District Director Training Materials & Manual of Fiscal Operations

Updated October 2022

FY23 District Director Training Manual

Attestation Form

Each fiscal year, every Soil and Water Conservation District Director will be required to attest to receiving and reviewing the District Director Training Manual and Manual of Fiscal Operations. ***The deadline to attest to receiving the document for FY23 is August 31, 2023.*** Once you have reviewed the document and filled out the form you can email the form to training@tsswcb.texas.gov or mail the form to TSSWCB, 1497 Country View Lane, Temple, TX 76504.

District Director Name:_____

SWCD Name & Number:_____

By signing below, I attest to receiving and reviewing the FY23 District Director Training Manual and Manual of Fiscal Operations.

_____

Signature

- **Historical Overview of Soil & Water Conservation in Texas**
    - Civilian Conservation Corps and the Soil Erosion Service was created to provide jobs to the American people and encourage conservation
    - Hugh Bennett (First Chief of Soil Conservation Service) convinced President Franklin Roosevelt that a model soil conservation act be developed and sent to the governors of each state for passage by their state legislatures
    - V.C. Marshall (Father of Conservation Law) organized the Committee of 100
    - Committee of 100 drafted a proposal for a state soil and water conservation law
    - Legislature met in 1939 and a soil conservation bill for Texas was ready
        - What Texans wanted from the bill:
            - County extension agents to be administrative officers
            - A program controlled by landowners
            - Farmers and ranchers to determine whether a soil conservation district was needed
            - Prohibition of soil conservation districts from having taxing authority or powers of eminent domain
    - April 20, 1939, Governor W. Lee O'Daniel signed House Bill 20 into law, which gave origin to the Texas SWCD program
    - May 29, 1939, Texas State Soil Conservation Board was organized
    - July 1, 1939, Texas State Soil Conservation Board established its state headquarters in Temple, Texas
    - April 30, 1939, Secretary of State issued Certificates of Organization for the first 16 soil conservation districts in Texas
- **TSSWCB Overview**
    - TSSWCB has 7 regional offices
        - Hale Center
        - San Angelo
        - Dublin
        - Mt. Pleasant
        - Nacogdoches (poultry office)
        - Wharton
        - Harlingen
    - There are 5 SWCD regions/districts/areas
        - Area 1 – Panhandle
        - Area 2 – West Texas
        - Area 3 – South Texas
        - Area 4 – East Texas
        - Area 5 – Central Texas
    - TSSWCB Board
        - 5 board members + two Governor appointees
        - Board members:
            - Requirements to be a board member:
                - Be at least 18 years or older
                - Hold title to farm or ranch land

        - Be actively engaged in farming or ranching
    - Elected by delegates from their respective SWCD area
    - Serve two-year staggered terms
    - Terms of board members in areas 1, 3, and 5 expire in even numbered years
    - Terms of board members in areas 2 and 4 expire in odd numbered years
    - Elections must be held annually on the first Tuesday in May in the SWCD area where the board member resides
  - Governor Appointees
    - Established by the 78th Legislature
    - Term of one appointee expires February 1st of each odd numbered year and the term of the other appointee expires February 1st of each even numbered year
    - Must be actively engaged in farming, ranching, animal husbandry, or other business related to agriculture
    - Must wholly or partly own land used in connection with said business
    - Must not be a member of a SWCD Board of Directors
- **<u>Soil and Water Conservation Assistance Programs</u>**
  - TSSWCB Field Representatives
    - Eleven full-time positions appropriated to the Board
        - One in Temple and ten strategically located across the state
    - Each field rep serves multiple SWCDs
    - Field Reps meet with districts at monthly meetings
    - Role of a field rep:
        - Serves as liaison between TSSWCB and SWCDs
        - Provide assistance to SWCDs and district employees concerning operation, programs, and activities
        - Provide assistance to county commissioners courts, city governments, elected officials, employees of SWCDs, and other political subdivisions of state government working with SWCDs
    - SWCDs are furnished assistance in areas such as
        - The Texas Open Meetings Act
        - The Texas Open Records Act
        - Audits and financial reporting
        - Wage and hour laws
        - Assistance in coordinating programs carried out in neighboring districts
  - Conservation Assistance - Matching Funds
    - Appropriated to the Board for SWCDs at $1,134,000 for 2020
        - The Board allocated $5,250 to each district
    - Amounts are awarded to districts on a dollar-for-dollar matching basis and requires districts to raise matching funds from sources other than state funds or earnings from state funds

        - Provides funds for annual recurring operating expenses including
            - Management
            - Clerical
            - Technical support
            - Educational programs
            - Conservation equipment
            - Daily operations
    - Farm Bill Assistance - Federal Funds
        - Granted to the Board from the NRCS for SWCDs at $282,300 for 2020
            - The Board provides a matching amount of state funds at $94,000 and then allocates the funding to districts
        - Amounts are awarded to districts based on hours worked on Farm Bill contracts and requires certification from local NRCS district conservationists
        - Provides funds for accelerated assistance with Farm Bill contracting
    - Conservation Implementation Assistance - Technical assistance
        - Appropriated to the Board for SWCDs at $2,139,406 for 2020
            - The Board allocates amounts to each district based on historical usage and need
        - Grant distributions are made contingent upon districts filing performance and expenditure reports to the Board
        - Provides salary and wage assistance to districts with their efforts to provide technical assistance to agriculture producers
    - Conservation Activity Program
        - Appropriated to the Board for SWCDs at $326,500 for 2020
        - Provides districts an opportunity for offset of operating expenses after completing ten core conservation activities.
            - Each activity has a value of $150
            - The Outstanding Conservation District in each five areas will receive an additional $500 offset
        - Provides assistance in maintaining a strong educational program to inform landowners on local conservation concerns and encourage the voluntary implementation of conservation practices
    - Director Mileage & Per Diem
        - Appropriated to the Board for SWCDs at $434,510 for 2020
            - The Board allocates amounts to each district based on historical usage and need
        - Reimbursements are made for eligible director travel expenses on a quarterly basis
        - A director may receive compensation of $20 per diem each day the director attends meetings of the board of directors
            - Plus, the current state rate per mile for travel each way between the residence of the director and designated meeting place within the boundaries of the conservation district

        - Two directors of each board may claim per diem for not more than two days while attending the Annual Meeting of SWCD Directors
            - One director from each district may receive the current state rate per mile to and from his/her place of residence and the site of the Annual Meeting of SWCD Directors
    - Public Information and Education
            - One full-time and one part-time position appropriated to the Board (Both located in Temple)
        - Staff works to coordinate the annual SWCD director/employee leadership development workshop
        - The Soil Stewardship Public Speaking Contest is a major program carried out in cooperation with the Texas FFA
        - Staff coordinates and administers the Wildlife Alliance for Youth career development event
        - Staff oversees the production of video to educate others about agency conservation programs
        - Educate general public, traditional, and non-traditional partners about the agency and seek partnerships
        - Represent the TSSWCB as a liaison to other agencies and organization which include the Texas Prescribed Burn Board and TWDB Regional Water Planning Groups
    - Other assistance
        - Directors and Officers Liability Insurance and Legal Fees
            - Appropriated to the Board for SWCDs at $58,600 for 2020
            - Provides a blanket D&O policy for district directors and reimbursement of legal fees not covered through a policy
        - Reimbursement for District Internet Service
            - Approved in the Board's operating budget at $45,000 for 2020
            - Provides for reimbursement of district internet service on a quarterly basis
        - Reimbursement for District CPA Prepared Financial Statements
            - Approved in the Board's operating budget at $25,000 for 2020
            - Provides reimbursement of CPA prepared financial statements for up to twenty districts per year (randomly selected)
- Texas Nonpoint Source Management Program
    - The state's comprehensive strategy to protect and restore water quality in waterbodies impacted by NOP pollution.
    - The TSSWCB and Texas Commission on Environmental Quality (TCEQ) jointly administer the overall statewide program.
    - The state must have a federally approved management program in order to continue receiving CWA §319(h) grant monies from EPA.
    - Serves as a coordinated "umbrella" program for all nonpoint source abatement activities in Texas.
    - Updated and revised every 5 years.

- Statewide Nonpoint Source Grant Program
  - The TSSWCB's primary funding mechanism for abating NPS pollution
  - Federal funding from CWA §319(h)
    - Approx. $7 million annually
    - Split between TSSWCB and TCEQ
  - State funding is appropriated by the Texas Legislature
  - Provides grants to project partners to implement the agricultural and silvicultural components of the Texas NPS Management Program
  - 35-45 ongoing projects totaling an estimated $11 million in funds
    - Implement best management practices (BMPs)
    - Demonstrate and evaluate BMPs
    - Develop and implement nine-element watershed protection plans (WPP)
    - Implement agricultural and silvicultural NPS portion of total maximum daily load (TMDL)
    - Surface Water Quality Monitoring
    - Data analysis and modeling
    - Educational programs
    - Watershed Assessment and planning
- How to Apply for Nonpoint Source Grant Funding
  - Annual competitive grant process
  - Issue Request-for-Proposals
    - FY21 RFP to be released late summer/early fall
  - FY20 funding
    - 25 proposals submitted
    - 10 proposals selected
  - Project period is for 2-3 years
  - 40% match requirement for federal §319(h) funds
- TSSWCB Flood Control Program
  - 2,041 dams in Texas in 150 watershed projects
  - $1.6 billion federal investment (2016 $$)
  - $5.14 billion capitalized benefits
  - $151 million average annual benefits
  - In contrast to other federal water resource projects (USACE, Bureau of Reclamation), NRCS watershed projects are federally assisted, not federally owned.
  - The Sponsors own the dams
    - The sponsors are responsible for maintenance, repair, and rehabilitation of the dams according to TCEQ Dam Safety Rules and Regulation
  - Financial assistance available to sponsors
    - TSSWCB pays 90% of cost of operation and maintenance
    - TSSWCB pays 95% of cost of repair

        - NRCS and TSSWCB pay 98.25% of cost of dam rehabilitation (Upgrade to meet high hazard criteria)
        - TSSWCB pays 98.25% of cost of state funded high hazard dam upgrade
    - Current program funding
        - For the 202-2021 biennium, TSSWCB received $8.8 million per year, plus a supplemental appropriation of $150 million.
        - $5 million available each year for dam maintenance
        - State matching funds for $40 million of federal dam rehabilitation
        - The remainder will go to state funded dam repair and upgrade
    - Current program activities
        - Dam repair construction is underway on 17 dams
        - Dam repair designs underway or completed on 37 dams
        - Designs for state funded dam upgrade underway on 20 dams
- Water Quality Management Plans (WQMP)
    - Site specific plans for NPS agricultural and silvicultural lands
    - When properly implemented, WQMPs achieve pollution prevention/abatement consistent with Texas Water Quality Standards
    - Based on:
        - soil
        - planned land use
        - known and/or potential water quality problems
        - production goals
        - other factors
    - Cover the entire operating unit
    - Include essential practices from Field Office Technical Guide (FOTG) for each planned land use
        - Cropland (conservation crop rotation, residue management)
        - Pastureland (prescribed grazing, livestock water)
        - Rangeland (prescribed grazing, livestock water)
        - Wildlife (wildlife management)
        - Forest (forest management)
    - Steps to Obtain a Certified WQMP
        1. Producer requests planning assistance through local SWCD
        2. Plan developed with NRCS and TSSWCB assistance
        3. Plan approved by producer and SWCD
        4. Plan reviewed by TSSWCB for consistency with Texas water quality goals
        5. Plan certified by TSSWCB
        6. Individual plan implementation
        7. Annual status review
    - WQMP Content
        - District cooperative agreement

        - Request for planning assistance
        - Soil map with appropriate interpretations
        - Conservation plan map
        - Practices needed for WQMP
        - Implementation schedule indicating year practices are to be applied
        - Worksheets used during the inventory and/or planning phase
        - Signature sheet (certification)
    - Cost Share Assistance
        - The Texas Legislature appropriates funding specifically for cost-share assistance
        - Must be used to implement BMPs contained within a TSSWCB-certified WQMP
        - Cost-share assistance is available statewide
        - Cost-share program eligibility
            - Must be included in applicant's certified WQMP
            - Must be on the SWCD and TSSWCB approved practice lists
        - Obtaining Cost-Share Assistance
            1. Individual with certified WQMP makes application to SWCD for cost-share assistance
            2. SWCD approves application
            3. Individual installs practice(s) with needed technical assistance provided by NRCS or TSSWCB Regional Office
            4. Individual submits performance report certifying practice completion
            5. SWCD, with NRCS and TSSWCB Regional Office assistance, determines that completed practice meets FOTG standards
            6. SWCD signs and sends performance report to TSSWCB
            7. TSSWCB reimburses landowner
        - Annual Status Review
            - Monitor producer's compliance with WQMP
            - 100% of WQMPs reviewed
            - Performed by Project technician
            - Follow-up reviews conducted until WQMP in compliance
            - Annual status reviews filed at Regional Offices and entered into TSSWCB database
    - Poultry Initiative
        - This initiative involves assisting Texas poultry producers with meeting the requirements of Senate Bill 1339 (77th Regular Session, Ogden)
        - This new law requires all poultry producers in Texas to obtain a State Conservation Board–Certified WQMP
- Rio Grande Carrizo Cane Eradication Program
    - To help meet the Governor's border security priorities, the 84th Texas Legislature, in 2015, directed the TSSWCB, through Senate Bill 1734, to develop and implement a program to eradicate carrizo cane along the Rio Grande.

        - Since 2015, the TSSWCB has used a combination of grant funding and general revenue to incentivize the treatment of 7,000 acres of cane along the international border.
    - Conservation Initiatives
        - Among many broad responsibilities of the TSSWCB is a charge to preserve farm and grazing lands necessary to prevent the destruction of food and cover for wildlife
        - Past initiatives
            - Monarch butterfly habitat enhancement/restoration
            - Conservation plans to restore the health of the gulf coast
        - Current initiatives
            - NACD technical assistant grants
                - The TSSWCB and NACD are working together in an effort with SWCDs to further enhance conservation district technical assistance across the state.
            - Feral swine control pilot program
                - The 2018 Farm Bill included this new pilot program to help address the threat that feral swine pose to agriculture, ecosystems, and human and animal health
                - Joint effort between USDA-NRCS and Animal and Plant Health Inspection Service (APHIS)
                - TSSWCB applied for approximately $1.4 million to address feral hog populations in 3 project areas

- **<u>NRCS, SWCDs, & TSSWCB</u>**
    - These three entities are linked together via the Cooperative Working Agreement
        - Cooperative Working Agreement: a formal collaboration between NRCS, SWCDs, and the TSSWCB. All parties agree to cooperate in a program to utilize their resources to primarily serve individual landowners and operators.
        - The agreement specifies that NRCS, TSSWCB, and SWCDs pledge to work together to:
            - Share input in the decision-making process
            - Communicate, coordinate, and cooperate with each other to strengthen the teamwork
            - Share training opportunities
            - Establish and promote mutual respect, support, and trust
        - Cooperative working agreements are:
            - Written
            - Must have approval of all parties
            - Is non-contractual and non-legally binding
            - May be developed at any level within the local. State, and/or federal conservation pyramid
    - Funding
        - State and federal legislation funds Texas soil and water conservation programs.

        - TSSWCB is the conduit that receives state and federal funds (via general revenue) for planning, implementing, and managing coordinated natural resources conservation programs.
        - 216 SWCDs are the recipients of funding through TSSWCB, which they use to deliver technical and financial assistance to private landowners.
        - NRCS is federally funded by the USDA
    - Authority
        - NRCS is authorized to work with SWCDs by various federal laws and USDA memoranda
        - TSSWCB's authority is defined in the Title 7, Chapter 201, Section 201.022 of the Agriculture Code of Texas
        - SWCD's authority is defined in the Title 7, Chapter 201, Section 201.103 of the Agriculture Code of Texas
    - Each party is responsible for hiring, management, development, and evaluation of its own personnel
    - Each party is responsible for establishing workload priorities for their employees, advising the other parties of those priorities, and when priority changes are determined appropriate
    - The parties may provide for daily guidance and technical supervision of personnel and the shared use of equipment necessary to do assigned work
    - Each party will work together to coordinate individual staffing plans at the local levels to best provide those disciplines necessary for program delivery
    - NRCS, TSSWCB, and SWCDs will provide appropriate leadership in administrative and technical training and assistance
    - Administrative and technical assistance includes conservation and resource development work, contracts, agreements, procurement, personnel management, engineering, ecological science, clerical and/or other assistance
    - NRCS may assign conservation practice (job approval) authority to members of each party based on employee knowledge, skill, and ability levels compatible with applicable regulations, guidelines, and laws in carrying out the standards of the Field Office Technical Guide and other science based technical standards.
- **SWCDs and NRCS**
    - SWCDs and NRCS will work together to acquire and provide office, parking, and storage spaces. They will develop a policy and strategy to share common space whenever possible. SWCDs and NRCS will agree to share equipment, resources, and other items necessary to carry out conservation district work.
        - Use of resources must follow established regulations and law as established under state and federal edicts.
    - Financials
        - NRCS and SWCDs should work together to maximize available resources and support each other in their budgetary needs.
        - NRCS and SWCDs should acknowledge that nonfederal partners and their representatives may establish procedures for the collection of fees (where permissible) for delivery of services, materials, and assistance, which are not provided through federal financial or technical assistance.

