

Board Responsibilities



NMED Drinking Water Bureau

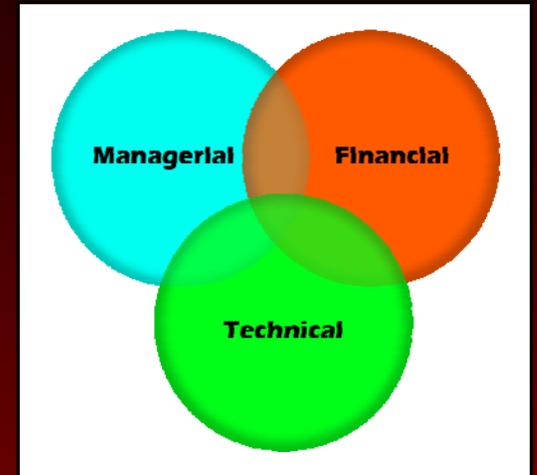
2 SPA Training Credits

Prime Directive

To effectively and efficiently deliver an adequate supply of safe drinking water to your customers in the present and in the future while meeting all state and federal laws and regulations

System Capacity

Capacity is the ability to meet the requirements of all applicable laws and regulations at present and in the future. It is broken into three categories:



- **Financial:** Having adequate financial resources, management and planning to maintain compliance with applicable laws and regulations
- **Managerial:** Having the organization and structure to conduct affairs to maintain compliance with applicable laws and regulations
- **Technical:** Having the physical and operational capability to maintain compliance with applicable laws and regulations

Conducting Business

Your water system is a business:

- You take in revenue
- You have expenses
- You deliver a product to customers
- You have agreements with customers
- You must comply with numerous requirements

Therefore, you need to run it like a business!

Primary Board Responsibilities

1. Comply with state and federal laws and regulations
2. Conduct business effectively in accordance with bylaws and rules
3. Record keeping and reporting
4. Ensure proper operation and maintenance
5. Proper budgeting and accounting
6. Planning for future needs and emergencies

Primary Board Responsibilities

Board members must also:

- Work as a team
- Know their Bylaws and Rules
- Know their duties, responsibilities and authority
- Understand the system and its needs
- Attend meetings

Questions

1. Which of the primary board responsibilities is most important?
2. Which category of capacity do each of the primary responsibilities fall into?

Complying with Laws & Regs

- Federal Safe Drinking Water Act (SDWA)
- NM Drinking Water Regulations
- Utility Operators Certification Act
- Water Conservation Fee
- Open Meetings Act (public)
- Inspection of Public Records Act (public)
- Water Rights Regulations
- State Audit Act (public)
- Tax Code
- Procurement Code (public)

Complying with Laws & Regs

- Mutual Domestic Water Consumers Association (MDWCA) – subject to Sanitary Projects Act (SPA), enforced by NMED
- Water & Sanitation District – Subject to Water and Sanitation District Act, limited enforcement by PRC
- COOPs – Subject to Cooperative Association Act, limited enforcement by the PRC
- Municipalities – Subject to the Municipal Code

Complying with Laws & Regs

- Private Associations – Subject only to member's agreement
- Private For-Profit Systems – Corporations regulated under the Public Utility Act by the Public Regulatory Commission (PRC)

Question

Which agency enforces the following?

- SDWA
- Utility Operator Certification Act
- Open Meetings Act
- Water Rights Regulations
- State Audit Act

Bylaws

- Bylaws are voted on by members. They should contain:
 - Structure of the board and duties of officers
 - Frequency of board meetings and elections
 - Provisions for special and emergency meetings
 - Requirements for notice of board meetings and elections
 - Provisions for removal of board members
 - Guidelines for new membership including a non-discrimination clause
 - Benefits and requirements of membership
 - Other items as required by governing state laws and regulations

Rules

- Rules address the details of running the system. Rules are voted on by the board. The system should have rules for:
 - Connection, disconnection and reconnection
 - Code of conduct of staff including the board
 - Delinquent payment
 - Inspection and right of access
 - Use restrictions
 - Customer restrictions

Board Meetings

To have effective board meetings:

- They should be held in accordance with bylaws.
- Prepare a written agenda well in advance of the meeting and ensure board members are prepared for the agenda items.
- Ensure attendance by board members and other necessary participants such as the operator.
- All customers should be notified no less than 10 days in advance of a regular meeting, 3 days in advance of a special meeting and 24 hours in advance of an emergency meeting, if possible.

