

V. BAO Interpretations

BAO Interpretations

of the Board's Governance Policies

V. BAO INTERPRETATIONS

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Title: Water Supply
Category: BAO Interpretations

Interpretation of Policy No. E-2	CEO Approval: November 23, 2010	Latest Revision: Under Development
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E-2. Valley Water provides a reliable, safe, and affordable water supply for current and future generations in all communities served.

CEO Interpretation: Under Development

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Title:	Natural Flood Protection	
Category:	BAO Interpretations	
Interpretation of Policy No. E-3	CEO Approval: December 21, 2004	Latest Revision: July 28, 2014

E-3. Natural flood protection is provided to reduce risk and improve health and safety for residents, businesses, and visitors, now and into the future.

CEO Interpretation: Under Development

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Title: Water Resources Stewardship

Category: BAO Interpretations

**Interpretation of
Policy No. E-4**

CEO Approval: December 15, 2009

Latest Revision: Under Development

E-4. Water resources stewardship protects and enhances ecosystem health.

CEO Interpretation: Under Development

BAO Interpretations

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Title: General Principles
Category: BAO Interpretations

Interpretation of Policy No. EL-1	CEO Approval: July 28, 2014	Latest Revision: July 28, 2014
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The Board Appointed Officers (BAOs) shall promote practices, activities, decisions, and organizational circumstances that are lawful, and supportive of commonly accepted business and professional ethics. The BAOs shall foster the organization's credibility in ways that enhance the accomplishment of its mission. The BAOs shall operate consistently with the District Values Statement (GP-7).

I-EL-1.a. The Clerk of the Board and District Counsel will utilize policies and procedures as developed by the CEO for the entire organization, unless one of the following exemptions is applicable:

I-EL-1.a.i. The procurement of legal services, for which District Counsel will establish and utilize its own written procurement policies and procedures.

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Title: Customer Relations

Category: BAO Interpretations

**Interpretation of
Policy No. EL-2**

CEO Approval: July 28, 2014

Latest Revision: July 28, 2014

The BAOs shall promote conditions, procedures, and decisions that fulfill reasonable customer expectations for good service, are safe, dignified, and nonintrusive. Customers include any persons conducting business or interacting with the District.

I-EL-2.a. Provide multiple methods for customers to submit inquiries, including the Access Valley Water system, phone, e-mail, fax, letter, and the external website.

2.1. Use application forms that elicit information for which there is a clear necessity.

I-EL-2.1.a. Conduct a periodic review of the following application forms: well permits, encroachment permits, water conservation applications, grant applications, good neighbor fence permits, sponsorship applications, and Board committee applications.

2.2. Use methods of collecting, reviewing, transmitting, or storing customer information that protects against improper access to the material elicited.

I-EL-2.2.a. Conduct a periodic review of data transmission and storage methods for the following application forms: well permits, encroachment permits, water conservation applications, grant applications, good neighbor fence permits, sponsorship applications, and Board committee applications.

2.4. Establish with customers a clear understanding of what may or may not be expected from the customer service offered.

I-EL-2.4.a. Determine metrics for customer service and act on them accordingly.

2.6. Provide correspondence addressed to the Board to each Board member within 5 working days from receipt and respond within 30 working days of receipt. In those individual situations where it is not possible for the BAOs to respond completely to an inquiry, sending a response to the originator, acknowledging receipt of the inquiry, an explanation of actions being taken, and timelines for preparing the complete response, is acceptable for complying with this 30 day response time.

I-EL-2.6.a. Maintain a written procedure to track the receipt and response of Board correspondence.

BAO Interpretations

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Title: Human Resources
Category: BAO Interpretations

Interpretation of Policy No. EL-3	CEO Approval: March 1, 2007	Latest Revision: October 01, 2014
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With respect to compensation and benefits, employment, and the treatment of employees and persons doing work for or on behalf of the District, a BAO shall:

3.1. Operate with written personnel rules which: (a) clarify rules for employees, (b) provide for effective handling of grievances, and (c) protect against wrongful conditions, such as preferential treatment for personal reasons.

I-EL-3.1.a. The salary levels for the unclassified employee classifications will be periodically evaluated and the CEO will periodically benchmark them with comparator agencies according to the process set forth in Chapter 7 of the "At Will Policy for Employees in the Unclassified Service at the Santa Clara Valley Water District."

I-EL-3.1.b. Written work instructions that clarify rules for employees, provide for effective handling of grievances, and protect against wrongful conditions will be developed and periodically reviewed.