        - NRCS and SWCDs will define legal requirements and limitations for the responsibility, access, collection expenditure, and recording of all funds belonging to each of the partners.
    - Tort Liability and Insurance
        - NRCS and SWCDs will assume responsibility for the actions of their officials, employees, and/or volunteers acting within the scope of their employment, to the extent provided by federal and state laws.
        - NRCS and SWCDs will assume responsibility for all other liability insurance and property insurance that may be required by federal and/or state laws or deemed appropriate by the officials of either partner.
    - Civil Rights Act
        - SWCDs and NRCS will be in compliance with the nondiscrimination provision contained in Titles VI and VII of the Civil Rights Act of 1964, as amended.
            - This means that no person shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability, be excluded from participation in, or be denied the benefits of, or otherwise subject to discrimination under any program or activity receiving federal financial assistance from USDA or any agency thereof.
    - Confidentiality of Cooperator Case Files and Conservation Plans
        - SWCDs and NRCS, separately and collectively, will annually read, understand, and comply with the provision of Section 1619 of the Food, Conservation, and Energy Act of 20087; and Section 201.006 of Title 7, Agriculture Code of Texas
            - These provisions stipulate confidentiality of certain information relative to a cooperator's conservation plan.
- **SWCD Powers and Duties**
    - Corporate Powers: SWCD is a governmental subdivision of the state and is a public body corporate and politic.
    - SWCD may:
        - Sue and be sued
        - Have a seal which shall be judicially noticed
        - Make and execute contracts and other instruments
        - Adopt rules to carry out purposes and powers
        - May not levy taxes
        - Obtain options on or acquire any real or personal property
        - Maintain, administer, or improve SWCD property
        - Receive income from real property and expend that income in carrying out its legal responsibilities
        - Sell, lease, or otherwise dispose of its real property, or interests in the property, in furtherance of the law
        - Purchase machinery, equipment, and other materials essential to the SWCD's conservation programs

        - Provide for maintaining, insuring, storing, and repairing of its machinery and equipment
        - Charge a fee for the use of district equipment calculated to pay the costs of deterioration and replacement of the machinery and equipment
        - Sell on open bids any obsolete equipment (proceeds are to reimburse the district)
        - Accept a donation, gift, or contribution in money, materials, services, or other from the federal government, state, or state or federal agency and use and expand the donation, gift, or contribution in carrying out its operation
    - A district may carry out preventive and control measures on any land that is owned by the state agency with the support of the agency having jurisdiction of the land.
        - If the land is privately owned, the conservation district may carry out preventative and control measures with the consent of the owner
- **District Cooperator Agreements**
    - Mutual Agreement: basic framework for cooperation with USDA; signed by the Secretary, Governor, and SWCD
    - Operational Agreement: Locally developed cooperative and detailed working arrangements; signed by NRCS, SWCD, and cooperators and other viewed necessary by the SWCD
    - Cooperative Working Agreement: Basic framework for state cooperation; signed by NRCS, TSSWCB, and SWCD
        - Has 3 basic parts
            - What the SWCD agrees to do
                - Assist the landowner by providing information and technical assistance to help develop a conservation plan to preserve and protect the natural resources abound that land.
            - What the cooperator (landowner) agrees to do
                - Use the land's natural resources within its capabilities and limitations.
                - Develop a conservation plan under the technical guidelines of SWCD and NRCS standards.
                - Apply the conservation plan and maintain the plan.
            - What both parties mutually agree to do
                - Agreement may be terminated or modified by mutual occurrence.
                - Neither party shall be liable for damage to the other's property resulting from carrying out the agreement, unless damage is caused by negligence or misconduct.
- **<u>SWCD Director Responsibilities</u>**
    - To qualify to be a director one must:
        - Be 18 years or older and be an eligible voter
        - Own agriculture land in the subdivision
        - Live in a county which is all or partly in the SWCD
        - Be actively engaged in farming or ranching

- To be eligible to vote a director must:
  - Be 18 years or older
  - Own agriculture land in the district
  - Live in a county which is all or partly in the SWCD
  - Be actively engaged in farming or ranching
- Candidacy
  - During the month of August, the SWCD should have a designated place for individuals to file a notice of candidacy
  - If there are several candidates, then the SWCD shall provide for early voting.
    - Early voting should begin on the 17th day before the date of election and continue through the 4th day before the meeting.
    - Early voting must include at least one Saturday during that period.
  - If there is a single candidate, then an election is not required. On the established election date, the singular candidate is declared as the director for that office.
- Elections
  - The election must be held after September 30 and before October 16
  - On the election date, the SWCD should hold a convention-type election.
  - The person receiving the majority of votes from early voting and at the convention is certified as the director
- Terms of Office
  - SWCD directors serve staggered terms of four years, with the term of one or two members expiring each year.
  - Process for filling unexpired terms due to death or resignation
    - Remaining directors select a person to fill the unexpired term of office.
    - Appointment papers are filled out on the candidate and signed by a majority of the district board.
    - Appointment papers are sent by the SWCD to the TSSWCB headquarters.
    - TSSWCB reviews and acts upon the appointment.
    - TSSWCB notifies the person of approval as a director and sends him/her an oath of office.
    - Once the oath of office has been signed and notarized, the individual officially becomes a district director.
- Duties
  - Encourage landowners, operators, and public entities to become cooperators of the district
  - Review and approve conservation agreements
  - Develop a working relationship with county government, legislators, state and federal agency officials, and organizations that do or could assist the SWCD
  - Keep informed on conservation issues in the SWCD and become familiar with important state and federal laws, policies, and programs which affect conservation in your district

        - Attend area, state, national, and other conservation meetings on behalf of your district to stay current on conservation issues and programs
        - Maintain close contact with the TSSWCB field rep serving the SWCD
            - Field reps keep SWCD directors up to date on TSSWCB policies and programs, as well as keep the board current on state and national issues affecting conservation interests.
    - Fiduciary
        - A Fiduciary is a person who holds a legal or ethical relationship of trust with one or more other parties (SWCD Board, landowners, cooperators, etc.).
        - A SWCD director typically acts as a fiduciary when prudently exercising care of money or other assets on behalf of the SWCD.
        - SWCD directors are entrusted with the power to administer state and local programs, to receive and spend public funds and maintain oversight of funds, and to educate the public on local conservation issues.
        - SWCD director fiduciary duties:
            - Attend and participate in all board meetings and functions. Avoid conflicts of interest.
            - Become familiar with the Texas Conservation District Law and operate within the bounds of the law.
            - Set local SWCD policy to include a balanced community relations program for the agricultural and nonagricultural groups the district serves.
            - Develop, set, and implement personnel policies for hiring and supervision of district employees.
- **SWCD Employee Duties**
    - Clerk/Bookkeeper
        - Attend monthly and special meetings of the SWCD
        - Record accurate notes of business at board meetings
        - Maintain accurate records and files of all SWCD financial activities
        - Prepare all reports and forms required by TSSWCB and NRCS, as requested by the SWCD
        - Preform other duties as assigned
    - Technician
        - Provide technical and engineering assistance to producers
        - Assist with report preparation and conservation plan development
        - Maintain contact with SWCD cooperators and producers
        - Coordinate SWCD equipment rentals
        - Maintain a liaison with community resources
        - Perform other duties as assigned
- **<u>SWCD Board Meeting</u>**
    - Agenda should be posted 72 hours before the meeting. The SWCD must file the agenda with the County Clerk's Office OR on the SWCD website, and it must also post the agenda at a place convenient to the public within the administrative office of the SWCD. (Sec.551.051 Texas Open Meetings Act)

        - If the SWCD extends into all or portions of more than 1 county, but less than 4 counties, then it must file the agenda with the County Clerk's Office in each county OR on the SWCD website, and it must also post the agenda at a place convenient to the public within the administrative office of the SWCD.
        - If the SWCD extends into more than 4 counties, then the agenda must be filed with the County Clerk's Office in each county OR on the SWCD website, posted at a place convenient to the public within the administrative office of the SWCD, and filed with the Secretary of state.
    - Agenda amendments must be made prior to 72 hours before meeting
    - Quorum is present (Title 7, Section 201.078, Subchapter D, Texas Agriculture Code)
        - A quorum is 3 board members
    - Meeting is held within the SWCD
    - An emergency meeting has a 2-hour posting requirement and should only be held if there is a reasonably unforeseen situation or threat to public health and/or safety
    - Meeting Agenda
        - The TSSWCB recommends that the secretary of the board give this report and that the secretary also compare the financial report with bank statements. This ensures that an SWCD director is paying attention to the SWCD's financial activity.
        - The agenda items listed should be discussed and acted upon. Action usually means a motion and a second is required. An item that is simply for discussion or to make the board aware of what is taking place is for information only, and a motion and second are not required.
            - Rule of thumb: it always requires a motion and a second to spend money.
        - Reports from the NRCS District Conservationist and Field Representative are for the SWCD board's information. They do not need to be accepted by the SWCD board, and normally no action is needed because of them.
        - You can go into executive session on these items (You can only go into executive session if the item is on your agenda):
            - Consultations with attorney to seek advice regarding pending or contemplated litigation, a settlement offer, or to seek legal advice
            - Discussion regarding the purchase, lease, and/or value of real property or a prospective gift if deliberation in an open meeting would have a detrimental effect on the governmental body's position in negotiations with a third person
            - Deliberations on personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint against an employee
            - Meetings involving security devices

EXAMPLE AGENDA

Temple Soil & Water Conservation District

PO Box 658

Temple, TX 76503

800.792.3485

Notice of a Regular Board of Directors Meeting

Pursuant to section 551.041 of the Texas Open Meetings Act, notice is hereby given that :

The Temple Soil & Water Conservation District will meet at **9:00 A.M.** on **Friday, July 18, 2015**, at the **USDA Service Center located at 1700 North Street, Temple, Texas, 76503.**

The following items will be discussed or acted upon:

AGENDA

1. Call meeting to order and establish a quorum
2. Prayer and Pledge of Allegiance (Optional)
3. Approval of minutes of Previous meeting
4. Review and Approve Financial Report
5. Review Correspondence
6. Old Business (Optional-can include as regular agenda items)
    a. Take action on planning for Zone 2 Director election
    b. Discuss Status of Open Meeting Act Training for All Directors
    c. Update on status of Technology upgrade
7. New Business
    a. Consider/take action on requests for dues
        *NACD
        *ATSWCD
        *Chamber of Commerce
    b. Consider/take action on requests for sponsorships &donations
    c. Review and possible approval of WQMP related items
    d. Approval of Matching Funds Request
    e. Approval of Reimbursement Requests
    f. Personnel-employee annual review
    g. Approval of Conservation Plans & Cooperator Agreements
8. Agency Representative Reports of Monthly Activities
9. Approval of Bills and Disbursements
10. Adjourn

The Temple SWCD may convene in executive session on any of the above items in accordance with Subchapter D, Sections 551.071-551.076 of the Texas Open Meetings Act.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for those who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Suzie Soil at (123) 456-7890 ext. 3, two (2) days prior to the meeting so that appropriate arrangements can be made.

The Public Is Invited to Attend this Meeting.

- **<u>Ethics and Legal Issues</u>**
  - Ethics are standards of conduct which indicate how one should behave based on principles of right or wrong.
  - As a public servant, you owe a responsibility to the landowners in your district and to the public in your local community to act fairly and honestly. One should avoid even the appearance of impropriety.
  - Nepotism
    - Some laws governing public servants, such as the nepotism law, are not under the jurisdiction of the TEC. However, SWCD directors should not advocate the employment or appointment of a family member.
      - Nepotism includes conflict of interest, misuse of office, preferential treatment, and patronage.
      - Nepotism undermines public trust by making government look like a family business run not for the community, but for the families in power
      - Nepotism is bad for morale within a government organization or political subdivision. It remains a problem every time raises, and promotions occur.
      - Nepotism is blamed for keeping other ethnic and racial groups out of local government.
  - Political Advertising
    - A communication supporting or opposing a candidate for nomination or election to a public office.
    - A communication that advocates passage or defeat of a measure.
    - Texas Election Code prohibits the use of political subdivision resources to produce or distribute political advertising in connection with an election.
    - It is not permissible to use or authorize the use of a SWCD employee on paid time to create or distribute political advertising.
    - It is a Class A misdemeanor for a director or employee of a political subdivision to spend or authorize the spending of public funds for political advertising.
    - The Ethics Commission adopted a rule providing guidelines for political subdivisions who publish a newsletter. A SWCD is not politically advertising if the newsletter's content adheres to the following six guidelines:
      - No more than two pictures of a public official per page and if the total amount of area covered by the pictures is no more than 20% of the page
      - There is included no more than eight personally phrased references to the public official's name on a page
      - When viewed as a whole and in the proper context
      - Is informational rather than self-promotional
      - Does not advocate passage or defeat of a measure

            - Does not support or oppose a candidate for nomination or election to a public office
    - Bribery
        - As a public servant, you commit the crime of bribery if you solicit, offer, or accept a “benefit” in exchange for your decision, opinion, recommendation, vote, or other exercise of official discretion. (Penal Code § 36.02)
        - A SWCD director **may** accept an item with a value of less than $50.
        - A SWCD director **may not** accept any cash, checks, or negotiable instruments.
            - Benefits in form of food, lodging, transportation, or entertainment are permissible if accepted as a “guest” and reported in accordance with any applicable reporting requirements. (To accept something as a guest the donor must be present)
        - Private use of travel discount awards (i.e., frequent flyer miles) accrued on SWCD business is permissible.
    - Honoraria
        - You may not solicit, agree to accept, or accept an honorarium in consideration for services you would not have been asked to provide aside from your official position.
            - For example: you may not take a speaker’s fee for speaking if your position with the SWCD is the reason you were asked to speak
        - The honorarium law does not prohibit a board member from accepting food, transportation, and/or lodging in connection with a speaking event.
    - Misuse of Official Information
        - State law prohibits public officials and public employees from using confidential information to gain a benefit or advantage or with intent to harm or defraud.
        - The law applies to information to which the public does not generally have access and is prohibited from disclosure
    - Private Interests:
        - If a board member has a private or personal interest in a measure, proposal, or decision pending before the board, then the board member must disclose that fact to the rest of the board in an open meeting and must refrain from voting or otherwise participating in the matter.
        - Business Entity Conflicts
            - Business entity means sole proprietorships, partnerships, firms, corporations, holding companies, joint stock companies, receiverships, trusts, and any entity recognized by law as a business entity.
            - Substantial interest in a business:
                - Owns 10%+ of total voting stock
                - Owns either 10%+ or $15k+ of fair market value
                - Receives 10%+ of gross income

            - Having a close family member with any of the above
        - Real Property Conflicts
            - Substantial interest in real property:
                - A $2,500+ ownership in real property
                - Having a close family member with the above
    - Open Government (Agriculture Code § 201.006 Confidentiality of Certain Information)
        - Elected and appointed public officials are required by state law to receive training in Texas open government laws.
        - If a SWCD receives a request for information that it wishes to withhold from public disclosure and that it considers to be a legal exception, then the SWCD must ask for a decision from the attorney general about whether the information is within that exception.
    - Concealed Weapons
        - It is unlawful for state agencies and political subdivisions to exclude individuals with a license from concealed carrying a handgun from entering or remaining on the premises.
        - It is unlawful for state agencies and political subdivisions to exclude individuals with a license from open carrying a handgun from entering or remaining on the premises.
        - It is now legal to wear or carry any knife. There are no blade length prohibitions for anyone over the age of 18.
        - If a governmental entity elects to prohibit concealed and/or open carry during their meetings conducted under the Texas Open Meetings Act (TOMA), they must post a 30.06 sign prohibiting concealed carry and/or a 30.07 sign prohibiting open carry. (Texas Penal Code § 46.035 (c))
            - SWCDs that have an office separate from NRCS will not be able to post signs prohibiting concealed or open carry in their office.
            - The SWCD may elect to post signs prohibiting concealed or open carry when conducting their meetings posted under TOMA.
            - SWCDs that are co-located with NRCS and conduct their district meetings in federal facilities do not need to post any signs.
            - The federal facilities are already off-limits to weapons and federal law prevails over state laws related to weapons.
            - SWCDs that conduct their TOMA meetings in other public locations should abide by the posting(s), or lack of posting(s), that the independent establishment has adopted.

- **<u>Equal Employment Opportunity and Hiring Practices</u>**
    - The Soil and Water Conservation District is an equal opportunity employer and does not discriminate against job applicants or employees on the basis of race, color, national origin, sex, religion, age, or disability.
    - Title VII of the Civil Rights Act of 1964
        - This law covers personnel decisions that could affect employment opportunities.

        - It prohibits employment discrimination by public and private employers in personnel decisions because of race, sex, color, national origin, religion, or disability.
    - May not discriminate against:
        - Race: Identifies classes of people that can be viewed as genetically separate (i.e., Caucasian American, African American, Asian American, Pacific Islander, and Alaskan Native).
        - Color: Color discrimination can occur because of a person's preference for, or aversion to, people whose skin color differs from their own. It can also occur within the same racial group as members of the group may have biases against those whose skin is lighter or darker than their own.
        - National Origin: An individual's place of birth, the place of birth of the individual's ancestors, or an individual who retains the cultural characteristics and/or language of their ancestors (i.e., Hispanic American).
        - Sex: Discrimination is when you are treated differently than other employees because you are a male or female (including pregnancy) and includes stereotypes, harassment, and assumptions based on sex.
        - Religion: Moral or ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views. Religious practices includes both religious observances and practices.
        - Age: It is unlawful for an employer to include age requirements or limitations in job notices or advertisements. An employer may specify an age limit only when age is shown to be reasonably necessary to the operation of the business.
        - ADE Act of 1967, as amended, prohibits employment discrimination by public and private employers in personnel decisions because of a person's age (40 and older).
        - Disability: A person who has a physical or mental impairment that substantially limits one or more major life activities; has record of such impairment; being regarded as having an impairment.
        - ADA prohibits employment discrimination against individuals with disabilities and requires businesses and government entities to be accessible.
    - Equal Pay Act of 1963
        - Federal law prohibits employment discrimination in compensation based on sex when the circumstances are the same.
        - Employers may not pay unequal wages to men and women who preform jobs that require substantially equal skill, effort, and responsibility and are performed under similar working conditions in the same establishment.
        - Unless they can justify the difference by current market or other jurisdiction.

- Sexual Harassment
  - Sexual Harassment is:
    - A form of discrimination based on sex
    - Unwelcome sexual advances
    - Requests for sexual favors
    - Verbal or physical conduct of a sexual nature
  - Factors of a hostile work environment
    - Conduct that is verbally and/or physically abusive
    - Frequently repeated verbal and/or physical abuse
    - Conduct that hostile or offensive
    - A coworker or supervisor is engaging in harassment
    - Other people join in perpetrating the harassment
    - The harassment is directed at more than one person
  - Employer Responsibilities
    - Establish a written policy of no tolerance
    - Train all employees and supervisors to be aware
    - Implement a simple, non-intimidating complaint process
    - Delegate responsibility of enforcing the policy
- Employee Hiring Practices
  - Writing the job description:
    - Evaluate the needs in the position
    - Determine the appropriate qualifications
    - Decide on a salary
  - ADA compliance:
    - Add a statement to the job posting such as: “In Compliance with the Americans with Disabilities Act (ADA), an individual requiring a reasonable accommodation should contact [designated district personnel].”
  - Where to post job announcements:
    - Internally
    - Externally
    - Texas Workforce Commission/Work in Texas
    - Universities/Colleges
    - Minority organizations/companies
    - Newspaper publications
  - Interview Process
    - Pre-interview process:
      - Application
      - Resume
      - Applicant log
      - Screening applicants
      - Interview team
      - Create set of interview questions for EEO compliance

    - Arrange for the interview
    - Give applicant a copy of the job description/opening

- Interview Set Up
    - Review application and resume
    - Have a copy of the job description present
    - Allot one hour
    - Have a set of standard interview questions present
- Conducting the Interview
    - Ask each applicant the same questions
    - Open-ended questions work well
    - Make mental/written notes on key items
    - Give applicant an opportunity to ask questions
    - Give each applicant equal consideration
    - Be honest
    - Avoid controversy
    - Do not leave applicant with any false impression regarding duties, pay, advancement opportunities, etc.
- Example Question Topics
    - Work experience
    - Education and training
    - Job knowledge
    - Teamwork
    - Problem solving
    - Analytical skills
- Prohibited Questions
    - Are you married/have children/pregnant?
    - How old are you?
    - What medical conditions or physical disabilities do you have?
    - Where does your spouse work?
    - What are your political viewpoints?
    - What is your religious affiliation?
- Post Interview Process
    - The interview team meets
    - Applicants are discussed
    - Reference checks are made
    - Applicant with the highest score is recommended to be hired
    - Job offer is made
    - Position is “at-will”
- Employee Processing
    - Complete personnel and insurance forms
    - New employee orientation

- If you have any questions about how to comply with these laws, any general questions about the EEO, or questions about hiring district employees, contact your local field representative.
- You may also contact the TSSWCB Human Resources Coordinator, Tory Matthys, at 254-773-2250 x227.

Additional Resources:

- Watch Watching Your SWCD Money Video: https://youtu.be/QHO8x1vzmL0
- Review Open Meetings Act Training and print certificate: https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/open-meetings-act-training
- Review Public Information Act Training and print certificate: https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/public-information-act-training

Contact your Field Representative for any questions or additional information.

TEXAS STATE SOIL & WATER CONSERVATION BOARD

Manual of Fiscal Operations for Soil and Water Conservation Districts

Updated: October 2022

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Introduction

In most cases the fiscal activities of soil and water conservation districts is not complex given an understanding of fundamental principles of accounting, a general knowledge of laws affecting soil and water conservation districts (SWCDs), applicable laws and guidance for grant management, and guidelines and rules established by the Texas State Soil and Water Conservation Board (TSSWCB).

The business activity may vary considerably between districts. The amount of funds handled by a district may range from a few financial transactions a year in some districts to numerous transactions per month in others. Some districts have large inventories of equipment for rent and participate in many programs while other districts are more limited.

While the type and level of activities of soil and water conservation districts may vary, the State of Texas has a number of laws, regulations, and guidelines, which should be followed when dealing with public funds and property. What follows in this manual are an explanation of some of these laws, regulations and guidelines, and some suggestions on the fiscal operations of districts.

In addition, the manual includes many other areas involving laws, regulations, and guidelines that districts need to know. If there are any questions on the operation of your district you should contact your field representative or the state office for guidance or clarification.

Important Dates and Deadlines

Important Dates and Deadlines for financial claims, reports, and other issues involving your district can be found on the SWCD Resources page of the TSSWCB website. www.tsswcb.texas.gov

Handling District Funds

District Bank Accounts

The TSSWCB advises that all funds of soil and water conservation districts be deposited in a state or national bank and be insured by the FDIC. This includes either demand or time accounts, including interest bearing accounts and certificates of deposit.

