

**NATURAL RESOURCE CONSERVATION AND  
DEVELOPMENT BOARD**



**DISTRICT OPERATIONS MANUAL**  
for  
**SOIL & WATER CONSERVATION DISTRICTS**

**Adopted, October 16, 2004**  
**AACD**

**Adopted, April 6, 2006**  
**NRCDB**

A handwritten signature in blue ink, which appears to read "Michael L. Menge".

---

**Michael L. Menge, Commissioner**  
**Alaska Department of Natural Resources**  
*April 6, 2006*

**NATURAL RESOURCE CONSERVATION AND  
DEVELOPMENT BOARD**

**DISTRICT OPERATIONS MANUAL**

for

**SOIL & WATER CONSERVATION DISTRICTS IN ALASKA**

**DISTRICTS:**

Alaska  
Anchorage  
Fairbanks  
Homer  
Kenai  
Kenny Lake  
Kodiak  
Mid-Yukon Kuskokwim  
Palmer  
Salcha-Delta  
Upper Susitna  
Wasilla

**Adopted, October, 16 2004  
AACD**

**Adopted, April 6, 2006  
NRCDB**

**Approved, April 6, 2006  
Michael Menge, Commissioner  
Department of Natural Resources**

## TABLE OF CONTENTS

Section I.	INTRODUCTION .....	1
1.01	Purpose of the Manual .....	1
1.02	How the Manual was Written .....	1
1.03	Amendments and Updates .....	1
1.04	Disclaimer .....	2
1.05	Definitions.....	2
Section II.	ALASKA SOIL & WATER CONSERVATION DISTRICTS .....	4
2.01	What is a Soil and Water Conservation District? .....	4
2.02	Brief History .....	5
2.03	Number of Districts.....	6
2.04	Creation of New Districts and Changing District Boundaries.....	6
2.05	Changing a District Name.....	9
2.06	Dissolving a District .....	9
Section III.	ORGANIZATION & AFFILIATIONS .....	10
3.01	Natural Resource Conservation and Development Board .....	10
3.02	Natural Resources Conservation Service.....	11
3.03	Alaska Association of Conservation Districts .....	12
3.04	National Association of Conservation Districts.....	13
Section IV.	ALASKA SOIL & WATER CONSERVATION – STATUTES and regulations.....	15
Section V.	DISTRICT BOARDS & SUPERVISORS .....	18
5.01	District Board Duties and Responsibilities .....	18
5.02	Qualifications of a Supervisor .....	18
5.03	Administrative Structure .....	19
5.04	Board Meetings.....	22
5.05	District Supervisor Duties and Responsibilities .....	22
5.06	Becoming a member of a SWCD.....	23
5.07	Annual Elections .....	24
5.08	Compensation and Per Diem .....	27
5.09	Alaska Executive Branch Ethics Act .....	27
5.10	Oath of Office .....	30
Section VI.	EMPLOYMENT PRACTICES .....	31
6.01	Posting Requirements .....	31
6.02	Equal Opportunity.....	31
6.03	Harassment.....	32
6.04	Disability Provision .....	32
6.05	Hiring Practices.....	32
6.06	Employment Classifications .....	33

6.07	Independent Contractors .....	33
6.08	Compensation and Payroll Practices.....	33
6.09	Employee Benefits .....	34
6.10	Employee Standards of Conduct.....	34
6.11	Personnel Files .....	34
6.12	Performance Evaluations .....	34
6.13	Disciplinary Actions and Employee Grievances .....	35
6.14	Employee Separations.....	35
<b>Section VII.</b>	<b>PROGRAM PLANNING &amp; REPORTING.....</b>	<b>36</b>
7.01	Program Planning Concepts.....	36
7.02	Needs Assessments .....	37
7.03	Long-Range Program Plans .....	38
7.04	Annual Work Plans .....	42
7.05	Recommendations for Writing Plans .....	43
7.06	Implementing Plans .....	44
7.07	Monitoring and Evaluating Plans.....	44
7.08	District Reporting Requirements .....	45
7.09	Semi-Annual and Annual Report of Accomplishment .....	46
<b>Section VIII.</b>	<b>DISTRICT FINANCES .....</b>	<b>47</b>
8.01	Fiscal Administration and District Accountability .....	47
8.02	Internal Control.....	47
8.03	Budgets .....	49
8.04	Financial Reports and Records .....	50
8.05	Audit Requirements .....	51
8.06	Sources and Mechanisms for Funding.....	52
8.07	Procurement Procedures .....	53
8.08	Contracts and Agreements .....	58
8.09	Vehicles.....	61
8.10	Property and Equipment .....	63
<b>Section IX.</b>	<b>DISTRICT MEETINGS .....</b>	<b>67</b>
9.01	Meeting Management .....	67
9.02	Supervisor Attendance Requirements.....	68
9.03	Open Meetings Act .....	69
9.04	Types of Meetings / Notice Requirements.....	70
9.05	Executive Sessions.....	71
9.06	Voting Requirements .....	75
9.07	Managing Principal Motions.....	75
9.08	Control of Meetings .....	78
9.09	Meeting Minutes .....	78
9.10	Public Use of Tape Recorders and Cameras.....	79
9.11	Public Records Act .....	79
9.12	Annual Meetings.....	80
<b>Section X.</b>	<b>PUBLIC &amp; PARTNER RELATIONS.....</b>	<b>81</b>

10.01	Developing Effective Public Relations Programs.....	81
10.02	Partner Relations.....	81
10.03	Partnering with Cooperators .....	84
10.04	Partnering with Other Districts .....	84

## APPENDICES

Appendix A	Department Order 147 (May 4, 2004, Amended November 9, 2005)
Appendix B	Memorandum re: Legal Status of Soil and Water Conservation Districts (March 12, 1992)
Appendix C	Department Order 114 (January 25, 1993); reaffirmed in Department Order 003 (September 20, 1999)
Appendix D	Memorandum re: Confirmation of NRCBD by Legislature (January 17, 2006)
Appendix E	Map of Alaska Soil and Water Conservation Districts
Appendix F	Petition to Amend or Form Soil and Water Conservation Districts
Appendix G	Current Alaska Soil and Water Conservation Statutes
Appendix H	Memorandum re: Instructions for SWCD (December 5, 2003)
Appendix I	State of Alaska Volunteer Service Agreement
Appendix J	AACD District Volunteer Agreement
Appendix K	AACD District Volunteer Timesheet
Appendix L	Ethics (Gifts) Disclosure Form
Appendix M	Cooperative Agreement
Appendix N	Call for Nominations and Notice of Elections
Appendix O	Memorandum re: Right of Board Member to bid on contract (February 3, 1992)
Appendix P	Memorandum re: Ethics Issues (March 3, 2004)
Appendix Q	Oath of Office

- Appendix R Annual Work Plan Template
- Appendix S Annual Report of Accomplishment Template
- Appendix T Construction Related Competitive Procedure Forms
- Appendix U Example of a Meeting Agenda
- Appendix V Memorandum re: Soil and Water Conservation Districts and authority to contract directly with federal agencies (February 3, 2004)
- Appendix W DRAFT Records Retention Schedule
- Appendix X District Agreement Form

## **BULLETINS**

## **SECTION I. INTRODUCTION**

### **1.01 PURPOSE OF THE MANUAL**

The purpose of the District Operations Manual (Manual) is to provide statewide consistency in the day-to-day operations of local Soil and Water Conservation Districts (districts) and to demonstrate how districts, the Natural Resource Conservation and Development Board (NRCDB) and Alaska Association of Conservation Districts (AACD) work collaboratively to achieve soil and water conservation goals throughout the state. (See Appendix A, Department Order 147.)

While it is imperative that districts maintain full independence with regard to local decisions in program development and implementation, how they conduct the business of conservation is controlled by a variety of state and federal laws. This manual explains the statutory and policy requirements that apply to all districts in Alaska. It also provides suggestions designed to help districts plan and carry out successful natural resource conservation programs.

Finally, this manual was written to complement the AACD's Employee Manual. Some topics may be covered in both documents; however, when they are, we have tried to make the information complementary—either more detailed or more generalized—to minimize duplication.

### **1.02 HOW THE MANUAL WAS WRITTEN**

This edition of the manual was written by an advisory committee and through a collaborative effort. The advisory committee included the Executive Director, NRCDB; the Executive Director and Deputy Director, AACD; and a representative from each SWCD. The NRCDB adopted the interim District Operations Manual on December 20, 2004, and adopted the final manual on April 6, 2006. The Commissioner of the Department of Natural Resources Michael Menge approved the document on April 6, 2006.

This manual replaces the draft Conservation District Manual dated June 1, 1998 and is not intended to be adopted as regulations into the Alaska Administrative Code.

### **1.03 AMENDMENTS AND UPDATES**

This manual is organized into ten major sections. Because circumstances change and new issues arise, every issue or question cannot be addressed in this manual. Therefore, a Bulletin section was added to accommodate additional information not available at the time of this publication. The manual should be updated as necessary to address changes in statutes, rules, programs, policies and procedures and to incorporate information provided in the Bulletins. As much as possible, the applicable state statutes, regulations,



departmental orders and instruction memoranda, and other published documents are noted within the manual. Other information, as it becomes available, will be distributed to the districts and may not always necessitate an amendment to the manual.

#### **1.04       DISCLAIMER**

Information presented in this manual is to assist districts in Alaska. Although this document contains information about legal issues, as general guidance it cannot address specific situations facing each district. Legal advice for particular issues and situations can only be obtained from the Alaska Department of Law. Additionally, due to on-going changes in state and federal law and our reliance on information provided by outside sources, we cannot guarantee the ongoing accuracy or reliability of the content of this manual.

#### **1.05       DEFINITIONS**

As used in this manual, unless the context requires otherwise,

- (1) “AACD” means the Alaska Association of Conservation Districts;
- (2) “Alaska District” means the area of the state that is not located within any other district organized under AS 41.10.130(a);
- (3) “attorney general” refers to the Attorney General of Alaska;
- (4) “board” or “NRCDB” means the Alaska Natural Resource Conservation and Development Board;
- (5) “commissioner” or “DNR Commissioner” means the commissioner of the Alaska Department of Natural Resources;
- (6) “cooperative agreement” means a signed agreement between a landowner and a soil and water conservation district.
- (7) “Department of Law” or “Attorney General’s Office” means the Alaska Department of Law;
- (8) “district” or “SWCD” means soil and water conservation district;
- (9) “DOA” means the Alaska Department of Administration;
- (10) “DNR” means the Alaska Department of Natural Resources;
- (11) “Employee Manual” refers to the AACD Employee Manual;
- (12) “Executive Director,” “NRCDB Executive Director,” Executive Director NRCDB,” or “Executive Director of the NRCDB” means the Executive Director of the NRCDB;
- (13) “land user,” “user of land” or “cooperator member” means a person who
  - (a) is a producer of renewable resources, including farming and forestry; and
  - (b) has a current cooperative agreement with a soil and water conservation district;
- (14) “Manual” means the District Operations Manual for Soil & Water Conservation Districts in Alaska;
- (15) “NACD” means the National Association of Conservation Districts;

- (16) "NRCDB" means the Alaska Natural Resource Conservation and Development Board;
- (17) "NRCS" means the Natural Resource Conservation Service;
- (18) "Open Meetings Act" or "OMA" means the Alaska Open Meetings Act, AS 44.62.310.

## SECTION II. ALASKA SOIL & WATER CONSERVATION DISTRICTS

### 2.01 WHAT IS A SOIL AND WATER CONSERVATION DISTRICT?

Districts are state-authorized entities with authority to exercise the powers delegated by the Commissioner as provided in AS 41.10.130 (See Appendix B, Legal Status of Soil and Water Conservation Districts) Each district is organized by the Commissioner and governed by a five-member board of supervisors. Each district is assisted by the NRCDB.

As provided by AS 41.10.110, the DNR Commissioner is authorized to create districts in the state and delegate to the district supervisors of each district such powers as the Commissioner considers necessary to accomplish the purposes of soil and water conservation. By Department Order 114 dated January 25, 1993 (*See Appendix A*), the following powers have been delegated by the Commissioner to the district supervisors of each district:

- conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the state; to publish the results of these surveys and investigations and to disseminate information concerning the results of the surveys and investigations to prospective settlers and the general public;
- make technical guidance and other assistance available to settlers of new land to assure the development of the land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs;
- carry out measures for soil conservation and erosion control within the state, including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land user or agency having jurisdiction of the land;
- cooperate with, furnish assistance to, and enter into agreements with, a user of land or agency within the state;
- construct, improve and maintain soil erosion control and conservation structures as are necessary and practical for carrying out the purpose of this chapter;
- develop comprehensive plans for the conservation of soil and control of soil erosion within the state, cropping programs, tillage practices and changes in land use, and publish plans and information and bring them to the attention of users of land within the state;

- accept contributions in money, services, materials or equipment from the U.S. or its agencies, from an agency of the state and from any other sources for use in carrying out the purposes set forth in this chapter.

## **2.02 BRIEF HISTORY**

The state of the nation's soil resources during the 1930's, a decade known as the Dust Bowl Era, inspired the establishment of soil and water conservation districts across the nation. When farm families arrived in the Great Plains states, such as Kansas, Texas, Oklahoma, New Mexico and Colorado, they altered the landscape to suit their needs. These changes included replacing native grasses with agricultural crops and allowing cattle to graze on grounds less suitable for cultivation. When the U.S. entered World War I, the great demand for wheat to feed U.S. troops increased the conversion of even less appropriate land to agricultural use. In addition, the introduction of modern farm equipment allowed farmers to plow more land.

Such intensive manipulation of the land without conservation practices amplified the effects of the natural drought cycle on the Great Plains states. Crop vegetation, unlike indigenous plants, was not well suited for drought conditions. During the late 1920's and early 1930's widespread crop failure decreased ground cover. In addition, many farmers converted unsuccessful cropland to grazing land, where cattle trampled the already poor quality soil and thwarted ground cover renewal. The strong plains winds blew away unprotected topsoil.

By the mid 1930's large dust storms were a common event across the Great Plains area that became known as The Dust Bowl. Displaced farming families migrated west to California in search of work and land. The once highly productive Great Plains reached a state of economic and ecological devastation.

In 1935, Congress made soil and water conservation a national priority by passing the Soil Conservation Act. This act established the Natural Resources Conservation Service (NRCS), then called the Soil Conservation Service.

In 1937, President Roosevelt drafted a special recommendation to each state governor for the formation of local soil conservation programs. He suggested that the programs work on the local level directly with land owners. In 1937, North Carolina established the first soil conservation district, a precursor to soil and water conservation districts, in the Brown Creek Watershed.

The tone of the legislation is that of a volunteer, grass-roots organization which could function only with the permission of the land user. The original Territorial statutes and organization remained essentially unchanged when Alaska became a state in 1959. It was not until 1983 that many changes to the statutes were made. In 1983, the state was investing significant funds in agriculture. The changes established a statewide board

(NRCDB) with regional representation and changed the land occupier to land user (an individual who produces renewable resources and has a current cooperative agreement).

The AACD was organized in 1965 to help the Alaska districts do cooperatively what they could not do independently. In 1998, AACD incorporated with 501(c)(3) status.

### **2.03 NUMBER OF DISTRICTS**

Today, there are approximately 3,000 soil and water conservation districts nationwide, whose boundaries encompass 98 percent of the privately-owned land in the 50 states. Considering that 70 percent of land in the U.S. is in private ownership, the role of local SWCD in natural resource management is quite significant.

In Alaska, there are currently 12 organized districts as listed below. With the exception of the Alaska SWCD (Alaska District), each district is governed by five land users from the district that serve three-year, uncompensated terms of office. The Alaska District encompasses the area outside of the 11 locally organized districts and is governed by the NRCDB. District boards, with area-wide input from landowners and resource user groups, establish annual and long-term conservation priorities for their districts. It is through these locally led planning efforts that state and federal programs are directed.

<b>SWCD</b>	<b>Acreage</b>	<b>SWCD</b>	<b>Acreage</b>
Alaska	331,298,200	Kodiak	3,134,209
Anchorage	1,251,640	Palmer	1,572,804
Fairbanks	3,218,856	Salcha Big Delta	2,493,650
Homer	1,048,636	Upper Susitna	1,707,746
Kenai	298,430	Wasilla	2,493,650
Kenny Lake	206,522	Yukon Kuskokwim	9,793,700

A map of Alaska districts can be located in Appendix E or on-line at <http://www.alaskaswcds.org/-Districtspage.html>.

### **2.04 CREATION OF NEW DISTRICTS AND CHANGING DISTRICT BOUNDARIES**

The Commissioner may, on the recommendation of the board, create a SWCD in the state upon petition signed by 25 or more land users setting out the proposed boundaries of the proposed district.

The Commissioner may fix a time for and give notice of a public hearing based on the petition at a convenient location or locations within the boundaries of the proposed district. The Commissioner may fix the boundaries of the proposed district, supervise the election of, prescribe the duties of and install a governing body of five land users to be known as district supervisors for each SWCD created, and delegate to the district supervisors powers as the Commissioner considers necessary to accomplish the purposes of this goal within the district boundaries. (AS 41.10.130) The authority in this section

has been delegated to the NRCDB pursuant to Department Order 114, January 25, 1993, (See Appendix A) and therefore the steps below refer to the NRCDB.

### **Step 1.**

#### **(a) Creating a new district**

If the intent is to create a new district, the following steps must be followed:

- (1) The NRCDB must receive a petition signed by at least 25 bona fide land users operating within the proposed boundary area of the proposed district describing the proposed boundaries. (AS 41.10.130) The petitioners should designate one person as their contact person. (See Appendix F, Petition to Amend or Form Soil and Water Conservation Districts). Cooperative agreements will be furnished by the NRCDB after creation of the district and must be signed by at least 25 land users from the district within 30 days of the district formation, otherwise the new district automatically will be dissolved.
- (2) The Executive Director of the NRCDB shall review the petition to confirm that the required number of petitioners are bona fide land users and, if so, shall present this information to the NRCDB and to the petitioners' contact person.
- (3) The NRCDB shall proceed under Steps 2 – 4 below.