3.3. Inform employees with their protections under this policy.

I-EL-3.3.a. CEO will have work instructions related to this policy that will be posted on-line.

I-EL-3.3.b. CEO will provide awareness training to ensure employees are informed of their protections.

3.4. Integrate, and operate within, written ethics policies and behavioral expectations that embody fairness, dignity and respect.

I-EL-3.4.a. Maintain written ethics policies and procedures.

I-EL-3.4.b. Maintain written behavioral expectations of all district employees.

I-EL-3.4.c. Implement process(es) that promote awareness of ethics policies and expectations.

I-EL-3.4.d. Implement process(es) to report, investigate, and correct behavior.

3.5. Operate without written employee health and safety policies which (a) ensure that standards, programs, and procedures meet or exceed acceptable industry standards as written in state and federal regulations, and (b) ensure a healthful and safe work environment for all District employees.

I-EL-3.5.a. Every employee will be held accountable for effectively implementing this CEO Interpretation as well as safety program improvements within their area(s) of responsibility. To that end, the CEO Interpretation of this policy includes the following expectations:

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- I-EL-3.5.a.i. Maintain an effective written management system for Health and Safety (H&S) that meets the Cal-OSHA Injury and Illness Prevention Program requirements of California Code of Regulations Title 8 §3203.*
- I-EL-3.5.a.ii. Every employee's Work Plan must incorporate health and safety goals and targeted outcomes.*
- I-EL-3.5.a.iii. All employees must comply with established workplace safety rules, practices and procedures. Violations are subject to disciplinary action.*
- I-EL-3.5.a.iv. Managers and supervisors must immediately eliminate or effectively control known hazards that expose employees to serious injury. Hazards, other than serious, identified through observations, employee reports, inspections, audits, or risk assessments should be eliminated or effectively controlled as soon as possible but no later than 30 days from notification of the hazard. If 30 days is not sufficient time to adequately address the hazard, a written control and mitigation plan must be developed within 30 days of recognition of the hazard and agreed upon by District Health and Safety personnel.*
- I-EL-3.5.a.v. Employees must attend mandatory safety training when identified and scheduled.*
- I-EL-3.5.a.vi. All employees are expected to participate in maintaining job related District health and safety program elements as defined by District Policies and Procedures.*

3.6. Subject to the District's Living Wage Policy, provide persons doing work for or on behalf of the District at least a living wage, and reasonable time off.

- I-EL-3.6.a. This policy will be implemented pursuant to the District's Living Wage Policy, which is maintained by the CEO's procurement designee.*

3.7. Retain no more than thirty-two (32) unclassified positions without Board approval.

- I-EL-3.7.a. The BAOs retain the following number of unclassified positions (including BAO positions); CEO, 24; District Counsel, 7; and Clerk of the Board, 1. In the event of a critical business need, the BAOs may submit a request to the Board to fill an additional unclassified position.*
- I-EL-3.7.b. The BAOs have the flexibility to assign existing unclassified employees to duties that best meet the interests of the District to carry out the District's mission. The CEO will inform the Board of organizational changes that involve movement at the Deputy level and above or changes to the unclassified reporting structure at the Chief level.*

3.11. Not change his or her own compensation and benefits.

- I-EL-3.11.a. The Chief Administrative Officer and/or Chief Financial Officer will report directly to Board any requests or directed requests to change BAO compensation or benefits.*

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3.12. Not promise or imply permanent or guaranteed employment.

I-EL-3.12.a. Employment offer letters are clearly written and Memorandums of Understanding with employees do not promise or imply permanent or guaranteed employment.

3.15. Assure there are capable employees with knowledge and expertise in subject matter integral to the future of water resource management in Santa Clara County.

I-EL-3.15.a. Hire competent and qualified professional employees.

I-EL-3.15.b. Provide opportunities for professional development.

I-EL-3.15.c. Ensure required training is available to employees (e.g. technical training, health and safety training, other mandatory training).

I-EL-3.15.d. Ensure that there is a succession plan.

I-EL-3.15.e. Provide a rotation program for employees.

3.16. Have no fewer than two other unclassified employees familiar with Board and BAO issues and processes in order to protect the Board from sudden loss of BAO services.

I-EL-3.16.a. The BAOs will confirm annually that there are at least two other unclassified employees familiar with Board and BAO issues and processes.

3.17. Operate in an environment where there are good labor relations.

I-EL-3.17.a. Establish a mutual expectations agreement between management and the bargaining units.

I-EL-3.17.b. Establish a process to address actions inconsistent with the mutual expectations agreement.

