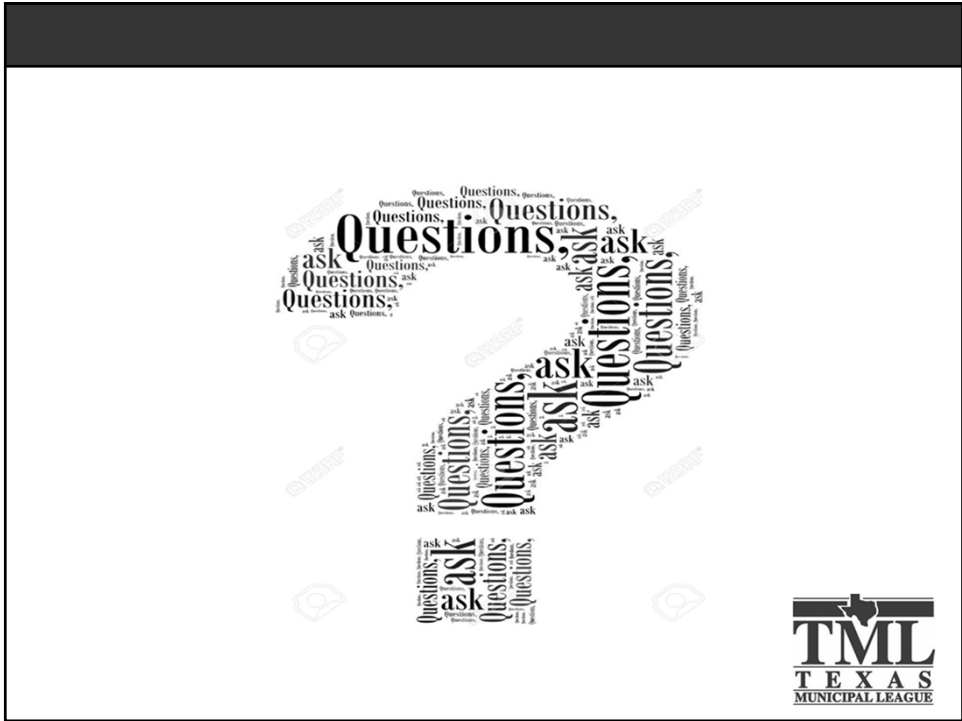
Contact Information

Amber McKeon-Mueller
amber@tml.org

Assistant General Counsel
Texas Municipal League
1821 Rutherford Lane, Suite 400
Austin, Texas 78754
512-231-7400
www.tml.org



32





POLICIES AND REGULATORY FILINGS FOR WATER DISTRICTS

TRENT HIGHTOWER
ASSISTANT GENERAL COUNSEL
TEXAS RURAL WATER ASSOCIATION
TRENT.HIGHTOWER@TRWA.ORG

1

POLICIES VS. FILINGS



POLICIES ARE ADOPTED,
MAINTAINED, AND USED
INTERNALLY



FILINGS ARE LEGAL DOCUMENTS
THAT MUST BE FILED WITH A
STATE REGULATORY AGENCY
(TCEQ, PUC, COMPTROLLER)

2

WHAT IS A “POLICY?”



A deliberate system of principles to guide decisions and achieve rational outcomes.



A statement of intent, implemented as a procedure or protocol.



Adopted by governing bodies.



Not a law, but the law might require you to adopt a policy.

3

WHY DO WE NEED POLICIES?

- Provide a roadmap for day to day operations.
- Ensure compliance with laws and regulations.
- Guide decision-making.
- Streamline internal processes.