#### **(b) Changing a district boundary**

If the intent is for a district to expand its existing boundary, the effect of which takes away area from the Alaska District or another adjacent district, or some combination of districts, the following steps must be followed:

- (1) The district wishing to expand shall notice and conduct a public hearing on the proposed expansion.
- (2) The district shall forward a district board resolution approving the expansion to the NRCDB and the adjacent affected district(s) with a map of the adjusted boundaries. The resolution shall include written findings regarding the need to expand and the factors justifying the proposed physical boundaries, utilizing the factors listed in Step 3.
- (3) The adjacent affected district(s) shall, after notice and public hearing, forward a resolution (or resolutions) either recommending or opposing the expansion to the NRCDB.

## **Step 2.**

The NRCDB must notice and conduct at least one public hearing prior to the creation of a new district or prior to approving or rejecting a requested change of district boundary.

## **Step 3.**

In approving a new district or a request change of district boundary, the NRCDB may make boundary adjustments, if it finds such adjustments are warranted. Factors that may be considered by the NRCDB in this regard include:

- input from land users;
- state and local land use plans;
- the presence and location of agricultural lands, either officially designated as such or currently being used as such;
- topographical features (e.g., mountain ranges, river drainages, roads and similar features) that make it easier to map and describe the boundaries; and
- political boundaries (e.g. boroughs, municipalities, cities, senate or house districts, national or state park or refuge boundaries) that make it easier to map and describe the boundaries.

## **Step 4.**

The NRCDB shall, in accordance with AS 41.10.130, prescribe the duties of the new district or either reaffirm or amend the duties of the current district seeking the boundary change.

## **Step 5.**

### **(a) New District**

A newly created district shall hold an organizational meeting, which will be noticed and conducted by the Executive Director of the NRCDB. Nominations for supervisors, who must be land users operating within the district, shall be submitted to the Executive Director of the NRCDB at the meeting. The NRCDB shall appoint supervisors at random from the nomination list. Supervisors appointed under this section serve only until the next regular election.

### **(b) Expanded District**

Land users within the new area included within the boundary change of the current district are now entitled to the same rights and obligations of other land users already within the district. If the expanded district has a vacancy on its board, it should consider

appointing a qualified individual from the new area added to the district to fill the vacancy.

## **2.05 CHANGING A DISTRICT NAME**

The SWCD may adopt a change of name, which must be approved by the NRCDB.

## **2.06 DISSOLVING A DISTRICT**

In the event a district is, for any reason, no longer viable, the district shall dissolve and its boundaries and land users shall be absorbed into the Alaska District. Unless otherwise directed by the NRCDB, a district shall submit a written plan of dissolution to the NRCDB, NRCS and AACD which shall include details on wrapping up its existing projects and financial affairs and include a proposed method of transferring district records, accounts and equipment to the Alaska District. District supervisors shall remain responsible for district affairs until otherwise determined by the NRCDB.



### **SECTION III. ORGANIZATION & AFFILIATIONS**

This section provides an overview of the organization and functions of the NRCDB, NRCS, AACD and the National Association of Conservation Districts (NACD).

#### **3.01 NATURAL RESOURCES CONSERVATION AND DEVELOPMENT BOARD**

##### **(a) Composition**

The NRCDB is composed of five members who are appointed by the governor. Board members must be bona fide land users and are selected from the following five major land areas of the state:<sup>1</sup>

- the Arctic and northwest Alaska;
- the Yukon and Tanana Valleys;
- Southwest Alaska and the Kenai Peninsula;
- Southcentral Alaska; and
- Southeast Alaska.

Board members serve a term of three years. The Commissioner or, in the Commissioner's absence, the Director of the Division of Agriculture, serves ex officio but without a vote on the board. NRCDB board members are not subject to legislative confirmation as explained by the Attorney General (Appendix D).

##### **(b) Functions**

The board's primary responsibility is to advise the Commissioner in the exercise of the powers, duties and functions of the commissioner. The board is also authorized under AS 41.10.100 (b)(1) to:

- receive and review reports concerning the use of soil resources of the state;
- hold public hearings and meetings to determine whether land in the state is being used in a manner consistent with sound soil and water conservation practices;
- make recommendations for specific action necessary to provide for the effective and orderly development of agricultural, forest, and grazing land in the state;

---

<sup>1</sup> AS 41.10.045 states the Governor appointed board to be confirmed by a majority of the members of the legislature in joint session. In an opinion dated January 17, 2006, the Alaska Department of Law clarified that because the NRCDB is an advisory board it is not subject to legislative confirmation. See Appendix D.

- review an appeal by an applicant or lessee from a decision of the Director of the Division of Lands concerning a sale or lease of state agricultural or grazing land and submit its recommendations to the Commissioner or hearing officer;
- act in an advisory capacity to districts in the state; and
- act in an advisory capacity to the Commissioner and Director of the Division of Agriculture in the review of farm conservation plans for all state agricultural land sales in the state.

The NRCDB governs the Alaska District. (AS 41.10.130(b).

**(c) Staff**

The DNR Commissioner appoints an Executive Director and clerical staff to assist the Board (AS 41.10.045). DNR furnishes the NRCDB staff with office supplies and equipment, as well as typing and reproduction assistance. The Department of Law provides legal advice.

**(d) Board meetings**

The NRCDB is required by statute to hold one regular meeting annually at the state capital and one or more additional meetings at a time and place in the state selected by the board. (AS 41.10.075) The NRCDB acts as the supervisors of the Alaska District and thus should meet monthly to approve public fund expenditures and conduct other necessary business.

**(e) Compensation and per diem**

Under AS 41.10.090, NRCDB members receive no salary for their service, but receive the same per diem and travel expenses authorized for members of state boards.

**3.02 NATURAL RESOURCES CONSERVATION SERVICE**

NRCS is the primary federal agency that works hand-in-hand with landowners to conserve natural resources. The NRCS is one of the primary sources of technical assistance to districts.

The principles that guided the service’s heritage still guide its work today and include working cooperatively with districts and land users in the following ways:

- Assess the resources on the land, the conservation problems and opportunities.

- Maintain technical staff knowledgeable in various sciences and disciplines and integrate that knowledge to assist landowners and operators to develop a conservation plan for the whole property.
- Work closely with land users so that the plans for conservation mesh with their objectives.
- Through implementing conservation on individual properties, contribute to the overall quality of the life in the watershed or region.

### **3.03 ALASKA ASSOCIATION OF CONSERVATION DISTRICTS**

Each district has a representative on the AACD Board of Directors. AACD is a non-profit corporation which operates under its own articles of incorporation and bylaws. Detailed information about AACD can be located on their web site at: [www.alaskaswcads.org](http://www.alaskaswcads.org). The AACD Board meets in the fall and spring and calls for additional meetings as necessary.

#### **(a) Functions**

As stated in its bylaws, the AACD is organized is to:

- Improve the natural environment and to advance the conservation, wise use and orderly development of the land, water and related natural resources of the state.
- Work toward achieving maximum administrative and technical efficiency in the operations of each district through the facilitation and interchange of advice and experience among them. As the employer for district support staff, AACD provides district supervisors with the administration of employee benefit plans, maintenance of personnel files and payroll. The AACD is also responsible for hiring and firing support staff.
- Administer grant funds and assist in reporting responsibilities.
- Create an awareness of the urgency for conserving and developing the state's renewable natural resources to meet the rapidly expanding demands of Alaska's economy and population.
- Enlarge the recognition by landowners and land users that the failure of a few to care for the land, water and related resources that they use or control jeopardizes the rights of all to own, use and manage these resources without excessive government regulation.
- Work impartially with private and public organizations and groups of all political affiliations to promote the conservation of natural resources.

- Help secure for all districts the technical, financial, educational and scientific services that are required to enable the development of the renewable natural resources within their boundaries.
- Encourage and facilitate close and effective cooperation between Alaska districts and all federal, state and local agencies and all private agencies concerned in any matter with the conservation, improvement and development of natural resources.
- Gain full public understanding of the essential role of soil and water conservation in the prevention of soil erosion; control of sediment; protection and development of watersheds and river basins for the purpose of flood prevention and control, water storage, drainage, irrigation, recreation, protection and improvement of water quality; and protection and expansion of agricultural, industrial, municipal and recreational water supplies.
- Assist districts in a statewide education program.
- Achieve coordination of conservation work on public lands and with that on associated lands in private ownership.

**(b) Composition**

The AACD board of directors is composed of the chair of each district or his/her designee. AACD bylaws provide for the following officers: president, vice president and secretary-treasurer.

**(c) Affiliation**

AACD is a member of the NACD and the NACD Pacific Area Association of Conservation Districts.

**3.04 NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS**

AACD is a member of the National Association of Conservation Districts (NACD). NACD represents 3,000 conservation districts across the nation.

**(a) Function**

The primary goals of NACD are the conservation, orderly development and judicious use of the nation's land, water, timber and related natural resources through the maximum exercise of local initiative, decision and self-government, implemented by the districts of the U.S. Its purposes are carried out through collection and distribution of information in a periodic newsletter, website, special reports and annual meetings.

The NACD serves as a national voice for local responsibility in conservation and resource development. Through NACD, local districts help each other coordinate activities of their state associations on regional problems and may express their views at the national level on legislation and other matters affecting districts and local resource programs.

NACD is the central agent in Washington, D.C. for all districts and maintains contacts with congressional committee members and individual members of Congress who are involved in legislation on conservation matters of concern to districts.

Additionally, NACD provides printing (e.g., newsletters, brochures, reports, stationery) and mailing services to districts for nominal costs. NACD has a large library of videos dealing with many aspects of conservation. These are suitable for educational purposes in schools and for viewing by adult groups. They are available to member districts at nominal rental charges.

### **(b) Composition**

The board of directors consists of three members from each of the seven geographic areas. Pacific Area VII includes the AACD and its districts along with California, Hawaii, Idaho, Nevada, Oregon and Washington.

- Directors are elected by the majority of council members present and voting from that area.
- Directors elect the NACD president, vice-president and treasurer.
- Directors serve for two years and may succeed themselves once.
- The NACD president is elected for a two-year term and may serve a second term only. The national vice-president is elected for a two-year term and is eligible to serve a second term only.
- The NACD council, representing one voting member from each state and territories, advises and consults with the board of directors in development of basic policies and procedures adopted by the board.
- This council also elects members of the board of directors. They meet annually and may hold special meetings at the president's request.
- The AACD President will carry out the duties and responsibilities of the National Director and will represent the AACD at the annual meetings of the National Association of Conservation Districts and the Pacific Region meetings. The position of Alternate National Director will be elected by the AACD Board of Directors for a two year term.

**SECTION IV. ALASKA SOIL & WATER CONSERVATION – STATUTES AND REGULATIONS**

The statutes relating to the formation and governance of Alaska SWCD are contained in AS 41.10. The statutes pertaining to the Alaska Executive Branch Ethics Act are found in AS 39.52. The statutes and regulations relating to Public Records Disclosures applicable to the district’s record retention and public information requests are found in AS 40.21 and AS 40.25, and Alaska Administrative Code (AAC) 6 AAC 96.100-.900.

While many of the applicable statutes and regulations are referenced throughout this manual, the following table provides a quick reference to the statutory titles and sections. A copy of the Soil & Water Conservation statutes at the time this manual was printed can be found in the Appendix G. Because statutes and regulations can change over time, current statutes and regulations should be researched on-line at: <http://www.legis.state.ak.us/folhome.htm>

ALASKA STATUTE	TITLE
	<b>Soil &amp; Water Conservation</b>
AS 41.10.010	Declaration of Policy.
AS 41.10.020	Creation and Boundaries of Soil and Water Conservation Districts (repealed)
AS 41.10.030	Purpose of Chapter
AS 41.10.040	Natural Resource Conservation & Development Board
AS 41.10.045	Executive Director
AS 41.10.050	Appointment
AS 41.10.060	Qualifications of Board Members
AS 41.10.065	Major Land Areas of the State
AS 41.10.070	Term of Office
AS 41.10.075	Board Meetings
AS 41.10.080	Vacancies
AS 41.10.090	Compensation and Per Diem
AS 41.10.100	Duties of the Board
AS 41.10.110	Powers of Commissioner
AS 41.10.120	Approval of Land User
AS 41.10.130	Creation and Boundaries of Soil and Water Conservation Districts
AS 41.10.140	Definitions
	<b>Alaska Executive Branch Ethics Act</b>
AS 39.52.010	Declarations
AS 39.52.110	Scope of Code
AS 39.52.120	Misuse of official position
AS 39.52.130	Improper gifts
AS 39.52.140	Improper use or disclosure of information
AS 39.52.150	Improper influence in state grants, contracts, leases, or leases
AS 39.52.160	Improper representation

AS 39.52.220	Declaration of potential violations by members of boards or commissions
AS 39.52.230	Reporting of potential violations
AS 39.52.240	Advisory opinions
AS 39.52.250	Advice to former public officers
AS 39.52.260	Designated supervisor's report and attorney general review
AS 39.52.270	Disclosure statements
AS 39.52.310	
AS 39.52.320	Dismissal before formal proceedings
AS 39.52.330	Corrective or preventative action
AS 39.52.335	Summary of disposition of complaints and review by personnel board
AS 39.52.340	Confidentiality
AS 39.52.350	Probable cause for hearing
AS 39.52.360	Hearings
AS 39.52.370	Personnel board action
AS 39.52.380	Subpoenas
AS 39.52.390	Service
AS 39.52.410	Violations; penalties for misconduct
AS 39.52.420	Disciplinary action for violation
AS 39.52.430	Actions voidable
AS 39.52.440	Civil penalties
AS 39.52.450	Payment of twice the financial benefit
AS 39.52.460	Criminal sanctions additional
AS 39.52.910	Applicability
AS 39.52.920	Agency policies
AS 39.52.930	Cooperation
AS 39.52.940	Construction
AS 39.52.950	Regulations
AS 39.52.960	Definitions
	<b>Management &amp; Preservation of Public Records</b>
AS 40.21.010	Purpose
AS 40.21.020	Archival & records management program creation and administration
AS 40.21.030	Duties of the state archivist
AS 40.21.040	Gifts, bequests, or endowments of money
AS 40.21.050	Regulations
AS 40.21.060	Duties of chief executive officers of state agencies
AS 40.21.070	Records management for local records
AS 40.21.080	Disposal of public records by political subdivision
AS 40.21.090	Transfer of public records of political subdivision to department
AS 40.21.100	Assistance to legislative and judicial branches
AS 40.21.110	Care of records
AS 40.21.120	Standards of clarity, accuracy, and permanency of copies
AS 40.21.130	Alteration and replacement of public records
AS 40.21.140	Use of copies and replacements as evidence
AS 40.21.150	Definitions

	<b>Public Record Disclosures</b>
AS 40.25.100	Disposition of tax information
AS 40.25.110	Public records open to inspection and copying; fees
AS 40.25.115	Electronic services and products
AS 40.25.120	Public records; exception; certified copies
AS 40.25.121	Copies of public records for veterans
AS 40.25.122	Litigation disclosure
AS 40.25.123	Supervision and regulation
AS 40.25.124	Appeals
AS 40.25.125	Enforcement: Injunctive relief
AS 40.25.220	Definitions
	<b>Alaska Open Meetings Act</b>
AS 44.62.310	Government meetings public
AS 44.62.312	State policy regarding meetings



## **SECTION V. DISTRICT BOARDS & SUPERVISORS**

Each district is governed by a five member board of supervisors. This section will address the roles and responsibilities of district boards, including annual elections, compensation and per diem, ethics, oath of office and administrative structure.

### **5.01 DISTRICT BOARD DUTIES AND RESPONSIBILITIES**

The commissioner has delegated the following powers and authority found in AS 41.10.110 to the districts:

- conduct land capability surveys and investigations of potential agricultural areas and of soil conservation and erosion control, including necessary preventative and control measures, in the state; to publish the results of these surveys and investigations and to disseminate information concerning the results of the surveys and investigations to prospective settlers and the general public;
- make technical guidance and other assistance available to settlers of new land to assure the development of the land in a manner that will permit it to be used in accordance with its capabilities and treated in accordance with its needs;
- carry out measures for soil conservation and erosion control within the state, including engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, with the consent and cooperation of the land user or agency having jurisdiction of the land;
- cooperate with, furnish assistance to, and enter into agreements with, a user of land or agency within the state;
- construct, improve, and maintain soil erosion control and conservation structures as are necessary and practical for carrying out the purposes of this chapter;
- develop comprehensive plans for the conservation of soil and control of soil erosion within the state, cropping programs, tillage practices and changes in land use, and publish plans and information and bring them to the attention of users of land within the state; and
- accept contributions in money, services, materials, or equipment from the United States or its agencies, from an agency of the state, and from any other source, for use in carrying out the aforementioned purposes.

### **5.02 QUALIFICATIONS OF A SUPERVISOR**

Supervisors must be land users within the district boundaries.

### **5.03 ADMINISTRATIVE STRUCTURE**

Each district should elect its chair, vice-chair, secretary and treasurer as soon as possible, but no later than the next regularly scheduled meeting, following each district annual election. The latter three offices may be combined (e.g., secretary-treasurer or vice chair-secretary). However, each district is required to have three officers and under no circumstances may the offices of treasurer and either the chair or the vice-chair be combined.

Districts have found it advantageous for officers to be rotated every two or three years. This has provided a broader outlook for their total program.

The following is a list of customary officer positions and responsibilities:

#### **(a) Chair**

The chair is elected by the board to carry out certain leadership functions and responsibilities. The chair is typically given responsibility to:

- Plan the order of business or meeting agendas.
- Preside at meetings.
- Appoint committees, assign their responsibilities and request reports.
- Orient new supervisors.

The chair also serves as the ethics supervisor for the district.

One of the primary roles of the chair is to preside at district board meetings. The chair usually conducts the meeting according to established parliamentary procedures as outlined in Section IX. Generally, the chair entertains motions from other members of the board, calls on people to speak, appoints committees if necessary, limits or expands discussion and facilitates the process of conducting business in an efficient manner.