Districts do have authority to purchase, sell, and invest public funds in non-FDIC insured investments subject to and in compliance with investment policies approved by the Board of Directors and with Chapter 2256 of the Texas Government Code, the Public Funds Investment Act (Act). Before a District may invest public funds, the Act generally requires the following:

- A district must adopt a written investment policy
- A district may only invest funds in investments authorized under its policy
- Authorized investments must come from the list of proper investments under the Act
- Two district representatives must complete training regarding the requirements of the Act

No account should be opened in the name of the district except on the specific authorization of the Board of Directors of the district and recorded in the official minutes of the board. All accounts that are approved by the District Board should bear the name of the district.

Three funds are provided for, if needed, by soil and water conservation districts. Some districts may not need all three accounts. Others may possibly need additional accounts. It is anticipated that a State Fund account, a Local Fund account, and a Trust Fund account will meet the needs of most districts.

State Fund - All State funded grants, including, but not limited to regular Technical Assistance, Matching Funds, Conservation Activity Payments, and Director Mileage & Per Diem funds received from the state, are to be deposited into this account. The unexpended balance of all state grants should remain in this account until expended.

Local Fund – All monies received as earnings from the state funds should be included in this account. Deposits to this account would include earnings from rental of equipment purchased from state grants or State Matching Funds, and profits on the sale of seed, fertilizer, chemicals, etc. purchased with state funds. Money received from the sale of equipment purchased from state or local funds should be deposited in this account.

Expending State and Local Funds – The broad powers conferred upon the district directors by the State Soil Conservation Laws permit directors to band together with directors of other districts for formulation and operation of plans in the interest of soil conservation for a particular area or the whole state. The districts have organized the Association of Texas Soil and Water Conservation Districts and several Area Associations for the promotion of conservation throughout the state.

According to Attorney General Opinion No. V-1365, such Associations are legal; however, expenditures from the common fund must be made according to state regulations.

Certain expenditures may not be made as indicated by the following Attorney General Opinion: "The very broad purpose and overall policies of our State Soil Conservation Laws are set forth in Section 2 of Article 165-A-4, V.C.S (Now Chapter 201, Texas Agriculture Code). It is difficult to conceive of a greater, and at the same time valid, grant of power or of one more general in terms, than that bestowed upon the State Soil and Water Conservation Board by Section 4 of Article 165a-4, V.C.S. (Now Chapter 201, Section 201.022, Texas Agriculture Code), and upon the directors of soil and water conservation districts by Section 7, Article 165a-4 (Now Chapter 201, Section 201.101, Texas Agriculture Code). Nevertheless, we do not believe that the Legislature intended to authorize the expenditure of either state appropriated funds or local funds for the giving of awards for essay contests on various soil conservation subjects, or for the giving of awards for various soil conservation projects, or for the purpose of entertainment for the promotion of soil conservation. A presumption will be indulged that the Legislature desired and intended to enact a valid law" . . . Section 52 of Article III of the Constitution of Texas provides:

"The Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the state, to lend its credit or grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever . . ."

Soil and water conservation districts should see that all state and local funds are handled according to these regulations.

It should be emphasized that there is no difference in how funds deposited in the State Fund or in the Local Fund can be used. Money in either fund can be used to promote soil and water conservation and to carry out any activities necessary in the operation of the district. It is not legal, according to the State Constitution, to loan or give away state or local funds.

Since there is no difference in the use of state and local funds, the question has been raised as to why two funds are necessary. The two funds are necessary because earnings from state funds (Local Fund account) are the permanent property of the district, while unless specifically authorized otherwise in the General Appropriations Act, the unexpended balance of state funds revert back to the State Treasury at the end of each fiscal year.

Trust Fund – All monies the district possesses that were not granted by the state or earned from the use of state funds should be deposited into this account. This would include:

- donations from businesses and individuals,
- money earned from the use of equipment on loan or granted to the district by the federal government or others,
- any loan proceeds, and
- any other funds that were not in any way derived from the state.

The money raised locally for use in the Matching Fund program should be deposited into this account. Trust Fund money can be used for any **PUBLIC PURPOSE** considered by the directors to be in the best interest of the district while in compliance with State Soil and Water Laws.

Remember:

State or local funds **may not** be used for:
1. prizes or awards
2. Loans, scholarships, or given away
3. Texas Conservation Association for Water and Soil (TCAWS) or National Association of Conservation Districts (NACD) dues
4. District Director travel, lodging, or meals other than mileage and per diem for regularly scheduled board meetings, state meeting and State Board member elections (see Compensation of District Directors section).

State or local funds **may be** used for:
1. equipment and supplies for district use
2. employing district personnel
3. Insurance and professional services (legal and accounting)
4. public information and education
5. office space
6. District Employee travel, lodging and meals while performing district business
7. District Director mileage and per diem for attending regularly scheduled board meeting, state meeting and State Board member elections (see Compensation of District Directors section).

Cash Receipts

All persons authorized to receive funds of the district for any reason should, when receiving such funds, immediately issue a prenumbered receipt reflecting the purpose for which the money is being accepted for the district. The money and a copy of the receipt should then be turned over to the employee of the district responsible for cash receipts. If the persons receiving these funds have been authorized to make deposits to the district's account, they should promptly do so. When a deposit has been made, the deposit slip should be attached to the duplicate receipts that have been issued and then maintained in an auditable file at the district office.

Cash Disbursements and Payment of Bills

Any sum due by a Soil and Water Conservation District for any legal purpose should be paid by a check or approved funds transfer drawn on the district's bank account. According to State law, <u>all checks must be signed by the Chairman and the Secretary of the Board</u>. (A temporary Chairman or Secretary may be elected in the absence or resignation of the Chairman or the Secretary. The election of a temporary or replacement officer must be recorded in the minutes.) Automatic Debits, Electronic Fund Transfers, and Debit/Check Card transactions are allowable if approved by the District Board **PRIOR** to purchase and **RATIFIED** by the District Board at the next scheduled board meeting. All approvals of the Board of Directors must be recorded in the official minutes of the district board.

SWCD FUND SUMMARY

1. State Fund	
Deposits	***Expenditures***
Matching Funds	Salaries (includes Holiday, but NOT Vacation & Sick)
Technical Assistance Funds	Office Supplies
Director Mileage & Per Diem Funds	Office equipment
Any other State Grants	Office rent for SWCD office
State Funded Program Admin Payments	Education material
	State Association quota
	Area Association quota
	Postage
	Legal Fees
	Council of Government dues
	Utilities
	Liability Insurance
	Employee travel (lodging, meals, & mileage)
	Payroll tax
	Worker's Compensation
	Bonds for directors and employees
	Employee training
	Auditor fee
	Printing of financial statement
	Watershed Association dues
	Director Mileage & Per Diem Reimbursement
	(Board Meetings, State Meeting & State Board Member election only)

2. Local Fund	
Deposits	***Expenditures***
Earnings from State Funds	Same as State Fund
a. Profits on sales	
b. Interest earned on State Funds	
c. Sale of equipment purchased from state	
d. Rental proceeds	

3. Trust Fund	
Deposits	***Expenditures***
All monies raised locally	Vacation and Sick Pay
Interest earned on Trust Funds	Local awards programs
Other earnings from Trust Funds	Awards and PI/E program quota
Federal or Local Grants	Directors travel
Capital Improvement Loan Proceeds	NACD dues
	Tuition and door prizes for teacher
	Tuition for Range Camp, Woodland Clinic
	Capital Improvement Loan Repayment
	Scholarships
When trust or local funds are co-mingled with state funds, they are then considered state funds. If equipment is purchased with co-mingled funds, profits from rental of that equipment must be deposited in the State Fund account and those profits cannot be used for match.	

Internal Control

In considering District Operations, there are many areas that should be reviewed on a timely basis to insure proper management control. The following is a list of suggested items to review.

Internal Control Considerations

General:

1. All Bank Accounts
2. Accounting Procedures Manual
3. Cash Receipts
4. Cash Disbursements
5. Monthly Bank Account Statements
6. Annual Financial Statements
7. Relatives in District Operations

Cash Receipts:

1. Cash receipts register (Prenumbered)
2. Deposit made promptly within three days of receipt
3. Monthly review of cash receipts to Bank Account Statements in a district meeting
4. Checks payable to district prohibited from cashing by the bank (Deposit only)

Cash Disbursements:

1. All disbursements include auditable documentation (no cash transactions)
2. All check disbursements paid by prenumbered checks
3. All disbursements must have Board meeting approval
4. Checks properly completed before signing
5. Countersignature required (Chairman & Secretary)
6. Voided checks defaced and properly retained
7. Checks written to “Cash” or “Bearer” prohibited
8. Signed blank checks prohibited
9. Supporting documentation with check when signed and countersigned
10. Bank accounts reconciled monthly and approved by Board
11. Monthly review of Cash Disbursements to Bank Account Statements in a district meeting
12. Invoices & other supporting documents marked “Paid”

Investments:

1. District funds are public funds and investments must be made with top priority to security first, then liquidity second, and then finally return on investment.
2. Documentation kept in district safe or safety deposit box
3. Annual statements reviewed and approved by Board

Fixed Assets:

1. Inventory documented for each item
2. Each item tagged with control number
3. Individual assigned responsibility for item
4. Annual inventory performed, reviewed, and approved by Board in a district meeting

Sales Tax Exemption

Chapter 151, Section 151.309, Tax Code exempts Soil and Water Conservation Districts from paying state sales tax. Districts as political subdivisions of the state are exempt from any taxable item sold, leased, or rented to, or stored, used, or consumed.

Sales Tax on Materials Sold

While items purchased for district use are not taxable, materials that districts sell or services they provide may be subject to the Texas limited sales tax. Example of some of these activities and the applicability of Texas sales tax are as follows:

1. Fish for stocking farm ponds – not taxable
2. Seedlings for wind breaks – taxable
3. Fruit and nut trees
   a. home use – taxable
   b. agricultural production – not taxable if the products are sold in the regular course of purchaser's business
4. Drip or trickle irrigation systems
   a. home use – taxable
   b. agricultural production – not taxable
5. Grass seed for agricultural production – not taxable
6. Fertilizer and lime for agricultural production
   a. home use – taxable
   b. agricultural production – not taxable
7. Soil moisture testing equipment – not taxable for farm use
8. Corrugated steel pipe for drop inlet structures – taxable
9. Sale of water depletion information for income tax purposes (service) - *not taxable
10. Efficiency test on irrigation equipment (service) – not taxable
11. Rental of conservation equipment – not taxable if used exclusively on a farm or ranch
12. Sale of advertising in newsletters or other publications
    a. *is not taxable if sale of advertising space
    b. taxable for the design and sale of an ad

Beginning Jan. 1, 2012, a person claiming exemption from sales tax on purchases of certain items used in the production of agriculture and timber products must provide a Texas Agriculture and Timber Registration Number (Ag/Timber Number) issued by the Comptroller of Public Accounts on the exemption certificate or confirmation letter issued to the retailer. The law did not change the list of items that qualify for the agricultural or timber exemptions; it simply changed the process a purchaser must follow in order to claim the exemptions on certain items.

Additional resources and help may be found as follows: Tax Help: **tax.help@cpa.state.tx.us** Window on State Government: **www.window.texas.gov** and Tax Assistance: **1-800-252-5555**

Federal Income Tax Exemption

Districts, as political subdivisions of the state are exempt from paying federal income tax on profits they make from agricultural related services to landowners and producers in the district. Those districts which own buildings and lease space to USDA or other agricultural related entities are tax exempt from paying taxes on rental profits. However, rental income from non-agricultural related entities may not be exempt from federal income taxes.

Purchasing

Equipment

The district may obtain equipment by purchase and from donations or gifts. Equipment may be purchased using State, Local or Trust funds. All items purchased should have prior approval of the Board and be reflected in the minutes of the Board. The same controls apply to the purchase of equipment without regard for the type of funds used.

When purchasing equipment locally, the district should obtain a minimum of three bids if three local suppliers are available. Such items as price, availability, warranty, and repair services may be considered when selecting a successful bidder.

An inventory number should be assigned to each piece of machinery and equipment owned by the district. Office furnishings and other non-income producing machinery and equipment should not be depreciated but should remain on the district books at its original purchase value until sold or surveyed off as being of no value. When equipment purchased with State or Local funds is sold, the proceeds should be deposited to the Local Fund account. The proceeds from the sale of equipment acquired with Trust funds or through donations should be deposited to the Trust Fund account.

Supplies

Office supplies and supplies for educational and promotional programs of the District may be purchased with State, Local or Trust funds. This does not include awards, plaques, food or beverages. These items should be purchased with Trust funds. Bids are not required for the purchase of supplies.

Materials for Resale

Chapter 201, Section 201.105(A) and (f) of the Agriculture Code gives Soil and Water Conservation Districts the authority to purchase conservation supplies and materials essential for the purposes of the district's conservation program and to make them available to the owners and occupiers of land within the district. Authority is also given to use the proceeds from the sale of such items to reimburse the district for the costs of the materials and administration of the program and to fix the sale prices accordingly. The items most commonly handled by districts in this manner are seed, seedlings, fertilizer and fish for stocking farm ponds.

As previously shown herein, any State Appropriated funds unexpended at the end of the fiscal year will revert to the State General Revenue Fund, unless same is appropriated.

The following is quoted from Attorney General Opinion V-1365, dated December 4, 1951: ". . . In Opinion V-999(1950) we advised you that the use of granted funds to purchase seed to be resold would not constitute an expenditure of the funds so as to prevent the monies received upon the resale from being a part of the granted funds."

"The fact that fertilizer or chemicals were the subject matter of the sale, would, of course, make no difference in this conclusion . . . You are therefore advised that revenue received by a soil and water conservation district from the sale of seed, fertilizer, or chemicals purchased from State Appropriated funds . . . should be deposited to 'State Appropriated Funds' . . ."

The State Fund should be fully reimbursed for cost of seed, fertilizer, chemicals or other cash inventory items. Profits from sale of these items are earnings of the district and may be deposited into the local fund.

All proceeds from the sale of cash inventory items purchased with Trust funds should be deposited into the Trust Fund account.

Care should be taken in handling proceeds from the sale of such items in order that the fund or funds from which such items were purchased are properly credited.

All seed purchases must be approved by the Board of District Directors, with such approval duly recorded in the Board minutes.

Districts which harvest seed for a percentage of the yield or receive seed as payment for the use of district equipment, should regard such seed as property of the fund which was used to originally purchase the equipment. Proceeds from the sales of such seed should be deposited into the same fund.

State of Texas Cooperative Purchasing Program
Texas Procurement and Support Services

The Texas Procurement and Support Services Cooperative Purchasing Program created by legislation in 1979 offers political subdivisions a unique opportunity to purchase products from state automated and non-automated term contracts and the Catalogue Purchasing Program. Members benefit from the state's volume purchasing power, and save time by avoiding the bid process, since Texas Procurement and Support Services (TPASS) term contracts are competitively bid. Cooperative Purchasing Program (CPP) members have the support of three CPP staff members as well as access to TPASS purchasers and support staff.

Chapters 271; 2155 and 2175, Sections 271.081-271.083 Local Government Code, V.T.C.A., Section 2155.202 and 2175.001(1) of the Texas Government Code, Title 10, Subtitle D, provide the legal authority for local governments to participate in the State of Texas Cooperative Purchasing Program. These sections define local government to mean a county, municipality, special district, school district, junior college district, rural fire prevention district, volunteer fire department, or other legally constituted political subdivision of the state (hereinafter referred to as qualified entity).

Participation in the Cooperative Purchasing Program is strictly voluntary. A local government may join the CPP by filing with the TPASS a resolution adopted by the governing body of the qualified entity. The resolution must state that the qualified entity will: 1) designate one or two individuals as authorized to sign requisitions; 2) participate in the program and pay participation fees established by the commission; 3) be responsible for direct payment to vendors and 4) be responsible for ensuring the vendor's compliance with contract delivery and quality standards.

Requisitions for Automated Term Contract items must be processed through the TPASS using the Texas SmartBuy system, on-line. Items purchased from Non-Automated Term Contracts and through the Catalogue Purchase Procedure are ordered directly from the vendor by the CPP member. However, Non-Automated orders require a copy of the order be provided to the TPASS.

A cooperative purchasing partnership between qualified entities and the state can be advantageous to all concerned, but particularly beneficial to the taxpayer and the governmental entity. If you have any questions or need more information, please feel free to call a member of the Texas Procurement and Support Services Cooperative Purchasing Program staff at 512/462-3368.

You may access Texas Procurement and Support Services (TPASS) on the internet at: www.cpa.texas.gov, and select the "*State Purchasing*" tab.

Rental Equipment

Purchase of Rental Equipment

The district may obtain rental equipment by purchase and from donation or gifts. Equipment may be purchased using State, Local or Trust Funds but all items purchased should have prior approval of the Board and be reflected in the minutes of the Board. The same controls apply to the purchase of equipment without regard for the type of funds used.

Chapter 201, Section 201.105(c) of the Agriculture Code allows districts to purchase machinery and equipment through the Texas Procurement and Support Services (see previous page) or from local suppliers. A sample requisition form for purchase made through the Texas Procurement and Support Services is included in this section. When purchasing equipment locally the district should obtain a minimum of three bids if three local suppliers are available. Such items as price, availability, warranty and repair services may be considered when selecting a successful bidder.

An inventory number should be assigned to each piece of machinery and equipment owned by the district. When equipment purchased with State or Local funds is sold, the proceeds should be deposited to the Local Funds account. The proceeds from the sale of equipment acquired with trust funds should be deposited to the Trust Funds account.

Expenses and Income of Rental Equipment

Expenses for rental equipment owned by a Soil and Water Conservation District should be paid out of the fund from which the equipment was originally purchased. Any income generated by the equipment should be deposited to the fund that was used to purchase the equipment.

Donated or Loaned Rental Equipment

The district may accept rental equipment made available to it by private or federal resources by either outright donation to the district or on a loan basis. The district may pay from State, Local or Trust funds the necessary operating expenses to maintain the equipment received on either basis.

Equipment granted to the district and income (earned) from may be credited to the Trust Funds account provided all expenses accruing to such equipment are paid from sources other than State or Local funds. If the district uses State or Local funds in securing or operating equipment obtained through grants from private or federal sources, the State or Local funds should be fully reimbursed before any funds are deposited to the Trust Funds account.

Numbers should be assigned to each piece of district-owned equipment. The Board of Directors should establish that a person renting the equipment be accountable at all times for its safe use and return to the district. It is recommended that a district appointed equipment custodian should

be designated for maintaining the equipment and keeping account of the location of loaned or rented equipment. An equipment ledger should be prepared for all equipment owned by the district. In preparing the equipment ledger, one sheet should be set up for each piece of equipment. Income and expenditure items applicable to such equipment should be posted to the ledger from the cash receipts and disbursements journals. Cards of suitable size and rulings can be used instead of ledger sheets if you prefer.

Inventories of rental equipment should be separated into two categories: (1) Equipment purchased from State or Local funds (2) Equipment donated or purchased from Trust funds.

The Board of Directors should have from each custodian, a receipt showing a list of Soil and Water Conservation District equipment in his possession. This receipt should show the number and description of each item of equipment sufficiently in detail so that it can be easily identified.

Handling of Receipts and Disbursements

Equipment custodians should issue a prenumbered receipt for all money received by them for payment of rent on district equipment in the manner described earlier.

Equipment custodians should at the end of each month forward to the clerk or bookkeeper all money collected for the district or deposit slips for all money deposited to the district's account together with a copy of each receipt for such money.

An Equipment Agreement and receipt form should be pre-numbered in triplicate to maintain the best accounting control over the funds of the district. If the district is buying seed for resale to the land occupier in the district, this Receipt and Equipment Agreement form should be so designed as to reflect the sale of seed in addition to the renting of equipment.

Cash receipts of the district should be deposited intact without deduction for any purpose or reason. The gross amount due the district should be paid to the district. Any sums that are due by the district must have the prior approval of the Board of District Directors before such bills can be paid by the district. For this reason it is necessary that any item such as percentages of receipts due custodians for equipment care and rental, minor expenses paid by either the person using the equipment, or the custodian must be paid by check from the district's bank account and should never be taken from any sum the custodian or other person owes the district.