I-EL-3.17.c. Labor contract (i.e. labor Memorandum of Understanding) negotiations are completed within established ground rules.

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Title: Financial Management

Category: BAO Interpretations

**Interpretation of
Policy No. EL-4**

CEO Approval: April 8, 2008

Latest Revision: July 28, 2014

Financial planning for any fiscal year shall be aligned with the Board's Ends, not risk fiscal jeopardy, and be derived from a multi-year plan. With respect to the actual, ongoing financial condition and activities, the BAOs shall provide for the development of fiscal sustainability.

- I-EL-4.a. Financial planning will include the following: meeting the minimum reserve, meeting debt service coverage ratio, a balanced budget, funding annual required Other Post-Employment Benefits (OPEB) contribution, and a Board review of OPEB and funding levels annually.*
- I-EL-4.b. Present a 10-year projection to Board as part of the annual budget review and approval process.*

4.2. Spend in ways that are cost-efficient.

- I-EL-4.2.a. Costs of the long-term Delta solution should be allocated fairly to all beneficiaries.*
- I-EL-4.2.b. The District favors a flexible approach to cost allocation that maximizes the opportunity for discretionary allocations of cost based on incremental benefits.*
- I-EL-4.2.c. The FAHCE Draft Settlement Agreement of 2003 established a balanced framework to achieve reliable future water supply, protect water rights, and enhance the quality of life in Santa Clara County without spending extravagantly or in ways more costly than necessary.*
- I-EL-4.2.d. Utilize a competitive procurement process (unless authorized by the Board or exempted).*
- I-EL-4.2.e. Limit spending to the budgeted amounts at the project level without executive approval.*
- I-EL-4.2.f. Conduct an open and transparent budget review process.*

4.9.3. No investments will be made in fossil fuel companies with significant carbon emissions potential.

- I-EL-4.9.3.a. No investments will be made in the top 200 fossil fuel companies that control most of the world's oil, coal, and natural gas supplies.*

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Title:	Procurement	
Category:	BAO Interpretations	
Interpretation of Policy No. EL-5	CEO Approval: March 22, 2005	Latest Revision: February 27, 2018

With respect to purchasing and contracts activities, use a fair, open and expeditious process and stay within the Board's authorized expenditures. Further, a BAO shall:

- 5.1. Not make a single purchase, contract, 3rd party claim settlement of liability, or any other financial commitment in amounts greater than the following, unless authorized by the Board.

I-EL-5.1.a. Unless exempted from a competitive procurement process as specified in EL-5.3, the following apply:

- I-EL-5.1.a.i. If a purchase, contract, or commitment is expected to exceed the dollar limit set by the Board, any additional cost above the Board approved amount for the product or service requires Board approval, prior to the purchase, contract, or commitment, regardless of the mechanism used to expend the funds.*
- I-EL-5.1.a.ii. Supplementing Board approved expenditures through other means, such as District work force, i.e., force account labor, purchase orders, contracts, etc. requires Board approval.*
- I-EL-5.1.a.iii. Reducing the Board approved product or service, in order to stay within the Board approved amount of a purchase, contract, or cost-sharing agreement, is not acceptable.*
- I-EL-5.1.a.iv. Board notification of non-compliance with EL-5 is required for all existing purchases, contracts or commitments that are subject to this interpretation.*
- I-EL-5.1.a.v. Limit for construction contracts in EL-5.1.1 is established by the public contract code.*
- I-EL-5.1.a.vi. The CEO is authorized to decide whether to file a protest pursuant to Proposition 218 on behalf of the Board for proposed fees, rates, or taxes currently levied on District-owned parcels and provide timely notification to the Board.*

I-EL-5.1.b. CEO will conduct the annual Comprehensive Annual Financial Report.

- 5.3. Not make a single purchase, contract, or any other financial commitment without a competitive procurement process, unless authorized by the Board or one of the following exemptions is applicable:

- I-EL-5.3.a. Unless authorized by the Board, per the exemptions listed in EL-5.3, all purchases, contracts, and other financial commitments must be competitively procured.*
- I-EL-5.3.b. Utilize software systems which allow comprehensive reviews of purchases and contracts on-line and will conduct the annual Comprehensive Annual Financial Report.*

- 5.4. Not allow any sponsorship greater than \$5,000, unless authorized by the Board.

I-EL-5.4.a. Maintain and periodically review a community partnering sponsorship procedure.

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- 5.5. Not allow for any sponsorships, contributions, or memberships, that do not have a nexus to the District's mission, vision, or Board governance policies.