4

WATER DISTRICT POLICIES

Detailed explanations and model policies
at www.trwa.org/page/legalforms

Required	Recommended	Covered by Statute
Code of Ethics	District Service Policy	Conflict of Interest Policy (Ch. 171 Loc. Gov. Code)
Travel Expenditure Policy	Personnel Policy	Whistleblower Policy (Ch. 554 Gov. Code)
Investment Policy	Board Policy	
Professional Services Policy	Extension Policy (Usually in DSP)	
Management Policy	Public Comment Policy	
Records Management Policy		

5

REQUIRED POLICIES

6

CODE OF ETHICS FOR DIRECTORS, OFFICERS, & EMPLOYEES

REQUIRED

- Required by Water Code § 49.199
- TRWA encourages public input in the adoption process
- Should reflect Water Code § 49.052 (disqualification of directors) and Local Government Code Chapter 171 (conflicts of interest, notification/abstention in voting)
- Can reflect Government Code Chapter 573 (nepotism), and acceptance of gifts
- Review periodically to ensure it is current and being followed in practice

7

TRAVEL EXPENDITURE POLICY

REQUIRED



Required by Water Code § 49.199



Should cover travel expenditures for all personnel



Should describe eligible expenses



Pre-approval and documentation requirements



Texas Comptroller's Travel Allowance Guide:
fmx.cpa.state.tx.us/fmx/travel/textravel/index.php

8

INVESTMENT POLICY

Required by Water Code § 49.199

Must conform with Public Funds Investment Act (PFIA), Chapter 2256 Government Code

Describes how funds are invested, investment strategies and authorized investments.

Designates an investment officer (must take PFIA training)

REQUIRED

9

PROFESSIONAL SERVICES POLICY

REQUIRED

Required by Water Code § 49.199

Attorneys, Engineers, Auditors, Financial Advisors, or other Professional Consultants

Usually references and incorporates Chapter 2254, Government Code (Professional Services Procurement Act)

10

MANAGEMENT POLICY

- Required by Water Code § 49.199
- Maintenance of accounting records
- Preparation of an annual audit
- Creation of an audit committee
- Long-term strategic plan



REQUIRED

11

RECORDS MANAGEMENT POLICY

REQUIRED

- Required for all local governments by Loc. Gov. Code § 203.021
- Texas State Library & Archives Commission
 - Schedule GR (all local governments)
<http://www.tsl.state.tx.us/slr/recordspubs/gr.html>
 - Schedule UT (utility-specific)
<http://www.tsl.state.tx.us/slr/recordspubs/ut.html>
- Also required to submit a Declaration of Compliance (can be found at Schedule GR link)

12

SCHEDULE GR –
RECORDS COMMON
TO ALL LOCAL
GOVERNMENTS

RECORDS
MANAGEMENT
POLICY

Table of Contents

<http://www.tsl.state.tx.us/slr/recordspubs/gr.html>

- [Introduction](#)
- [Part 1: Administrative Records](#)
 - [Section 1-1: Records of Governing Bodies](#)
 - [Section 1-2: General Records](#)
- [Part 2: Financial Records](#)
 - [Section 2-1: Fiscal Administration and Reporting Records](#)
 - [Section 2-2: Accounting Records](#)
- [Part 3: Personnel and Payroll Records](#)
 - [Section 3-1: Personnel Records](#)
 - [Section 3-2: Payroll Records](#)
- [Part 4: Support Services Records](#)
 - [Section 4-1: Purchasing Records](#)
 - [Section 4-2: Facility, Vehicle, and Equipment Management Records](#)
 - [Section 4-3: Communication Records](#)
 - [Section 4-4: Workplace Safety Records](#)
- [Part 5: Information Technology Records](#)
 - [Section 5-1: Records of Automated Applications](#)
 - [Section 5-2: Computer Operations and Technical Support Records](#)

SCHEDULE UT –
UTILITY-SPECIFIC
RECORDS

RECORDS
MANAGEMENT
POLICY

Table of Contents

<http://www.tsl.state.tx.us/slr/recordspubs/ut.html>

- [Introduction](#)
- [Part 1: General Records](#)
- [Part 2: Water and Wastewater Records](#)
- [Part 3: Solid Waste and Hazardous Waste Management Records](#)
- [Part 4: Electric Utility Records](#)
- [Part 5: Gas Utility Records](#)

