

Legal Compliance & Audit Issues

Office of the State Auditor
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MAWD Annual Meeting
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Audit Requirements

- 2008 legislation includes watershed districts as “special district” (Minn. Stat. § 6.456, subd. 3)
- File with OSA:
 - Governance documents (includes bylaws) within 60 days of adoption
 - Financial statements & audits within 180 days after end of fiscal year
- Annual audit required under Minn. Stat. § 103D.355, subd. 1.

Legal Compliance Guide

- OSA prepares
- Sets minimum guidelines for auditors to verify during audit
- Available on OSA's website

Legal Compliance Guide

- Depositories of Public Funds & Public Investments
- Conflicts of Interest
- Public Indebtedness
- Contracting – Bid Laws
- Claims & Disbursements
- Miscellaneous Provisions

Top Audit Comments for Watershed Districts

- Collateralization
- Lack of Written Internal Control & Accounting Procedures
- Segregation of Duties
- Credit Card – Lack Itemization of Claims
- Delay in Depositing Receipts

Collateralization of Deposits

- OSA's Statement of Position 2007-1012
- All public deposits must be protected by deposit insurance, bond or pledged collateral so that if the bank fails the public funds on deposit will be protected

Meeting Minutes

“The managers must keep efficient records of all proceedings, minutes, certificates, contracts, bonds of the board’s employees, and all other business transacted or action taken by the managers. The records must be open to inspection by the property owners within the watershed district and all other interested parties at all reasonable times.” Minn. Stat. § 103D.315, subd. 5.

See also Minn. Stat. §§ 15.17 (record retention & destruction), 13D.01 (Open Meeting Law), and Chapter 13 (MN Gov’t Data Practices Act)

Meeting Minutes - Minimum

- ✓ Motions: subject, who made & seconded motion, roll call vote, defeated or adopted
- ✓ Votes of managers on any action other than payments fixed by statute

Meeting Minutes - Recommended

- ✓ Type of meeting (regular, special, emergency, public hearing, etc.)
- ✓ Who is meeting (e.g., Board or committee)
- ✓ Date/place of meeting
- ✓ Time meeting called to order; time ended
- ✓ Approval of prior minutes (noting corrections)
- ✓ To whom any contracts are awarded
- ✓ Any abstentions in voting due to conflict of interest
- ✓ Reasons for any contract award to other than lowest bidder

Meeting Minutes - Recommended

- ✓ Granting of permits or variances
- ✓ Hourly rates approved for services provided, mileage rates, meal reimbursements amounts, per diem amounts
- ✓ All bills (including per diems) allowed or approved for payment
 - Amount
 - Recipient
 - Purpose

Meeting Minutes - Recommended

- ✓ List of any approved fund transfers
- ✓ Appointments to committees or outside organizations
- ✓ Officer reports
- ✓ Investment decisions
- ✓ Signed by author; signed & dated by designated manager once approved by Board (at next meeting)

See OSA Statement of Position 2007-1024

Per Diem Payments

- OSA Statement of Position 2007-1021 (County Commissioner Per Diem Payments)
- Manager compensation for meetings & performance of other necessary duties may not exceed \$75 per day (Minn. Stat. § 103D.315, subd. 8)
- An appraiser may be paid on a per diem basis for each day the appraiser is necessarily engaged in the performance of duties
- No per diem payments authorized for advisors – only expense reimbursements

Per Diem Payments

- Decide what is “necessary” in advance
- No payments for attendance at parties, county fairs, festivals, parades, or other social events
- No payments for meetings with groups unless
 - Authorized in minutes
 - Subsequent report of meeting

Travel Policies

- Adopt a travel policy
 - Minn. Stat. § 471.661 requires out-of-state travel policy
 - See OSA Statement of Position 2007-1020
- Determine in advance
 - What travel & what expenses are “necessary”?
 - What expenses are reimbursable?
 - What expenses are prohibited?
 - Who is authorized to approve travel expenses?
 - What supporting documentation is needed?

Travel Policies

- Adopt mileage rate (record in minutes)
- Have travel claim form signed by claimant and supervisor
- Require documentation of:
 - Method of mileage determination
 - Date, time and purpose of travel

Timesheets

- OSA Statement of Position 2007-1004
- Positive reporting system
- Two attestations of hours worked (employee & supervisor)
- Affirmation of carry-forward amounts (sick & vacation)
- Hold-back period

Publicly Owned Vehicles

- May only be used for authorized watershed business
- Personal use allowed only if “clearly incidental”
- Can’t be used for transportation to or from employee’s residence except in limited circumstances
- Minn. Stat. § 471.666

Publicly Owned Vehicles

- Fuel purchases – need internal controls
- Maintain log for each fuel purchase:
 - Who is making fuel purchase
 - Type & amount of fuel purchases
 - Vehicle being fueled & odometer reading
 - Date, time & location of purchase
- Require original, detailed receipts
- Monthly review – calculate fuel consumption

Public Purpose Expenditures

- No donations to people, non-profits, charities, etc., unless specific statutory authority
- Meals during meetings only if necessary
- No alcohol purchases
- No payment for spouse expenses
- No payments for employee social events or gifts
- See OSA Statement of Position 2007-1017

Conflict of Interest

- General Rule: Officer authorized to take part in making any sale, lease, or contract shall not voluntarily have a personal financial interest in that sale, lease, or contract, or personally benefit financially the transaction. Minn. Stat. § 471.87
- Gross misdemeanor penalties

Conflict of Interest

- Exceptions contained in Minn. Stat. § 471.88 allow contracts for goods or services with an interested officer in certain situations
- Decision must be by unanimous vote
- Common exception is contract for which competitive bids are not required by law (Minn. Stat. § 471.88, subd. 5)

Conflict of Interest

To use Minn. Stat. § 471.88, subd. 5 exception:

- Authorize contract in advance of performance in a resolution setting out essential facts and determining that the contract price is as low as, or lower than, the price at which the commodity or services could be obtained elsewhere.
- Before claim is paid, interested officer must file an affidavit stating:
 - Name of officer, office held, and officer's interest in the contract
 - Itemization of commodity or services furnished
 - The contract price and the reasonable value
 - The officer's belief that the price is as low as, or lower than, the price at which the commodity or service could be obtained from other sources
- Minn. Stat. § 471.89

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- Statements of Position
- Investigative Reports
- Internal Control Letters
- E-Updates (Avoiding Pitfalls)
- 609.456 Reporting Forms
- And More . . .