Serving as a chair does not preclude a supervisor from voting. One of the most important functions of an elected official is to participate in the official decision-making process. All supervisors, including the chair, should vote on motions or decisions absent any compelling circumstances, such as a conflict of interest.

The board must sanction (through proper motion and voting in a business meeting) any authority of the chair to act on behalf of the board. Minutes of any such board action must accurately reflect any powers given to the chair by the board to conduct business for the board between meetings. In absence of this authority, the chair cannot enter into agreements or expend funds.

**(b) Vice-Chair**

Responsibilities of the vice chair may include:

- Acts in place of the chair, when needed.
- Advises the chair on program and policy.
- Arranges special programs for regular board meetings.
- Assumes other responsibilities at the chair's request.
- If the chair resigns or dies, the vice-chair succeeds the chair until the board is reorganized.
- Acts as ex-officio member of all committees.

**(c) Secretary**

The board member selected as the secretary is not required to perform all secretarial or clerical responsibilities within the district. A district board may delegate certain secretarial responsibilities to an employee, contractor or volunteer if desired. It is common for district staff to record minutes and prepare information, agendas, correspondence, reports and public meeting notices.

It is recommended that district boards adopt a policy that clarifies the responsibilities of the board secretary. For example, the district may choose to require a signature of the board secretary on minutes, resolutions, budget documents and other selected documents. There may also be specific responsibilities for the board secretary to record minutes during an executive session when other staff may not be available.

**(d) Treasurer**

The primary responsibility of the board treasurer is to be knowledgeable of district finances. The treasurer also serves as chair of the district's finance committee.

Additional responsibilities delegated to the treasurer may include:

- obtaining fidelity or surety bonds for persons handling funds;
- leading the development of the budget;
- receiving, depositing and disbursing funds;
- maintaining complete financial records and forms required by the state auditor;
- presenting financial statements at board meetings;

- preparing and submitting the annual financial report; and/or
- establishing and implementing policies and procedures for financial and accounting practices (e.g., check signatures).

Many of these duties may be completed by staff as designated by the board.

**(e) Committees**

Committees can be an effective way for districts to plan and implement their work. Districts may utilize committees to expand the scope of activities and programs and provide special talents and areas of expertise. Committees can be created by simple majority vote of elected/appointed supervisors.

There are two types of committees:

- A standing committee is a permanent committee charged with working on a basic aspect of district work. Standing committees may have a focus of education, finance, personnel, resource concerns, public relations, land use planning, or other issues related to soil and water conservation..
- An ad hoc committee is a temporary committee charged with a specific task or for a specific period of time. Ad hoc committees may focus on elections, annual meetings, grant writing or other specific tasks. Ad hoc committees are disbanded when the specific task and/or timeframe is completed.

All committees should have a clear understanding of their purpose, expectations and responsibilities. When forming committees, districts should clearly identify: the purpose, outcomes, the desired role of each committee member and the timeline for reporting back to the board.

In order to avoid issues with the Open Meetings Act, a committee should include no more than two district supervisors. A district committee can have any number of district advisors, representatives of cooperating agencies and associations or interested citizens.

District supervisors should also make themselves available to serve on AACD committees. AACD standing committees include: Constitution and By-Laws, District Operations, Education, Land Use Planning, Forestry, Legislative, Nominations, Research, Resolutions, Administration, Fundraising, Convention and Water Quality.

**(f) Alternate supervisors**

The previous practice among districts has been to use alternate supervisors during meetings when an elected/appointed supervisor is absent. District business must be conducted by a quorum of the elected/appointed supervisors in the form of motions, seconds and majority votes. Alternate supervisors may not be used to establish a quorum

for a meeting or for voting on business during a meeting. *See* Appendix H, Memorandum re: Instructions for SWCDs (December 5, 2003).

Alternate supervisors may be given authority to assist the boards, such as acting on district subcommittees. This should be expressed in the form of a motion, second and vote during a regular business meeting. Alternate supervisors should not, however, have any power to bind the board to a particular course of action.

Alternate supervisors may serve out the term of a resigned or removed district supervisor, but only if appointed by the district board at a meeting having a quorum.

### **(g) Volunteers**

Districts should encourage volunteers to assist in its programs and goals. However, districts should remind volunteers, especially those who work on physical projects like stream bank stabilization, etc., that districts as a state authorized entity do not assume liability if a volunteer is injured during a district activity or project. **All volunteers must sign either an annual or project-specific release form prior to beginning work.** See Appendix I, Volunteer Service Agreement and Release of Liability Form.

Districts should verify with AACD annually that AACD maintains a “Voluntary Compensation and Employers Liability Coverage Endorsement” and whether or not district volunteers are covered under such an agreement<sup>2</sup>. If AACD maintains coverage for volunteers each district should work with AACD to ensure all volunteers are signed up properly. See Appendix J and Appendix K for AACD District Volunteer Agreement and Timesheet forms. **All district volunteers must sign a State of Alaska Volunteer Service Agreement and Release of Liability Form (Appendix I) regardless of coverage through AACD.**

## **5.04 BOARD MEETINGS**

Districts boards should meet once a month, but can meet more often if necessary. The chair may call an emergency or special meeting with a concurrence of the majority of the board. If three or more members request a special meeting the chair shall call for a meeting. See also Section 9.04 regarding notice of meetings.

## **5.05 DISTRICT SUPERVISOR DUTIES AND RESPONSIBILITIES**

District supervisor is the title given to persons who are elected or appointed to serve on a district board. District supervisors are elected by the cooperator from the district and serve for a term of three years. (AS 41.10.070) District supervisors are primarily

---

<sup>2</sup> AACD’s insurer, Alaska Public Entity Insurance, provided a letter to NRCDB on November 29, 2005 verifying coverage of employees through the policy year. Status of this coverage should be verified by districts through AACD annually.

responsible for developing and implementing programs that address natural resource needs at the district or local level.

As public officeholders, district supervisors must have a clear understanding of their roles, responsibilities, powers and authorities. Duties and responsibilities, as authorized by the board, may include the following:

- staff supervision
- expenditure of district funds
- serving as the district spokesperson
- managing district projects
- signing official documents
- establishing district policy and procedures
- carrying out district programs (e.g., elections, education, etc.)
- raising funds for the district
- accounting for district funds, property, and equipment

#### **5.06 BECOMING A MEMBER OF A SWCD.**

District members are called cooperators, a designation which emphasizes the voluntary nature of a member's participation in the district. To become a cooperator, a person must sign a cooperative agreement with the district. The cooperative agreement shall contain the name and address of the person or entity and shall describe the real property subject to the agreement.<sup>3</sup>

A cooperator's voting membership and eligibility for a district supervisor seat requires that a cooperator meet the definition of a land user as determined by standards set by each district board consistent with the definition of land user in AS 41.10.140(2). A land user under the statute is a person who is a producer of renewable resources, including farming and forestry. A person includes a corporation, cooperative, or similar organization. There shall be only one vote per person.

It is the responsibility of each district to record and maintain accurate, up-to-date cooperator files and to certify the eligibility of cooperators. Each cooperative agreement is required to be updated and renewed every five (5) years to maintain cooperator eligibility. Districts may "update and renew cooperative agreements" simply by making contact with the cooperator and confirming that the cooperator is still interested in participating in the district and agrees to be bound by the terms of the cooperative agreement. Any contacts confirming continued participation should be noted on the

---

<sup>3</sup> See Appendix M, Cooperator Agreement.

cooperative agreement. It is useful to have the cooperator sign a new cooperative agreement form, especially if it is not clear which agreement applies to which parcel of land. Original cooperative agreement dates shall be recorded on renewal cooperative agreement forms.

## **5.07 ANNUAL ELECTIONS**

### **(a) Nominations**

Call for nominations will be held annually in October of each year. If more nominations are received in any given district than seats available, an election will be held. Elections should be conducted in November of that year, if possible, to allow new supervisors to take office by January 1<sup>st</sup> of the following year. Terms for supervisors run from January 1<sup>st</sup> of the first year to December 31<sup>st</sup> of the third year. There is no limit as to the number of terms that a supervisor may hold.

### **(b) Election procedures**

#### **(i) Certification of eligible voters\candidates**

By September 30<sup>th</sup> of each year, each district board shall certify a list of cooperators eligible to participate in the nomination and election of supervisors at a public meeting and submit the list to the of the NRCDB prior to any “Call for Nominations” for expiring or vacant supervisor seats. At the same time, the board shall also notify the Executive Director of the NRCDB of any supervisors that may have resigned. The certified cooperators list shall contain the name and mailing address of each cooperator. The district should also maintain a list that includes the legal description of the operating unit and date the cooperative agreement was signed by the chair of the local district. Cooperators on the certified list must meet the eligibility requirements of land user as defined in AS 41.10.140(2). Once filed with the NRCDB, this certified list shall be considered the official list of cooperators eligible to participation in the nomination and the election of supervisors.

Only cooperators on the certified list are eligible for nomination and election to a supervisor seat. There shall be only one vote per cooperative agreement, regardless of the number of signatories on the agreement. A cooperator may participate in the election if the cooperative agreement is approved by the district at least 30 days before the election and the pertinent information is received by the Executive Director of the NRCDB at least 20 days before the election.

#### **(ii) Nominations and appointment**

The Executive Director of the NRCDB will prepare a “Call for Nominations and Notice of Election” specific to the district, citing the number of seats open for nomination and the closing date of the nomination period. *See* Appendix N. The district shall duplicate

and mail the form to each certified cooperator. In addition to individual mailing to certified cooperators, the call for nominations may also be published in a local newspaper to fulfill the requirement for public notice. A statement listing the methods of distribution and notice of the Call for Nominations and Notice of Election shall be signed by the district chair and submitted to the Executive Director of the NRCDB by the end of the nomination period. Any corrections to the certified list of eligible cooperators (such as address corrections) should be submitted for purposes of an election conducted by mail.

Anyone's name appearing on the certified list of cooperators may sign a nomination form. For instance, if a husband and wife are listed on the cooperator agreement, either or both are may sign a nomination form. However, at the time of the election, only one ballot will be sent out for each cooperative agreement.

Nominating petitions should be completed and returned to the Executive Director of the NRCDB by the date published on the nominations form. The Executive Director of the NRCDB shall review the nominating petitions and verify the eligibility of the nominees based on the certified list of cooperators provided by the district. In the event that the number of nominees is less than the number of available seats on the board, there will not be an election and the person(s) nominated will be appointed as district supervisors. If no one has been nominated to the board or the number of people nominated is less than the number of available seats, the district board shall, at a public meeting, appoint a cooperator(s) to fill any remaining vacancies and notify the NRCDB of its decision.

### **(iii) Election**

In the event that the number of nominees is greater than the number of available seats, an election by mail will be held.

### **(iv) Guidelines for conducting elections by mail**

Based on the certified list provided at the time of the Call for Nominations, the Executive Director for the NRCDB will mail ballots containing the names of eligible nominees to all cooperators on the certified list, one per cooperative agreement. The ballot information shall include the opening date for ballots, a statement about the candidates, if available, and any special instructions for mailing.

A ballot envelope will be provided separately to ensure confidentiality in voting. The ballot must be enclosed in the ballot sleeve and mailed in the specially addressed envelope to be considered valid. Any ballot that is improperly mailed will not be counted.

All ballots must be returned to the Executive Director of the NRCDB by the closing date specified in the ballot packet, which shall be at least 30 days from the date of mailing of the ballots. *Any ballot received after 5:00 p.m. on the closing date will not be counted.*



In addition, any ballot marked with more than the number of vacancies will be considered invalid and not counted.

The Executive Director and another DNR employee will open the ballots and certify the election results. The winning candidate is determined by a simple majority of votes received. Election results will be sent to the district. In the event of a tie, the Executive Director of the NRCDB shall conduct a runoff election following the same procedures as the initial election. The runoff election may be shortened to 10 days.

**(c) Appeals**

Only those cooperators whose names appear on the certified list submitted by the district to the Executive Director NRCDB or are updated with the NRCDB 20 days before the election are eligible to file a formal appeal of the election results. The appeal must be filed with the Executive Director of the NRCDB within 14 days of the announcement of the election results. The appeal must be in writing and explain in detail all alleged discrepancies. The NRCDB will review the appeal and issue its finding within 30 days of receipt of appeal.

**(d) Filling a board vacancy by appointment**

A district board may fill a vacancy that occurs between annual elections by a majority vote of remaining board members at any public meeting. An appointed supervisor must meet the same eligibility requirements as an elected supervisor as previously described. The appointee serves until the next annual election. The district must notify the NRCDB of any such appointments.

**(e) Resignations**

Resignations of district supervisors should be in writing, submitted to the district chair, and are effective immediately upon receipt. Upon receipt of the resignation, the seat shall be declared vacant and the board may fill the vacancy as described in subparagraph (d) of this section. If a supervisor states their resignation and refuses to submit a letter of resignation, the board may find that a resignation has been tendered. The board will draft a letter to the district supervisor, declaring the acceptance of his/her resignation.

**(f) Attendance Requirements / Declaring a seat vacant**

A vacancy shall occur if, during any consecutive 12-month period, a supervisor:

- is absent from three regular meetings without excuse or
- is absent from five regular meetings.

The chair (or the chair's designee) shall keep attendance records of all meetings, and immediately notify the supervisor of his/her violation of the district's attendance requirements and report the matter to the district board for further action. The district board shall, at its next regular meeting or a meeting called specifically for the purpose of addressing the attendance violation, make factual findings as to whether the supervisor is in violation of the attendance requirements. The factual finding shall be immediately sent to the commissioner, who can remove the supervisor from office within 15 days of receiving notification of the supervisor's violation of the district's attendance requirements.

Vacancies created pursuant to the provisions of this section shall be filled by the board in accordance with subparagraph (e) of this section.

### **5.08 COMPENSATION AND PER DIEM**

District supervisors receive no salary, but may receive travel reimbursements for district business (e.g., meetings, special events) as determined by each board. Travel expenses will be reimbursed based on actual expense of transportation and lodging and per diem not to exceed state and federal rates.

### **5.09 ALASKA EXECUTIVE BRANCH ETHICS ACT**

District supervisors are often confronted with situations that might appear to be a conflict of interest. Conflicts of interest may arise in a broad scope of situations and may involve the appearance of financial gain or acts of impropriety.

As public officers, district supervisors are subject to the Alaska Executive Branch Ethics Act (Ethics Act) found in AS 39.52, which took effect January 1, 1987.<sup>4</sup> The Ethics Act establishes a code of ethics for public officers, methods for declaring and reporting potential violations, and procedures for complaints, hearings, enforcement and remedies. In the Ethics Act's declaration of policy (AS 39.52.010) the legislature stated its intent to (1) discourage ethical violations by public officers, (2) improve standards of public service and (3) "promote and strengthen the faith and confidence of the people of this state in their public officers." The Ethics Act makes a distinction between actions that are "minor and inconsequential" and those that are "substantial and material." At AS 39.52.110(b), the Act states:

Unethical conduct is prohibited, but there is no substantial impropriety if, as to a specific matter, a public officer's

(1) personal or financial interest in the matter is insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officer

---

<sup>4</sup> See Appendix A, Department Order 147; Appendix B, Legal Status of Soil and Water Conservation Districts; Appendix O, Right of Board Member to Bid on Contract; and Appendix P, Ethics Issues memorandum.

belongs; or

(2) action or influence would have insignificant or conjectural effect on the matter.

Two recurring issues covered by the Ethics Act, improper gifts and improper influence, are discussed in subparagraphs (a) and (b) below; however, supervisors are encouraged to familiarize themselves the Ethics Act statutes, which may be found at or <http://www.law.state.ak.us/pdf/ethics/ethicstatutes.pdf>.

The district chair (or acting chair) serves as the district's designated ethics supervisor. A supervisor involved in a matter that could result in a violation of the Ethics Act must disclose the matter on the public record during a district meeting and in writing to the designated supervisor and to the attorney general. When determining whether a district supervisor is involved in a matter that may result in a violation of the Ethics Act, either the board chair or the board itself may request guidance from the Attorney General's Office.

The designated supervisor shall determine whether an ethics violation exists and shall provide a written determination to the board and to the attorney general. If a member of the board objects to the designated supervisor's ruling or if the designated supervisor discloses an involvement requiring a determination, the district supervisors present at the meeting excluding the involved district supervisor, shall vote on the matter. If the designated supervisor or a majority of board members determines that a violation will exist if the member continues to participate, the member must refrain from deliberating, voting, or participating in the matter.

**(a) Improper gifts**

Alaska Statute 39.52.130(a) states that “a public officer may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to the officer's personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment.”

Notice of the receipt by a district supervisor of a gift with a value in excess of \$150, including the name of the giver and a description of the gift and its approximate value, must be provided to the designated ethics supervisor within 30 days after the date of its receipt

- if the district supervisor may take or withhold official action that affects the giver; or
- if the gift is given to the district supervisor because he or she is on the board. (AS 39.52.130(b))

The receipt of a gift worth between \$50 - \$150 may be prohibited if it could reasonably be inferred that the gift is intended to influence the district supervisor's action or judgment. Receipt of such a gift should be disclosed. See Appendix L for the appropriate disclosure form.

**(b) Improper influence in state grants, contracts, leases or loans**

Under AS 39.52.150, a board member who can affect the award or administration of a state grant, contract, lease, or loan may not apply for, or have an interest in that state grant, contract, lease, or loan. This prohibition also applies to the board member's immediate family.<sup>5</sup>

A board member (or immediate family member) may apply for or be a party to a *competitively solicited* state grant, contract or lease, if the board member does not serve in the same administrative unit awarding or administering the grant, contract, or lease *and* so long as the board member is not in a position to take official action in the award or administration of the grant, contract, or lease.

A board member (or immediate family member) may apply for and receive a state loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the award or administration of the loan.

Board members must report to the designated ethics supervisor any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the agency the board member serves.