Equipment Ledger Sheet				
Description:			**Equipment No.:**	
Total Cost:		**Paid with check no.:**		
Date Delivered:		**Yearly Depreciation Rate:**		

Transactions				
Date	*Description*	*Income*	*Expense*	*Depreciation*

Note: Additional forms (except equipment agreement form below) may be obtained from the State Soil and Water Conservation Board, Temple, Texas

No. 1207

Equipment Agreement
With
"XX" Soil and Water Conservation District

The following designated equipment has been loaned by the *"XX"* Soil and Water Conservation District for my benefit and use.

I understand that this equipment is being placed on loan with me and that I shall see that it is properly safeguarded and cared for while in my possession. I agree that in receiving and using such equipment, I am acting as an independent contractor and not as an agent or employee of the *"XX"* Soil and Water Conservation District.

I agree to hold the *"XX"* Soil and Water Conservation District free of all liability for personal injury or otherwise that might be incurred by the use of this equipment. I further agree that I shall return the equipment as soon as I have completed my work.

For the use of this equipment on my property, I agree to pay to the District, through its custodian, the applicable loan charge listed below for each day the equipment was in my possession.

_____	_____
Date	*(Signed Custodian)*
_____	_____
Type of Equipment & No.	*Rate of Charge*
_____	_____
Acres Benefited	*No. of Pounds of Seed/Fertilizer*
	_____
	Signature - Farm Owner or Operator
Date _____	Total amount paid $ _____

Above is a sample invoice that should be printed in triplicate and prenumbered. The **original** and **first** carbon copy should be perforated in order that they may be removed from the invoice book. The **third** copy should be retained in the permanently bound invoice book.

Equipment-Custodian's Monthly Report				
Month and Year:				
Name:			**Date:**	
Report due to Local Soil and Water Conservation District by:				
Type of Equipment or Material		**No. Hours, Acres, Etc.**	**Price per unit**	**Amount**
			Total	
Amount due to custodian from local Soil and Water Conservation District:				
			Total after custodian fee	
	Custodian Signature			
	Custodian's Address			
*****IMPORTANT***** Custodian should file report promptly at the end of each month. A copy of each receipt for money received and a copy of each bill for repairs of the expense should be attached to each report.				

Custodian's Receipt for
Soil and Water Conservation District Equipment

I _____, having been duly designated as Custodian of equipment for the

_____Soil and Water Conservation District do hereby acknowledge

receipt of the following items of equipment on this the _____day of _____,

20____.

Type & Description:

_____

Equipment Number: _____

The above equipment is the property of _____Soil and Water Conservation District. I agree to handle, maintain, and operate the equipment in accordance with procedures outlined by directors of aforesaid Soil and Water Conservation District.

_____

Signature of Custodian

Important

The receipt indicated above should include **all** items of equipment in possession of each custodian. Possession by the secretary of the Board of Directors of a similar receipt covering all items of equipment in the hands of custodians will eliminate the necessity for the auditor to personally check with custodians.

State Matching Fund Program

In 1969, the 61st Session of the State Legislature initiated a program through which funds are appropriated to the State Soil and Water Conservation Board for allocation to Soil and Water Conservation Districts on a matching basis. To receive money under this program, a district must raise funds from sources other than State funds or earnings from State funds. These monies will then be matched with funds from the state, not to exceed $7,500 per year per district.

The initial allocation of State funds to each district will not exceed the amount reported in the survey used to prepare the State Board's budget request. A supplemental allocation may be made later in the year if funds become available.

Matching fund claims must be adequately documented to verify the claim amount and appropriateness to the grant. Documentation required may include, but is not limited to, deposit receipts and statements from the bank. Documentation requirements must meet allowable criterial for state grants in accordance with the State's Uniform Grant Management Standards.

Funds Eligible for Matching

1. Contributions, donations, and gifts.
2. Income from rental of district owned real estate and equipment acquired with Trust funds.
3. Profits on the sale of merchandise (seed, fertilizer, trees, fish, drip irrigation, etc.).)
4. Profits on the sale of advertising in district publications and district sponsored radio and television programs.
5. Federal, Association, and local grants. (Non-state revenues)
6. Proceeds from local district activities (banquets, tours, field days, etc.). Area and regional activities are not eligible.
7. Interest on Trust Fund savings accounts or certificates of deposit.

If a district has an item not listed above that the directors feel should be eligible for use in the State Matching Fund program, they should tell their field representative who will in turn inform the State Board. The State Board will then consider these items on a case-by-case basis and inform the district of their decision.

Funds Not Eligible for Matching

1. State funds or earnings from State funds.
2. Proceeds from area or regional activities.
3. Proceeds from rentals or sales where the district acts strictly as a clearinghouse.
4. Contributions received by the district to be returned to their source at a later date.
5. Any non-cash contributions or gifts (Except for donated lease space for district office).
6. Funds raised locally in a previous fiscal year.
7. Deposits that do not meet documentation criteria in accordance with the State Uniform Grant Management Standard.

Some of the methods districts have used in the past to raise matching funds are as follows:

1. Contributions
    A. Counties
    B. Cooperators
    C. Banks
    D. Savings and Loans
    E. Businesses
    F. School Districts
    G. Drainage Districts
    H. Other Governmental Units

2. Rentals
    A. District Real Estate
    B. Conservation Equipment

3. Sale of Goods
    A. Fish
    B. Seedlings
    C. Seed
    D. Pipe
    E. Conservation Construction Materials
    F. Surplus Equipment purchased with Trust Funds

4. Sale of Data
    A. Soil Surveys
    B. Groundwater Depletion Studies
    C. Aerial Photographs
    D. Maps

5. Promotional Activities
    A. Awards Programs
    B. Barbecues, Banquets, Etc.
    C. Equipment Auctions
    D. Queen's Contests
    E. Other sponsored district activities

6. Sale of Advertising Space
    A. Newsletters
    B. Annual Reports
    C. Special Reports

7. Interest on Trust Fund Time Deposits

8. Other
    A. Sale of Promotional Material
    B. Equipment Auction When Equipment Purchased with Trust Funds or Donated
    C. Percolation Testing
    D. Irrigation Systems Efficiency Studies

Claims Procedure

Requests for State Matching Funds should be made in the following manner:

1. Funds raised locally should be deposited into the District's Trust Fund account. After the funds have been deposited, the matching fund claim form along with allowable documentation should be completed in duplicate. One copy of the form is to be mailed to the State Board, and one is to be kept for the District's files.
2. Claims must be approved by the District Board. The copy for the State Board should have original signatures of the Chairman and the Secretary of the District Board and the date of the Board Meeting.
3. The State Soil and Water Conservation Board will process the claim and cause a direct deposit or check to be issued to the district within 30 days after the receipt of the Matching Fund claim form (provided that the district has a sufficient allocation balance). When a check is received by the district, it should be deposited to the district's State Fund account and should be spent according to the rules and regulations governing the use of this account.
4. Claims for Matching Funds should be submitted as soon as the district's share of funds has been deposited to the Trust Fund account, but districts should not submit claims at less than 30-day intervals.
5. Due to current regulations governing expenditure of state appropriations, two-thirds of the district's initial allocation must be claimed by May 15th of each year.
6. The remaining allocation balances must be claimed by August 31st of each year.
7. The State Board will not approve a request for State Matching Funds unless the district has a current audit or annual financial report on file in the State Board's office as is required by state law.
8. Claim forms are located on the SWCD Resources page of the TSSWCB website.

State matching funds cannot be legally used for the following:

1. Gifts – this includes awards, plaques, meals, contributions, etc.
2. Loans
3. Texas Conservation Association of Water and Soil (TCAWS) dues or National Association of Conservation District (NACD) dues
4. Scholarships
5. Director travel (mileage, lodging and meals)

Funds raised from sources other than State funds or earnings from State funds deposited to the Trust Fund account may be used for any legal purpose approved by the Board of Directors unless a limitation is stipulated in the case on contributions. These funds can be used for such items as prizes, awards, NACD dues, Association of Texas Soil and Water Conservation District (ATSWCD) Quotas, etc.

Remember:

1. State portion of matching fund should be deposited in district's State Fund account.
2. Money raised by the local Soil and Water Conservation District in the Matching Fund program should be deposited into the district's Trust Fund account within the proper fiscal year.
3. Request should be submitted as soon as funds are raised locally but not at less than 30 day intervals.
4. Supplemental claims for matching funds may be submitted after a district has claimed the total amount initially allocated, provided this amount was less than $7,500. The deadline for supplemental matching fund claim forms to be received by the State Board is August 31st.

Technical Assistance Grants

Since 1984, the Legislature has appropriated funds annually to the State Board for the purpose of assisting soil and water conservation districts in their efforts to provide technical assistance to agricultural producers.

Technical Assistance claims must be adequately documented to verify the claim amount and appropriateness to the grant. Documentation required may include, but is not limited to, time sheets and performance worksheets. Documentation requirements must meet allowable criterial for state grants in accordance with the State's Uniform Grant Management Standards.

Guidelines established by the State Board for the administration of this program are as follows:

Expenditures Eligible for Technical Assistance Funding

1. To be eligible to receive money under this program, the district must have been allocated funds by the State Board. The district must submit claims for reimbursement accompanied by the TA Performance Worksheet.
2. Salaries or wages paid to a technical employee for performing the duties or being trained to perform those duties included in the suggested job description (copy included) approved by the State Board for the position of SWCD Soil Conservation Technician. (Report gross pay).
3. District's share on Social Security and Medicare Tax expense. (Up to 7.65% of gross pay).
4. Pay rates should not exceed $20.00 per hour to be eligible. Pay rates in excess of these amounts must have prior approval by the State Board on an individual basis.
5. Questions arising over the eligibility for reimbursement of work to be performed should be referred to the district's State Board Field Representative.

Expenditures Not Eligible for Technical Assistance Program

1. Salaries and wages for work performed that does not meet documentation criteria in accordance with the State Uniform Grant Management Standard.
2. Employment related liability insurance.
3. Fringe benefits such as health insurance, sick leave, holidays, etc.
4. Office rent, travel, office supplies and other operating expenses.
5. Expenditures made in violation of state nepotism statutes.

General Guidelines

1. Personnel hired with technical assistance funds are employees of the district, not the state.
2. Districts should carefully review employment related expenses and determine the costs of any fringe benefit to be provided, as these expenditures will have to be made from district funds.
3. Since most district technical personnel will be working under the daily supervision of the Natural Resource Conservation Service (NRCS) employees, the working hours and holidays observed by the NRCS should be considered when establishing working hours and holidays for district employees.

4. All funds for this program will be provided by the State Board and the local district. The Natural Resource Conservation Service has no intention to participate financially.
5. The State Board reserves the right to examine district records to determine compliance with these guidelines and other state requirements. The State Board may require districts to reimburse the State Board for expenditures claimed that are found to be in violation of these guidelines or other state requirements.
6. Any employment made under this program shall comply with state nepotism statutes.

Reporting Procedures

1. The State Board will allocate available Technical Assistance funds to districts in July for the next Fiscal Year.
2. Funds will be paid to each district on a reimbursement basis. Reimbursement requests should be submitted not more than once a month but at least once a quarter on forms available on the SWCD Resources page of the TSSWCB website. Forms must:
    1. Have Chairman's signature
    2. Have contact person information
    3. Deadline for filing – September 30th (postmarked or received in Temple office)
3. After all funds have been reimbursed and accounted for, no further paperwork will be required from the district unless requested by the State Board.
4. Supplemental payments can be made to districts that have Technical Assistance expenditures exceeding their allocation amount for the year. These additional funds are to be paid from unclaimed district allocations.
    1. Deadline for claims is September 30 – file one original.
    2. Districts MUST have expended all other Allocated State Technical Assistance Funds.

General Job Description (Soil Conservation Technician)

Serves as a soil conservation technician for a soil and water conservation district. Works with owners and operators of agricultural or other lands on the installation and maintenance of various conservation practices. Gathers supplementary planning data and information on the physical features of farms and performs follow-up work with landowners and operators. Works in accordance with prescribed procedures, without detailed instructions. Performs other duties as assigned, such as bookkeeper, clerical, conservation education, etc. Supervisor checks accuracy of operations and provides guidance in new situations.

Examples of Work Performed

1. Performs work in the application of conservation practices to farms, ranches or other units of land within the district for which farm or group facility plans have been developed.
2. Assembles information required by planning technician in developing and servicing farm or ranch conservation plans.
3. Performs survey and layout work.

4. Explains or demonstrates methods of applying conservation practices, such as contour cultivation, terracing, tree planting, woodland improvement, seasonal or other simple irrigation practices, farm drains, range practices, and fertilizing, seeding or land preparation operations.
5. Prepares records and reports covering work accomplished.
6. Performs follow-up work on application and maintenance of planned conservation practices with landowners.
7. Perform related duties.

General Qualification Requirements

Candidates for these positions should have knowledge of farm and ranch operations. They should also have the ability to work with people and communicate with them effectively. Previous experience such as: familiarity with general farm operations, equipment and terminology. Knowledge and skills in developing and conservation practices, including the gathering of farm resource data would be preferred. Understanding the needs and management objectives of farmers and ranchers is advantageous.

Conservation Activities Program (CAP)

The Conservation Activities Program (CAP) assists districts in maintaining a strong educational program to inform local landowners (as well as reaching out to absentee landowners who primarily reside in urban areas) on local conservation concerns and encourage the voluntary implementation of conservation practices. The program intends to promote conservation awareness within the community and provide districts flexibility in use of state funds received. The Conservation Activity Program will provide districts the opportunity for offset of operating expenses as a result of completing ten core conservation activities. Each activity has a value of $150.00. After each activity is complete, a claim will be submitted for field representative verification. Once verified, a payment of $150.00 will be made to the district. The minimum amount available for each district during the current fiscal year is $1,500 with a potential for more through a supplemental payment at end of year. Additionally, the Outstanding Conservation District in each of the five areas will receive a $500.00 additional offset for operating expenses as a result of their exceptional efforts. Instructions for submitting completed activities are located on the SWCD Resources Page under Financial Forms of the Texas State Soil and Water Conservation Board website: https://www.tsswcb.texas.gov/swcds/swcd-resources

The ten core conservation activities for program are:

1. Have a Soil and Water Conservation District Local Awards Program.
2. District Director(s) attend the Conservation Day Program.
3. Submit an entry in the Area Awards Program that meets qualifications and is deemed acceptable by the Judging Committee.
4. District Director(s) attend the Area District Meeting.
5. Soil and Water Conservation District hosts or co-hosts a Field Day and any other public outreach activity.
6. District Director(s) attend the State Meeting.
7. District Director(s) attend the Area Awards Program and State Board Member Election.
8. Participate in Youth Educational Activities.
9. Participate in Soil Stewardship Activities.
10. District Director or employee has attended this year's District Director and Employee Workshop, or all five Directors and the employee attended the Workshop previously.

Water Quality Management Program

In an area that the state board identifies as having or having the potential to develop agricultural or silvicultural nonpoint source water quality problems, the state board shall establish a water quality management plan certification program that provides, through local soil and water conservation districts, for the development, supervision, and monitoring of individual water quality management plans for agricultural and silvicultural lands. Each plan must be developed, maintained, and implemented under rules and criteria adopted by the state board and comply with state water quality standards established by the Texas Commission on Environmental Quality. The state board shall certify a plan that satisfies the state board's rules and criteria and complies with state water quality standards established by the Texas Commission on Environmental Quality under the commission's exclusive authority to set water quality standards for all water in the state.

The state board shall administer a cost-share assistance program for soil and water conservation land improvement measures. The state board may provide cost-share assistance to landowners or operators for the installation of soil and water conservation land improvement measures consistent with the purpose of controlling erosion, conserving water, or protecting water quality. The state board may employ and contract with and provide for the compensation of personnel and may take any other action necessary to implement this subchapter. The state board may reimburse a conservation district for the reasonable costs the district incurs in administering this subchapter.

As required by statute, the local soil and water conservation districts must review and approve the following program forms:

- District cooperator agreement
- Request for planning assistance
- Request for cost-share incentive funding
- Water Quality Management Plan certification
- Application for cost-share incentive funding
- Performance certification
- Status reviews

These forms and the program reference guide are located on the Water Quality Management Plan page of the TSSWCB website: https://www.tsswcb.texas.gov/programs/water-quality-management-plan

Flood Control Program

The Flood Control Act of 1936 (Public Law 74-738) authorized providing watershed protection and flood prevention as a complement to the downstream flood control program of the Corps of Engineers. The Flood Control Act of 1944 (Public Law 78-534 or PL 78-534) authorized the installation of works of improvement contained in 11 watersheds, two of which are located entirely in Texas: the Middle Colorado River and the Trinity River. A third authorized watershed, the Washita River, is in Texas and Oklahoma.

In 1953 the House and Senate Agricultural Appropriations Committees obtained an appropriation of $5 million for a “pilot” watershed program. The Secretary of Agriculture by Memorandum 1325, dated April 1, 1953 established the “Pilot Watersheds Program” and assigned responsibility to the Soil Conservation Service (SCS) which approved 62 watersheds in 33 states. Four of the Pilot Watersheds are in Texas: Cow Bayou, Green Creek, Calaveras Creek, and Escondido Creek.

The Watershed Protection and Flood Prevention Act of 1954 (Public Law 83-566 or PL-566) authorized a permanent Nationwide program to provide technical and financial assistance to local watershed groups willing to assume responsibility for initiating, carrying out, and sharing in costs of upstream watershed conservation and flood control. Since the law’s inception in 1954, Texas has received approval of ninety-nine PL-566 Watershed Plans.

Since 1948 the United States Department of Agriculture - Natural Resources Conservation Service (NRCS) has assisted watershed sponsors in constructing about 2,041 floodwater-retarding and erosion/sediment control dams in 151 Watershed Plans under these three programs in Texas. About 260 floodwater retarding structures were planned but have not yet been built. As of 2019, about 625 of the constructed dams are classified as “high hazard”, which means there is potential for loss of life if the dam fails. Of these dams, 123 were designed and built to meet high hazard criteria, including 24 dams that have been upgraded through the NRCS dam rehabilitation program (authorized by amendment to PL-566). However, 502 of these high hazard dams were designed and built as low hazard and need to be upgraded to meet current high hazard criteria because of urban development.

As these dams age, the cost for maintenance and repair is rising rapidly. In recent years, the cost for major repairs or upgrades to current safety criteria has become an even bigger issue. Depending on availability of federal funds, NRCS may be able to fund 65% of the cost of rehabilitation and upgrade. However, many sponsors are not fiscally able to fund the remaining 35% cost of a rehabilitation project. Many sponsors also find it difficult to fund required maintenance and dam repair. Meanwhile, urban development is occurring both upstream and downstream of these dams and lives and public infrastructure are at risk.

Prior to construction of these dams, local project sponsors signed agreements in which they agreed to operate and maintain the dams. All the watershed projects have soil and water conservation districts (SWCD) as sponsors. Because SWCDs do not have taxing authority, virtually all projects also have co-sponsors that have taxing authority to raise funds for the cost

of operation, maintenance, repair, and rehabilitation. Co-sponsors consist of cities, counties, WCIDs, river authorities, and other special purpose districts.

TSSWCB Flood Control Program

The primary purpose of the 2,041 Watershed Program dams is to protect lives and property by reducing the velocity of floodwaters, and thereby reducing flows to a safer rate. These are earthen dams that exist on private property. They were built with the understanding that the private property owner would provide the land, the federal government would provide the technical design expertise and the funding to construct them, and then units of local government (sponsors) would be responsible for maintaining them into the future.

Local sponsors of the dams were required before a federal project was begun. Local sponsors signed a watershed agreement which outlined the duties and responsibilities of the federal and local sponsors. In general, local sponsors are required to obtain and enforce easements, conduct operation and maintenance (O&M) inspections, maintain the structures, and implement land treatment measures in the watershed. Due to the passage of time and difficulty in raising adequate funds locally, many sponsors approached the Texas Legislature with their concerns over the amount of needed O&M and repairs. In recognition that these dams will continue to serve as a critical protection for our state's infrastructure, private property, and lives, the Legislature appropriated $15 million dollars to the Texas State Soil and Water Conservation Board (TSSWCB) for grants to local SWCDs during the 2010-2011 biennium for O&M and structural repairs.