TCEQ/PUC Communications	Complaints	Confidentiality Requests
Customer Billing Records	Customer Account Histories	Equipment History Records
Meter Reading Records	Rate Schedules	Service Application & Deposit Records
Microbiological Analysis Records	Chemical Analysis Records	Lead & Copper Compliance Records

RECOMMENDED POLICIES

15

DISTRICT SERVICE POLICY

Rules and
Regulations

Service
Extension
Policy

Rates and Fees

Drought
Contingency
Plan

- Update Regularly
- When in doubt, check here!
- TRWA Sample Policy available for purchase online

16

PERSONNEL POLICY

“Can I fire an employee if...?”

“What do we do if an employee complains that another employee did...?”

“Do we really need to do performance evaluations?”

“What do I do if an employee keeps going over on their sick/vacation time?”

17

THE RULES OF THE GAME SHOULD BE WRITTEN DOWN

- Employees should have a clear understanding of conduct that will subject them to discipline, and what that discipline will be.
- Discrimination/Harassment policies, when followed, protect you the employer.
- Procedures for the accrual and use of leave should be clear.

18

THE RULES OF THE GAME SHOULD BE WRITTEN DOWN

- Should clearly lay out your workweek and pay schedule.
- Employees need a clear job description; also protects the employer when expectations aren't met.
- Clear hiring practices maintain fairness to internal and external applicants; again, this protects you the employer.

19

BOARD POLICY

HOW DO BOARD MEETINGS WORK?



Functions and Roles of
Officers



Solves the Common
"Agenda Conundrum"



Committee
Responsibilities

20

PUBLIC COMMENT POLICY

Public Comment is Mandatory as of September 1, 2019 (H.B. 2840)

But the law allows you to adopt “reasonable rules” regarding the public’s right to address the board.

21

WHY ADOPT A PUBLIC COMMENT POLICY?



Define your procedures



Establish time limits



Establish a location for speakers



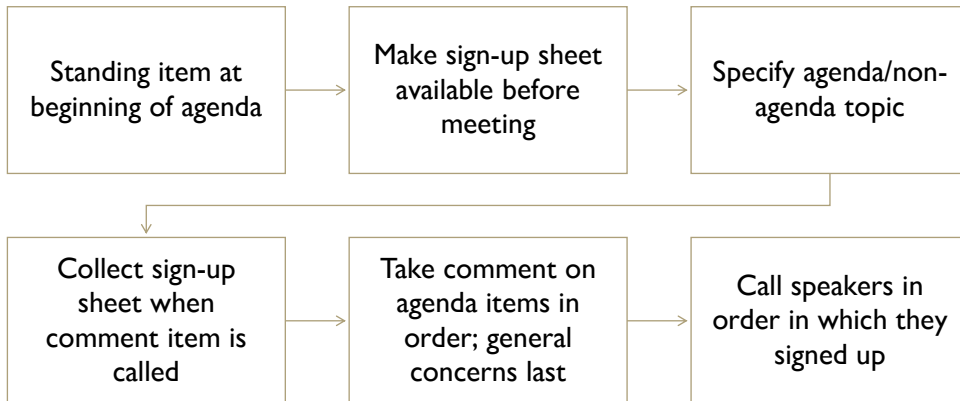
Implement rules of decorum



Distinguish between comment on agenda items and issues of general concern

22

TRWA PUBLIC COMMENT PROCEDURE



23

TIME LIMITS

- Agenda Items: maximum limit per person, for each item
- General Concern Items: maximum limit per person, for each meeting
- Designate a timekeeper
- Prohibit pooling of time
- Translators require 2x the time (statutory)
- Board comments do not count against time



24

REQUIRED FILINGS

25

- Directors & Candidates
- Audits & Financials
- Drought & Conservation
- Miscellaneous