Board Meetings

- The agenda for a regular or special meeting should be made available to customers at least 24 hours in advance.
- Start meetings on time and stick to the agenda.
- Follow parliamentary procedure such as Robert's Rules of Order.
- Don't be afraid to make decisions.
- Always include a technical report by the operator and financial reporting by the treasurer or bookkeeper.
- Make sure good minutes are taken and prepared.
- Use closed sessions in accordance with OMA.

Elections

- There should be an odd number of board members to prevent tie votes (required in SPA).
- Terms should be staggered.
- Term should be 2 – 4 years.
- Adhere to election scheduling and procedures spelled out in bylaws.
- Send out a notice of election with a solicitation for candidates to all customers well in advance of the election.
- Should only allow one vote per member

Record Keeping

- Records belong to the water system, not to any individual.
- Records should be kept in an orderly manner and, if possible, in a neutral and secure location.
- Limit direct access to files, but make non-sensitive records available upon request following the Inspection of Public Records Act.

Record Keeping

Records to maintain:

- SDWA has record keeping requirements that must be followed, including lab results, sanitary surveys, waivers, Consumer Confidence Reports.
- Financial records.
- All maintenance records (including logs).
- All required reports to NMED, EPA or PRC.
- Accurate membership and usage records.

Operation & Maintenance

- All public water systems are required to be operated by a certified operator under both state and federal law.
- Operators do the following:
 - Perform day-to-day tasks to ensure proper performance of system
 - Ensure maintenance is performed on schedule to prevent failure and maximize life of equipment
 - Respond to equipment failures and emergencies
 - Understand regulatory requirements and keep system in compliance
 - Keep board informed on system condition and needs
 - Update system maps

Operation & Maintenance

- If you hire a certified operator, make sure you have a contract that describes:
 - All routine tasks and maintenance
 - Requirements for emergency response
 - Requirements for board meeting attendance and reporting
 - Minimum amount of time spent at the system
- DWB maintains a list of operators available for hire.

Operation & Maintenance

All systems should have a preventive maintenance plan with a schedule, to include:

- Tank inspections and repair
- Hydrant and valve exercising
- Flushing distribution system
- Meter calibration and cleaning
- Inspecting, calibrating and overhauling chemical feed pumps
- Maintaining other equipment according to manufacturer's recommendations.

Financial Management

Maintaining financial capacity requires the following of water systems:

1. Proper record keeping
2. Long-term planning.
3. Proper budgeting
4. Ensuring adequate revenue to cover all system expenses and sufficient funding of reserve funds.
5. Proper fiscal management and internal controls.

Financial Management

1. Water systems should have a computerized billing/accounting system to:
 - Maintain accurate customer information
 - Store meter readings
 - Calculate and print monthly bills based on meter readings
 - Maintain account balance and history
 - Store all revenue and expense data
 - Generate reports (e.g. account history, water usage, financial statements)

Financial Management

2. Long-term planning:

- Determine your system's capital improvement needs and timeframes.
- Create a 5-year plan. This should be revised each year. It should include:
 - Projections of each revenue and expense category
 - Beginning and ending cash balance for each year
- Develop an asset management plan.

Financial Management

- Create goals for reserve accounts:
 - Emergency reserve fund
 - Operating reserve fund
 - Capital improvement reserve fund
 - Debt reserve fund (as required)

Financial Management

3. Water systems must prepare an annual budget:

- Your budget is your financial plan for the year
- A budget is a projection of both revenue and expenditures
- A budget can be prepared by the board and/or management/financial staff
- A budget is only as good as the information used to construct it!
- Budget should be approved by the board

Financial Management

- Determine how much to fund reserve accounts each year and include as expenses in the budget.
- Don't be tempted to underfund reserve accounts as a way to lower expenses

Financial Management

4. Use the budget process to ensure adequate revenue for the year:

- If expenses $>$ revenue, you must either lower expenses and/or raise revenue.
- Ways to raise revenue and lower expenses:
 - Collect on overdue accounts
 - Deal with leaks
 - Make sure cash and reserve accounts are earning interest
 - Raise rates
- Rates must fully cover the cost of doing business and fund reserve accounts.