In response to this appropriation, the TSSWCB assembled a representative stakeholder group and began the process of developing programs to deliver the funds to the sponsors of flood control dams during the Summer of 2009. It was determined that the most efficient and effective way to proceed was to develop two separate grant programs, one to address O&M, and the other to address structural repairs and rehabilitation, due to their difference in complexity.

O&M Grant Program

The O&M Grant Program is a reimbursable grant program for local SWCDs and certain co-sponsors of flood control dams. This program reimburses SWCDs **90%** of the cost of an eligible O&M activity as defined by the program rules; the remaining **10%** must be paid with non-state funding. Rules for the O&M Grant Program were developed by the TSSWCB staff and a representative stakeholder group during the summer of 2009. The rules were adopted by the State Board on September 17, 2009 and published in the Texas Register on October 9, 2009. The rules became effective October 14, 2009.

Structural Repair Grant Program

The Structural Repair Grant Program provides state grant funds to provide **95%** of the cost of allowable repair activities, including match funding for federal projects through the Dam Rehabilitation Program and the Emergency Watershed Protection (EWP) Program of the Texas NRCS. The remaining **5%** must be paid with non-state funding. Rules for the Structural Repair

Grant Program were adopted by the State Board on March 18, 2010 and became effective April 25, 2010.

Instructions and instructions for the Watershed and Flood Control Program are located on the SWCD Resources Page of the Texas State Soil and Water Conservation Board website. www.tsswcb.texas.gov

Compensation of District Directors

District Board Meeting

Directors of soil and water conservation districts are entitled to receive mileage and per diem reimbursements when they attend official meetings of their district board. Chapter 201, Section 201.077(a) of the Agriculture Code states, "A director may receive compensation in an amount not to exceed $30 for each day the director attends meetings of the Board of Directors, plus the current state rate per mile for travel each way between the residence of the director and a designated meeting place within the boundaries of the conservation district". **$30.00 is the <u>maximum</u> amount that can be paid, but the agency's allocated budget allows for a payment of <u>only</u> $20.00 per meeting.** The claim forms are provided on the State Board website. Directors may not be compensated for more than five meetings per quarter. Directors may not be compensated for more than the rate approved for per diem regardless of the number of meetings held on the same date. Care should be taken to see that separate claims are developed for each quarter of the fiscal year. Claims should be processed as soon as possible after the close of each quarter.

Annual Meeting of SWCD Directors

Two directors of each board may claim $30 per day for not more than two days while attending the Annual Meeting of SWCD Directors. One director from each district may receive the current state rate per mile to and from his/her place of residence and the site of the Annual Meeting of SWCD Directors. Special forms for claiming mileage and per diem for attendance at the annual meeting are provided on the State Board website.

State Board Member Election

The delegate elected to attend the state board member election is entitled to transportation allowance of the current state rate per mile for travel each way between the county seat of his/her home county and the place where the election is held. This delegate is also entitled to a per diem allowance of $30 per day for not more than two days for attending this election. Special forms for claiming this mileage and per diem are provided on the State Board website.

Payment of Board Member Travel

Funds for these three forms of mileage and per diem are appropriated to the State Soil and Water Conservation Board. The State Soil and Water Conservation Board sets an allocation for each district and on September 5th, 75% of that allocated amount will be paid to the district. The soil and water conservation districts are responsible for managing the director mileage and per diem funds and processing the payments for board meeting attendance on a quarterly basis and travel to the annual meeting and board member elections after travel occurs. The claim forms are to be filled out for each director and sent to their district field representative for verification. Once the forms have been verified by the field representative, the claims will be presented at the district board meeting for payment. Details of these transactions are to be included in the

minutes of the board meeting and the district is responsible for executing the checks to the directors for reimbursement. A copy of the claim forms with the director's signature and the field representative's verification signature should be sent to the State Board office.

Once the 75% allocation has been expended districts will follow the same guidelines listed above. When claim forms are received in the State Board office the amount needed for payment by the district will be paid to the district's State Fund account and the district will process the payments. This procedure will be followed until the district's allocated funds are exhausted.

Before any claim for mileage and per diem can be honored by the State Soil and Water Conservation Board, the director must have a notarized oath of office on file with the State Board as required by law.

The soil and water conservation district is responsible for managing the allocated funds for the fiscal year. The district is accountable for any unused funds and must return those unused funds to the State Soil and Water Conservation Board no later than September 30th of each fiscal year.

Remember:

1. Directors may claim mileage and per diem for no more than five (5) Board of Directors meetings in any one quarter of a fiscal year.
2. Claims for more than one quarter cannot be submitted on the same claim form.
3. Directors may claim one day of per diem reimbursement regardless of the number of meetings held on that day.
4. Claims should be submitted within 30 days after the end of a quarter.
5. Mail or fax one copy of the completed claim forms (with director's signature & field representative's verification signature) to the State Board office.
6. Districts are responsible for managing the mileage and per diem funds for the fiscal year and keeping all records up to date.
7. Deadline for 1st, 2nd & 3rd quarter director mileage and per diem claims is July 1st.
8. Deadline for 4th quarter director mileage and per diem claims is September 30th.
9. Unused funds must be returned to the State Soil and Water Conservation Board. Deadline for the return of these funds is September 30th.

NACD TA Grants

The State Board for the purpose of assisting soil and water conservation districts in their efforts to provide technical assistance to agricultural producers have entered into a Memorandum of Agreement with the National Association of Conservation Districts (NACD). Guidelines established by the State Board for the administration of this program are as follows:

Expenditures Eligible for NACD Technical Assistance Funding

To be eligible to receive money under this program, the district must have been under contract with the State Board. The district must submit claims for reimbursement accompanied by supporting documentation. The following are eligible:

1. Wages paid to a technical contractor for performing the duties or being trained to perform those duties included in the job description (copy included) approved by the State Board for the position.
2. Pay rates should not exceed $30.00 per hour to be eligible. Pay rates in excess of these amounts must have prior approval by the State Board on an individual basis.
3. Questions arising over the eligibility for reimbursement of work to be performed should be referred to the district's State Board Field Representative or the Temple Office Contract Manager.

Expenditures Not Eligible for Technical Assistance Program

1. Wages for work performed not included in the State Board approved job description unless the district has received specific approval from the State Board for such exemption.
2. Employment related liability insurance.
3. Fringe benefits such as health insurance, sick leave, holidays, etc.
4. Expenditures made in violation of state nepotism statutes.

General Guidelines

1. Personnel hired with NACD Technical Assistance funds are contractors of the district, not the state.
2. Districts should carefully review contractual obligations and related expenses before approving the expense and submitting reimbursement to the State Board. All unapproved expenses will be at the expense of the SWCD.
3. Since most district technical personnel will be working under the daily supervision of the Natural Resource Conservation Service (NRCS) employees, the working hours and holidays observed by the NRCS should be considered when establishing working hours and holidays for NACD TA contractors.
4. All funds for this program will be provided by the State Board and the local district. The Natural Resource Conservation Service has no intention to participate financially.

5. The State Board reserves the right to examine district records to determine compliance with these guidelines and other state requirements. The State Board may require districts to reimburse the State Board for expenditures claimed that are found to be in violation of these guidelines or other state requirements.
6. Any contractual agreement made under this program shall comply with state nepotism statutes.
7. Contractors participating in the NACD TA grant are not SWCD employees and are not included in the Memorandum of Understanding between the TSSWCB, SWCD's and NRCS.

Reporting Procedures

1. The State Board will allocate available NACD Technical Assistance Grant funds to districts annually or upon availability for the next Fiscal Year.
2. Funds will be paid to each district on a reimbursement basis. Reimbursement requests should be submitted not more than once a month but at least once a quarter on forms available on the SWCD Resources page of the TSSWCB website. Forms must:
    - Have Chairman's signature and date
    - Have SWCD name and contact person information
    - Current Budget

After all funds have been reimbursed and accounted for, no further paperwork will be required from the district unless requested by the State Board.

Vendor Set-Up for TSSWCB Payments

Application for Texas Identification Number (AP-152), Form W-9, and Direct Deposit Authorization (74-176)

Application for Texas Identification Number (AP-152) and Form W-9 Request for Taxpayer Identification Number and Certification forms are required by TSSWCB for all vendor/payees to be set up in the Texas State Comptroller system.

Direct Deposit Authorization Form (74-176) is optional if a vendor/payee will have recurring payment transactions and would like to receive funds via an ACH deposit to their bank account.

Application for Texas Identification Number and Form W-9 should be given to all vendor/payees to be completed by them. A written notation should be on the forms stating what program* the vendor/payee will be participating in. If a vendor/payee would like to receive direct deposit payments, then the vendor/payee will need to contact the accountant responsible in the Temple office.

Application for Texas Identification Number, Form W-9, and Direct Deposit Authorization forms ***should be completed by vendor/payee only*** using the attached instructions on each form. ***Section 3 of Direct Deposit Authorization form must be completed by a financial institution***.

Form W-9 and Direct Deposit Authorization forms are to be mailed, emailed, or faxed directly to accountant in the Temple office.

If any forms are found to be incomplete or incorrect, accountant will send a letter with the original form, and return it by postal mail to the vendor/payee.

All complete forms are filed in a designated locked file cabinet for confidentiality purposes.

Annual Financial Reporting

Audits and Financial Reports

Title 7, Chapter 201, Section 201.080, paragraph (d) of the Agricultural Code of Texas reads as follows:

> "(d) The directors shall provide for an audit of the conservation district's account. The audit must be performed subject to rules adopted by the State Board."

In order to comply with the rules as adopted by the State Board, districts must do one of the following:

> Have your district accounts audited by a certified public accountant for the two-year period ending August 31st of even numbered years.
>
> **OR**
>
> If your district meets the criteria established in Title 31 Texas Administrative Code (TAC), Part 17, Chapter 525, Section 525.5 of the rules, you may elect to file an annual financial report for the year September 1 through August 31.

Districts will send in a Notification Form to the State office notifying them of the districts intent to file an audit or a financial report. Deadline for these forms to be received in the Temple office is September 30th. A copy of this form is located on the SWCD Resource page of the TSSWCB website: https://www.tsswcb.texas.gov/swcds/swcd-resources

Annual Financial Reports

Title 31 TAC, Part 17, Chapter 525, Section 525.5 of Audit Exemption for Soil and Water Conservation Districts as adopted by the Texas State Soil and Water Conservation Board, reads in part as follows:

(A) A district may elect to file an annual financial report as of August 31 of each year in lieu of the district's compliance with §525.3 of this subchapter (relating to Duty to Audit) provided:

(1) the district had no long term (more than one year) liabilities outstanding during the biennial period other than rent/lease contracts;
(2) the district did not have gross state revenues in excess of $75,000 in any year of the biennial period;
(3) the district's State Fund cash, receivables, and short term investments balances were not in excess of $50,000 in any year of the biennial period;
(4) the district is not otherwise required to have its accounts and records audited in compliance with a funding agreement with any federal, county, or other agency; and
(5) the district is not otherwise required at the discretion of the State Board to have its accounts and records audited under Agriculture Code of Texas, §201.080, Records, Reports, Accounts, and Audits.

(B) A district may elect to file a compilation and review with required procedures as of August 31 of each year in lieu of the district's compliance with §525.3 of this subchapter provided:

(1) the district has no more than one long term (more than one year) liabilities outstanding during the biennial period other than rent/lease contracts and that the one liability consists of real property utilized by the district as its primary office location;
(2) the district did not have gross state revenues in excess of $250,000 in any year of the biennial period;
(3) the district's State Fund cash, receivables, and short term investments balances were not in excess of $50,000 in any year of the biennial period;
(4) the district is not otherwise required to have its accounts and records audited in compliance with a funding agreement with any federal, county, or other agency;
(5) the district is not otherwise required at the discretion of the State Board to have its accounts and records audited under Agriculture Code of Texas, §201.080, Records, Reports, Accounts, and Audits; and
(6) the person who performs a compilation and review shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(C) The annual financial report, compilation and review, or audit must be reviewed and approved by the district directors and so recorded in the minutes of the board meeting at which such action was taken.

(D) The annual financial report, compilation and review, or audit must be accompanied by an original affidavit signed by the district's current chairman, vice chairman, and secretary attesting to the accuracy and authenticity of the financial report.

(E) Districts governed by this section are subject to periodic audits by the State Board.

Number of Copies

Forward **two** complete copies of the Annual Financial Reports, each with an accompanying affidavit, signed original to the Temple office of the Texas State Soil and Water Conservation Board or submit a completed single scanned copy to the claims email address.

Filing Deadline

Notification of intent to complete an Annual Financial Statement, Review, or Audit is to be completed and mailed to the State Board Temple Office by September 1st. Annual Financial Reports are to be completed and mailed to the State Board Temple office by October 30th. Audits and Reviews are to be completed and mailed to the State Board Temple Office by December 31st. Districts not having approved reports on file in the Temple office by the deadline will have payments on Matching Fund claims and Technical Assistance payments held until such reports are received and approved. Deadline for Annual Financial Reports to be approved is January 1st. Deadline for Audits and Reviews to be approved is January 31st.

Required Forms

Required forms for financial reports are located on the SWCD Resources page of the TSSWCB website. There you will find:

- a Notification Form,
- Affidavit form for the district chairman, vice-chairman, and secretary,
- the Combined Statement of Financial Position for all Funds,
- the Combined Statement of Revenues, Expenditures and Changes in Fund Balances,
- the Schedule of Bonded Officials and Employees, and
- the Fixed Asset/Equipment Schedule.

These forms are designed for your use in preparing Annual Financial Reports.

District Public Financial Statements

Soil and water conservation districts are no longer required to publish their annual financial report in a newspaper but may do so if they wish. The annual financial report is public information and must be provided to anyone requesting a copy.

Audits

Districts not meeting the criteria established in 31 TAC, Title 17, Chapter 525, Section 525.5 of Audit Requirements for Soil and Water Conservation Districts must have an audit performed by a Certified Public Accountant for each two-year period ending August 31st of even numbered years.

Under the Texas Statutes, anyone holding himself out to the public as a public accountant must be registered with the State Board of Public Accountancy; therefore, any audit filed for the district must be by an auditor registered with the State Board of Public Accountancy as either a Certified Public Accountant or Public Accountant. The auditor is not required to be a resident of the district. Reports filed for districts by Auditors that are not licensed by the State of Texas will not meet the requirements of the Agriculture Code.

Two copies of audit reports for the two years ending August 31, of the even numbered years, shall be furnished the State Soil and Water Conservation Board by each district no later than January 1, following the audit period. The State Board will provide the Governor and Legislative Budget Board each with a copy of all district audits according to rules adopted by the Board. Deadline for audits to be approved is March 1st.

Since an audit of a soil and water conservation district requires knowledge of State laws regulating these districts, the auditor should become familiar with the material contained in this manual before beginning the audit.

In addition to generally accepted auditing standards, the audit of these districts necessitates the following of procedures required by the statures creating and regulating these districts which are sub-divisions of the state. However, nothing in the following suggestions should be construed to permit a deviation from generally accepted auditing standards nor to require extensive detailed auditing where audit of a reasonable sample would be sufficient. **All audits must be GASB 34 compliant and shall follow guidelines established for the State of Texas by the Comptroller's Office of Public Accounts.**

Cash and Cash Receipts

The audit of cash balances should follow accepted auditing procedures and include a cash count, the reconciliation of bank accounts and certifications received directly from the depositories as to the balances on deposit.

Since each district is comparatively small and only one or two employees are charged with the accounting responsibilities, it is evident that there is little internal control in the handling of the cash or in any other activity of the district. Therefore, a complete detailed audit of all cash transactions may be necessary.

Deviations from the recommended method of handling Cash Receipts as shown in this manual should be noted and commented upon. Evidence of the receipt of cash without the preparation of a cash receipt at the time of the transaction should be noted.

All cash receipts should be traced to the proper bank account and the source of income shown on the receipts and recorded in the books. Cash receipts for rental or sale of equipment should be traced to the Equipment Ledger Sheets and to the Equipment Agreements. Cash income from other sources should be traced to supporting documents or other available information.

Machinery and equipment owned or controlled by the district is placed in the hand of custodians who are charged with the responsibility of renting, collecting the rent, repairing and accounting for income and disposition of this equipment. Each custodian should file the Custodian's Monthly report with the Board of District Directors, accompanied by the remittances approved by the Board of District Directors as a depository.

Cash income equal to the cost of seed, fertilizer, chemicals or other similar items, should be deposited to the fund from which the disbursement was made at the time of purchase. The auditor should determine whether or not these deposits are properly made. Collections in excess of cost may be deposited into Local Funds – even though the purchase was made from State Funds.

Cash Disbursements

All disbursements should be supported by proper invoices, salary agreements or expense accounts and should be made by check. Each disbursement must be specifically authorized by the Board of District Directors as evidenced by the minutes of the Board.

Any evidence of illegal expenditures should be pointed out in the report. (This would include a payment for auditing if made to an accountant who is not registered in Texas.)

Each check should be examined to determine whether or not it is properly signed and endorsed. Usual audit procedures should be followed in auditing all disbursements.

Accounts Receivable

The nature of the activities of these districts may result in making charges to individuals for rent on machinery and equipment.

The unpaid accounts should be set up on the books, and at the end of the fiscal year, rent due from the renter should be shown on the balance sheet as Accounts Receivable. All such accounts not collected at the date of the audit should be confirmed or fully reserved on the Balance Sheet.

Prepaid Expenses

Ordinarily, prepaid expense items should be negligible and the amount as submitted on a statement signed by the custodian and secretary should be sufficient evidence of the existence of such items unless the inventory is proportionately large, in which case additional verification may be necessary.

Equipment

Each item of equipment should be accounted for during each audit. Inventories of rental equipment should be separated into two categories: (1) equipment purchased from state or local funds and (2) equipment donated or purchased from trust funds. Income received on equipment purchased from state or local funds should be credited to the Local Fund and income received from equipment purchased from trust funds or equipment donated should be credited to the Trust Fund. The equipment may be in the possession and under the control of the Board of District Directors, assigned to a custodian and in his/her possession and control, or rented to an individual farm owner or operator.

An Equipment Agreement form should show the location of each item of equipment, and the signed receipt should be sufficient evidence of the existence of such equipment. However, if equipment is shown as being in the possession of a custodian and has produced no rental income over a long period of time, additional verification should be made.

Each custodian should be requested to prepare and submit to the auditor a list of equipment in his/her possession or under his/her control at the end of the fiscal year. This report should show the number and description of the equipment in sufficient detail to enable the auditor to identify it with the signed Equipment Agreement on hand in the district's office.

Current Liabilities

Custodians to whom certain equipment is assigned are charged with the responsibility of repairing, maintaining and, occasionally, operating the equipment. At least once each month the custodian's report should be submitted to the Board of Directors and each expenditure shown on the report should be supported by invoices.

The monthly report submitted by the custodian at the end of the fiscal year should include all items used as repairs and the unpaid items should be recorded as liabilities of the district. A statement signed by the custodian should indicate that there are no liabilities which have not been reported at the end of the fiscal year.

Fund Balance

This section should show the fund balance resulting from contributions made by the state, surplus from donations, and the excess (deficit) of revenues over expenditures. An analysis of the changes in fund balance is a required part of the Combined Statement of Revenues, Expenditures and Changes in Fund Balances.

The audit should include any funds which are under the supervision or control of the district directors. If the auditor is not permitted, or requested, to audit separate funds, the report should so indicate.

All state agencies having funds deposited in any institution other than the State Treasury must have protection from loss by requiring the bank in which the deposit is carried to deposit collateral securities in another bank or the State Treasury for deposits in excess of that covered by FDIC.

This manual points out the requirement for bonding personnel. We suggest that a schedule of these bonds be prepared which will indicate the positions or employees bonded, the name of the bonding company, description or type of bond, and the amount of coverage for each employee.

Audits - Exhibits and Schedules

In order to provide some degree of uniformity in reporting, the following Exhibits and Schedules should be included in the report submitted. If other schedules are necessary or desirable, in the opinion of the auditor, additional schedules may be included in the report. In order to conform to generally accepted accounting principles, the financial reports must be prepared on the modified accrual basis of accounting recognizing all liabilities of the district and all outstanding receivables at the close of the audit period. Examples of typical formats for these schedules are included.