I-EL-5.5.a. Maintain a procedure to consistently review sponsorship requests to determine if there is a sufficient nexus to the District's mission, vision, or Board governance policies.

- 5.6. Not allow the splitting of orders to avoid the limits set forth in EL-5.

I-EL-5.6.a. Utilize a software system with purchasing approval limits and conduct the Comprehensive Annual Financial Report.

- 5.7. Not use consultant services if the work can be accomplished at the appropriate skill level by existing District employees.

I-EL-5.7.a. Evaluate the use of consultant services and available District employees with the appropriate skill level during the budget development process.

- 5.8. Consider the consultant's past performance history with the District prior to allowing the District to enter into a consultant agreement.

I-EL-5.8.a. Maintain a procedure that requires internal reference checks as part of written and oral evaluation criteria.

- 5.9. Provide access to opportunities for small and local businesses in providing services to the District.

I-EL-5.9.a. Conduct outreach processes that include: match-making events, an annual open house, and the District website.

- 5.10. Operate with written purchasing policies and procedures relating to non-competitive acquisition practices, to avoid conflicts of interests, and favoritism and to assure legal and fiscal compliance.

I-EL-5.10.a. Purchasing policies and procedures will be maintained by the BAO's procurement designee.

- 5.11. Apply procurement policies and practices that support environmental stewardship to include extended producer responsibility and the reduction of hazardous and solid waste generation.

I-EL-5.11.a. The District will implement the following:

I-EL-5.11.a.i. Define the District's goals with regards to environmental procurement and provide general guidelines to be observed by all District employees.

I-EL-5.11.a.ii. Include a summary of the District's policies supporting environmental stewardship and extended producer responsibilities within all procurement solicitation packages.

I-EL-5.11.a.iii. Purchase products with recycled content and explore opportunities to increase recycled content of select purchased products.

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- I-EL-5.11.a.iv. Purchase products that meet national environmental standards (e.g. Energy Star or Green Seal certifications, etc.).*
- I-EL-5.11.a.v. Encourage District employees to specify green products and services when submitting purchase requests to Purchasing and to consider the purchase of green products when making purchasing card purchases.*
- I-EL-5.11.a.vi. Evaluate support of, and/or participate in public and/or private collaborations, multi jurisdictional arrangements, and legislative strategies that support extended producer responsibility in a cost-effective way.*
- I-EL-5.11.a.vii. Purchase pesticide products that support environmental stewardship and minimizes hazardous waste generation.*
- I-EL-5.11.a.viii. Not allow the sale of single-serving bottled water at District facilities; and not allow the purchase of single-serving bottles of water using District funds except for declared emergencies and/or health and safety reasons.*
- I-EL-5.11.a.ix. Not allow the purchase of expanded polystyrene food service ware for use at District facilities.*
- I-EL-5.11.a.x. When appropriate, products used on District premises will be recycled to minimize solid and liquid waste generation.*
- I-EL-5.11.a.xi. Purchase hybrid vehicles when appropriate and available.*

BAO Interpretations

of the Board's Governance Policies

Title:	Asset Management	
Category:	BAO Interpretations	
Interpretation of Policy No. EL-6	CEO Approval: April 18, 2007	Date of Latest Revision: September 18, 2014

6.3. Prepare the organization to respond and recover from an emergency or disaster.

I-EL-6.3.a. Utilize the National Incident Management System.

6.4. Maintain an Asset Management Program.

I-EL-6.4.a. Minimize asset life-cycle costs while sustainably delivering the levels of service that meet customer expectations at an acceptable level of risk as expressed through the Board.

I-EL-6.4.b. Develop and maintain the Asset Management Program.

6.5. Protect water rights and rights of way.

I-EL-6.5.a. Meet all legal requirements that apply to the District's water rights, and take action as needed to protect and preserve these rights for long-term beneficial use.

I-EL-6.5.a.i. As stated in the FAHCE draft Settlement Agreement of 2003, a primary purpose of the FAHCE Program is to protect the District's water rights.

I-EL-6.5.b. Meet all water contract terms and conditions, and take action as needed to protect and preserve water contract rights and benefits.

I-EL-6.5.b.i. Governance structures and operating agreements related to the long-term Delta solution must provide the ability to protect the value of the District's imported water assets, including water supply and banking contracts.

I-EL-6.5.c. The Board adopted Water Resources Protection Ordinance to protect District assets from the actions of external parties. Because enforcement resources are not unlimited, prioritizing ordinance violations based on the following criteria will enable employees to focus its enforcement efforts. As a general rule, the priority level assigned to a violation will be increased by one level if another agency will partner on an enforcement action (e.g. a Priority 3 violation for the District becomes a Priority 2 where there is a partnership enforcement).