Financial Management

5. Proper fiscal management and internal controls.

- The board should review financial reports at each monthly meeting, to include at least the following:
 - Balance sheet (assets, liabilities and equity)
 - Budget comparison (actual vs. projected)
 - Late and outstanding balances

Financial Management

- Internal controls are essential to ensure assets are protected, accounting data is accurate and laws are complied with.
- Internal control elements include:
 - Up-to-date record keeping
 - Separation of duties
 - System of checks and balances
 - Account controls
 - Cash receipts
 - Annual audits
- Consider hiring an accountant to set up a control program.

Emergency Planning

- Water systems should plan for emergencies before they happen.
- There are many types of emergencies that could disrupt the delivery of safe water
 - Loss of source due to:
 - Drought
 - Flood
 - Contamination
 - Pump failure
 - Infrastructure failure
 - Sabotage (real or suspected)
 - Loss of power

Emergency Planning

- The federal Bioterrorism Act of 2002 requires CWS serving $> 3,300$ to perform a Vulnerability Assessment (VA) and complete an Emergency Response Plan (ERP).
- Systems serving $\leq 3,300$ are not required to do a VA and ERP, but are strongly encouraged to.

Emergency Planning

Vulnerability Assessment

1. Identify the system components including vulnerable sites and customers (e.g. hospitals, fire stations) and single points of system failure.
2. Identify threats to each component of the system.
3. Identify possible consequences of various threats to each system component.

Emergency Planning

4. Assess the likelihood of each threat.
5. Evaluate the effectiveness of existing measures to address threats and consequences.
6. Review short-term and long-term measures to address vulnerabilities to prevent emergencies.

Emergency Planning

- Once a VA is completed, an Emergency Response Plan (ERP) can be created.
- An ERP is a written document that lays out detailed responses to the threats identified in the VA, should they occur.

Emergency Planning

Insurance is strongly recommended for all water systems:

- General Liability Insurance – covers legally negligent conduct, e.g. slip and fall, property damage)
- Professional Liability Insurance (aka Errors and Omissions Insurance) – covers board members
- Bond Insurance – covers money and property loss as a result of dishonest acts by employees.
- Property Insurance
- Auto Insurance
- Workers Comp

Funding

Sooner or later, all water systems will have infrastructure needs that require funding. The main sources of funding are:

- Legislative special appropriation (grant)
- Drinking Water Revolving Loan Fund (loan through NMED/NMFA)
- Rural Infrastructure Program (loan through CPB)
- USDA Rural Development (loan/grant)
- Water Trust Board (loan/grant)
- Community Development Block Grant (through Department of Finance and Administration)
- Public Project Revolving Fund (loan through NMFA)

Funding

Because grant funding is becoming more scarce, systems should prepare themselves for future infrastructure needs by doing the following:

- Develop an asset management plan
- Adequately fund a capital improvement reserve account each month
- Ensure that your system has adequate capacity to take on a loan
- Make customers aware of the systems future infrastructure needs and prepare them for future rate increases.

Funding

The Uniform Funding Application (UFA) was created by Executive Order in 2007. It does the following:

- Provides for an internet site to submit funding requests: http://ufa.nmenv.state.nm.us/application_open.php
- Provides for coordination between all funders to determine the best funding package for a project
- Provides staff in NMED/CPB to assist water and wastewater systems with obtaining funding

For More Info

- Contact
 - Rob Pine, (505) 476-8642
 - Ron Romero, (505) 476-8643
 - Shannon Quintana, (505) 476-8676
 - Glenn Deguzman, (505) 476-8628
 - Andy Edmondson, (505) 476-8631
- View DWB web site:
www.nmenv.state.nm.us/DWB
- View Drinking Water Watch
<http://eidea.nmenv.state.nm.us/SDWIS/>