1. Opinion Letter

2. Combined Balance Sheet – All Fund Types and Account Groups

The Combined Balance Sheet – All Fund Types and Account Groups - should list all assets, liabilities, and fund equity of the district broken out by fund (State, Local and Trust). Care should be taken to list all time deposits with the fund from which the monies were derived.

3. Combined Statement of Revenues, Expenditures and Changes in Fund Balance – All Governmental and Similar Funds Types.

A separate statement of revenues and expenditures should be prepared for each fiscal year covered in the audit. Each statement should be broken down by fund type and provide sufficient detail to clearly identify sources of revenue and major expenditure items. Combining statements for fund types with more than one fund should also be prepared.

State Matching Fund grants and Technical Assistance grants should be identified separately. Revenues from district activities such as building rent, the sale of advertising, trees, fish, grass seed, banquet tickets and other items should be shown in sufficient detail as to identify monies raised by each activity.

Any fundraising projects with which costs are associated should have those costs clearly identified in the expenditure section of the statement. When a district receives Technical Assistance grant funds from the State Board, wages paid to district technical employees must be listed separate and apart from wages paid to other employees.

Expenditures, which must be paid from funds other than state or local funds, should also be identified separately.

4. Schedule of Equipment Owned

Furniture and equipment need not be depreciated. All equipment and office furniture owned by the district must be included in this schedule. Details should include a description of the item, the date purchased, purchase price of assigned value, and the fund from which the item was purchased. If there is a separate program to rent equipment for the purpose of generating income, all related assets, liabilities and results of operations should be reported in an

“Enterprise Fund” (proprietary fund type). Only in this type fund (and in non-expendable trust funds) can “depreciation expense” and “accumulated depreciation” be reported.

A separate depreciation schedule should be provided for income-producing equipment. It is vitally important to identify the fund from which income-producing equipment is purchased.

5. Schedule of all bonded district officials and employees

Letter Section of the Report:

It is suggested that the letter section of each report be somewhat comprehensive since these reports are required by law to be submitted to parties who are not directly connected with any of the operations and who have many reports to review. Deviations from the procedures provided for in this manual should be called to the attention of all concerned.

Auditor’s Opinion Letter:

The auditor should render an opinion on the fairness of presentation of the financial reports. If the auditor is not in a position to express such an opinion, the reasons therefore should be given.

Suggested Supporting Documents for District Audits:

a. Current Manual of Fiscal Operations
b. Checkbooks
c. Bank Statements
d. Board Minutes
e. Payroll Records
f. Deposit Slips & Duplicate Cash Receipts
g. Itemized Invoices Paid
h. Cash Receipts & Cash Disbursements Journals
i. Copies of Matching Fund Claims and Technical Assistance Fund Quarterly Reports
j. Copies of TSP, CAP, 555 & 503
k. Copies of Purchase Requisitions for Machinery or Equipment
l. Equipment Ledger
m. Copies of Equipment Agreements
n. Custodian Receipts for Equipment
o. Equipment Custodian Monthly Reports
p. Previous Audit
q. Bonding Policy

Sample Opinion Letter

We have audited the accompanying Combined Statement of Financial Position for all Funds of the _____ Soil and Water Conservation District as of August 31, 20 ___ and the related Combined Statement of Revenues, Expenditures, and Changes in Fund Balances for the year then ended. These financial reports are the responsibility of the district's management. Our responsibility is to express an opinion on these financial reports based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial reports are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial reports. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial report presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial report referred to above present fairly, in all material respects, the financial position of the _____Soil and Water Conservation District as of August 31, 20 ___, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

_____

Signature

Accountant's Registration # _____

District Annual Plan of Work

Each September 1st, districts must develop an annual plan of work for the coming fiscal year. To help with the preparation of the annual plan of work a template is available here: https://www.tsswcb.texas.gov/swcds/swcd-resources

Once the annual plan of work is completed, it should be approved and signed by a quorum of SWCD Directors and submitted to claims via email each September 1st using the following email address: claims@tsswcb.texas.gov

District Employees

Conservation districts are political subdivisions of the State, and district directors are public officials. As such, they are responsible for administering district programs in the most effective way. Whether the district has one part-time clerk, or a large staff makes little difference. District directors still bear responsibility and accountability for the personnel management policies and decisions needed to make that staff effective and productive. It is, therefore, vital that district directors take an active role in conceiving, formulating, and implementing personnel policies.

Personnel Management

The major responsibilities of personnel management rest with district directors. Their responsibilities should not be delegated to others. District directors should:

(1) Develop written personnel policies.
(2) Ensure that personnel management is conducted according to written policy.

District personnel, hired with district funds, should be accountable to and supervised by the district board or other district employees. This is especially true if a district employs a district manager. The district manager should be directly responsible to the district board, not to any federal or state employee. Day to day supervision is normally not practical or necessary; however, the district's chair or designee should periodically review the performance of the district manager. This will provide the district manager with insight as to the direction the board wishes taken in managing the district program.

Conservation districts, in conjunction with the Texas State Soil and Water Conservation Board and USDA Natural Resources Conservation Service, should take the lead in establishing working arrangements where district employees are housed with or work closely with employees of the Natural Resource Conservation Service (NRCS) and other cooperating agencies. This can minimize problems of conflicting work assignments and supervision of employees. Many districts have established an interagency agreement for this purpose.

Numerous personnel management problems can be avoided if each district establishes written personnel policies. Once a district board has formulated personnel rules and procedures, these policies should be in writing and provided to all employees. Having written policies will simplify the delegation of responsibility for the day-to-day operation of a personnel system.

Personnel administration should be the expressed responsibility of an individual district director or a personnel management committee appointed by the Chairman of the Board. This individual or committee should:

Ensure the adequacy of personnel policy statements:

(1) Review policies annually.
(2) Ensure adherence to policies.
(3) Develop a job description for each employee.
(4) Conduct a performance review on an employee after six months of employment, then on an annual basis.
(5) Provide administrative supervision of district employees.

Recruitment

Recruitment is the active search for the best qualified applicants to fill specific jobs. Once qualifications have been set for a particular job, every effort is made to select the applicant who meets the qualifications of the position without regard to race, color, age, sex, religion, national origin, or disability.

The following methods can be used by districts to recruit employees depending on local situations and needs:

(1) Local, State, and Federal Agencies
(2) Newspapers
(3) Colleges and Universities
(4) Workintexas.com Website
(5) Professional and Trade Associations
(6) Current Employees

Application Forms and Resumes

Application forms and resumes are important because they provide information about the applicant and can be used as a screening device.

In addition to general information, the following may be obtained from an application form or resume.

(1) Education and Training
(2) Prior Work History
(3) Military Service

The application form should also have an Equal Employment Opportunity statement and Responsibility Statement for the applicant to sign.

Interviews

An interview is an important part of recruitment. It provides time to exchange information and assess communication skills. During the interview, the interview panel should provide the necessary information about the job and the district that will enable the applicant to make decisions. The interview panel should also get as much information as possible from the applicant that will affect the decision to hire the applicant. All interview questions must be in compliance with Equal Employment Opportunity law.

Nepotism – Chapter 573, Government Code

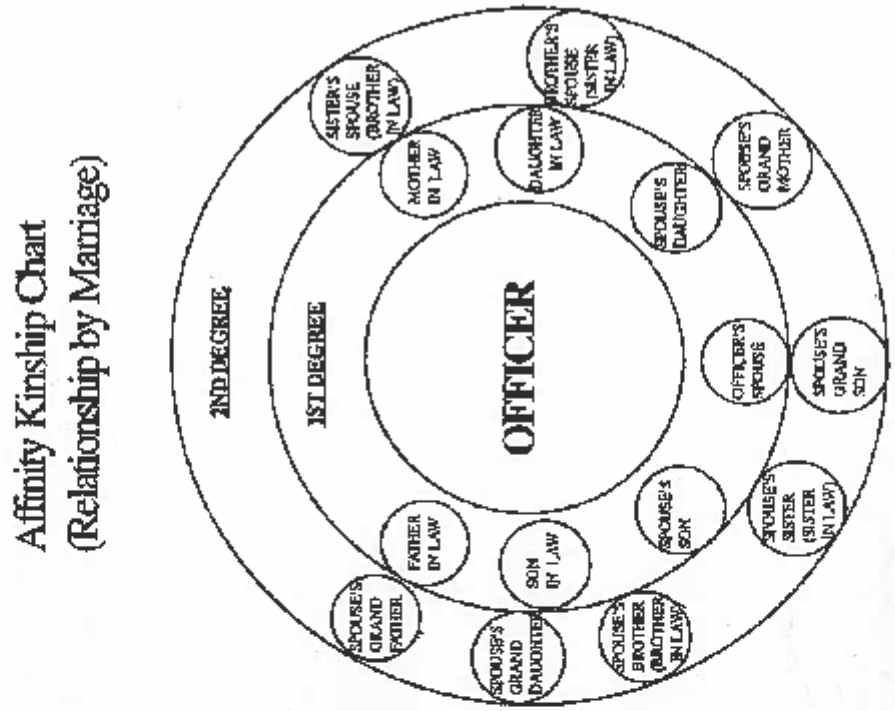
Public officials may not appoint, confirm, or vote for the appointment or confirmation of an individual to a position compensated from public funds if the individual is related to the public official within the third degree by consanguinity or the second degree by affinity.

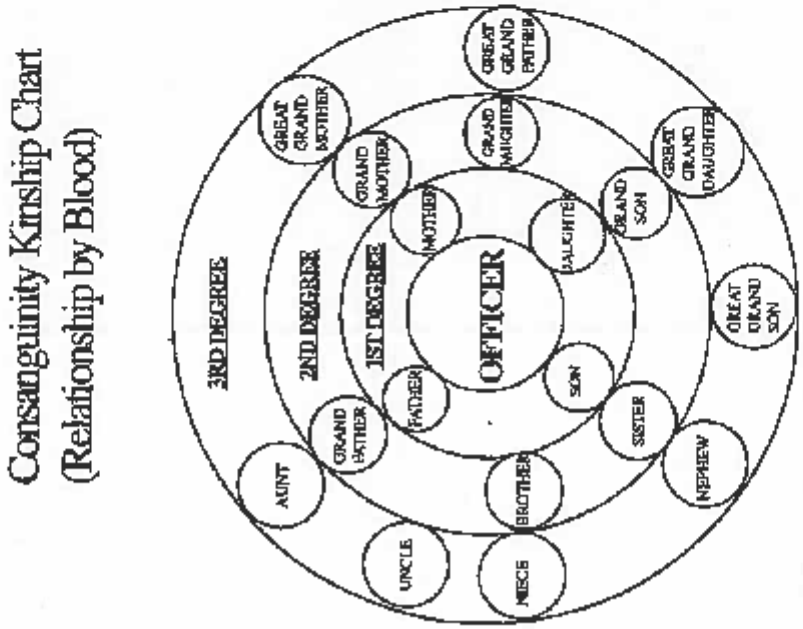
Public officials are also not allowed to appoint, confirm, or vote for the appointment or confirmation of an individual to a position in which the individual's services are under the official's direction or control and that is to be compensated from public funds if the individual is related to the public official within the third degree by consanguinity or the second degree by affinity.

Relation by Consanguinity (Descendants): Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. The degree of relationship by consanguinity between a person and the person's descendant is determined by the number of generations that separate them.

Relation by Affinity (Marriage): Two persons are related by affinity if they are married to each other or the spouse of one of the persons is related by consanguinity to the other person.

Civil Law- Degrees of Relationship





New Employees

When a new employee is hired, a personnel action form should be filled out. Personnel action forms should also be filled out any time there is a personnel change. The district should have the employee complete a W-4 form and a U.S. Citizenship and Immigration Services (USCIS) Form (I-9) on day of hire. The W-4 form is needed for payroll purposes and the I-9 form is required for all new employees. A new employee should complete a public information election form and be given a copy of his/her job description. The U.S. Citizenship and Immigration Services (USCIS) Form (I-9) should be filed in a separate file other than the personnel file. The other documents can be filed with the employee's application form and/or resume, and any other documents required by the district. A new employee checklist can be used during new employee orientation. Each employee should fill out a monthly time sheet.

Social Security Taxes for Conservation District Employees

The Omnibus Budget Reconciliation Act of 1990 (OBRA) expanded social security retirement benefit coverage to employees of districts and other public agencies who are not already covered under a retirement program. Therefore, districts must be enrolled in the Social Security System and provide this benefit to all of their employees. Because the social security rates change often, check with your local social security office for current employers and employee's contribution rates.

Benefit Plans for Districts

The **Texas Municipal League (TML)** Group Benefits Risk Pool was formed in 1979 to provide political subdivisions with quality services and programs. The Pool's Board of Trustees and staff are available to provide a source of employee benefit coverage that governments can rely upon. TML offers the following plans: Major and Basic Medical Plans, Alternate Plan, Group Retiree Medical Plan, Group Life Insurance and AD&D, Personal Accident Coverage, Dental and Vision Plans, Long-Term and Short-Term Disability, and Section 125 Flexible Benefits Administration.

For additional information contact:

Texas Municipal League Intergovernmental Risk Pool
P.O. Box 149194
Austin, TX 78714
1-800-537-6655
www.tmlirp.org

The **Texas County & District Retirement System (TCDRS)** is a non-profit trust, created by the Texas legislature in 1967. It does not receive State funding. It is savings-based, and employees can contribute 4-7% of their paycheck and the employer matches the amount based on what percent is decided upon. The employer chooses their own customized plan of benefits.

For additional information contact:

Texas County & District Retirement System
P.O. Box 2034
Austin, TX 78768-2034
1-800-651-3848 ext. 224
www.tcdrs.org

A **Simplified Employee Pension (SEP)** plan provides Districts with a simplified method to contribute toward their employees' retirement as well as their own retirement savings. Contributions are made to an Individual Retirement Account or Annuity (IRA) set up for each plan participant (a SEP-IRA). This type of plan can be set up at a financial institution, with a stockbroker, or financial advisor.

For additional information contact:

Internal Revenue Service
www.irs.gov

Worker's Compensation

As political subdivisions of State Government, soil and water conservation districts are presented two options with regard to Workers Compensation Coverage.

Options:

(1) Carry Workers Compensation coverage for district employees. The coverage would include costs for medical care, rehabilitation, lost wages, etc.
(2) Not carry Workers Compensation coverage for district employees. Successful litigation by an injured employee could potentially be financially disastrous for the district.

Districts are not required to purchase Workers Compensation coverage for employees. If a district chooses not to provide coverage, this exposes the district to potential litigation that may involve far greater expenses than the premiums involved for Workers Compensation coverage.

Workers Compensation coverage may be purchased by each district through local insurance agencies. All premiums and other expenses incurred through the implementation and operation of Worker's Compensation program may be paid from State, Local, or Trust Funds.

Unemployment Compensation

Districts may choose to be a Reimbursing Employer or Regular Taxed Employer for the Unemployment Compensation Program.

Reimbursing Employer: These employers are not taxed by the State for unemployment compensation purposes. However, if they have an employee who terminates employment and is awarded unemployment compensation by the State, they must then reimburse the State of Texas for all monies paid to the former employee.

Regular Taxed Employer: These employers pay unemployment compensation tax into an account administered by the Texas Workforce Commission. The tax rate is determined by size of payroll, and by the number and size of unemployment claims that are granted to terminated employees.

Employees terminated from a district for Cause or Layoff may be eligible for Unemployment Compensation benefits. An employee terminated for "Just Cause" may apply to the Texas Workforce Commission and have their case reviewed to determine whether misconduct occurred on the part of the employee. An employee terminated because of a layoff is eligible for unemployment compensation and job search assistance from the Texas Workforce Commission.

For further information regarding unemployment compensation, districts may contact the Texas Workforce Commission office at 1-800-939-6631.

Employment Laws

Title VII of the Civil Rights Act of 1964, as Amended

- This law covers personnel decisions that could affect employment opportunities.
- It prohibits employment discrimination by public & private employers in personnel decisions because of race, color, national origin, religion and sex.
- Applies to employers who employ 15 or more employees for more than 20 weeks in the current or preceding calendar year.

Americans with Disabilities Act Amendment Act of 2008 (ADAAA)

- Federal law prohibits employment discrimination by public and private employers in all personnel decision based on a mental or physical disability.
- The ADAAA was passed to carry out objectives of providing a clear and comprehensive national mandate for elimination of discrimination, by reinstating a broad scope of protection to be available under the ADA.

Disability

A. A person who has a physical or mental impairment that limits one or more of the major life activities of such an individual.

- the limitation must be verified by a doctor, or treatment specialist

(substantially limits) - compared to the average person in the general population

- its nature and severity;
- how long will it last or is expected to last
- its permanent, what is its long-term impact, or expected impact

B. Has a record of such impairment;

C. Being regarded as having impairment.

Reasonable Accommodation

Types of Accommodations

- Accessible and usable facilities
- Job restructuring, part-time, flexible schedules
- Acquisition of devices and materials to accommodate the work environment
- Employers are not required to lower the quality of production standards to make an accommodation.

Undue Hardship

- Requires significant difficulty or expense that is determined by the size, financial resources, nature and structure of the employer's operation
- Disruption of the business – impact on the organization & requires a lowering of production standards – safety is a very high factor.
- Employer must show good faith effort to accommodate a request.

Age Discrimination in Employment Act of 1967

- Prohibits employment discrimination by public & private employers in personnel decisions because of a person's age (40 & older).
- Employees aged 40 and older are protected from age-related discrimination.

Equal Pay Act of 1963 (EPA)

- Requires that men and women be given equal pay for equal work in the same establishment. The jobs need not be identical, but they must be substantially equal. It is job content, not job titles, that determines whether jobs are substantially equal.
- Employers may not pay unequal wages to men and women who perform jobs that require substantially equal skill, effort, and responsibility and that are performed under similar working conditions within the same establishment.

Federal Pregnancy Discrimination Act of 1978

- Prohibit discrimination on the basis of pregnancy, childbirth, or related medical conditions.
- Women affected by pregnancy, childbirth, or related conditions must be treated in the same manner as other employees or applicants who have medical conditions that place a similar limitation on their ability or inability to work.

District Holiday, Vacation and Sick Leave Pay

- Districts may pay Holiday pay with state funds, but it may not be claimed on TA forms for reimbursement.
- Vacation and sick leave pay must be paid with trust funds.

Fair Labor Standards Act

As a result of a February 19, 1985, Supreme Court Decision, state and local units of government are now subject to the provisions of the Fair Labor Standards Act. Of particular interest to soil and water conservation districts are the sections of the law dealing with minimum wage and overtime.

Under the Fair Labor Standards Act, districts are required to compensate their employees at or above the current federal minimum wage.

The overtime provisions of the law may have the greatest impact on districts. Regulations developed by the Department of Labor require districts to pay time and one half the regular wage rate for all time worked in excess of 40 hours in any workweek. A workweek is defined as "a regular recurring period of 168 hours in the form of seven consecutive 24-hour periods." The workweek may begin on any day of the week at any hour of the day, but once established, may not be changed unless the change is intended to be permanent. Although a pay period may include more than one workweek, each workweek stands alone for the purpose of determining the amount of overtime worked.

An employee must be at least 16 years old to work in most non-farm jobs and minors age 16 & 17 may perform any job not declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

- no more than - 3 hours on a school day or 18 hours in a school week;
- no more than - 8 hours on a non-school day or 40 hours in a non-school week;

Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m.

The administration of the Fair Labor Standard Act is the responsibility of the United States Department of Labor. Detailed regulations dealing with district's responsibilities under the Act may be obtained from the Department of Labor.

For additional information, contact the nearest Wage and Hour Division Office – listed in most telephone directories under United States Government, Labor Department Or www.wagehour.dol.gov

Insurance

Liability Insurance

The Texas Tort Claims Act states in part:

"Each unit of government in the state shall be liable for money damages, for property damage, for personal injuries or death when proximately caused by the negligence or wrongful act or omission of any officer or employee acting within the scope of his/her employment or office arising from the operation or use of a motor-driven vehicle and motor-driven equipment . . . under circumstances where such officer or employee would be personally liable to the claimant in accordance with the law of this state, or death or personal injuries so caused from some condition or some use of tangible property, real or personal, under circumstances where such unit of government, if a private person, would be liable to the claimant in accordance with the law of this state. Such liability is subject to the exceptions contained herein, and it shall not extend to punitive or exemplary damages . . . Liability of any unit of local government is limited to $100,000 per person and $300,000 for any single occurrence for bodily injury or death and to $100,000 for any single occurrence for bodily injury or death and to $100,000 for any single occurrence for injury to or destruction of property."