**Frequently asked questions:**

*Can a (potential) district board supervisor be a paid AACD district employee for the same district or be under contract to the district for professional services without violating the Ethics Act?*

No. See Appendix P Memorandum re: Ethics Issues (March 3, 2004).

*Can a paid district employee or an individual under contract to a district serve on a district board or as a NRCDB member appointed by the governor?*

No. See Appendix P, Memorandum re: Ethics Issues (March 3, 2004).

*Can the employee of one district serve on the board of another district?*

Yes. See Appendix P, Memorandum re: Ethics Issues (March 3, 2004).

---

<sup>5</sup> See Appendix O Right of Board Member to Bid on Contract.

## **5.10 OATH OF OFFICE**

Each newly elected or appointed supervisor shall be sworn-in at a district board meeting and sign an Oath of Office. The Oath of Office should also be signed by the district chair and by a notary public or other authorized official present at the swearing in of each district supervisor. A copy of the Oath of Office to be used by districts may be found in Appendix Q. A district supervisor cannot assume the duties of the board position until the oath of office is signed and they are sworn-in.

For consistency, each district should establish a policy on who is the authorized signatory for the Oaths of Office. There is no requirement that the signatory be a notary public. The district chair, or other authorized official, can be designated to sign the oath. The oath is to be kept by the district board and a copy must be sent to NRCDB. A copy of the Oath of Office to be used by SWCDs may be found in Appendix Q.

## SECTION VI. EMPLOYMENT PRACTICES

Districts are prohibited from hiring its own employees. Districts may contract with the AACD for employees, such as office managers, professionals or technicians, including program or project managers.<sup>6</sup> As the employer, AACD provides district supervisors with the administration of employee benefit plans, maintenance of personnel files and payroll. Districts may seek independent contractors to execute district programs. **Districts using independent contractors must follow state procurement standards outlined in Section 8.08.**

In using the services of AACD, districts are responsible for coordinating with AACD in the hiring, developing, managing, evaluating, and terminating of AACD personnel. With this level of responsibility comes a host of state and federal employment requirements and laws. These responsibilities are critically important and deserve the full and informed attention of district supervisors. The information in this section is fully addressed in the AACD & SWCD Employee Manual dated May 1, 2004. Employment questions should be directed to AACD. Independent Contracting questions should be directed to DNR.

### 6.01 POSTING REQUIREMENTS

Labor law posters are mandatory to comply with federal labor law. The five mandatory federal labor law posting requirements include: Equal Employment Opportunity (EEO), Minimum Wage, Family Medical Leave Act (FMLA), Fair Labor Standards Act (FLSA), Employee Polygraph Protection Act and the Occupational Safety and Health Administration (OSHA).

The State of Alaska posting requirements include: Alaska Smoking Notice, Alaska Minimum Wage, Alaska OSHA/Right To Know, Alaska Sexual Harassment, Workers' Compensation from Insurance Carriers and Alaska Unemployment Insurance. Recommended postings include Alaska Child Labor and Alaska Emergency Numbers.

Federal and State of Alaska posters can be purchased on-line at <http://www.labor.state.ak.us/lss/posters.htm>.

### 6.02 EQUAL OPPORTUNITY

As indicated in the Employee Manual, it is the policy of AACD and districts to recruit, hire, train and promote for all job classifications without regard to a person's race, religion, color or national origin, age, physical or mental disability, sex, sexual orientation, marital status, changes in marital status, pregnancy, parenthood, or any other impermissible characteristic as defined by law when the reasonable demands of the position do not require distinction of the aforementioned items.

---

<sup>6</sup> See Appendix A, Department Order 147.

### **6.03 HARASSMENT**

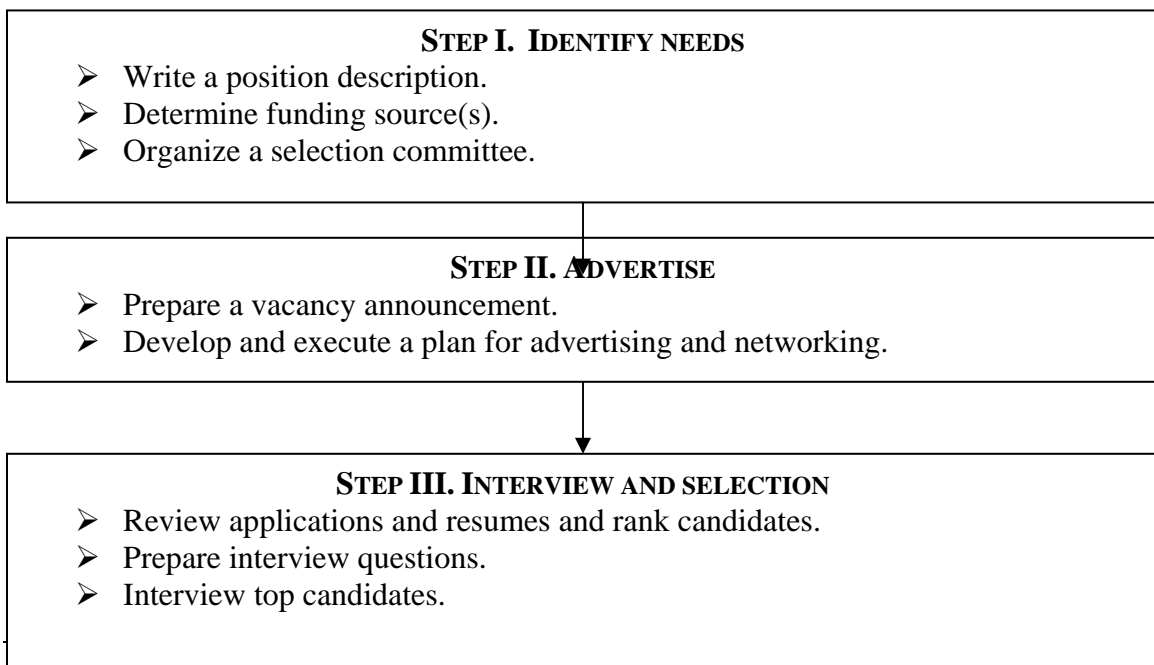
AACD and districts, in keeping with federal and state law and good business practice, expressly prohibit any form of harassment based on race, color, religion, sex, age, sexual orientation, national origin, disability, marital status or status as a Vietnam-era or disabled veteran. Improper interference with the ability of AACD employees to perform their expected job duties is not tolerated. Policies with respect to workplace and sexual harassment, reporting and retaliation are stated in Section 1.02 of the Employee Manual (adopted by the AACD on May 1, 2004).

### **6.04 DISABILITY PROVISION**

AACD and districts who contract with them to provide employees must comply with applicable state and federal laws concerning the employment of individuals with a disability. Accordingly, AACD and districts will not discriminate against qualified individuals who have a disability with respect to selection and hiring; advancement; termination; compensation; training; or other terms, conditions, and privileges of employment. Further, AACD and districts must reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job.

### **6.05 HIRING PRACTICES**

The most important decision a district can make in the hiring process is recruiting and recommending qualified employees to AACD for the district. A critical part of hiring an employee is knowing exactly what the district expects and effectively communicating this through a position description and throughout the recruitment process. The following is an example of a recruitment process used by many districts:





#### **STEP IV. OFFER**

- Selection committee submits recommendation to the board.
- District board reaches a decision.
- AACD prepares offer letter and extends verbal offer to candidate.
- AACD notifies other applicants that the position has been filled.

### **6.06 EMPLOYMENT CLASSIFICATIONS**

AACD and districts should have employment status categories that assist in making distinctions in benefits and conditions of employment among employees. Definitions for a full-time, part-time, temporary and term contract employees, as well as exempt and non-exempt employees, may be found in Section II of the Employee Manual.

### **6.07 INDEPENDENT CONTRACTORS**

In most cases, an individual hired by AACD to work for a district to perform work will be considered an employee. In certain instances, independent contractors are utilized rather than employees to complete work requirements. Independent contractors perform services under an express or implied agreement and are not subject to the organization's control, or right to control, the manner and means of performing the services. Independent contractors are not eligible for benefits or other employee privileges provided AACD employees.

Districts contemplating utilizing independent contractors should recognize the difference between using an AACD employee and seeking an independent contractor. Questions about the difference should be directed to DNR Procurement prior to a district finalizing any plans to solicit an independent contractor.

**Contracts for independent contractors must follow the procurement rules discussed in 8.08 of this manual.** Copies of district contracts with independent contractors must be on file with the NRCDB and the DNR Procurement office.

### **6.08 COMPENSATION AND PAYROLL PRACTICES**

This section covers issues of salary administration, payroll, overtime and reporting, expense reimbursements and per diem.<sup>7</sup> As stated in the Employee Manual, when an employee begins employment, he/she is informed of his/her rate of pay. That rate is based on an assessment of the position, training, experience and the current market for

---

<sup>7</sup> See Compensation and payroll practices addressed in Section III of the Employee Manual.



similar jobs. To ensure internal equity among all districts, compensation for each position will be evaluated periodically and adjustments made as deemed appropriate. Increases in salary will depend on a review of job performance, marketplace conditions and budgetary constraints of the organization.

Payroll is managed by AACD. Employees receive paychecks within five (5) working days of the last day of the pay period. The last day of the pay period will be the 15th and the last day of each month. Timesheets signed by a district supervisor and employee are due at 12:00 p.m. on the next working day following the pay period. If the due dates are on a weekend, timesheets are due the working day closest to and before the due date. Timesheets shall be signed by the employee and the employee's immediate supervisor or his/her designee.

### **6.09 EMPLOYEE BENEFITS**

The AACD provides eligible employees with a range of benefits (e.g., annual leave, sick leave, holidays, etc.). Summary plan descriptions, as appropriate, may be obtained from the AACD office and be distributed to employees during their orientation. More information concerning employee benefits can be found in Section V of the Employee Manual.

### **6.10 EMPLOYEE STANDARDS OF CONDUCT**

Sections IV of the AACD Employee Manual addresses a wide variety of issues relating to employee standards of conduct, and are therefore not discussed in detail in this manual. Nevertheless, it is imperative that district supervisors fully understand and enforce the employee standards of conduct as outlined in the Employee Manual.

### **6.11 PERSONNEL FILES**

Confidential personnel files shall be maintained for every employee. Personnel files may contain applications, resumes, references, performance appraisals and other pertinent documents of employment. These records will be kept by the AACD Executive Director or his/her designee and shall be maintained in a secure cabinet. Personnel records will be retained for six (6) years after an employee's termination. Employees may obtain a copy of documents in the file per AS 23.10.430(a). Permission must be granted by the AACD Executive Director or his/her designee to release a personnel file to an employee; the employee shall review the file only in the presence of the AACD Executive Director or his/her designee.

### **6.12 PERFORMANCE EVALUATIONS**

All employees will receive an annual performance evaluation. Interim performance evaluations are encouraged and may be conducted at the discretion of an employee's

immediate supervisor. New employees will receive a written performance evaluation after 90 days of employment and then upon completion of six months of employment. Performance evaluations shall take place in a private and confidential manner. Performance evaluations are the subject of Section VI of the Employee Manual. Districts should participate with AACD in evaluating employees working for the district.

### **6.13 DISCIPLINARY ACTIONS AND EMPLOYEE GRIEVANCES**

It is imperative that district supervisors address issues involving an employee's behavior or performance in an appropriate and timely manner, and in accordance with AACD guidelines. Each district supervisor should be familiar of the disciplinary policies and procedures outlined in Section VII of the Employee Manual.

Employees who have complaints, problems, concerns or disputes concerning a disciplinary action, performance evaluation or work condition may initiate the Employee Grievance process outlined in Section VIII of the Employee Manual.

### **6.14 EMPLOYEE SEPARATIONS**

As noted throughout the Employee Manual, AACD is an at-will employer. This means that AACD and the employee have entered into a contract without regard to the duration of employment. An employee is free to terminate their employment with a district at any time, with or without cause. Likewise, AACD has the right to terminate employment with an employee at any time, with or without cause.

Four forms of separation are defined in Section IX of the Employee Manual.

## **SECTION VII. PROGRAM PLANNING & REPORTING**

In Alaska, through delegation by the DNR Commissioner, district were given several authorizations through the initial soil conservation law, including the power “to develop comprehensive plans for the conservation of soil resources and for the prevention of soil erosion within the state, cropping programs, tillage practices and changes in use of lands; and to publish such plans and information and bring them to the attention of occupiers of land within the state.”

Planning is the basic tool to develop district programs. To develop and maintain an effective program, district supervisors must identify local conservation needs (resource concerns); set corresponding goals; develop plans with clear, measurable objectives; ensure implementation; monitor programs or projects; and evaluate results.

### **7.01 PROGRAM PLANNING CONCEPTS**

Program planning is often predicated on comparing two defined points: “what is” versus “what should be.” Other ways to express this concept are:

- “Where we are” compared to “where we want to be”
- “This is bad” compared to “that would be good”
- Getting from “here” to “there”
- “What we have” versus “what we want”
- “What we don’t want” compared to “what we do want”

“What is” descriptions are also known as problem statements, descriptions of resource concerns, or something identified as being below standard. The “what is” conditions or situations are usually determined to be unacceptable, illegal, not working or undesirable to the degree that corrective action is needed. Someone has to decide to take action to change the “what is” condition in the direction of “what should be”.

“What should be” statements define desirable conditions or situations that currently do not exist and toward which effort should be made. We also call them goals, objectives, desired outcomes and results and prescriptions (as defined by law, rules, requirements, adopted minimum standards, etc.).

One important factor is that “what is unacceptable” and “what should be” are often value judgments. Describing “what is” in great detail does not necessarily mean anyone wants to change it. Someone has to declare that “what is” is a problem (a condition so unacceptable that resources should be mobilized to change it) and that “what should be” will be worth the effort and expense to achieve. Problem descriptions and supportive data alone will not automatically lead to such conclusions. Some questions are: “When is the

problem bad enough”? At what point are improvements “good enough”? How much is “too much” or “going too far”?

Therefore, a critical part of program planning is **achieving consensus** on:

- The extent and seriousness of undesirable conditions.
- The quality and quantity of desired outcomes.
- The general approaches, strategies and methods to be used.
- The types, amounts and cost of resources necessary to obtain the desired outcomes.
- The probability or feasibility of success.

In addition, goals and objectives, monitoring and evaluation standards and procedures, recordkeeping, reporting and budgets will be easier to develop, if the beginning conditions and desired results are clearly defined. For example, one cannot properly monitor or evaluate the progress of a plan unless one knows where one started and what the desired outcome is.

## **7.02 NEEDS ASSESSMENTS**

Before developing a program plan, the district must assess and define the conservation problems and needs (resources, concerns, or issues) within the district. Landowners and operators, and those who work with them, are valuable sources of information. District supervisors were elected to represent all cooperators, and taking time to obtain cooperators’ input will pay dividends in the long run.

Since the conservation district is a public agency, it should consult with the community at large as well. This can be accomplished through public information meetings, requesting input through a municipal body, watershed council or any other method to obtain public opinion. Plan the district’s approach to provide factual information to the citizens.

Identify both current conservation problems and other problems likely to occur in the future. As conservation leaders, district supervisors should evaluate how well the public understands the future consequences of actions taken today.

While it is vital to identify the problems and needs to be addressed, it is equally important to identify the condition of the resources the public desires. It is important to ask, “What do you want your watershed to look like? What do you want to see? What do you want the water to be like, the land to look like, the conditions of wildlife, fish, wetlands, etc.?” A complete needs assessment does more than describe problems; it also paints the picture of what people want to see. If one can compare these two pictures, one can better determine needs: “What needs to be fixed? What needs to be done? How much needs to be done? Where is improvement needed?”

### 7.03 LONG-RANGE PROGRAM PLANS

Long-range program plans are developed as a broad outline of the district's course of action. A long-range plan be developed every ten years with objectives attainable within three to five years and those for five to ten years. The long-range plan should be updated annually, usually during the same time the Annual Work Plan is being developed.

A suggested format for a long-range program plan would include the concepts and contents associated with both long-range and strategic plans. *Long-range program planning* assumes today's conditions and trends will continue into the future: programs, services, products, funding levels, etc. *Strategic planning* is a process to determine where a SWCD intends to be in the future and how it intends to get there. It concentrates on key factors such as:

- Defining a vision and identifying values and guiding principles that will convince people of the value of the SWCD and build trust and rapport between the district and the communities and consumers it serves.
- Conducting a “situational analysis”: examining political, economic, social, technological trends and forces, and key stakeholders that will influence how the district does business.
- Describing the mission; examining opportunities and threats the district faces; exploring the district's strengths and weaknesses; and identifying critical issues the district will face in the future. Critical issues are problems requiring resolution because of their potential negative and positive impact on the district, citizens and the environment.
- Identifying and resolving issues.
- Determining the best approaches and strategies to move the district toward the desired future.

#### (a) Benefits of a long-range program plan

In addition to complying with statutory requirements, a good long-range plan provides the following benefits to both the district and to the consumers and communities it serves:

##### *Mission and Direction:*

- The district has a road map. It knows what it wants to accomplish. Knowing where the district is heading builds confidence and enthusiasm among supervisors, employees and partners.

- Identifies problems to address, goals to achieve and approaches to be used. The district knows not only where it wants to go, but also what it must do to get there.
- It guides and directs districts and partner decision makers to:
  - Describe current natural resource concerns and geographic areas of concern;
  - Define the desired conditions, outcomes and results;
  - Identify and evaluate alternative strategies and approaches to address resource concerns and achieve the desired conditions;
  - Determine long-range strategies and necessary resources;
  - Formulate a work plan with measurable objectives and defined responsibilities;
  - Assign fiscal, physical and personal resources to carry out the objectives;
  - Implement their work plan; and
  - Monitor progress and evaluate results.
- Provides long-range goals, targets and priorities for Annual Work Plans.
- Helps districts target current resources to the highest priorities.

