

# ESD 201: How an ESD Works

SAFE-D

Last Monday Webcast

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# What is an ESD?



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# What is an ESD?

- ESDs are local political subdivisions that may provide fire, rescue, EMS and other emergency services
  - Governed by 5 commissioners appointed by County Commissioners Court - except in Harris, Orange and Smith Counties and multi-county ESDs, where they are elected
  - Primarily funded by property taxes not to exceed \$0.10



# Basics

- Local Governmental Entity
  - Taxation
  - Open Meetings
  - Open Records
  - Fiscal Accountability
  - Limits on Authority (The Statutes)
  - Restrictions on Public Officials



# Ad Valorem Taxes

- Constitutional Cap of 10 Cents for each ESD
  - Harris County/Former RFPD/Former 776 ESD Specific Issues
- Truth-in-Taxation Process
  - Notice and Hearings if exceed Effective Rate
  - Small Taxing Unit (<\$0.50 and <\$500K)
- Rollback Elections
  - 108% of Previous Effective O&M Rate
- <http://www.window.state.tx.us/taxinfo/proptax/tnt/pdf/96-312.pdf>



# Open Meetings Act

- Chapter 551, Texas Government Code
- Attorney General Approved Training Required
- Open Meetings Made Easy
- Open Meetings Handbook
- [https://www.oag.state.tx.us/open/publications\\_og.shtml](https://www.oag.state.tx.us/open/publications_og.shtml)



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# Open Meetings

- 72 Hours Notice of meeting (unless emergency)
- Notice must state time, date and place of meeting
  - ESDs post with County Clerk and at ESD administrative office
- Notice must describe matters to be discussed sufficiently
- Public has right to attend



# Audit

- A district located wholly in one county shall prepare and file with the commissioners court of the county on or before June 1 of each year an audit report of the district's fiscal accounts and records. \*
- The person who performs the audit and issues the report must be an independent certified public accountant or firm of certified public accountants licensed in this state.

\*except Harris County - 30 days after receipt.



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# New Audit Exemption

- ESDs with no bonds and less than \$250,000 in revenues and investments can prepare compiled financial statements instead of audit.
- Filing must be accompanied by an affidavit “attesting to the accuracy and authenticity of the statements.”
- Same filing deadlines and consequences apply.
- Most basic level of financial statement review that a CPA can provide



# Audits

- If a district fails to complete and file the required audit report by September 1 and a county auditor is not ordered to prepare the report, the board president and treasurer are automatically removed and the commissioners' court is required to fill the vacancies.
- Only applies to district in a single county, and not in Harris County.



# Bidding

- A district must submit to competitive bids an expenditure of more than \$50,000 for one item or service or more than one of the same or a similar type of item or service in a fiscal year.
  - A district may solicit bids for lesser amounts as well.



# Bidding - Exceptions

- the purchase or lease of real property
- an item or service that the board determines can be obtained from only one source
- **a contract for fire extinguishment and suppression services, emergency rescue services, or ambulance services**
- purchase of vehicle fuel
- the purchase of insurance



# Bidding - Exceptions

- **purchase of bunker gear**
- an emergency expenditure
- contract with state to participate in general services commission state purchasing program
- purchases made pursuant to local government co-op purchasing program
- purchases made under federal supply schedules of the United States General Services Administration



# Types of ESD Operations

“If you have seen one ESD, you have seen one ESD”

- Volunteer Departments
  - Volunteers have other jobs in local community
- Combined Departments
  - Paid staff to cover shifts when volunteers are out of community at work
- Employee Departments
  - Insufficient volunteer manpower to meet call volume demands of service area



# What Structure Will Work?

- Things to consider:
  - Attitude of Community
  - Existing Structure
  - Future City Annexation?
  - Regulatory Impacts
  - Access to Grants and Loans



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# Considerations

- Attitude of Community
  - Volunteer Fire Department History and Support
  - Desire for Government Involvement
  - Political Concerns



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# Considerations

- Existing Structure
  - Volunteer Fire Department
    - Organization
    - Effectiveness