Simply stated, the Texas Tort Claims Act removes the immunity of the State of Texas and all political subdivisions for property damage, bodily injury or death arising from the negligence, wrongful act or omission of any officer or employee within the scope of his/her employment involving a motor vehicle or any tangible property. As the law applies to SWCD's it means that any personal injuries or property damage received resulting from the public use of SWCD equipment is subject to the Act. Conservation district directors, while traveling on or while performing official functions, are subject to the Texas Tort Claims Act.

The General Appropriation Statutes prohibit the use of any funds appropriated by the State to purchase insurance policies to cover claims arising under the Texas Tort Claims Act, or to purchase any liability insurance policy for individual employees.

Purchases of insurance protection against claims for bodily injury made in the name of the district should be made with funds other than state funds or earnings from state funds.

The district may purchase necessary bodily injury and property damage insurance from funds other than State appropriated funds, in the name of their employees who are exposed to individual liabilities by virtue of their official duties.

Casualty Insurance

Section 201.105(a), Agriculture Code states soil and water conservation districts shall provide insurance (fire, theft, tornado, etc.) on its machinery and equipment.

Bonding Requirements

Chapter 201, Section 201.079(d) of the Agriculture Code states:

“The directors shall provide that all officers and employees who are entrusted with funds or property of the conservation district be bonded in accordance with Chapter 653, Government Code.”

To comply with this section of the law, all district directors authorized to sign checks on district accounts, the district bookkeeper, equipment custodians and other district employees entrusted with funds or property of the district should be bonded.

According to Chapter 653, Government Code, the district board is authorized to determine the amounts of coverage needed within the limitation that no director or employee be bonded for more than $10,000.

All bonds written under Chapter 653, Government Code must be originals, written in triplicate, on forms approved by the State Board of Insurance and written only by companies authorized to act as surety in the State of Texas. All bonds should be made payable to the soil and water conservation district. Executed bonds should be brought before the district board in regular meeting for approval, and the board minutes should reflect the amount of the bond, the issuing company, and the bond custodian. A bond may be purchased for three-year coverage.

Premiums for bonds required by the Agriculture Code may be paid from any funds available to the district.

A bond covers the office or position rather than the officer or employee in the office or position. A bond may be a position schedule honesty bond covering not more than 10 offices or positions of the district or a blanket position bond for more than two offices or positions of the district.

District Board Meetings

Open Government

A Brief Summary of the Public Information and Open Meetings Acts:

The Texas Open Meetings Act was enacted in 1967 and substantially amended in 1973. The Texas Public Information Act was adopted in 1973. The basis for the policy of open government is the American constitutional form of representative government and the principle that government is the servant, not the master, of the people.

Since a comprehensive treatment of these two Acts is beyond the scope of this manual, this section provides only a brief summary of each Act. The Office of the Attorney General prepares separate handbooks on the Open Meetings Act and the Open Records Act which provide a comprehensive analysis.

Both the Texas Open Meetings Act and the Texas Public Information Act requires each elected or appointed public official who is a member of a governmental body subject to either Act to complete a course of training addressing the member's responsibilities under each Act. The public official must complete the training not later than the 90th day after taking the oath of office. The required training is also provided at the Leadership Development Workshop held annually for newly appointed and elected soil and water conservation district directors. *A training video for both the Open Meetings Act and the Public Information Act is available online from The Texas Attorney General's Office at:*
https://www.texasattorneygeneral.gov/open/og_training.shtml

The Texas Open Meetings Act

The Texas Open Meetings Act provides that meetings of governmental bodies must be open to the public, except for expressly authorized executive or closed sessions, and that the public must be given notice of the time, place, and subject matter of meetings of governmental bodies. The definitions of "governmental body", "meeting," and "deliberation" work together to establish which public bodies are subject to the Act, and what actions must conform to its requirements.

Nearly all state agencies are subject to the Act because the definition of "government body" includes: "a board, commission, department, committee, or agency within the executive or legislative branch of state government that is directed by one or more elected or appointed members." Other governmental bodies subject to the Act include county commissioner's courts, city councils, school district board of trustees, county boards of education, housing authorities created under Chapter 392 of the Local Government Code, and certain nonprofit water supply or wastewater corporations. Also included is every "deliberative body having rulemaking or quasi-judicial power and that is classified as a department, agency or political subdivision of a county or municipality, and the governing board of a special district created by law."

The requirements of the Open Meetings Act apply to a governmental body when it engages in a regular, special called or emergency meeting. A meeting is generally defined as:

> *A deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or*
>
> *A gathering that is conducted by the governmental body or for which the governmental body is responsible and a quorum of members of the governmental body is present and the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee, about the public business or public policy over which the governmental body has supervision or control.*

The Act defines "deliberation" as:

> *A verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.*

A quorum of a governmental body is defined in the Act as "a majority of the governmental body". The Act's definition of a quorum applies unless the governmental body's enabling statute, rules or other applicable laws provide otherwise.

A subcommittee chosen by a governmental body from its membership may also be subject to the Act when the committee meets to discuss and take action on public business, even though it consists of less than a quorum of the governmental body. Not every gathering of a quorum, however, constitutes a meeting subject to the Act. A quorum of a governmental body may attend a regional, state, or national convention or workshop, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop. Likewise, a quorum of a governmental body may gather at a social function unrelated to the public business of the governmental body, so long as no discussion or public business occurs.

A quorum of members of a governmental body may be subject to the Open Meetings Act when it meets with other public offices outside of a regular meeting.

Notice of Meetings

The Act also requires written notice of all meetings. A governmental body must give the public advance notice of the subjects it will consider in an open meeting or a closed executive session. The notice must be sufficient to apprise the general public of the subjects to be considered during the meeting. In addition to the substance of the notice, the Act provides specific rules regarding the time and place for posting notice. These posting requirements are mandatory.

Seven days' notice, exclusive of the posting date and the meeting date, must precede all meetings of a governmental body having statewide jurisdiction. Other governmental bodies must provide notice of a meeting at least 72 hours before the scheduled time of the meeting. The notice must be posted in a place readily accessible to the general public at all times.

Place of Posting

The Open Meetings Act provides specific rules for the place for furnishing and posting notice. The posting requirements vary depending on the nature of the governing body posting the notice. Chapter 551, Sections 551.053 and 551.054, Government Code address the posting requirements of districts and political subdivisions. These provisions are quite detailed and, therefore, are set out here in full:

§ 551.053. District or Political Subdivision Extending Into Four or More Counties: Notice to Public, Secretary of State, and County Clerk; Place of Posting Notice

- (a) The governing body of a district or political subdivision that extends into four or more counties shall:
  - (1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision;
  - (2) provide notice of each meeting to the secretary of state; and
  - (3) provide notice of each meeting to the county clerk of the county in which the administrative office of the district or political subdivision is located.
- (b) The secretary of state shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the main office of the secretary of state.
- (c) A county clerk shall post the notice provided under Subsection (a)(3) on a bulletin board at a place convenient to the public in the county courthouse.

§551.054. District or Political Subdivision Extending Into Fewer Than Four Counties: Notice to Public and County Clerks; Place of Posting Notice

- (a) The governing body of a district or political subdivision that extends into fewer than four counties shall:
  - (1) post notice of each meeting at a place convenient to the public in the administrative office of the district or political subdivision; and
  - (2) provide notice of each meeting to the county clerk of each county in which the district or political subdivision is located.
- (b) A county clerk shall post the notice provided under Subsection (a)(2) on a bulletin board at a place convenient to the public in the county courthouse.

In addition to the aforementioned posting requirements, districts with a website are encouraged to post their meeting dates there as well.

Emergency Meetings

Occasionally, a matter requiring the immediate attention of a governmental body will arise. An emergency meeting or an emergency addition to a previously noticed meeting is authorized in

the case of an emergency or urgent public necessity. An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:

1. an imminent threat to public health and safety; or
2. a reasonably unforeseeable situation.

If an emergency meeting or emergency addition to an agenda is warranted, the normal posting time is shortened to only require at least two hours' notice of the meeting. A governmental body may conduct an emergency meeting only when a true emergency exists. Furthermore, a governmental body must adequately identify the nature of the emergency in its notice.

Conducting an Open Meeting

An open meeting may not be convened unless a quorum of the governmental body is present in the meeting room. The public is permitted to attend an open meeting; however, the Act does not entitle the public to choose the items to be discussed or to speak about items on the agenda. The Act does permit members of the public to record open meetings by tape recorder or video camera.

Only agenda items included in a posted public meeting notice may be considered at an open meeting. If a subject is raised that has not been posted, it is permissible for the governmental body to provide a statement of specific factual information in response to an inquiry, or to recite existing policy. No further deliberation is permitted, except to place the subject on the agenda for a future meeting.

A governmental body's final action, decision, or vote on any matter within its jurisdiction may be taken only in an open session. The governmental body may not vote by secret ballot. Also it may not take action by written agreement without meeting. If authority to make a decision is delegated to an employee of a governmental body, the decision need not be made at an open meeting. In the usual case, where authority to make a decision or take action is vested in the governmental body, the governmental body must act in an open session. The Act allows governmental bodies to meet by telephone or video conference call under certain circumstances. Special requirements exist for notice, record keeping and two-way communication between meeting locations. The meeting must be audible to the public at the location specified in the notice and must be tape recorded.

Executive Sessions

All meetings of a governmental body are open to the public unless an executive session is specifically authorized. The Act provides certain narrowly drawn exceptions to the requirement that meetings of a governmental body be open to the public. The authorized closed sessions are more commonly known as executive sessions.

For a governmental body to hold an executive session that complies with the Act, a quorum of members of the governmental body must convene in an open meeting pursuant to proper notice

and the presiding officer must announce that a closed session will be held and identify the sections of the Act authorizing the closed session.

With regard to soil and water conservation districts, the Act authorizes executive sessions in the following instances:

- consultations with attorney to seek advice regarding pending or contemplated litigation or a settlement offer or to seek legal advice;
- discussion regarding the purchase, lease, value of real property or a prospective gift if deliberation in an open meeting would have a detrimental effect on the governmental body's position in negotiations with a third person;
- deliberations on personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint against an employee;
- meetings involving security devices;

While a governmental body may meet in an executive session, it may not take any final vote or action in an executive session. Accordingly, a governmental body should not take a straw vote or otherwise attempt to count votes in a closed session. On the other hand, the members of a governmental body may deliberate or express their opinions in a closed session without violating the Act.

Minutes

The Act also requires a governmental body to "prepare and keep minutes or make a tape recording of each open meeting of the body." The minutes or tape recordings are public documents, specifically available to the public. If minutes are kept instead of a tape recording, the minutes must indicate the subject of each deliberation and the vote, order or decision made on each item. The Act also requires that a governmental body makes and keeps either a certified agenda or a tape recording of each closed executive session, except for a closed session held by the governmental body to consult with its attorney. If a certified agenda is kept, the presiding officer must certify that the agenda is a true and correct record of the executive session. The certified agenda must reflect the date and time at the beginning and end of the executive session and the subject matter of each deliberation. A certified agenda or tape recording of an executive session is confidential and must be retained a minimum of two years after the date of the session unless a lawsuit is pending.

Americans with Disabilities Act

Title II of the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination against disabled individuals in the activities, services, and programs of public entities. All the activities of state and local governmental bodies, including meetings, are covered by the ADA. Therefore, governmental bodies subject to the Open Meetings Act must also ensure that their meetings comply with the ADA.

For purposes of the ADA, an individual is an individual with a disability if he or she meets one of three tests. Under the first test, the individual must have a physical or mental impairment that substantially limits one or more of the individuals' major life activities. Under the second test, an individual is disabled if he or she has a record of having this type of physical or mental impairment. Finally, under the third test, an individual is disabled if he or she is regarded by others as having this type of impairment.

To conduct meetings that comply with the ADA, a governmental body must consider accessibility. A governmental body may not exclude a disabled individual from participation in the activities of the government body because the facilities are physically inaccessible. Therefore, the meeting room in which a public meeting is held must be physically accessible to individuals with disabilities. In addition, according to at least one court, the time of a meeting may make it inaccessible to disabled individuals.

A governmental body must also ensure that communications with disabled individuals are as effective as communications with others. Thus, a governmental body must take steps to ensure that disabled individuals have access to and can understand the contents of the meeting notice and to ensure that they can understand what is happening at the meeting. This duty includes furnishing appropriate auxiliary aids and services when necessary.

Violations of the Open Meetings Act

Several remedies are available to the public when a governmental body violate the Act. Any action taken by the governmental body in an unlawful meeting is voidable. Any interested person may bring a mandamus or injunction action to stop, prevent or reverse a violation of the Act. Additionally, members of a governmental body are subject to criminal penalties in the following situations:

- if they knowingly conspire to circumvent the Act by meetings in numbers less than a quorum for the purpose of secret deliberations;
- if they knowingly call or aid in calling or participate in an unauthorized closed meeting;
- if they participate in a closed meeting knowing that a certified agenda or tape recording is not being made; or
- if they knowingly disclose to a member of the public a certified agenda or tape recording of a closed session.

Public Information Act

The Public Information Act also commonly called the Texas Open Records Act declares that information in the possession of a governmental body is public information and open to the public unless it falls within one of the Act's specific exceptions to disclosure. The definition of "governmental body" encompasses all public entities in the executive and legislative branches of government at the state and local levels, including county commissioner's courts, municipal governing bodies, school districts, county boards of school trustees, county boards of education, special districts, and the governing bodies of certain nonprofit corporations that provide a water supply or wastewater service. In addition, an entity which is supported by public funds, which

spends public funds, or which contracts with a governmental body to maintain its records, is a governmental body under the Act.

The Act applies to information recorded in practically any form, including book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map drawing and a voice or video representation held in computer memory. It does not include tangible items such as tools or keys used for storing information. The Act applies only to information already in existence and does not require a governmental body to create a document. Likewise, the Act does not require a governmental body to perform legal research, library research, or answer questions. Furthermore, the Act does not require a governmental body to produce information that is commercially available to the public, unless the information is a part of, incorporated into, or referred to in a rule or policy of the governmental body. In addition, a governmental body is not required under the Act to accept or to comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

The Act deals primarily with the general public's access to information. Information that a governmental body collects, assembles, or maintains is, in general either open to all members of the public or closed to all members of the public. The Act generally prohibits a governmental body from selectively disclosing information and requires a governmental entity to process requests uniformly, without regard to the identity of requestors. However, the Act provides individuals with special rights of access to information concerning themselves, including personnel information in particular. The Act further allows member, agencies, and committees of the legislature to receive information, including confidential information, for legislative use.

In general, the purpose for which a requestor wants public information is irrelevant to the governmental body's duty to disclose the information. A governmental body may, however, ask a requestor to clarify a vague request or to narrow an overly broad request.

Upon receipt of a written request for information, a governmental body must either promptly produce the requested information or seek an Attorney General Opinion if the governmental body believes that an exception to the Act applies to the requested information. A governmental body must request an Attorney General Decision within 10 business days of receipt of the request, otherwise, the requested information is presumed public.

When requesting a public information ruling from the Attorney General, a governmental body must provide the requestor's letter, electronic mail, or facsimile; a letter stating which exceptions apply to the information and explaining why the exceptions apply; copies of the requested information labeled to indicate which exceptions apply to which portions of the information; and a signed statement as to the date on which the entity received the request for information or sufficient evidence establishing the date. A governmental body has 15 business days from the date it receives the request to provide this information to the Attorney General. The Attorney General may ask the entity requesting the opinion for more information in order to render a decision; if the entity does not comply within 7 days, the requested information is presumed public.

A governmental body must also notify the requestor in writing within 10 business days that it has asked for an Attorney General's decision and provide the requestor with a copy of the letter to the Attorney General. The governmental body must make a good faith effort to provide written notice, within 10 business days, to any person whose proprietary information may be affected when the governmental body claims exception to disclosure under the Act. The Attorney General has prescribed the Notice Statement that must be used when notifying persons whose proprietary information is requested.

The Act contains procedures a governmental body must follow in providing information to requestors. A requestor may ask for information in either paper, electronic, or magnetic form. A governmental entity must provide public information in the medium requested if it may legally do so and has the means to do so. If the entity cannot provide the information within the original 10-day deadline, it must notify the requestor within the 10 days of a reasonable date and time at which the information will be available. If compliance with a request requires programming or manipulation of data, and if such programming or manipulation is not feasible or can be accomplished only at the cost of the programming or manipulation the governmental body must explain the situation in detail to the requestor within 20 days. A governmental body may have an additional 10 days to fully explain the situation if it notifies the requestor that it needs additional time.

The Act allows a governmental entity to provide information by providing a copy to the requestor or by making the information available for inspection. If an entity chooses the latter, it must allow inspection at least during business hours and must do so in a place that allows requestors to take advantage of their rights under the Act. A requestor must complete the inspection within ten days of the date the custodian makes the information available, but the requestor may request additional time. If the governmental body chooses to make information available by sending a copy to the requestor, the governmental body's action is timely if it mails the information within the applicable time period.

The governmental body may charge the requestor for most costs incurred in providing the requested public information. The Act does not authorize a governmental body to charge for providing a governmental publication that is otherwise free. The General Services Commission is charged with establishing rules for use by each governmental body in determining charges. A governmental body may use different rules to compute charges only upon approval of the General Services Commission. A governmental body may require a deposit or bond for payment of anticipated costs when the charge is estimated to exceed $100. Alternatively, a governmental body may provide copies of documents at a reduced price or even at no cost. A requestor who believes a governmental body has charged too much may seek review of charges by the General Services Commission. If the requestor was overcharged because an agency fails or refuses to follow GSC rates, the requestor is entitled to receive three times the amount of the overcharge.

Information Excepted from Disclosure

The Act includes exceptions to required public disclosure of information. An agency is free, however, to voluntarily disclose records otherwise protected from public disclosure, unless the disclosure is specifically prohibited, or the records are deemed confidential under the law. The following information is not inclusive, but does include those items of concern to districts that are excepted from disclosure:

- information considered to be confidential by law, either constitutional, statutory, or by judicial decision;
- information contained in a person's personnel file, if the release of such information would impinge on that person's common-law privacy interests, as well as educational transcripts of professional public-school employees;
- information relating to pending or reasonably anticipated litigation (called the "litigation exception");
- information revealing interests of a governmental body's planning and negotiating position with respect to transactions, usually involving real estate;
- information concerning the deliberative processes of a governmental body relevant to the enactment of legislation, but not including purely factual material;
- information within the attorney-client privilege or information that a court has ordered to be confidential;
- information reflecting the mental impressions, legal reasoning, prepared by an attorney representing the state in actual or anticipated criminal litigation;
- information dealing with the detection, investigation, or prosecution of a crime only in relation to an investigation that did not result in conviction or deferred adjudication;
- information the release of which would invade the privacy interests of elected office holders;
- trade secrets and commercial or financial information;
- internal communications consisting of advice, recommendations, or opinions reflecting the policy making processes of governmental bodies, except information relating to routine administrative matters, personnel matters, or purely factual information;
- information relating to the home addresses, telephone numbers, social security numbers, and personal family information of public officials and employees who elect to withhold such information from public disclosure;
- certain rare books and manuscripts, and certain oral history interviews, personal papers, unpublished letters, or organizational records of non-governmental entities;
- certain information submitted by a potential vendor or contractor to a governmental body in connection with their application for certification as a historically underutilized or disadvantaged business;

With respect to the provision concerning information considered confidential by law, the Agriculture Code specifically provides in Section 201.006 the following exception:

(a) Except as provided by this section, information collected by the state board[1] or a conservation district[2] is not subject to Chapter 552, Government Code, and may not be disclosed if the information is collected in response to a specific request from a landowner or the landowner's agent or tenant for technical assistance relating to a

water quality management plan or other conservation plan if the assistance is to be provided:

(1) under this code; and
(2) on private land that:
    (A) is part of a conservation plan or water quality management plan developed cooperatively with the state board or conservation district; or
    (B) is the subject of a report prepared by the state board or conservation district.