*Internal Management:*

- Provides information on recruiting, employing, and supervising employees. Supervision becomes more directed and effective since specific responsibilities, job function and expectations can be identified.
- Specifies the content and issues and the goals and objectives on which annual reports are based. Annual reports describe the progress achieved toward the long-range goals and Annual Work Plan objectives.
- Guides the development of monitoring and evaluation standards and methods.
- Leads to specific fiscal allocation, costing and budgeting.
- Helps to eliminate superfluous and unproductive actions, i.e., those not addressing specific objectives and those not within the mission of the district and field office (not “our thing”).
- Provides a solid justification for saying “no”.
- Clearly outlines the work plan and workload on which employees report to their supervisors and district board.

*Resource Requirements/Needs:*

- Identifies the resources necessary to carry out the work of the district:
  - Personnel (a workload analysis: number of hours or days each employee, supervisor, volunteer or other persons will contribute to each action);
  - Physical resources (equipment, space, vehicles, etc.);
  - Fiscal resources;
  - Other.
- Provides the information on which to base decisions for assigning new resources or reducing or re-assigning current resources.
- Provides credible information on which to develop, defend and market funding proposals.

*Community and Partner Relations:*

- Contains information that can be extracted and used in many different media to inform and educate the public about the district, the problems and issues to be addressed, the goals and objectives and the resources needed.
- Enhances partner relations: identifies specific areas for collaboration, where help is needed, where responsibilities overlap, etc.

**(b) Long-range plan concepts**

The contents of the long-range plan can be broken down into four areas:

*Resource Concerns and Outcomes:*

- Resource concerns. A resource concern is a situation or condition that does not meet defined standards (rules, laws, public and district expectations, administration decisions, etc.). The inadequacy may be in natural resources (water quality and quantity, erosion, waste management, etc.); physical properties (equipment, buildings, vehicles, etc.); fiscal resources; personnel; public participation; knowledge; support; and many other items.
- Goals and outcomes. Goals and outcomes are statements of desired conditions, situations as they should be or end results. Goals are usually long-term. They are usually not measurable to the same specificity as objectives.
- Critical geographic areas. Identify and map particular places in the district where specific problems or issues need special attention.

- The resource concerns and outcomes should be prioritized according to criteria defined by the district in consultation with the public and partners.
- From this information, measurable objectives and strategies are written for each of the goals and outcomes.

*District Capacities, Needs and Strategies:*

In this section, the long-range plan (1) defines the current conditions and circumstances for each of the six factors listed below, (2) describes the desired outcomes; and (3) identifies how the district intends to achieve the long-range objectives for all of the following: services, programs and customers, personnel, facilities, equipment, monitoring and evaluation and finances.

*Description of the District:*

Certain information is necessary to introduce or describe the district. This section describes:

- Enabling and governing legislation – legal structure, powers and authorities.
- History of the district.
- District vision and mission.
- Values and guiding principles.
- District’s leadership.
- How the district operates.
- Relationships the district has with partners and the community.

*Program Planning Process:*

This section describes:

- The program planning process used.
- Data collected and reviewed.
- Partners assisting the district in planning.
- Public involvement, and
- Other important factors to assess resource concerns and determine the long-range course of action.



## 7.04 ANNUAL WORK PLANS

An Annual Work Plan<sup>8</sup> outlines specific objectives and activities the local district will pursue in the next fiscal year to address the goals outlined in the long-range plan. The Annual Plan should be completed just prior to or at the beginning of the state's fiscal year (i.e., May 15, and should cover **July 1** of the current year to **June 30** of the following year. Annual Work Plans must be submitted to AACD, NRCS (as the funding source), NRCDB, and the DNR Commissioner or his designee for approval no later than **May 15**. The approving agencies may require that district work plans are consistent with all applicable state statutes prior to implementation.<sup>9</sup>

The Annual Work Plan should include work that can realistically be accomplished during a one-year period. It should include programs that are routinely accomplished each year, such as estimates of the number of farm plans to be developed and by whom; education and outreach programs; annual reports, annual meetings and audits; etc. It should also include actions taken as preliminary work toward goals in the long-range plan that will be complete in later years. Each item in the plan should (1) specify a planned completion date and (2) identify who is responsible for implementation.

The Annual Work Plan should list the objectives and activities to be accomplished in the next fiscal year. Include such items as:

- Goals (goals and sub-goals from the long-range plan)
- Objectives for one year
- Actions, tasks or steps needed to accomplish each objective
- Estimated workload (hours or days by each individual or discipline for each action)
- Person(s) responsible for each action
- Due dates or time schedule to complete each action
- Budget information—source of funding, cost elements, cash categories, etc.

Use the Annual Work Plan to figure out budget requirements, such as fixed expenses that are not tied to specific objectives, such as lease costs, resource funds, contingency funds, savings that fit other financial reporting such as Profit & Loss statements.

Annual Work Plans describe in detail **who** is going to do **what**, **by when** and **how**. Most actions are a sequenced list of tasks recorded on a timeline, like a calendar, flow chart, time bar chart or spreadsheet.

---

<sup>8</sup> An example of an Annual Work Plan can be found in Appendix R.

<sup>9</sup> See Appendix A, Department Order 147.

## 7.05 RECOMMENDATIONS FOR WRITING PLANS

The following suggestions are beneficial when writing a plan:

- Plan for planning. Appoint committees. Gather appropriate information. Write out a plan with tasks, assignments and a schedule to complete the desired plan.
- Involve district supervisors, employees, advisors, cooperating agencies and partners and the public.
- Make sure the district has thoroughly assessed the conditions and determined the most critical resource concerns and issues to be addressed.
- Just describing the problems is not enough. The district must describe the desired conditions and outcomes.
- Set goals. After researching and defining local conservation problems, issues and needs, the district should develop goals to address the needs. Goals have different levels. In the business plan, set broad, strategic, long-range goals, which focus on the next three to five years. In the Annual Work Plan, list more specific, measurable, operational objectives and tasks for the results needed during the fiscal year.
- Prioritize the resource concerns, goals and objectives.
- Brainstorm alternative solutions to meet the goals.
- Assess the readiness of the conservation district to implement solutions: adequate personnel, sufficient technical assistance, adequate financial assets, etc.
- Make the plan attractive, easy to read and understandable. Use graphics.
- Be creative. Do not automatically accept “the way things were always done”.
- Be realistic. Do not try to accomplish more than is attainable or credibility may be lost. Plan for success.
- When the long-range plan and Annual Work Plan are completed, they should be reviewed and approved at a board meeting. A district representative, generally the chair, should sign both plans. Many districts ask every supervisor and a representative of each partner agency or organization having responsibilities in the plans to sign each plan as well. Indicate on each plan the date it was approved.
- Provide copies to AACD, NRCS and NRCDB.

## **7.06 IMPLEMENTING PLANS**

After finalizing plans, implement planned tasks by mobilizing the sources of assistance with the expertise to deal with the identified needs (these sources of expertise and assistance should have already been consulted in the planning process). Many districts may choose to have one or more committees to oversee the implementation. Regardless of how the district manages implementation, it should keep the district program on the planned course. Allow some flexibility to include new developments, but do not let the district get sidetracked from the plan.

## **7.07 MONITORING AND EVALUATING PLANS**

This manual cannot go into all the details about monitoring and evaluation, but it is important that districts recognize some basic facts.

- Monitoring and evaluation processes are usually the most neglected portions of plans, often left to the last minute and given insufficient attention.
- Since competition for limited funds is steadily increasing, monitoring and evaluation are becoming more important and are given increased attention by funders.
- Monitoring and evaluation activities should relate to the district's overall program, not just the grants requiring such processes. They should focus on funding ("Are we on budget? Are funds being spent as budgeted?") and may also focus on conducting meetings ("Are we starting and adjourning as scheduled?") Other factors include objectives in the long-range program plan and Annual Work Plan, personnel performance, board functioning, the work of volunteers, education efforts, record keeping, consistency with vision and mission, public relations, etc.
- Monitoring and evaluation activities should be conducted throughout the year, not just at the end of a grant period.
- The most important factor influencing a district's ability to conduct effective monitoring and evaluation activities is the quality of its plans. For monitoring and evaluation to be done effectively and efficiently, clear goals, measurable objectives, detailed work plans, careful workload analyses, detailed budgets, good record keeping, clearly defined employee responsibilities and quality monitoring and evaluation standards and methods are essential.
- The type of objective used in the plan determines the degree of complexity in monitoring and evaluation. Project objectives require a low level of expertise and effort. "Was the project successful? On time? In sufficient quality and quantity?"
- Semi-annual and even quarterly reviews of the plan are advised. Changes may be necessary to eliminate or adjust objectives no longer appropriate or to

incorporate a new requirement or opportunity not known when the plan was first written.

- District supervisors and managers must look at their operations with at least three major concerns in mind:

**Achievement:** “How well are we doing? Are we reaching our objectives? Are we on schedule? Are we still on course? Have we served the consumers we wanted to serve? Is money being spent as planned? Are we doing the things we said we would do?”

**Improvement:** “How can we do our job better? Are we using the best methods? What changes might produce better results? What is needed for improvements to be possible? Do our employees have the knowledge and skills required to perform as desired?”

**The Future:** “What impact will today’s operation have on next year? Are we heading toward our long-range goals and objectives? Have we built in flexibility and responsiveness so we can adjust to changes and react to the unexpected? What survival threats loom ahead of us? Have we already started to prepare for what we will face in the future?”

Evaluation in all of these areas requires good information and accurate, complete records.

## **7.08 DISTRICT REPORTING REQUIREMENTS**

Districts are governed by statute and are also subject to various rules attached to funding sources. District supervisors need to be aware of all reporting requirements. District reporting requirements may fall into the following categories: (1) Annual Work Plan; (2) annual meeting and notice; (3) annual reports of accomplishment; (4) financial reports; (5) meeting minutes; (6) the reports/audits required under each grant contract entered into by the district; and (7) the various reports a district makes to its cooperators as part of public hearings or annual meetings. The following table provides a list of the requirements that each district must comply with:

REQUIREMENT	DUE DATE	PROVIDED TO	DATES COVERED
Annual Work Plan	May 15	AACD, NRCS, NRCDB, DNR	July 1 – June 30 (prospective)
Property Inventory	June 1	NRCDB, DNR	Current
Financial Reports	Monthly	AACD, NRCS, NRCDB	Monthly
Meeting Minutes	Monthly	AACD, NRCS, NRCDB	Monthly
Semi-annual Report of Accomplishment	Spring meeting (March)	AACD	January - December
Annual Report of Accomplishment	September 15	AACD, NRCS, NRCDB, DNR	July 1 – June 30 (retrospective)

## 7.09 SEMI-ANNUAL AND ANNUAL REPORT OF ACCOMPLISHMENT

The semi-annual and annual reports of accomplishment are probably the best way districts can tell their stories in writing. It is a summary of what the district accomplished over the past year and takes its general format from the district's Annual Work Plan. In other words, the report of accomplishments tells how well and how completely the Annual Work Plan was carried out by the district. The annual report should be a comprehensive statement of all funding sources and all projects started, in progress or completed during the reporting period, regardless of funding source.<sup>10</sup>

The content of the reports may vary, but should generally include:

- A personal message from the district chair.
- An easy-to-read financial report from the treasurer or auditor.
- Highlights of the year.
- A brief summary of each district program and project. This can be a summary by grant or funding source(s) or the district's prioritized program areas.
- A summary of total conservation practices put on the ground. This section should include the number of cooperators that were helped during the year.
- A list of persons involved in district activities (e.g., supervisors, employees, volunteers, cooperating agencies and partners, etc.). Photos and a little personal information will make this part of the report more appealing.

---

<sup>10</sup> See Appendix R for a template of an Annual Work Plan.

## SECTION VIII. DISTRICT FINANCES

Since districts are state authorized entities, **all funds obtained by districts, regardless of source, are considered public funds, whether they come from public or private sources.**<sup>11</sup> District supervisors should be advised that there are statutes that address improper or unlawful use of public funds. Guidance on the management of these funds can be found in the Alaska Statutes under Title 37: Public Finance. These rules apply to all districts funds. Guidance regarding district financial accountability for federal funds needs to follow the obligating agreement and also federal requirements, which can be found in various Circulars issued by the U.S. Office of Management and Budget (OMB). If federal funds are provided to districts through AACD, the districts must comply with the AACD obligating agreement between AACD and the granting agency as well as the sub-agreement between AACD and the district.

### 8.01 FISCAL ADMINISTRATION AND DISTRICT ACCOUNTABILITY

Each district board of supervisors has the following fiscal responsibilities:

- Create and adopt a district budget.
- Manage funds consistent with fiduciary responsibility and annual work plans.
- Maintain accurate and complete financial records and reports.
- Manage property and assets (e.g., cash, equipment, furniture, vehicles, inventory).
- Manage cash deposits and other financial holdings.
- Review and approve monthly financial report from AACD and the expenditures itemized in the monthly treasurer's report.
- Report to appropriate local, state and federal agencies and governments.

### 8.02 INTERNAL CONTROL

Each district should have procedures to monitor and record assets received, held and expended.

The following is a list of internal controls that should be present in all districts:

- An annual income and expense budget should be prepared and approved by the board of supervisors and monthly reports comparing actual receipts and expenditures should be presented to the board of supervisors for approval. The

---

<sup>11</sup> See Appendix B, Legal Status of Soil and Water Conservation Districts.

board of supervisors should provide for regular oversight of the district's financial management.

**NOTE: The budget planning process should begin in early winter so that ample time is allocated to develop the budget and the annual work plan. It is anticipated that the budget and annual work plan will be requested from districts in early May of each year.**

- A procedure should be established to ensure that no single individual is responsible for (a) receiving, recording and depositing cash and other receipts. Additional safeguards should be in place to insure that no single individual is responsible for dispersing funds, or (b) requesting, authorizing, verifying and recording expenditures. For example, the same person should not be responsible for cash disbursements and bank reconciliations. These functions should be assigned to different individuals.

**NOTE: This function is especially critical for a district because it removes the possibility of covering up a fraud by destroying forged checks and falsifying the reconciliation. If the size of the staff of a district prevents a separate person from preparing the bank reconciliation, then at a minimum, the contents of the bank statement should be reviewed by a supervisor before the account is reconciled. This not only provides a good after-the-fact control, but also provides the supervisor with a very good opportunity to understand the cash flow of the organization. The process should specifically involve the supervisor receiving the statements unopened from the bank, then reviewing the statements for disbursements and transfers, and signing and dating the statements indicating that this review was done.**

- Grants and contributions received are to be properly recorded and stipulations required by grants are to be followed. Measures need to be taken to ensure that grant funds are used only for the purposes they were awarded.

**NOTE: Managing grants is a key part of managing the district operations. It is essential that a separate file folder is created for each grant and that the grant is monitored on a regular basis. The grant file should include at a minimum the notification of the grant award, the grant proposal, copies of reports filed with AACD and the grantor, copies of all requests for funds, all correspondence and all financial reports related to the grant. It is recommended that a log sheet be kept at the front of the folder to track all activity with the grant.**

- There should be a separation of duties in accessing, inputting and changing electronic data maintained by the organization. There should be procedures in place for preserving electronic records and ensuring data compatibility when systems change.

**NOTE: It is recommended that district computers and the financial software be password protected. However, it is also recommended that more than one person have access to the software and use it periodically.**

- A process should be in place to comply with obligations to members, employees and the public, including their right to a copy of the district's annual financial report.

### **8.03 BUDGETS**

All districts are required to prepare an annual budget for district operations. A budget is a financial plan that estimates the resources and expenditures required to conduct business in the upcoming year. A properly prepared budget allows lawful appropriations, which provides the authority to spend money and allows the districts to assure that the funds are being used for the highest priority work.

When developing a budget, the district should consider the following:

- Projected workload. The estimated time and costs of supervisors, staff and volunteers to achieve the objectives and actions identified in the Annual Work Plan.
- Anticipated resources and revenues from all sources, including:
  - federal and state grants
  - private and corporate sources
  - local funding
  - fundraising activities
  - transfers from other funds
  - other sources of income
- Projected expenditures including:
  - Personnel services (e.g., payroll, benefits, contracting, etc.)
  - Materials and services
  - Capital outlay
  - Debt service
  - Transfers to other funds
- Other financial requirements:
  - Operating contingency
  - Reserve funds



- Unappropriated ending fund balances

The budget may be prepared by the entire board, a designated budget officer or treasurer, a finance committee, a consultant or designated staff. Once prepared and reviewed, the board must adopt the district budget in its entirety by board action at a public meeting. By adopting the budget, the board is authorizing its representatives to conduct transactions incumbent in the budget.

A district’s fiscal policies and procedures should outline the manner in which district transactions are conducted, recorded and reported. Districts may choose to:

- authorize a specific board member or staff person to administer the financial transactions within the approved budget categories, or
- retain their authority to review and approve transactions by official board actions at regular board meetings.

District boards should review the budget on a regular basis to monitor transactions and determine whether the district will stay within its budget during the fiscal year. Districts will need to revise their budgets during the year to allow for receipt of new revenues or payment of expenditures that were not anticipated in the current budget year.

The following dates and activities apply to budget and Annual Work Plan schedules:

ACTIVITY	DATE
Budget Packet to Districts from AACD	February 1st
Budget and Work Plan from Districts to AACD, NRCDB	May 1st
Budget and Work Plan from AACD to NRCS	June 1st

#### **8.04 FINANCIAL REPORTS AND RECORDS**

Districts are required to provide a variety of financial reports and records in order to satisfy statutory requirements, grant agreements and internal management needs. Financial information can also be used when conducting district outreach activities and to show the public how the district is using its funds.

There are four basic types of financial reports that should be generated by each district:

TYPE	FREQUENCY
Budget	Annual or as revised
Treasurer’s report	Monthly
Year-end financial summary	Annual
Audit, financial review or financial status report	Annual

All of these reports should be available and accessible to the public, cooperating partners, grantors and other interested parties for review. These reports can also be used to prepare informational materials and public presentations regarding district programs.