Full list at: www.trwa.org/page/Legal-PoliciesFormsResources >> Resources

CATEGORIES OF FILINGS

26

REQUIRED FILINGS

DIRECTORS & CANDIDATES

27

- **Appointment of Campaign Treasurer by Candidate – Form CTA** – All candidates for a public office in Texas must file this with the proper filing authority (e.g. district record keeper) when they become a candidate, even if they do not intend to accept campaign contributions or make campaign expenditures.
- For districts in multiple counties, a candidate instead must file this with the Texas Ethics Commission.
- Texas Election Code §252.005(1)(B)
- https://www.ethics.state.tx.us/data/resources/guides/local_duty_guide.pdf

CANDIDATES

28

NEW DIRECTORS

- **Statement of Officer (Anti-bribery Statement) - Form 2201** – filed with Secretary of State (SOS) before newly elected or appointed officers or directors take office; must be filed before the Oath of Office. (Texas Water Code 49.055(a))
- **Oath of Office - Form 2204** – file duplicate original with Secretary of State within 10 days after its execution; oath cannot be administered until Statement of Officer (anti-bribery) has been executed and filed with SOS; incumbents also must file this every time they are re-elected and their new term starts (Texas Water Code 49.055(d))



29

NEW DIRECTORS

- **Director Bond** – Before each director can begin to perform the duties of office, must execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties; all bonds must be approved by the board and paid for by the district. File and maintain at the district office. (Texas Water Code 49.055(c))
- **District Registration Form (TCEQ-0179 Form)** – Within 30 days after a new director is elected or appointed, must file their name, mailing address and date term expires with the Texas Commission on Environmental Quality. TCEQ requires all blanks on the form, if applicable, to be filled out every time one changes. (Texas Water Code 49.054(f))



30

DIRECTOR TRAINING

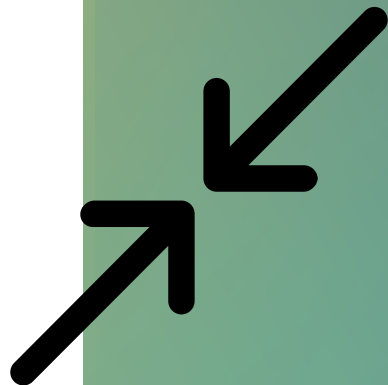
- **Open Government Training** – All new directors must complete 1-hour Open Meetings Act and 1-hour Public Information Act Training. Keep certificate on file in office.
 - The Attorney General offers online versions of each of these, and TRWA often presents compliant training at our conferences.
- **Cybersecurity Training** – All directors must complete a certified program on cybersecurity each year. Keep certificate on file in office.
 - Texas Department of Information Resources maintains a list of approved providers. TRWA offers an online version of this course.

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CURRENT DIRECTORS

Local Government Officer Conflicts Disclosure Statement (Form CIS)

- District officers and directors file this with district's record keeper before 5 p.m. on seventh business day after becoming aware of facts surrounding district contracts that would trigger filing of this statement.
- Also must post this disclosure on district website, if maintain one. (Texas Local Government Code 176.003)
- <https://www.ethics.state.tx.us/data/forms/conflict/CIS.pdf>

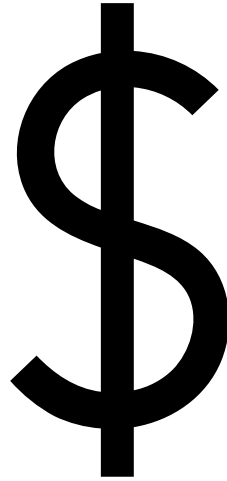


32

CURRENT DIRECTORS

Campaign Finance Reports

- Must be filed semi-annually if:
 - You're a candidate for office AND
 - You have more than \$500 in political expenditures or accept more than \$500 in contributions during reporting period.
- Requirements vary depending on number of counties served – check Texas Ethics Commission for specific guidelines.