[1] The "State Board" is defined as the State Soil and Water Conservation Board. Agric. Code §201.002(7).
[2] A "conservation district" is defined as a soil and water conservation district. Agric. Code §201.002(1).

However, it must be noted that even with this exemption in the law, each request for a water quality management plan or other conservation plan must be submitted to the Open Records Division in the Attorney General's Office for a determination of the records at issue. All such requests should be coordinated with the State Board.

Districts are encouraged to contact the State Board for assistance with Open Records Requests. Missing deadlines in the law, mistakes in submitting a request for a determination, and citing the incorrect statutes as to why information should be withheld can result in the information automatically being ruled as public and must be released.

Display Open Records Poster

All governmental bodies are required to display an official open records poster in one or more places in the administrative office of the government body. The sign must be no smaller than 8 ½" x 14". This form can be found on the Texas Attorney General's website at https://www.texasattorneygeneral.gov/open/pia/piasign.pdf

Violations of the Open Records Act

If a governmental body refuses to request an Attorney General decision or fails to release documents after the Attorney General renders a decision finding the documents to be public, the requestor or the Attorney General of Texas may file suit for a writ of mandamus compelling the governmental body to make information public. The Act also authorizes governmental bodies and other entities to file suit under certain conditions in order to challenge an Attorney General decision.

Members of a governmental body are subject to criminal penalties in the following situations:

- willful destruction, mutilation, removal or alteration of a public document;
- distribution of information confidential under the Act;
- failure or refusal to provide access or copies of public information.

The Office of the Attorney General publishes an Open Records Handbook and an Open Meetings Handbook. For copies of those publications, or for a complete listing of publications available, write to:

Office of the Attorney General
Research and Legal Support Division
PO Box 12548
Austin, Texas 78711-2548

You may also access the Office of the Attorney General online at http://www.oag.texas.gov

Example Posting for an Open Meeting

EXAMPLE AGENDA
Temple Soil & Water Conservation District
PO Box 658
Temple, TX 76503
800.792.3485
Notice of a Regular Board of Directors Meeting
Pursuant to section 551.041 of the Texas Open Meetings Act, notice is hereby given that:
The Temple Soil & Water Conservation District will meet at **9:00 A.M**. on **Thursday, July 18, 2019**, at the **USDA Service Center located at 1700 North Street, Temple, Texas, 76501.**
The following items will be discussed or acted upon:

AGENDA

1. Call meeting to order and establish a quorum
2. Prayer and Pledge of Allegiance (Optional)
3. Public Comment
4. Approval of minutes of Previous meeting
5. Review and Approve Financial Report
6. Review Correspondence
7. Old Business (Optional-can include as regular agenda items)
   a. Take action on planning for Zone 2 Director election
   b. Discuss Status of Open Meeting Act Training for All Directors
   c. Update on status of Technology upgrade
8. New Business
   a. Consider/take action on requests for dues:
      - NACD
      - ATSWCD
      - Chamber of Commerce
   b. Consider/take action on requests for sponsorships &donations
   c. Review and possible approval of WQMP related items
   d. Approval of Matching Funds Request
   e. Approval of Reimbursement Requests
   f. Personnel-employee annual review
   g. Approval of Conservation Plans & Cooperator Agreements
9. Agency Representative Reports of Monthly Activities
10. Approval of Bills and Disbursements
11. Adjourn

The *"XX"* SWCD may convene in executive session on any of the above items in accordance with Subchapter D, Sections 551.071-551.076 of the Texas Open Meetings Act.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for those who are deaf or hearing impaired, readers, large print or Braille, are requested to contact the district two working days prior to the meeting so that appropriate arrangements can be made.

Chairperson's Script for Board Meetings

Roll call of the board members present to determine whether a quorum is present.

Call to order the meeting of the _____ SWCD.

Approval of minutes of the last meeting

- Minutes are circulated or distributed to members.
    - "Do I hear a motion that the minutes be approved?"
    - "Is there a second?"
    - "Is there any discussion?"
- Changes or clarification to the minutes requested.
    - "All those in favor say, 'Aye'; all opposed say, 'No.'"
- Motion is approved or fails.

Reports

- Reports from committees, such as education committee, soil and water stewardship committee or legislative committee
- Reports from district staff or other board members, such as district manager's report, board chairman's report

Action items

Any general item for which the board's consideration and action is indicated, such as approving a district's long range plan, budget request, or response to an Auditor's reports.

Consideration of any proposed conservation plans or amendments

Set next board meeting and adjourn.

Script for Conducting an Executive Session

Convene in open session

"We will convene an executive session pursuant to the Open Meetings Act and the executive session will include:

1. Discussion of (Name of Lawsuit) pursuant to Tex. Gov't Code, §551.071(1)(A), regarding pending litigation.
2. Seed legal advice regarding (subject), pursuant to Tex. Gov't. Code, §551.071(2).
3. Discussion of issues regarding (appointment, employment, evaluation, reassignment, duties, discipline, or dismissal) of (personnel or specific personnel), pursuant to Tex. Gov't. Code, §551.074(a).
4. Any other authorized reason to go into executive session."

Prior to going into executive session announce the time and day.

"It is now (time) on the (day) of (month), (year)."

Once convened in executive session, announce the time and day.

"It is now (time) on the (day) of (month), (year)."

At the end of the executive session, prior to reconvening the open meeting, announce the time and day.

"The executive session is concluded, and it is now (time) on the (day) of (month), (year)."

Return to open session

"It is now (time) on the (day) of (month), (year) and we are back in open session."

(If you wish to take a short break, announce you are back in open session and that you will be taking a short break and time you will re-convene).

Further discussion and action on items discussed in executive session.

No action, decision or vote with regard to the items covered in closed session is made until after the open session is reconvened at the conclusion of the closed session.

Example Response to Request for Public Information: *Asking for Clarification*

(Date)

(Requestor)
(Address)

Dear (Requestor):

This letter is in response to your open records request received by _____ SWCD, dated _____.

(**IF APPROPRIATE**: It is unclear from your request what specific documents, if any, you are requesting.)

(**IF APPROPRIATE**: Additionally, your request appears to be a request for answers to legal or fact questions, rather than a request for specific information or documents. The Texas Open Records Act does not require a governmental body to perform legal research for a requestor or to answer general questions. Open Records Decision No. 563 (1990).)

If you are able to clarify or specifically state the documents or information that you are seeking, we will attempt to respond to your request in accordance with the Open Records Act. If you have any questions or wish to discuss this matter further, you may contact me at (phone number).

Sincerely,

_____
(Name)
SWCD Open Records Public Officer

Response to Request for Public Information: *No Documents Found*

(Date)

(Requestor)
(Address)

Dear (Requestor)

This letter is in response to your open records request to _____ SWCD, in which you request:

(List)

The _____ SWCD has reviewed its files and has found no documents responsive to your request.

If you have any further questions or wish to discuss this matter further, you may contact me at (phone number).

Sincerely,

_____
(Name)
SWCD Open Records Public Office

Response to Request for Public Information: *Claiming Exceptions*

(Date)

(Requestor)
(Address)

Dear (Requestor)

This letter is in response to your open records request received by _____ SWCD in which you request:

(List)

In addition to the public documents that are being made available, the _____ SWCD believes that certain documents responsive to your request are excepted from disclosure under the Open Records Act. We have requested an Open Records Decision from the Open Records Division of the Office of the Attorney General on the status of these documents and will notify you when an opinion is issued. A copy of the _____ SWCD's request for an opinion is enclosed.

If you have any questions or wish to discuss this matter further, you may contact me at (phone number)

Sincerely,

_____
(Name)
SWCD Open Records Public Officer

Response to Request for Public Information: *Making Documents Available*

(Date)

(Requestor)
(Address)

Dear (Requestor)

This letter is in response to your open records request to _____ SWCD in which you request:

(List)

The _____ SWCD has reviewed its files and has located documents that are responsive to your request. You may review these documents at the _____ SWCD in (City), Texas or I will provide you with duplicates. There are (number) pages contained in the documents you have requested. The cost for copying these documents is 10¢ for standard size pages, based on the current General Services Commission Guidelines of Governmental Body's Rules. The total amount for copies is (dollar amount). Please forward your check to my attention for this amount made payable to _____ SWCD should you desire copies be provided to you.

If you have any further questions or wish to discuss this matter further, you may contact me at (phone number).

Sincerely

_____
(Name)
SWCD Open Records Public Officer

Response to Request for Public Information: *No Charge for Copies*

(Date)

(Requestor)
(Address)

Dear (Requestor):

This letter is in response to your open records request to _____ SWCD in which you request:

(List)

The _____ SWCD has reviewed its files and has located documents that are responsive to your request. Although the Open Records Act allows a governmental body to charge for copying document, in accordance with Tex. Gov't. Code §552.267, the enclosed copies of documents are being provided to you at no charge.

If you have any further questions or wish to discuss this matter further, you may contact me at (phone number).

Sincerely,

_____
(Name)
SWCD Open Records Public Officer

Sample Posting of Agenda Item to Discuss Legal Matters in an Executive Session

Agenda

1. Call to order and roll call.

2. (Any prior agenda items)

3. Executive session to meet with attorney to seek legal advice regarding pending or contemplated litigation or a settlement offer in (Cause No. 12-3456, in the 78th Judicial District Court of Travis County, Texas pursuant to Tex. Gov't. Code §551.071(1)).

4. Return to open session for further discussion and possible action involving pending or contemplated litigation or a settlement offer in (Cause No. 12-3456, in the 78th Judicial District Court of Travis County, Texas).

5. (Any further agenda items)

Legal Issues for District Directors and District Employees

Misuse of Government property

State law prohibits public officials and public employees from using government property for personnel purposes. It is still illegal even if the district is fully reimbursed for the use of the property. It would be an exception if the property or equipment is rented for public use and the director or employee signed up and took their proper turn in renting the property or equipment. It must be kept in mind that the district is there to serve landowners and land users and they should be treated fairly and given a fair opportunity to rent property or equipment.

State law also prohibits public officials the use of public employees to perform private work for them during work hours. Work may be performed on an employee's own time without the use of any public resources.

Violations range from a Class C Misdemeanor to first degree felony, depending on the value of the misused property and or the wages of an employee doing personnel work on government time

Records Retention

Guidelines established by the Texas State Library as to what soil and water conservation district records should be retained can be found on the Texas State Library and Archives Commission website www.tsl.texas.gov.

Look under:

For Government
Retention Schedules
Local Retention Schedules
GR: Records Common to All Local Governments
PW: Records of Public Works and Other Government Services

Chapter 201, Local Government Code

Local Government Records Act Requires:

1. Each district to adopt a Records Management Program and file it with the Texas State Library.

2. Each district to designate a Records Management Officer (RMO).

3. Each district to either
   a. establish and file with the State Library, a records control schedule that sets retention periods for district records (form in appendix) or
   b. file a declaration that the district has adopted records control schedules in compliance with those issued by the State Library and Archives Commission.

For information contact:

Texas State Library and Archives Commission
State Records Center - Austin
4400 Shoal Creek Blvd
Austin, Texas 78756
512-421-7200

SWCD Email

Email is an essential part of any organization's online presence and its importance is only increasing. It is essential that SWCD employees actively manage their district's email account to respond to communication from the public and other organizations. The TSSWCB regularly communicates to SWCDs through email.

Addresses for Texas SWCDs are posted on the SWCD web pages available from the TSSWCB's SWCD Locator Map at http://www.tsswcb.texas.gov/swcds/locatormap.

Google Apps Email Accounts - New and Future Accounts
Starting in 2014, the TSSWCB offers SWCDs the ability to sign up for an account with Google Apps for Work. These accounts are available at no cost to districts and offer an email account with generous storage, secure file storage and other features.

SWCDs that have not already signed up for an account are encouraged to do so. To learn more about this program visit the TSSWCB website at http://www.tsswcb.texas.gov/swcds/resources/swcd-it-assistance.

Google Apps Addresses
Google Apps email addresses use the following naming convention:
name of the SWCD *[without spaces or hyphens]* + @ + swcd.texas.gov

Example address:
Hall-Childress SWCD -> hallchildress@swcd.texas.gov

NACD Email Accounts for SWCDs - Historical Accounts
For well over 10 years, SWCDs have been provided with an email address through the National Association of Conservation Districts (NACD), paid for by the Association of Texas Soil and Water Conservation Districts.

These addresses will be maintained for the foreseeable future because of their historical use, but they offer a very limited amount of local storage and most of them are forwarded to other accounts (such as Google Apps).

NACD Addresses
NACD email accounts use the following naming convention:
name of the SWCD *[without spaces or hyphens]* + swcd + @ + tx.nacdnet.org

Example address:
Hall-Childress SWCD -> hallchildressswcd@tx.nacdnet.org

NACD, Google Apps, and NRCS Email Accounts
While Google Apps addresses are easily recognizable, NACD's email addresses for districts are very similar to the addresses NRCS provides to SWCD employees working in its field offices. It is important to note the differences in these accounts, some of which are noted below.

Google Apps Accounts	NACD Accounts	NRCS Accounts
swcd.texas.gov	tx.nacdnet.org	tx.nacdnet.net
SWCD generic accounts with more storage, features	SWCD generic accounts with limited storage, features	SWCD employee personal accounts
Tech support by TSSWCB	Tech support by TSSWCB	Tech support by NRCS

Using SWCD Email Accounts
SWCD employees are encouraged to use a Google Apps account for managing district email. The NACD email accounts should typically be forwarded to the Google Apps account to prevent missing mail sent to the older address.

It is also possible to have multiple forwarding rules from any SWCD account. This is useful where multiple directors and/or employees wish to receive copies of the district's mail.

Google Apps
SWCDs with a Google Apps account can sign in at http://mail.swcd.texas.gov or the regular Gmail login page at http://www.gmail.com.

To help learn about using Google Apps for email, file storage and other office functions, SWCD employees should visit the Google Apps Learning Center at http://learn.googleapps.com.

TSSWCB Technical Support
For technical support related to SWCD email accounts, contact:

Clay Wright
Network Specialist
e: cwright@tsswcb.texas.gov
p: (254) 947-8547

Cellular Data Service

Assistance for district Cellular Data Service will be on a reimbursement basis only. Requests for reimbursement can be made quarterly using the form found and downloaded from the SWCD resources page.

If your district does not currently have Cellular Data Service, a request can be made by submitting an email to claims@tsswcb.texas.gov stating that your district would like to set up Cellular Data Service. The request will be given to the district field representative for approval. Once approval is received, the district will receive a confirmation email and then the district can proceed to set up Cellular Data Service

For Reimbursements complete the form as follows:

1. Fill in your district name, district number, field representative and date cellular data service originally began.

2. Indicate which quarter you are requesting reimbursement.

3. Fill in the three months you are requesting to have reimbursed.

   This needs to be the actual monthly expense for your Cellular Data Service. If you spend less than $37.50 monthly, you will be reimbursed the actual amount spent. If you spend more than $37.50 you will be reimbursed up to $37.50 monthly for a maximum of $112.50 quarterly.

4. Have the form signed and dated.

5. Attached the corresponding monthly Cellular Data Service billing and mail the form to TSSWCB or email it to claims@tsswcb.texas.gov

Example Job Ads

Part-Time Technician

The *"XX"* Soil and Water Conservation District has an immediate opening for a Part-time Technician. This position will provide technical support for the district. Proficient in Microsoft Windows and Microsoft Office. Ability to coordinate events is necessary.

Qualified applicants should submit a resume or application to:
The *"XX"* Soil and Water Conservation District
100 Main Street
Small Town, TX 70000

The *"XX"* Soil and Water Conservation District is an equal opportunity employer and does not discriminate against job applicants or employees on the basis of race, color, national origin, sex, religion, age, or disability. In compliance with the Americans with Disabilities Act (ADA), if you require reasonable accommodation in the interview and selection process, please contact the district.

Clerk/Bookkeeper

The *"XX"* Soil & Water Conservation District has an immediate opening for a Clerk/Bookkeeper. The incumbent will provide administrative support for the district. Proficient in Microsoft Windows, Microsoft Office, Quicken, or QuickBooks is required.

Qualified applicants should submit a resume or application to:
The *"XX"* Soil and Water Conservation District
100 Main Street
Small Town, TX 70000

The *"XX"* Soil & Water Conservation District is an equal opportunity employer and does not discriminate against job applicants or employees on the basis of race, color, national origin, sex, religion, age, or disability. In compliance with the Americans with Disabilities Act (ADA), if you require reasonable accommodation in the interview and selection process, please contact the district.

Example Job Descriptions

Example Clerk/Bookkeeper Job Description

HEADQUARTERS LOCATION:

JOB DESCRIPTION:

_____ SOIL & WATER CONSERVATION DISTRICT

TITLE: District Clerk/Bookkeeper/Part Time

INTRODUCTION:

The primary purpose of this part time position is to provide clerical, bookkeeping and secretarial duties for the _____ Soil and Water Conservation District (DISTRICT). This position is governed by the policies established by the DISTRICT and by the fiscal operations guidelines of the Texas State Soil and Water Conservation Board (TSSWCB).

DUTIES AND ACCOMPLISHMENTS:

1. Attends monthly, special meetings and other functions of the DISTRICT board as directed.
2. Records accurate notes of business discussed and transacted during board meetings and prepares formal minutes of proceedings to be received by each director prior to the following month's meeting.
3. Maintains accurate records and files of all DISTRICT financial activities and other business as appropriate.
4. Prepares checks on both State Fund and Trust Fund accounts and reconciles bank statements and account balances.
5. Maintains records of other accounts, such as certificates of deposits, etc.
6. Prepares all reports and forms required by TSSWCB or Natural Resources Conservation Services (NRCS), as requested by the District.
7. Reports to DISTRICT board the status of all accounts and of any other business requiring attention.
8. Prepares and files with TSSWCB an annual financial report for the Fiscal Year September 1 through August 31. (unless Biennium audit is required by the District)
9. Performs other duties as assigned.

SUPERVISION: This position is directly responsible to the Board of Directors of the DISTRICT and is subject to direct guidance and assistance provided by a designated representative.

PERFORMANCE REVIEW: Your performance of each duty in this position will be evaluated against requirements developed for the position. A review will be completed by the personnel committee of the DISTRICT board after 6 months of employment, then on an annual basis during the month of August and will be discussed with you. Your performance rating is an overall evaluation of your performance.

The _____ Soil and Water Conservation Board is an equal opportunity employer and does not discriminate against job applicants or employees on the basis of race, color, national origin, sex, religion, age, or disability.

Example District Technician Job Description

HEADQUARTERS LOCATION:

JOB DESCRIPTION:

_____ SOIL & WATER CONSERVATION DISTRICT

TITLE: District Technician/Part Time

INTRODUCTION:

The primary purpose of this part time position is to provide technical assistance to agriculture producers as detailed by the technical assistance funding from the Texas State Soil and Water Conservation Board (TSSWCB) and the Natural Resource Conservation Service (Service). This position is governed by the policies established by the _____ Soil and Water Conservation District (DISTRICT) and related guidelines of the TSSWCB

DUTIES AND ACCOMPLISHMENTS:

1. Provides technical and engineering assistance to producers in the district.

2. Assists with report preparation and conservation plan development.

3. Maintains contact with DISTRICT producers.

4. Coordinates the DISTRICT equipment rental, tree programs, etc.

5. Maintains a conservation liaison with schools and churches as requested.

6. Performs other duties as may be determined by the DISTRICT board.

7. Cooperates fully with any guidance, assistance, and activity that may be provided by the Resource Conservationist of the Natural Resources Conservation Service.

8. Performs other duties as assigned.

SUPERVISION: This position is directly responsible to the Board of Directors of the DISTRICT.

PERFORMANCE REVIEW: Your performance of each duty in this position will be evaluated against requirements developed for the position. A review will be completed by the personnel committee of the DISTRICT board after 6 months of employment, then on an annual basis during the month of August and will be discussed with you. Your performance rating is an overall evaluation of your performance.

The _____ Soil and Water Conservation Board is an equal opportunity employer and does not discriminate against job applicants or employees on the basis of race, color, national origin, sex, religion, age, or disability.