**8.05            AUDIT REQUIREMENTS**

Formal financial reviews of two districts will be conducted annually through the AACD. These audits will be performed by an independent firm selected by the AACD. These audits are a requirement of the NRCS. If NRCS funding of districts ceases, AACD will not conduct these reviews. The order of district reviews will be determined alphabetically. Following is the order of audits through the first cycle:

<b>YEAR</b>	<b>SWCD REVIEW</b>
2004	Alaska SWCD Anchorage SWCD
2005	Fairbanks SWCD Homer SWCD
2006	Kenai SWCD Kenny Lake SWCD
2007	Kodiak SWCD Mid-Yukon SWCD
2008	Palmer SWCD Salcha-Delta SWCD
2009	Upper Su SWCD Wasilla SWCD

For districts not scheduled for an independent review, district supervisors should establish an audit committee to carry out the audit requirements. An auditing committee of at least two people appointed by the district chair shall carry out annual internal audits. Any supervisors, other than the treasurer for the year covered by the report, may serve on the committee. At least one local person familiar with accounting and at least one supervisor should be asked to serve on the audit committee.

AACD will conduct on-site district audits annually. The primary purpose of these on site AACD audits is to review the district’s internal controls. Results from independent financial reviews and on-site district audits will be sent to the NRCDB Executive Director.

To learn about the standards for audits applicable to federal awards/grants, refer to OMB Circular No. A-133. Circular No. A-133 sets forth standards for obtaining consistency and uniformity among federal agencies for the audit of state and local governments and non-profit organizations expending federal awards. Audit requirements for non-federal entities that expend \$500,000 or more in a year in federal awards shall have a single or program-specific audit conducted for that year. Circular No. A-133 can be found at <http://www.whitehouse.gov/omb/circulars/a133/a133.pdf>. Depending on the sources of

funding other OMB circulars may apply. Districts are responsible for complying with all funding requirements imposed by a funder and agreed to when the funding was accepted by the district. Other OMB circulars can be found at <http://www.whitehouse.gov/OMB/circulars/index.html>

## **8.06 SOURCES AND MECHANISMS FOR FUNDING**

The first step in district funding is to define the need for funds.<sup>12</sup> Each district should refer to its Annual Work Plan and long-range business plan when determining funding needs. Districts should then assess what funds are available from borough appropriations, federal and state grants, local income-producing projects, individuals, corporations, foundations and other sources.

Grant funds are awarded on a competitive basis for a fixed period of time and usually are for a specific purpose. Federal and state governments, state councils and private foundations are all sources of grants.

Districts have the legal ability to undertake local fund-raising activities. Examples of fundraising activities include:

- Conservation equipment rental
- Retail sales (trees, plants, hats, books, etc.)
- Silent auction
- Special events (bake sales, golf tournaments, walk-a-thons, etc.)
- Service fees paid for providing conservation services (e.g., soil testing, tree planting, etc.)
- Direct appeals through donations through media, mail or telephone
- Memorials, bequests and honorary gifts
- Membership (annual contributions from individuals, agencies and/or organizations)
- Sponsorship for individuals projects
- Advertisement in district newsletter

The most effective way to successfully raise funds is to develop and follow a fundraising plan. Board members should be active in fundraising planning and events.

---

<sup>12</sup> Soil and Water Conservation Districts may contract directly with state and federal agencies. *See* Appendix B, Legal Status of Soil and Water Conservation Districts, and Appendix V Soil and Water Conservation Districts, for authority to contract directly with federal agencies.

A publication of the National Association of Conservation Districts entitled *More Dollars for Your District* is a very helpful guide in planning fundraising activities.

As a §501(c)(3) nonprofit corporation the AACD can be the recipient of tax-deductible contributions for the benefit of districts. Contributions to AACD are deductible to the fullest extent allowed by law. IRS Publication 526 should be used to determine the tax deductibility of a contribution.

## **8.07 PROCUREMENT PROCEDURES**

Districts are required to follow state procurement law in awarding contracts for goods or services (AS 36.30 and 2 AAC 12). Each district should have a copy of the applicable statutes and regulations for reference which is available on the State of Alaska website:

<http://www.state.ak.us/local/akpages/ADMIN/dgs/purchasing/home.htm>

Before soliciting bids for purchases or contracting, districts must ensure that funds are available to pay for the product.

There are some general guidelines that should be followed to protect the district and its supervisors from any perceptions of wrongdoing. Good business practices are the key to these guidelines.

With certain exceptions enumerated in AS 36.30.850(b), the Alaska State Procurement Code, AS 36.30, applies to every expenditure of state funds, irrespective of their sources, including federal assistance except as otherwise specified in AS 36.30.890:

“If a procurement involves the expenditure of federal funds or federal assistance and there is a conflict between a provision of this chapter or a regulation adopted under a provision of this chapter and a state statute, regulation, policy or requirement, the federal statute, regulation, policy or requirement shall prevail.”

With certain enumerated exceptions, the Alaska State Procurement Code, AS 36.30, applies to every expenditure of state money, which is defined to include money appropriated to or spent by a district board, regardless of its source. AS 36.30.990(22)

See also Appendix A, Department Order 147, and Appendix B, Legal Status of Soil and Water Conservation Districts.

### **(a) General guidelines**

Procurements may not be artificially fragmented to avoid higher levels of competition. For example, the entire amount of an equipment lease is based on the initial payment, monthly lease amounts, and final payment; or the entire amount of a service contract includes the initial term and all possible renewals. Any questions about the following

criteria, including the applicability of preferences or limits, should be directed to DNR's Procurement Officer.

- **\$5,000 or Less (2 AAC 12.400(b)):** Districts shall use reasonable and adequate procedures and ensure district records facilitate auditing for procurements of supplies, services, professional services, or construction estimated to cost no more than \$5,000.
- **\$5,001 to \$25,000 (2 AAC 12.400(c)):** For procurement of supplies, services or professional services estimated to cost more than \$5,000, but no more than \$25,000:
  - At least three firms or persons shall be contacted, either verbally or in writing for a quotation. The SWCD shall designate in the solicitation whether the response may be verbal or written. The solicitation shall include the specifications, the award criteria, and the date and time responses are due.
  - The award shall be made to the firm or person submitting the lowest quotation in accordance with the specifications and award criteria in the solicitation.
  - The district shall record the following information in the procurement file: the date of the solicitation; the specifications or items solicited; the award criteria; the names of firms or persons contacted; copies of all quotations received; and justification for the award.
- **\$25,001 - \$50,000 (2 AAC 12.400(d)):** For procurement of supplies, services, or professional services estimated to cost more than \$25,000, but no more than \$50,000;
  - At least three firms or persons shall be contacted, in writing, for a quotation; the response must be made in writing. The solicitation shall include the specifications, the award criteria, and the date and time responses are due.
  - The award shall be made to the firm or person submitting the lowest quotation in accordance with the specifications and award criteria in the solicitation.
  - A written Notice of Award shall be provided to each firm or person who provided a quotation. The notice shall include the name of the successful offer or.
  - The district shall record the following information in the procurement file: a copy of the solicitation; the names of the firms or persons contacted; copies of all written quotations received; a copy of the Notice of Award.

- **Greater than \$50,000** Any purchases or professional services contracts that exceed \$50,000 in value shall be requested through DNR's Procurement Officer.
- **Construction Related Competitive Procurements up to \$100,000<sup>13</sup>**  
Construction is the process of building, altering, repairing, maintaining, improving or demolishing a public improvement to real property, other than privately owned real property leased to the State. Construction also includes services and professional services relating to planning and design required for the construction. **Districts must consult with DNR Procurement for any construction project over \$2,000 due to unique requirements for such projects.**
  - At least three firms or persons shall be contacted, in writing, for a quotation; the response must be made in writing. The solicitation shall include the specifications, the award criteria, and the date and time responses are due.
  - The award shall be made to the firm or person submitting the lowest quotation in accordance with the specifications and award criteria in the solicitation.
  - A written Notice of Award shall be provided to each firm or person who provided a quotation. The notice shall include the name of the successful offer or.
  - The district shall record the following information in the procurement file: a copy of the solicitation; the names of the firms or persons contacted; copies of all written quotations received; a copy of the Notice of Award.

Notice should be provided using the method determined to reach the most prospective contractors in the district area.

**(b) Contract Amendments**

- Must be within the scope of the original contract;
- Must be due to circumstances or predicaments which were not foreseen at the time the contract was awarded, and cannot constitute an effort to evade the procurement process; and
- A written explanation citing the reason(s) for the amendment must be made part of the procurement file.

---

<sup>13</sup> See Appendix T for sample forms.

**(c) Fragmentation**

Per the State Administrative Manual (Section 81.150), procurement requirements may not be divided or fragmented to constitute a purchase under the small procurement rules or to circumvent the source selection procedures required by AS 36.30.100 - 36.30.270.

**(d) Preferences**

- All small procurements should be solicited from Alaskan vendors, whenever practicable. Thus, the minimum number of quotations for an award of contract must be sought from Alaskan vendors prior to soliciting non-Alaskan vendors, unless soliciting quotes or proposals from Alaskan vendors is not practicable.
  - All small procurements are subject to applicable Alaskan bidder and Alaska products preferences as set out in AS 36.30.322-.338 and 2 AAC 12.260(d).
    - Alaska Bidder Preference -- reduces the proposed price by 5%. For example: A non-Alaskan vendor submits a price of \$4,800 and an Alaskan vendor, who qualifies under AS 36.30.170(b) submits a price of \$5,000. The Alaskan vendor's price is reduced by 5% to \$4,750. The Alaskan vendor now has the lowest priced offer and will receive the award. However, the Alaskan vendor will be paid the \$5,000 contract price.
    - Additional preferences which may apply:
      - Alaska Offerors – 2 AAC 12.260(e) – applies to informal proposals only
      - Employment Program – AS 36.30.170(c)
      - Alaskans with Disability – AS 36.30.170(e)
      - Employers of People with Disabilities – AS 36.30.170(f)
      - Use of Alaska forest products – AS 36.30.332
      - Use of Alaska products and recycled Alaska products – AS 36.30.324
      - Use of recycled products – AS 36.30.337
      - Local Agriculture & Fisheries Products – AS 36.16.050

**(e) General principles applicable to procurements**

- In the process of obtaining quotations or proposals, vendors contacted should be rotated to allow all firms in the area to compete. The same three vendors should not always be contacted if other sources are available. However, vendors known to offer good prices in the past do not have to be omitted when

rotating the list. The minimum number of quotations or proposals required is three.

- If only one quotation or proposal is received, the procurement may be awarded to the sole offeror, but the reasons the other offerors failed to submit a quotation or proposal should be documented in the file (if known). You do not have to continue to seek quotations or proposals from companies that historically do not respond to the solicitation. When a quotation or proposal is determined to be non-responsive, you should document the file as to why it was non-responsive (e.g. offered item does not meet the specifications).
- If a tie exists between two or more low quotations or proposals, the award shall be made through a random drawing (2 AAC 12.900). The award may not be made by dividing the procurement among the low bidders.

**(f) Tips on avoiding protests**

- Be fair to all offerors or potential offerors. Keep them all informed of any changes to the terms, conditions and specifications of your solicitations.
- Avoid providing supplemental information to individual bidders that allows them to compete unfairly.
- Do not negotiate with a vendor after quotes are received from competing vendors.
- Carefully consider questions or criticisms raised by offerors or potential offerors in response to your solicitations. Be willing to modify your terms and conditions if warranted and practicable.
- Be willing to admit and correct mistakes. If you can't correct a mistake on a current solicitation, correct it in future solicitations.
- Do not accept personal favors or discounts from vendors that are not available to the general public.

**(g) Violation of the State of Alaska Procurement Code**

If a district violates the State of Alaska Procurement Code, they may be subject to civil and criminal penalties as set forth in AS 36.30.930.

**(h) Conflicts of Interest**

Even the appearance of a conflict of interest should be avoided. A supervisor serving or employee working on behalf of a district may not attempt to acquire, receive, apply for, be a party to, or have a personal or financial interest in a procurement or contract. If the supervisor or employee working on behalf of a district has an interest they may not be a



part of official action that affects the award, execution, or administration of the procurement or contract. (AS 39.52.150(a)).

District supervisors are required to comply with the Alaska Executive Branch Ethics Act (Ethics Act) AS 39.52. AACD employees, independent contractors or supervisors working on behalf of a district may not use their positions for personal gain or to give unwarranted benefit or treatment to any person or business. All procurements must be conducted in a fair and impartial manner. *See also* Section 5.09 Ethics.

## **8.08 CONTRACTS AND AGREEMENTS**

Districts are required to follow state procurement (i.e., contracting) law (AS 36.30 and 2 AAC 12). Each district should have a copy of the statutes and procedures, which are available on the State of Alaska website:

<http://www.state.ak.us/local/akpages/ADMIN/dgs/purchasing/home.htm>

### **(a) Review of contracts and agreements**

When a district prepares a contract or an agreement, a draft may be submitted to the AACD Executive Director or the DNR procurement officer for assistance. Such assistance may include such things as determining if there any problems in the contract or agreement, providing guidance to minimize the risk to the district and help on wording the liability/indemnity portions of the document.

### **(b) Contract liability**

Tort liability does not apply to liability assumed under a contract. If a district contracts with an individual to do something, that person has the same rights as if he had contracted with a private company. If something goes wrong and the district breaches the contract (e.g. fails to make payment for work performed under the contract), the district may be sued. If that happens, the general liability insurance provided through the Department of Natural Resources and the Department of Administration, Risk Management Division, does not apply. It only covers tort liability. If the district is aware of facts that suggest a breach of contract has occurred or might occur, the district should seek advice from either DNR or the Department of Law at the earliest opportunity.

### **(c) Hold harmless/indemnity clause**

It is important to include a hold harmless or indemnity clause in contracts and agreements. In doing so, the district is stating up front that it will not be responsible for any actions by a contractor or others involved in the project that cause damage to others. Any contract or agreement prepared by an entity other than the district should be reviewed carefully to ensure that the hold harmless clause does not hold the district accountable for the actions of the other party.

The following is a standard “Hold Harmless” clause for inclusion in contracts and agreements:

“The Contractor shall indemnify, hold harmless and defend the \_\_\_\_\_ SWCD, its officers, agents and employees from all liability, including attorney fees, costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any error, omission, or act of the contractor, subcontractor or anyone directly or indirectly employed by them in the performance of this agreement.”

Districts may seek advice from DNR Support Services Division, or the Department of Law regarding the wording of these clauses in contracts and agreements before signing. Note that any contract using the above language must define “contractor.”

#### **(d) Insurance**

It is important to include insurance requirements in contracts and agreements. A district must follow State of Alaska statutes and procedures, which are available on the State of Alaska website:

<http://www.state.ak.us/local/akpages/ADMIN/dgs/policy.htm>

Insurance requirements can be found under the “Purchasing Documents and Forms” link in Appendix B1 and B2. Questions regarding these requirements should be directed to DNR Support Services Division.

#### **Frequently asked questions:**

*At what dollar amounts are districts required to seek bids?*

The short answer is that all public contracts shall be based upon competitive bids. At lower dollar amounts the bids can take the form of verbal quotes, but as the dollar amounts increase written bids are required. A district should refer to the Alaska statutes and regulations as well as any policies and procedures for the specific requirements of dollar amounts. Be sure to keep accurate records on file on all bids and price offers.

*Is it permissible to divide a public works project into smaller projects or phases of a larger project in order to avoid the requirements of formal, competitive bidding and prevailing wage?*

No. You cannot artificially fragment purchases or contracts to avoid higher levels of competition.

*How long before awarding the contract does the district need to advertise for bids?*

This depends on the amount of the purchase. For amounts greater than \$50,000, the request for proposal or invitation to bid should circulate for 21 days. For contracts of \$50,000 or less, public notice of the solicitation occurs when the vendor is contacted for a quote or is presented with an informal request for proposal or request for quotation.

***How and where does the district advertise for bids?***

Notice may be provided in accordance with AS 36.30.130 by one of the following methods:

- (1) mailings to prospective contractors;
- (2) publication in a newspaper of general circulation, and, if practicable, in a way calculated to reach prospective contractors located in the state;
- (3) publication in a newspaper of local circulation in the area pertinent to the procurement, and, if practicable, in a way calculated to reach prospective contractors located in the state;
- (4) notices posted in public locations within the area where the work is to be performed or the material or supplies furnished;
- (5) communication in another appropriate media, including postings in electronic media, and, if practicable, in a way calculated to reach prospective contractors located in the state.

***Does the district need to require a performance bond on construction projects?***

Performance bonds are required for any construction contract over \$100,000. Bonds can also be required from contractors to protect the interests of the district. If a bond is required, it must be included in the bid solicitation.

***Does the district need to adhere to prevailing wage rules?***

Yes.

***Does the district always have to award the contract to the lowest bidder?***

Generally, yes. However, proposals may be evaluated for more than price alone. In that case, criteria for evaluating proposals must be included in the bid solicitation (2 AAC 12.260). Criteria may include

- (1) experience in providing the required services;
- (2) qualifications and competence of the individuals who would be assigned to perform the services, as reflected by technical training and education;
- (3) ability to perform the services expeditiously, as reflected by workload and the availability of adequate personnel, equipment, and facilities; and

(4) past performance, as reflected by the evaluations of private persons and officials of other government entities that have retained the services of the firm or person, with respect to such factors as control of costs, quality of work, and ability to meet deadlines.

***Can the district contract with the landowner or farmer upon whose land the project is being done?***

Districts should assure that such actions are authorized or allowed by the funding source. IF IT IS AUTHORIZED, policies guiding eligibility, criteria, quality assurance, and payment should be in place to assure program needs are met and that all eligible landowners have an equal opportunity to receive such assistance. In addition, procurement requirements, including the requirements for competitive bids, must be met.

***Can a district supervisor or his/her relative bid on personal services or public works contract proposals let by the district?***

Neither district officials nor their immediate family members should personally benefit from district managed funds. See Section 5.09 (Alaska Executive Ethics Act) for further guidance.