33

REQUIRED
FILINGS
AUDITS & FINANCIALS

34

AUDITS & FINANCIALS

Each year, each water district must complete one of the following financial status reports with TCEQ:

- **Annual Audit**
- **Annual Financial Report**
- **Financial Dormancy Affidavit**

TCEQ RG-378

https://www.tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg-378.pdf

Consult a professional auditor to determine applicability.

35

ANNUAL AUDIT VS. FINANCIAL REPORT

Audit

- Prepared by Independent Auditor
- Required if:
 - Gross receipts above \$250,000 or
 - Total cash + temporary investments above \$250,000
- File within 135 days of close of fiscal year

Report

- Prepared by filer
- Form TCEQ-0722
- File within 45 days of close of fiscal year

Note: Must notify TCEQ within 30 days of any change in fiscal year (Water Code 49.158)

36

REQUIRED FILINGS

DROUGHT & CONSERVATION

37

DROUGHT CONTINGENCY PLAN

- Systems serving 3,300+ connections: File with TCEQ every five years
- Revisions must be submitted within 90 days of adoption
- Must provide a copy to your regional water planning group(s)
- Systems serving under 3,300 – must adopt and file internally for inspection
- All systems must file a Drought Status Form with TCEQ when implementing mandatory stages of DCP



38

WATER CONSERVATION PLAN

- File with TCEQ every five years if:
 - 3,300+ Connections
 - \$500,000+ in TWDB Loans
 - Hold an existing water rights permit for 1,000 acre-feet/year of surface water
- File revisions within 90 days of adoption; must include implementation report with five- and ten-year targets for water savings
- Must also file a Water Conservation Annual Report by May 1 of each year showing progress in implementing the plan

39



Water Loss Audit

- Computes water loss during previous year
- File every five years if <3,300 connections and no TWDB funding
- File by May 1 each year if >3,300 connections or TWDB funding

Water Use Survey

- Gathers data for long-term water supply planning
- Required of ALL water systems
- Due on first business day in March
- Systems are ineligible for TWDB funding if they do not file

40

REQUIRED FILINGS

MISCELLANEOUS FILINGS

41

EASEMENTS

- USDA General/Specific Easements
- Sanitary Control Easements
- Must be filed in county deed records of the county in which the property is located
- **Not valid against subsequent purchasers if not filed!**



42

SUBDIVISION SERVICE EXTENSION POLICY

- Water Code § 13.2502
- Publish in local newspaper every two years (or every year to be safe)
- Allows utility to deny service to applicants if developer did not comply with the service extension policy



43

RECORDS RETENTION POLICY

- File with Texas State Library & Archives Commission
- File within 30 days of adoption
- Must also file Form SLR 504 – Designation of Local Government Records Management Officer



44

EMINENT DOMAIN

- The right of a government or its agent to take private property for public use.
- Right granted by the legislature.
- Annual, mandatory report to the Comptroller due February 1; may file beginning November 1.
- Civil penalty of \$1,000 after 30 days; additional \$1,000 after 30 more days
- TRWA Filing Service: www.trwa.org/page/sb1812



45

CONSUMER CONFIDENCE REPORT



- Provides customers with information about the quality of their drinking water.
- For systems required to file a water loss audit, must also report water loss in next CCR or on next water bill following the audit.
- Send to all customers by July 1; must certify to TCEQ that it was distributed and that information contained therein is correct.

46

QUESTIONS?

COMMUNITY OUTREACH PROJECT

BY RACHEL WEBB

1

SALVAGE YOUR SCRAP



2



"SALVAGE YOUR SCRAP"

South Rains Special Utility District is proud to sponsor the "Salvage Your Scrap" campaign. This is a fundraising campaign for the Texas Rural Water Foundation in support of their mission to serve all Texas rural water and wastewater utilities.

The Salvage Your Scrap campaign will allow the Foundation to:

- Support rural students and operators' education through the Student and Operator/Manager Scholarship Programs
- Train and place veterans into new careers in the water and wastewater industry through the Veteran Employment Program
- Continue to expand programming to further empower rural water and wastewater utilities throughout the state.