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# Considerations

- Future City Annexation?
  - City Removal of Territory from District
    - Potential loss of tax revenues
    - Ability to secure revenues to pay share of debt
  - City within District
    - Conflicts over control of services
    - Conflicts over access to tax revenues



# Considerations

- Regulatory Impacts
  - Texas Commission on Fire Protection Regulation
    - Of Department
    - Of Fire Fighters



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# Considerations

- Access to Grants and Loans
  - Some available to Volunteer Fire Departments only
  - Some available to political subdivisions only



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# Organization Structure

- Contracted Service Providers
  - ESD serves as financing and contract manager for 3rd party service providers, which can be:
    - Volunteer Fire Departments;
    - Volunteer EMS Organizations;
    - For Profit EMS Organizations; and
    - Other Local Government Entities.



# Organization Structure

- District Personnel
  - ESD employs its own personnel to provide services to the community



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# Service Providers

- Volunteer Departments/Organizations
  - Usually helped create the ESD
  - Generally have long history of serving the Community
  - Many volunteers who invest time and energy in service
  - Have had to rely upon donations and County handouts
  - Historically make decisions without oversight
  - Sometimes conflicts between multiple service providers
- Transitioning to a Contract Relationship with ESD can be difficult



# Service Providers

- Contract Negotiations
  - Service Standards
    - service area
    - services provided
    - regulatory compliance/operations standards
    - response time (how to measure, etc.)



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# Service Providers

- Contract Negotiations
  - Service Standards (cont.)
    - personnel (training, number of people, etc.)
    - compliance with ESD policies/laws
    - ownership and maintenance of assets
    - records and reporting to ESD and others



# Service Providers

- Contract Negotiations
  - Other Provisions
    - Audit requirements
    - Purchasing limitations/requirements
    - Insurance
    - Budgeting



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# Service Providers

- Contract Negotiations
  - Other Provisions (cont.)
    - Term of Contract
    - Payments
    - Termination
    - Assignment



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# Oversight and Assistance



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# State Agencies with Oversight

- Texas Commission on Fire Protection
  - for entities with paid fire fighting staff
- Texas Department of State Health Services
  - for entities providing EMS services
- Texas Attorney General
  - for Open Government and Records Issues



# Organizations / Agencies for Assistance

- SFFMA (Volunteer Departments)
- Texas Forest Service
- Texas Department of Agriculture, Division of Rural Affairs
- State Library and Archives Commission (Records)
- Texas Comptroller (T-N-T and Sales Tax)
- Texas Secretary of State (Elections)



# Helpful Websites

- TX State Assoc. of Fire & Emergency Districts
  - [www.safe-d.org](http://www.safe-d.org)
- Texas Attorney General
  - [www.oag.state.tx.us](http://www.oag.state.tx.us)
- Texas Comptroller of Public Accounts
  - [www.window.state.tx.us](http://www.window.state.tx.us)
- Texas Secretary of State
  - [www.sos.state.tx.us](http://www.sos.state.tx.us)
- Texas Department Agriculture
  - [www.texasagriculture.gov](http://www.texasagriculture.gov)



# Laws that Apply to ESDs

- The Texas Constitution, Art. 3, Section 48-e
  - <http://www.statutes.legis.state.tx.us/Docs/CN/htm/CN.3.htm#3.48-e>
- Health and Safety Code, Title 9, Subtitle B, Chapter 775
  - <http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.775.htm>
- Local Government Code, Title 5, Subtitle C, Chapter 171
  - <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.171.htm>
- Local Government Code, Title 8, Subtitle B, Chapter 262
  - <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.262.htm>





# Laws that Apply to ESDs

- Local Government Code, Title 8, Subtitle C, Chapter 271
  - <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.271.htm>
- Government Code, Title 5, Subtitle A, Chapter 551
  - <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.551.htm>
- Government Code, Title 5, Subtitle A, Chapter 552
  - <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm>
- Government Code, Title 10, Subtitle F, Chapter 2256
  - <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2256.htm>



# Questions?

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