## **8.09 VEHICLES**

Districts are eligible to purchase state surplus vehicles and should contact the state office or federal surplus for more information. If a district chooses to purchase a new or used vehicle, it must follow State Equipment Fleet rules ([http://www.dot.state.ak.us/admsvc/pnp/policy\\_and\\_procedures.shtml](http://www.dot.state.ak.us/admsvc/pnp/policy_and_procedures.shtml)) and make the purchase request through DNR's Procurement Officer.

### **(a) Use of personal vehicles**

Vehicles owned by the district should be used only for official district business.

As noted in section 4.09(b) of the Employee Manual, employees will maintain, at a minimum, liability insurance on all privately owned vehicles used for official district business. Proof of insurance should be submitted to AACD and held in the employee's personnel file. All vehicle accidents will be reported immediately to the employee's immediate supervisor. Please refer to section 3.04(b) of the Employee Manual for procedures concerning mileage reimbursement.

Districts may consider policies and procedures regarding the use of personal vehicles for official district business as it relates to:

- accident/claim reporting requirements and procedures;

- safety requirements, equipment and/or inspection of vehicles (e.g., seat belts, operational standards, etc.); and/or
- responsibilities for repairs and maintenance.

Examples of what is considered official district business may need to be clearly defined for each employee.

**Frequently asked questions:**

*If the district is paying mileage costs for an AACD employee or supervisor to use his/her personal vehicle for official district business and an accident occurs, whose insurance pays?*

As a risk management practice, districts should require proof of insurance from those people using personal vehicles for official district business.

For AACD employees, a person's own automobile insurance<sup>14</sup> takes first position in the event of a claim. If the limits of the person's insurance are exceeded, then the liability coverage from the AACD takes second position and covers the damages up to the established policy limits.

Supervisors on official district business should report any accidents to the Alaska Department of Administration (DOA), Risk Management Section. Risk Management's claim administrators respond to all automobile and general liability claims and assign claims to independent professionals for adjusting on a case-by-case basis.

**(b) Use of federally owned vehicles**

As outlined in Section 4.09(a) of the AACD Employee Manual<sup>15</sup>, NRCS-owned vehicles may be used only by local AACD district employees with a valid driver's license, personal automobile insurance, a good driving record and a current NRCS driving form signed by the NRCS State Conservationist. There must be an operational agreement between NRCS and the district covering vehicle use. Any use of NRCS vehicles must be authorized by the NRCS District Conservationist and the vehicle should only be used for official NRCS business. NRCS vehicles cannot be used to transport persons not approved as noted above. NRCS regulations apply whenever NRCS vehicles are in use by AACD district employees.

---

<sup>14</sup> See AACD & SWCD Employee Manual dated May 14, 2004.

<sup>15</sup> See AACD & SWCD Employee manual dated May 14, 2004.

**(c) Leasing and renting**

When necessary, supervisors may rent a car when in travel status. The cost and intended use of the car must be considered in determining the size and type of car to rent. The State of Alaska supports a mid-size or smaller size car rental. Rental of a car larger than mid-size may be allowed when several travelers are traveling together or circumstances require the use of a larger car. Such situations must be documented on the completed expense report.

If there is damage done to any rental vehicle:

- travelers are cautioned to never accept or admit liability;
- if the lessor requests information or payment, advise the lessor to contact the Department of Administration, Division of Risk Management;
- if there is personal injury or an accident, telephone the Division of Risk Management as soon as possible.

**8.10 PROPERTY AND EQUIPMENT**

Working through property custodians, the Department of Administration maintains property records, conducts annual physical inventory, controls property transfers, directs the disposals of excess state property and operates Alaska's Federal Surplus Property Program. The information contained in this section is based on the State of Alaska's Property Control Handbook (rev. June 2000) that can be obtained online at <http://www.state.ak.us/local/akpages/ADMIN/dgs/property/manual/handbook.htm>.

Districts should appoint a "property custodian" and ensure that the custodian has read the handbook to understand the requirements and responsibilities of property management. The handbook takes precedence over information that is contained in this section. Questions concerning property management should be directed the DNR's Property Officer.

**(a) Property Inventory and Control**

Controlled property includes non-expendable personal property and equipment valued at more than \$1,000, FOB final destination, regardless of the funding source or means of acquisition. *Note: Shipping costs are calculated only for the first destination in Alaska.* Some items, regardless of value, must be controlled. These items are listed on the "Mandatory Control List" maintained in the DOA Property Control System.

Controlled property also includes items that are loaned, leased or rented and in the custody of the district even though owned by another entity. Such items must be treated as controlled property if the value is more than \$1,000 or the item is on the mandatory control list.

Items that, when installed, become an integral part of another unit of property or a building are not considered controlled property, e.g., the hard drive in a personal computer or the heating system for a building.

For each controlled item, the following must be maintained in an electronic format (see table following list as an example):

- Type Change: Addition, Deletion, Missing, etc.
- Item Name: CPU, monitor, fax, etc.
- Serial Number (if none, state “none”)
- Make and Model
- Location
- Condition: (X) scrap, (S) salvage, (P) poor, (G) good, (E) excellent, (N) new
- Date of Purchase (for newly procured items)
- Value (for newly procured items)
- Property Custodian

Type Change	Item Name	Serial Number	Make and Model	Location	Condition	Date of Purchase	Value	Property Custodian

**(b) Annual Inventory**

Each year, items on the current inventory items that were not salvaged or surplused or reported must be located and the information on file verified or corrected. Information to be verified includes Property Control Number (PCN); serial number; and identifying information. Items that are found but do not appear on the list should be noted on a Property Control Data Collection Form (02-623). Lost-Stolen-Damaged reports should be prepared for any items that can not be located. Contact the NRCDB Executive Director or DNR Procurement staff for current forms. Forms must be submitted to the NRCDB director upon completion. Annual inventory should be conducted during the last quarter of the state fiscal year and completed around June 1<sup>st</sup>.

**(c) Acquisition**

**1) New Property**

Property management inventory control procedures should begin when a new item is purchased.

**2) Used Property**

Districts may notify the DNR Property Officer of their need for surplus items. If the items are not available immediately, their request will be entered into DOA’s “want list”

and they will be notified on a first-come, first-served basis when requested items become available.

### **3) Trade-ins**

Districts may replace or upgrade equipment through a trade-in of a like item. Trade-ins must be approved in writing in advance by DOA. A proposed trade-in is initiated by memorandum from the district and approved by DNR's Property Officer. The memo should include a description, current condition and estimated value, need and impacts if trade-in is denied, and description of new equipment.

### **4) Leased or Rented Property**

Controlled property includes items which are loaned, leased or rented in the care of the district, even though owned by another entity.

#### **(d) Surplus**

As equipment becomes unnecessary or obsolete, it is classified as surplus (also called "excess") and identified by the district for disposal. Surplus items are redistributed among state and quasi-state agencies. Surplus items are disposed of through regularly scheduled sealed bids, outcry auctions, and other sales to the public by DOA.

Before contacting DNR to surplus equipment, the district should make the equipment available to another district first. This can be done in the form of an email to all districts stating the type of equipment, condition, and other pertinent information. Costs of shipping or transportation to deliver the equipment to the new location are borne by the other district. For example, district A has a tiller that it wants to surplus. District A would send an email to the other districts stating that it no longer has use for the tiller. District B is interested. District B would be responsible for the choosing the method and paying the cost of shipping and transportation to the site of its choice.

Districts may also acquire federal and state surplus property through the State's surplus property program. For more information on these programs and the requirements of those programs, see the property website at <http://www.state.ak.us/local/akpages/ADMIN/dgs/property/home.htm>.

#### **(e) Lost-Stolen-Damaged**

An item which is lost, stolen, damaged or destroyed must be reported to the DNR Property Officer. Form 02-627, "Lost-Stolen-Damaged Property Review"<sup>16</sup> should be completed. Suspected theft of equipment or supplies should be reported immediately to

---

<sup>16</sup> A sample form is online at DOA's property website.



the appropriate law enforcement agency. Any law enforcement report should be included with the Form 02-627.

**(f) Salvage/Destruction**

Any property which can not be repaired economically or is not marketable should be destroyed or salvaged for parts. DOA's approval is required before destruction or salvage. The approval process is intended only to document that the destruction is authorized and appropriate.

**(g) Barters**

Districts may replace equipment through barter for equipment or services of equal value. Such transactions are reviewed on a case-by-case basis and are required to be approved in advance by DOA. Barters are not considered a typical property transaction, but are a tool that can be used under certain circumstances.

**(h) Use of Equipment**

Each district is encouraged to develop policies on how equipment may be used, rented, stored, etc. When a district rents out machinery or equipment, a rental agreement form should be used so both parties fully understand the rental charges and moving or storage requirements. The form should be signed by the renter or both parties. The District has the authority to establish the degree of responsibility and liability, as well as appropriate punitive measures for negligence or misuse of property. Anyone using the equipment should be advised of any liability they might incur due to their custody of the property and the procedures to follow when an item is reported as lost, stolen, damaged, or destroyed.

Supervisors and employees are prohibited from using district equipment for personal use without entering into a rental agreement.

## **SECTION IX. DISTRICT MEETINGS**

Board meetings are fundamental to conducting district business and serve two primary purposes: to plan and direct district operations. Although statutes do not specify the frequency of district board meetings, it is essential that boards meet monthly in order to provide continuity in programs and operations as well as to handle fiscal responsibilities. In addition to monthly board meetings, annual meetings, special meetings, and emergency meetings may be held.

This section is designed to assist each district in conducting its meetings.

### **9.01 MEETING MANAGEMENT**

District boards with strong meeting skills usually have clear and detailed agendas and they remain on schedule. These boards have higher levels of satisfaction and participation of board members and attendees. They also find it easier to recruit new supervisors and volunteers. What follows are some guidelines for leading effective meetings.

#### **(a) Meeting agendas**

A written agenda is an important tool for planning and holding effective meetings. A written agenda identifies all items to be brought before the board for discussion, persons responsible for facilitating or providing information and timelines for discussions and actions.<sup>17</sup>

Items may be added to or modified on the agenda, but districts should make every effort to follow the agenda as a courtesy to the public and invited guests.

The chair serves as the presiding officer over meetings and it is therefore his/her responsibility to follow the agenda. The presiding officer or the board itself may elect to appoint a person to facilitate a discussion on a topic or issue. The person can be a board member, staff, volunteer, consultant or contractor. The person's role as facilitator will be to lead the board through discussion and lead the group through decision making processes.

While following the agenda is important, meetings should be conducted in such a manner as to provide full and fair opportunity for discussion on issues in an efficient and timely manner.

---

<sup>17</sup> See Appendix U, Example of a Meeting Agenda.

**(b) Meeting time limits**

As a courtesy to board members, staff, partners and the public, districts are encouraged to limit their meetings to two hours. Several suggestions for accomplishing this include:

- Developing a well planned agenda.
- Electing as a group to postpone, assign to a committee or eliminate items from the agenda.
- Providing advance written or emailed reports from staff, committee chairs, treasurer, etc. to the board for review.
- Utilizing established policies and procedures for conducting meetings.
- Assigning responsibilities to investigate and prepare background information on an item to be discussed.
- If it is determined during the course of the meeting that more information is needed on an agenda item, assigning a person/committee to gather the information for future discussion.
- Being courteous when scheduling invited guests. Advising them of their time limit and when they will be presenting.
- Defining the action required of the board. Clearly identifying what the board is asked to do. Separating items into “action” items and “discussion” items.
- Limit debate and public comment so that the same comments are not restated over and over.

**(c) Meeting arrangements**

Pay close attention to meeting arrangements. Plan in advance for a comfortable room, adequate parking, directional signs, refreshments, audio-visual equipment and supply needs (e.g., extension cords, easels, tape, etc.).

Arrange the meeting room so everyone has as much face-to-face contact with everyone else in the room as possible. If members of the general public are present, or if the district invites guest presenters, use nametags with large letters or name plates to help participants know who is present.

**9.02 SUPERVISOR ATTENDANCE REQUIREMENTS**

Supervisors have an obligation to attend all scheduled meetings. A supervisor intending to be absent from a board meeting shall request of the chair to be excused prior to the meeting proposed to be missed.

Physical presence by a supervisor is required to constitute attendance at a regular meeting, unless telephonic or video participation for that meeting is pre-approved by the district board or board chairman. In advance of the meeting, the chair should ensure that supervisors participating by telephone or video have a copy of any written material relied upon by the board in its deliberations.

### **9.03 OPEN MEETINGS ACT**

A district is considered a governmental body for purposes of Alaska's Open Meetings Act (OMA), which is designed to promote public access and participation at meetings of governmental bodies. AS 44.62.310(a), (h)(1); AS 44.62.312.<sup>18</sup>

Under the OMA, meetings of a district board must be open to the public unless specifically exempted by law. In order to be considered a meeting, a majority of the board must be present to make a decision or deliberate toward a decision on any matter.

A staff meeting is not covered under the OMA because it does not require a quorum, and because staff simply make recommendations to the board, which is the policy-making body. If, however, a staff meeting includes enough board members as to constitute a quorum, then it must be open to the public and must be publicly noticed.

Meetings should allow a time to receive public comments, which should be included as part of the published agenda.

#### **Frequently asked questions:**

*Can several district supervisors of the same district meet informally, outside the monthly board meeting, to discuss district business?*

No, only two supervisors can be present to meet informally to discuss district business.

*Are district "retreats" for planning purposes subject to the OMA?*

Yes. The retreat would be considered a "meeting" under the OMA which includes every step of the deliberative and decision-making process when a governmental unit meets to transact public business," including informal informational sessions or conferences, informal work sessions, and long-range planning seminars.

*Are there limitations on where the district board can hold its meetings?*

No; however, districts must meet in a location that accommodates the public.

---

<sup>18</sup> See Appendix A, Department Order 147, and Appendix B, Legal Status of Soil and Water Conservation Districts.

***Can a district meeting be held outside the geographic boundaries of its jurisdiction?***

Yes, so long as the intent is not to defeat public participation at the meeting, but this should be disfavored. Every effort should be made to hold all district board meetings at a location(s) within the district boundaries.

***Can district meetings be held by telephone conference calls or other electronic communications?***

Yes, so long as public accommodation is provided.

**9.04 TYPES OF MEETINGS / NOTICE REQUIREMENTS**

Generally, the Open Meeting Act requires that "reasonable public notice" be given for all meetings to which it applies. As a rule of thumb, reasonable notice should be no less than 7 days. The notice should be posted at the district office or, if the district has no office, at a place designated by the district board. It is also advisable that the district create and provide to the public an annual calendar of regularly scheduled board meetings.

Public notice shall include the date, time and place of the meeting and, if the meeting is by teleconference, the location of any teleconferencing facilities that will be used. The notice should also provide a contact for those persons who may need alternative accommodations. Also, the district board must give notice to the persons and the media that have stated in writing that they wish to be notified of every meeting.

The public must be provided with an agenda for all board meetings. The agenda need not be detailed, but it must include a list of the principal subjects anticipated to be considered at the meeting. It must be clear enough that interested persons will have an accurate idea of what the meeting will cover.

Not every proposed item of business is required to be on the agenda. The district must make a reasonable effort to include all of the important items, but if an additional subject arises too late to be mentioned in the public notice, it may still be discussed at the meeting.

The following are ways to meet the public notice requirements for board meetings:

1. Posting the notice and agenda at the district office;
2. placing public service announcements on local TV or radio, if available at no cost;
3. posting the notice and agenda at the local post office;
4. posting the notice and agenda on the State's Online Public Notice system; and
5. emailing the notice and agenda to cooperators and other interested parties who express a desire to receive meeting notifications..

Other forms of notice may be used, but are not a substitute for the above methods.

Special meetings are meetings held at times or places that different from the regularly scheduled meetings. These are often scheduled to deal with specific items that need to be addressed before the next regular meeting. Generally, any matter can be transacted at a special meeting that can be addressed at a regular meeting. There are different types of special meetings, such as emergency meetings and continued meetings, which are discussed in more detail in a later section.

Special meetings are those meetings called outside the monthly regular monthly meeting schedule. Reasonable public notice of a special meeting shall be given. As a rule of thumb, reasonable notice should be no less than seven days.

An “emergency meeting” is a special meeting to deal with a matter that requires immediate consideration by the board. In order to call an emergency meeting, an actual emergency must exist which justifies holding a meeting on shortened or no notice. The minutes must specifically describe the reason for the emergency meeting. Districts must still make reasonable efforts to contact the media and issue a public notice. Emergency meetings should be very, very rare.

## **9.05 EXECUTIVE SESSIONS**

An executive session is a portion of a public meeting that is conducted in private with only members of the governing body and any person(s) invited in by the governing body present. The Open Meetings Act, [AS 44.62.310\(b\)](#), authorizes a public body to meet in executive session to discuss only those items that fall into one of the categories listed in the law. This is not an exception to the Open Meetings Act, but rather an authorization to conduct a step in the decision making process in a certain way.

According to [AS 44.62.310\(b\)](#), if permitted subjects are to be discussed at a public meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters (see below) shall be determined by a majority vote. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

An executive session may only be called if the subject under consideration falls into one of the categories listed in state law, [AS 44.62.310\(c\)](#). The allowable subjects are:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;

- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

There must be a real and legitimate need for the executive session and the reason must be spelled out in the motion to go into executive session. The motion must state specifically what will be discussed and must be approved by a majority vote. The motion must contain enough detail that the public (and if necessary a court) will be informed of exactly why the executive session is appropriate, without defeating the purpose of going into executive session. Only the item(s) identified in the motion may be discussed in the executive session.

A decision by the district board to conduct any step in the deliberation process outside of the public forum must weigh the public interest in the right to know against any potential harm that could result from open deliberation. The state's Open Meetings Act ([AS 44.62.310](#)) and The State's Policy Regarding Meetings ([AS 44.62.312](#)) both favor limiting meetings that may be conducted away from public view as well as limiting the subject matter that may be discussed in closed meetings. Executive session is not a secret meeting - it is a part of the public meeting from which the public may be excluded. The governing body may, at its discretion, invite others into the executive session.