We will be taking donations of scrapmetal at our office and donating the proceeds to the TRWF. Please use this opportunity to clean up and get rid of any unused or unwanted scrapmetal. If you have any questions feel free to give Rachel Webb a call (903)473-2122 or email arow@srud.com

When: September 25th - September 30th

Where: South Rains SUD office located @ 121 N Dunbar Ln Emory, TX 75440

Time: Mon - Fri (7 am - 3 pm) Sat (8 am - 12 pm)

3

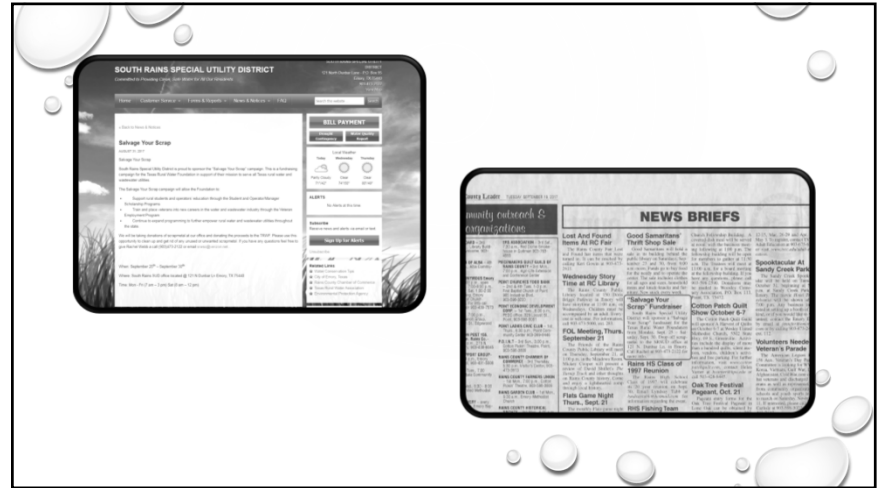
HOW I GOT THE WORD OUT

- PUBLISHED A FLYER & POSTED AT AREA BUSINESSES
- SENT FLYER OUT WITH OUR ANNUAL NEWSLETTER TO ALL OF OUR CUSTOMERS
- PUBLISHED ON OUR DISTRICT'S WEBSITE
- NOTICE WAS POSTED IN LOCAL NEWSPAPER
- CHAMBER OF COMMERCE SENT OUT A NOTICE WITH THEIR WEEKLY EMAILS

4



5



6



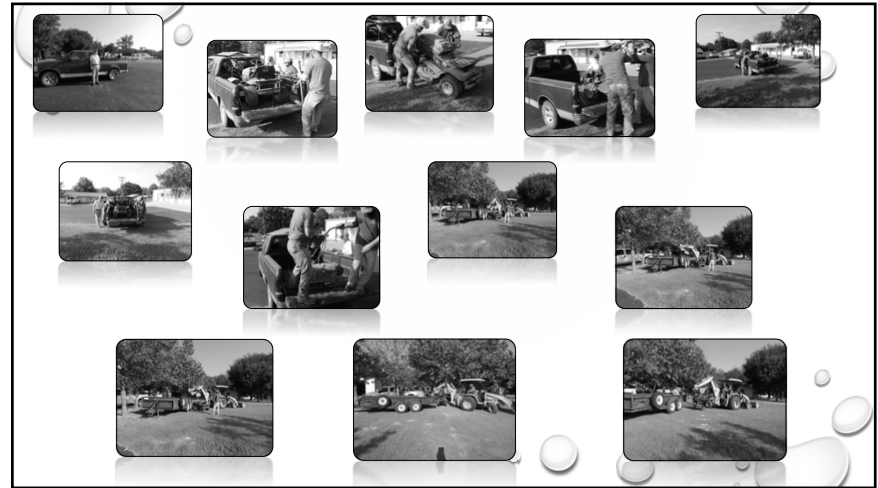
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8



9



10



11



12



Our crew breaking down some meters to contribute to the cause.

13



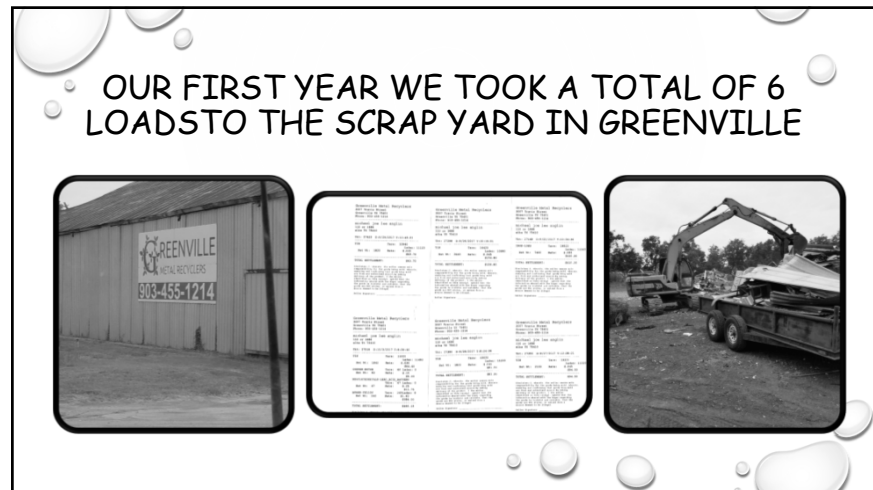
I was very pleased with the customer response and the positive feedback we received!

14



We went out & helped one of our board members load up some debris left over from the tornado back in April of 2017!

15



16

We raised \$1,281.35 in 2017
\$1,077.50 in 2018
\$573.00 in 2019
For a total of \$2931.85 to donate to
Texas Rural Water Foundation

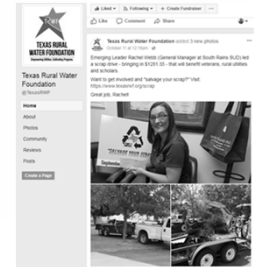


17

Recognition from local paper,
Rains County Leader.



Recognition from Texas Rural
Water Foundation.



"We have made this an annual event!"

18

Thank you!

Contact Information

Rachel Webb
General Manager
South Rains SUD
southrainssud@outlook.com

19

COMMUNITY OUTREACH

**BUILDING COMMUNITY RELATIONSHIPS
THROUGH YOUR WATER SYSTEM**

Paula Weber, General Manager
Ables Springs Special Utility District
pweber@myh2odistrict.com

1

SPECIAL OR ANNUAL EVENT

CELEBRATE MILESTONES WITH A SPECIAL EVENT.



ENGAGE YOUR COMMUNITY YEAR AFTER YEAR WITH AN ANNUAL EVENT.



2

GETTING STARTED

- ASSEMBLE A TEAM OF VOLUNTEERS
- PICK A THEME
- DECIDE ON A LOCATION, DATE & TIME
- ESTABLISH A BUDGET
- ASSIGN COMMITTEES & VOLUNTEERS
- SCHEDULE FUTURE TEAM MEETINGS TO KEEP EVERYONE ON TASK.

CONSIDER:

- ASKING OTHERS IN THE COMMUNITY TO VOLUNTEER.
- TIME OF YEAR AND WEATHER CONDITIONS.
- ACTIVITIES THAT ARE INEXPENSIVE AND EASILY EXECUTED.
- OTHER EVENTS THAT COULD BE IN NEIGHBORING COMMUNITIES/TOWNS.