The following is a brief list of a few examples of situations that would be appropriate to discuss in executive session:

- Contract negotiations,
- Legal strategy for a pending lawsuit,
- Discussion of a matter that could affect an individual's reputation,
- Matters involving a juvenile,
- Certain crime victim information,
- Issues involving violation of a reasonable expectation of privacy.

AS 44.62.310(c)(1) describes the subjects that may be discussed in executive session as follows:

- matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

- matters which by law, municipal charter or ordinance are required to be confidential;
- matters involving consideration of government records that by law are not subject to public disclosure.

The public will be excluded only from the executive session portion of an otherwise public meeting. The body itself will determine who, if anyone, will be invited into the executive session along with the members of the body.

### **Frequently asked questions:**

#### **What action may be taken in executive session?**

Only the items identified in the motion calling for the executive session may be discussed. The motion should contain enough detail that any interested party knows the details and justification for the session, without defeating the purpose for going into executive session. The motion and items that are auxiliary to the motion may be discussed. No action may be taken in the meeting, except the actions authorized in the Open Meetings Act. These are to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending litigation or labor negotiation. Any other action by the governing body must be taken after the public meeting is reconvened. ([AS 44.62.310\(b\)](#))

All of the legal requirements for conducting a public meeting must occur before, during, and after the executive session. There must be proper notice, there must be a public record of that part of the meeting that is open to the public (some organizations create a record of the executive session also), and there must be reasonable opportunity for the public to be heard.

#### **Who enforces the Open Meetings Act?**

It is the responsibility of the administration and governing body to assure that the provisions of the Open Meetings Act are enforced. Any individual may contest an action that they think was done in violation of the Open Meetings Act administratively through local channels and ultimately may, within 180 days, file a court action if the issue isn't remedied locally ([AS 44.62.310\(f\)](#)).

There are several court cases that have ruled in favor of the Open Meetings Act. When deciding these cases, the court doesn't just consider whether a violation has occurred, but also considers whether the action has interfered with the public process that the act was intended to protect.

#### **Can a governing body enter into executive session to discuss potential problem issues or receive general legal advice from their attorney?**



No. Executive session procedures require that the reason for calling the executive session be **clearly stated** - it is not enough to state "personnel issues" or "legal advice" as the reason for going into executive session. The decision to go into executive session must also weigh the potential harm of open discussion against the public interest and benefit of open public discussion and the public's right to know. Decisions based on generalities do not identify the harm that could result.

Attorney-client privilege in general cannot be used as a reason for calling an executive session. Attorney-client privilege is limited to matters where public interest may be injured. This would include how to avoid legal liability, litigation strategies and candid discussion of facts, settlement conference, and a conference on a decision to appeal

**What is the cure for conducting an executive session that violates the Open Meetings Act?**

The governing body can attempt an informal cure by holding another meeting in compliance with the Open Meetings Act. This meeting must have substantial and public reconsideration of the matter. If a lawsuit is filed, the court may void any action taken by the governing body.

***May a district board reach a decision in an executive session?***

No, except to give direction to legal counsel.

***Is a public notice required to hold an executive session that is not associated with a regularly scheduled board meeting?***

Yes. If a meeting is being called solely to go into executive session, it should be treated as a special meeting. The meeting is opened as a public meeting wherein a quorum is established, then the motion to go into executive session is made and passed, and only then may the board go into executive session.

***If the media requests to attend an executive session, must the district grant the request?***

No. If the district board has a legal basis to go into an executive session, it is not required by law to permit any members of the media or the general public to attend.

***If during an executive session the board discusses matters outside the scope of the executive session, what is the proper role of media present? May they begin taking notes?***

By definition media and the general public are excluded from an executive session.

***May the board of supervisors permit persons to attend an executive session?***

No, except that the board may permit necessary staff, legal counsel and/or individuals (e.g., an employee), but only if a particular matter is being discussed which pertains to them.

*Are minutes from an executive session required?*

No, minutes are not required for executive sessions.

*With whom are complaints or suits filed concerning executive sessions?*

Complaints or lawsuits concerning executive sessions are filed with the Superior Court.

## **9.06 VOTING REQUIREMENTS**

A quorum for a district means that at least three board members must present, either in person or by telephone. It is important for the district chair to confirm at the beginning of a meeting which supervisors are present and establish that a quorum exists before transacting any business. Further, if during the course of a board meeting a quorum ceases to exist (i.e., a supervisor needs to leave during the meeting), it is the chair's responsibility to point out that a quorum no longer exists and not allow any business to be conducted, other than to adjourn the meeting.

**Rules/Examples:** Three of five board members is a minimum for a quorum. In this case, if only three board members are present, two votes are needed to pass a motion. If four or five board members are present, three votes are needed to pass a motion.

### **Frequently asked questions:**

*Can district supervisors vote by secret ballot?*

No.

*If there are not enough board members at a meeting to have a quorum, can the district call a board supervisor who is not in attendance on the phone to get his/her vote on an agenda item?*

No, board supervisors are required to be present, either in person or telephonically, for the entire agenda. Once a quorum is lost, the remaining board members may only establish another meeting date to complete district business; all other business must immediately cease and the board should adjourn.

## **9.07 MANAGING PRINCIPAL MOTIONS**

It is recommended that districts adopt and use consistent procedures for their meetings. Although not required, many districts find that Robert's Rules of Order, or a modified

version, is a useful guide for conducting meetings. In general, under Robert's Rules, when a motion has been made, seconded and stated by the chair, the board is not at liberty to consider any business until this motion has been disposed of. If the motion is long and involved, the chair should ask the mover to provide it in writing to the secretary. The mover cannot withdraw the motion after it has been stated by the chair. In general, all important motions should be seconded.

A suggested summary of how to handle principal motions under Robert’s Rules of Order can be found in the following table:

<b>Type of Motion</b>	<b>Managing the motion</b>
<b>To Amend</b>	Referred to as a primary amendment, this is a motion to change, add or omit words in the immediately pending main motion. It is debatable and requires a majority vote to pass.
<b>To Amend the Amendment</b>	Referred to as a secondary amendment, this is a motion to change, add or omit words in the first amendment. It is debatable and requires a majority vote to pass. In this case, the first vote is on the changes proposed in the second amendment; the second vote (if first vote adopts the changes) is on the changes proposed in the first amendment; if the changes proposed in the first amendment are adopted, the third vote is on adopting the main motion as amended.
<b>To Commit or Refer</b>	When a motion becomes involved through amendments or when it is wise to investigate a question more carefully, it may be moved to commit the motion to a committee for further consideration. It is debatable and amendable. The committee must then make a report on the question at a future meeting.
<b>To Table</b>	The object of this motion is to enable the to lay aside the pending question in such a way that its consideration may be resumed at the will of the board as easily as if it were a new question. At that future time, a motion “To take from the table” is in order.” These motions are not debatable or amendable and require a majority vote to pass.
<b>To Postpone</b>	A motion to postpone the question before the board to some future time is in order, except when a board member has the floor. It is debatable and requires a majority vote to pass. The effect of postponing a question is to make it an order of the day for the time to which it was postponed and if it is not then disposed of, it becomes finished business.
<b>To Reconsider</b>	The motion to reconsider a motion that was carried or lost is in order if made on the same or next day, but must be made by one who voted with the prevailing side. No question can be twice reconsidered. It is debatable and requires a majority vote to pass. It requires two votes—first, on whether it should be reconsidered and second, on the original motion after reconsideration.

<b>Call for the Previous Question (or Motion to Close Debate)</b>	This motion is to close debate on the pending question. This motion may be made when debate becomes long or drawn out. It is not debatable. The form is “Mr. or Ms. Chair, I move the previous question.” The chair then asks, “Shall debate be closed and the question now be put?” If this is adopted by a two-thirds vote, the question before the board is immediately voted upon.
<b>Point of Order</b>	This motion is always in order, but can be used only to present an objection to a ruling of the chair or some method of parliamentary procedure. The form is “Mr. or Ms. Chair, I rise to a point of order.” The chair: “Please state your point of order.” After the board member has stated the objection, the chair answers, “Your point of order is sustained.” Or “Your point of order is denied.” If any board member is not satisfied, the member may appeal from the decision of the chair. The chair then addresses the assembly, “Shall the decision of the chair be sustained?” This is debatable and the presiding officer may discuss it without leaving the chair. It is voted on like any other motion and a majority or tie vote sustains the decision of the chair. Requires a majority of “no” votes to reverse the chair’s decision.
<b>To Adjourn</b>	This motion is always in order except when a board member has the floor, when a vote is being taken, after it has just been voted down or when the assembly is in the midst of important business. It is not debatable and requires a majority vote to pass.

For a more in-depth look at parliamentary procedures and Roberts Rules of Order, districts are encouraged to obtain any one of a number of resources that provide an overview of parliamentary procedures.

## **9.08 CONTROL OF MEETINGS**

The chair in a public meeting has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. If public participation is to be part of the meeting, the chair may regulate the order and length of appearances and limit appearances to presentations of relevant points. Any person who fails to comply with reasonable rules of conduct or who causes disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

## **9.09 MEETING MINUTES**

Minutes of all district board meetings shall be maintained. Minutes provide record of the proceedings of the meeting, are considered “public record” and must be made available to

the general public. The minutes of district board meetings must be sent to AACD, NRCDB and NRCS.

It is recommended that minutes be distributed as soon as possible after the meeting. Distributed minutes allow board members and participants to have a written reference to comments they made and they can note corrections or additions to the minutes while the meeting is still fresh in their memory.

It is recommended that districts adopt policies on how and when minutes are distributed and approved.

### **Frequently asked questions:**

#### ***Do board meeting minutes need to be written verbatim?***

No, summaries are sufficient. Motions, however, are required to be written verbatim.

#### ***Can board meeting minutes be withheld from the public because the minutes will not be approved until the next board meeting?***

No, but they should be clearly marked as draft. If the content of the draft minutes is questionable, the draft should be reviewed and corrections suggested by the board prior to distribution to the public and the next board meeting.

#### ***How long must written minutes of district meetings be kept?***

Records must be retained in accordance with State of Alaska retention policy (AS 40.21). In this example, meeting minutes should be retained for at least three years.<sup>19</sup>

## **9.10 PUBLIC USE OF TAPE RECORDERS AND CAMERAS**

Anyone can tape record, videotape or photograph a meeting, subject to reasonable rules of the district board to avoid disruption.

## **9.11 PUBLIC RECORDS ACT**

The Public Records Disclosure Act (AS 40.21) is very broad in scope and provides for significant public access to government records, including districts. Most district records are public records and are open to the public under reasonable rules during regular office hours. While this definition is very broad, the general rule is that district records are public records, including documents written on paper or recorded electronically, e-mail, photographs, audio recordings, survey documents, construction plans, etc.

---

<sup>19</sup> See Appendix W for a draft records retention schedule. This retention schedule should be used as a guide until the retention schedule is approved by State of Alaska Records Management and DNR.

The public officer having the custody of public records shall give, on request and payment of the fee established under this section or AS 40.25.115, a certified copy of the public record. Fees may be reduced or waived if determined to be in the public interest. Note that all such reductions must be uniformly applied among similarly situated requestors.

If the production of records for the requestor is expected to require more than five-employee hours during a calendar month, the district shall require the requestor to pay the personnel costs required during the month to complete the search and production tasks. Personnel costs may not exceed the actual salary and benefit costs for the personnel time required to complete the task. A district can estimate the fee for the cost of the records request completion and require the requestor to pay the fee **prior** to production.

Districts have ten business days after a request is received to furnish the requested documents. This timeframe may be extended if needed as long as the district provides notice, within the original ten days, to the requestor.

By regulation (6 AAC 96.320), each district must maintain a log of written requests for public records it receives. The log should include the date the request was received by the agency, the name of the requestor, a notation on whether notice of receipt was sent to the requestor (if required, under 6 AAC 96.310) and the date that additional information was requested. The log itself is a public record. **It should be noted that NRCS client case files are protected from disclosure by the confidentiality provision of the 2002 Farm Bill.**

## **9.12 ANNUAL MEETINGS**

Districts may host annual meetings to keep the general public, agencies and cooperators informed of the work and activities they have planned and administered.

## **SECTION X. PUBLIC & PARTNER RELATIONS**

A successful public relations program is designed to put forward positive, accurate and timely information about your organization to either the general public or certain segments of the public. It should be carefully conceived and well tailored to the group you intend to inform, whether that is a broad-brush approach for the general public or a targeted approach to a cooperator, civic group or funding entities.

### **10.01 DEVELOPING EFFECTIVE PUBLIC RELATIONS PROGRAMS**

District public relations program should include a variety of elements and be aligned to the district's programs, audience and talents. Talks to civic groups can either give a broad overview of your program or key in on a specific project of particular timeliness or significance to that group. Submissions for general news media should always be timely and relevant and can either be in the form of a news tip or a completed article with photos, or information suitable for radio or TV use, including public service announcements.

District personnel and board members should cultivate relationships with local media, making frequent contact so that the media considers the district a source-at-hand for stories on natural resource issues. Negative coverage can only be reversed by careful communications that stress positive, accurate information, but that do not duck the tough questions. Designating specific district contact people to deal with the media avoids sending out multiple messages. While deciding a stance at a board meeting is preferable, statements cannot always wait for the next meeting. Protocol should be established for quick response to the media.

Districts should also have public relations programs that provide detailed information to cooperators, funding entities, governmental officials, etc. While some of the information may overlap with that of the general public, these PR efforts are distinct. These reports will include information used for AACD newsletters and reports, and should be compiled throughout the year and supplied as requested.

### **10.02 PARTNER RELATIONS**

Districts in Alaska have ever-widening responsibilities for conservation and development of the state's soil, water and related resources. In carrying out these responsibilities, districts seek and receive assistance and cooperation from many agencies, organizations and groups.

The NRCS is one of the principal sources of assistance to districts. The primary function of NRCS is to give technical assistance to individuals, groups and community leaders who make decisions about the conservation, development and use of natural resources. An effective working relationship between a district and NRCS is of utmost importance.



NRCS participation is encouraged in long-range and annual planning efforts as well as district board meetings. Efforts should be made to make district and NRCS programs complement each other.

**(a) District responsibilities**

District responsibilities include, but are not limited to, the following:

- Furnishing effective, local leadership.
- Holding regular and special meetings to plan work and determine community needs for conservation and resource development.
- Updating and maintaining the long-range program that recognizes the interests of all people in the district and is compatible with the area or municipal development plan.
- Developing, with NRCS and other agencies, an annual work plan relating to the long-range program, stating what will be needed to reach objectives and accomplish work scheduled for the year ahead.
- Enlisting needed assistance from whatever source available.
- Coordinating with other conservation and resource planning and development programs that may operate within the district.
- Determining priorities that can be used by NRCS in providing assistance to individuals, groups, public bodies, private organizations and other district cooperators.
- Supervising district staff.
- Managing all funds, facilities and equipment belonging to the district.
- Cooperating with other districts in multi-district resource development activities, such as resource planning and development plans, comprehensive plans, watershed development and river basin programs.
- Correlating district programs with those of other agencies engaged in resource planning and development, such as planning commissions, economic development districts, municipal bodies, drainage boards and highway departments.
- Reporting to the public on resource conservation needs, progress of projects, and other work of the district.
- Following up with cooperators to ensure effectiveness of the program.
- Developing an organization chart that outlines the supervisory hierarchy and chain of command.

**(b) NRCS responsibilities**

NRCS provides technical and financial assistance to individuals, groups, units of government, and Alaska Native entities. As resources are available, NRCS provides assistance to districts by:

- Furnishing qualified technical help.
- Locating its staff, insofar as possible, at headquarters mutually satisfactory to districts and NRCS and providing such facilities as NRCS employees may require.
- Gathering and providing soil survey, water management and similar basic data for use by districts in making plans and decisions.
- Developing an annual plan of operations for its own staff after review of the district's annual work plan.
- Keeping district board's informed about NRCS work in districts and any new technical or administrative developments that would affect district program or alter the assistance from NRCS.
- Supervising and managing NRCS personnel, equipment and facilities.
- Cooperating with other resource agencies assisting districts.
- Assisting with information and education activities in their communities and throughout the state.
- Helping districts meet demands from local units of government and other entities seeking technical help on land use and related resource problems.

**(c) Partnering with NRCS**

Jointly, districts and NRCS should:

- Review, at least annually, the memorandum of understanding, supplemental memorandum of understanding and any other agreements between the districts and NRCS (or USDA).<sup>20</sup>
- Meet regularly and with other cooperating agencies to review requests for assistance and to consider opportunities for program development and work improvement.

---

<sup>20</sup> Districts may contract directly with state and federal agencies. (See Appendix B, Legal Status of Soil and Water Conservation Districts and Appendix V Soil and Water Conservation Districts and authority to contract directly with federal agencies.

- Cooperate in developing the district annual plan of work so that NRCS can be efficiently and advantageously allocated to that part for which NRCS assistance is required.
- Review other programs, proposed or in operation, that may help to facilitate or have an impact on the district program and the NRCS workload in the district.

Increasingly, groups, communities and local units of government are asking SWCDs districts to assume new and broader functions. These may include: assistance in community planning or advice on such matter as orderly changes in land use, multiple uses of resources, water supply development and protection, soil and water management on nonagricultural lands, watershed planning, wildlife and recreational improvements, conservation education and many other areas.

Working together is the key to an effective district/NRCS relationship. It is the only way conservation and resource development work can be done well and in time to ensure the continued well-being of the people of the State of Alaska.

### **10.03 PARTNERING WITH COOPERATORS**

The district's primary responsibility should be to provide services to their individual cooperators. Any and all means and methods to accomplish these services are encouraged.

### **10.04 PARTNERING WITH OTHER DISTRICTS**

Districts are encouraged to enter into agreements with each other to share technical and other resources, including equipment and personnel. Subject to federal and state requirements, including applicable restrictions on the use of federal or state funds, a district board may approve the use of resources for the benefit of other districts. The board of the other districts must approve the agreement prior to implementation.<sup>21</sup>

---

<sup>21</sup> A district form agreement is provided in Appendix X.