3

ADVERTISING & PROMOTION



- NEWSPAPER ADS – LOCAL NEWSPAPERS USUALLY HAVE LOW COST OR NO COST ADVERTISING SECTIONS.
- SIGNAGE – BURMA SHAVE SIGNS OR POLITICAL SIGNS PLACED IN THE SURROUNDING AREA OF THE EVENT.
- POSTERS & FLYERS – LOOK FOR LOW COST PRINTING OPTIONS. PLACE THESE AROUND TOWN AT DIFFERENT LOCATIONS WHERE YOUR CUSTOMERS SHOP.
- SOCIAL MEDIA – USE PLATFORMS LIKE FACEBOOK, TWITTER, INSTAGRAM, ETC.



4

FACILITIES & DECORATIONS

- FACILITY – ENOUGH SPACE FOR TABLES, CHAIRS AND ACTIVITIES.
- DECORATIONS – BRIGHT & FESTIVE. PURCHASE FROM LOW COST SITES LIKE ORIENTAL TRADING FOR TABLE COVERS, TABLE SETTINGS, ETC.



5

ENTERTAINMENT, DOOR PRIZES, & CONTEST PRIZES

- HIRE A DJ OR OTHER MUSIC
- PURCHASE DOOR PRIZES
- PRIZES FOR KIDS CONTEST
- GIVEAWAYS - PROMOTIONAL CANVAS TOTE BAGS, HATS, TAKE CARE OF TEXAS MATERIALS, ETC.

CONSIDER:

- LOCAL BUSINESSES, ARTISANS.
- PHOTOGRAPHER
- LOCAL FIRE DEPARTMENT, EMS, & BLOOD DRIVE ORGANIZATION
- HISTORIAN, ORGANIZATIONS, COUNTY/STATE OFFICIALS, LOCAL NEWSPAPER




6

FOOD & BEVERAGES

- HAMBURGERS/HOT DOGS, INDIVIDUAL BAGS OF CHIPS, CONDIMENTS
- DECORATED CAKE THAT SERVES 100 OR MORE PEOPLE, COOKIES, ETC.
- PLENTY OF BOTTLED WATER, TEA, COFFEE, SODA
- PAPER GOODS





CLEAN UP

- ASSIGN A CLEAN UP CREW
- TRASH DISPOSAL
- STORAGE BINS FOR DECORATIONS AND OTHER SUPPLIES
- RETURN ANY RENTAL ITEMS

7

TIPS FOR A SUCCESSFUL EVENT

- START PLANNING 4-6 MONTHS AHEAD
- SECURE A SITE FOR THE EVENT IMMEDIATELY!
- MEET WITH VOLUNTEERS AT LEAST ONCE A MONTH AND MORE FREQUENTLY DURING THE LAST 4 WEEKS PRIOR TO EVENT. HAVE A CHECKLIST!
- MAKE RESERVATIONS FOR RENTAL ITEMS 30 DAYS IN ADVANCE.
- ORDER GIVEAWAYS, PURCHASE DOOR PRIZES 30 DAYS IN ADVANCE.
- OBTAIN SUPPLIES NEEDED FOR FOOD, GAMES, CONTESTS.
- ADVERTISE 10-14 DAYS OF THE EVENT. IF YOU ARE USING ROAD SIGNS, GET PERMISSION FROM TXDOT.
- SEND INVITATIONS TO SPECIAL GROUPS AND ORGANIZATIONS 30 DAYS IN ADVANCE.
- SECURE VENDORS AT 3 MONTHS. PLACES LIKE CARTER BLOOD MAY REQUIRE 1 YEAR IN ADVANCE.
- ASK VENDORS TO BRING PROMOTIONAL ITEMS AND CONTRIBUTE TO YOUR DOOR PRIZES.
- USE THE EVENT FOR A FOOD OR CLOTHING DRIVE FOR DISTRIBUTION TO LOCAL CHARITIES.
- INCLUDE ITEMS THAT PROMOTE THE WATER INDUSTRY. **TAKE CARE OF TEXAS** PROMOTIONAL MATERIALS ARE FREE!



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