I-EL-6.5.c.i. Priority 1 – This is the most serious type of violation that generally will pose a threat to public and/or environmental health and safety, impacts the District's ability to operate and maintain a facility, impacts the District's ability to proceed with the planned construction of a facility, or where the District has or will face possible civil or criminal liability by a third party. Examples include: suspected hazardous material drainage and dumping, major encroachment of structures

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- on District property, denuding District property of vegetation, significant fill, grading or structures threatening or blocking flow in the creek.*
- I-EL-6.5.c.ii. Priority 2 – This covers most violations of a serious nature which may threaten water quality, stream stability, and habitat, expose the District to liability, may affect the District's ability to operate and maintain a facility, or may affect the District's ability to construct a future facility. This may also include violations of issued permits, instances where an unauthorized use of District property is conferring a material and quantifiable financial benefit on the user, and situations where the unauthorized use has or may result in adverse public opinion. Examples include: dumping, improperly constructed or failed outfalls that show evidence of erosion, fences or minor retaining walls below top of bank, minor grading or filling, deliberate obvious encroachments on District fee title property.*
- I-EL-6.5.c.iii. Priority 3 – This is an intermediate type of violation that is either a Priority 4 type violation of a more egregious nature or Priority 2 type violation of a less significant nature. An example is an improperly constructed outfall that shows no sign of erosion, discharges suspected from pools or spas where no evidence of damage is observed, removal of native vegetation that could affect habitat, and blocking District access.*
- I-EL-6.5.c.iv. Priority 4 – This covers activities where the responsible party (RP) did not obtain a permit in advance of the activity, but it does not pose any potential threat to public or environmental health and safety or affect District operations or maintenance. Examples include: temporary trespassing, replacement of a fence, landscaping on easement where District approval and permit is required, and removal of a minimal amount of vegetation.*

6.6. Maintain adequate insurance.

- I-EL-6.6.a. Maintain property insurance for occupied buildings and contents to at least the value of probable maximum loss, excluding any insurance for the value of non-occupied facilities such as pipelines, dams, canals, reservoirs and the like, and excluding any insurance for the value of vehicles.*
- I-EL-6.6.b. Maintain District Self-Insured Risk Retention for liability with appropriate insurance reserves funding at a level of 90 percent actuarial confidence and a policy or policies of insurance for not less than \$40 million excess coverage for Commercial General Liability. However, in the event that losses are paid from this reserve fund during a fiscal year, the fund balance may drop to a level representing 80 percent actuarial confidence, to be replenished in the next fiscal year.*

BAO Interpretations

of the Board's Governance Policies

Title: Communication and Support to the Board

Category: BAO Interpretations

**Interpretation of
Policy No. EL-7**

CEO Approval: July 13, 2006

Date of Latest Revision: July 28, 2014

7.1. Inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established.

I-EL-7.1.a. Provide the Board with timely information, including the following: daily media updates, weekly CEO reports, and Board agendas.

7.3. Inform the Board of the intent to undertake negotiation of any imported water management agreement connected with proposed land development or involving a private or non-governmental party, and keep the Board informed of imported water management activities on an ongoing basis.

I-EL-7.3.a. Provide at least quarterly updates to the Board on imported water management activities, including forecasts of water transfers or other imported water management agreements, and provide confirmation of executed agreements within one month of completion.

7.4. Marshal for the Board as many employee and external points of view, issues, and options as needed for fully informed Board choices.

I-EL-7.4.a. Notify public of Board meetings, workshops, and committees.

7.5. Deal with the Board as a whole except when (a) fulfilling informal or oral individual requests for information or (b) responding to officers or committees duly charged by the Board. Responses to formal "Board Member Requests" should be given to the entire Board.

I-EL-7.5.a. Capture all requests, including briefings, from Board members as individual or formal Board member requests and report back to the Board in weekly CEO Bulletins weekly. Information that is available on the District's website will not be re-distributed.

7.6. Report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

I-EL-7.6.a. Based on the urgency of an actual or anticipated non-compliance with any policy of the Board, the CEO will notify the Board at the next Board meeting.

I-EL-7.6.b. Reporting shall consist of at least one of the following methods, based upon the CEO's determination of the level of urgency:

I-EL-7.6.b.i. Direct Verbal Report at a Board meeting by the CEO or authorized designee

I-EL-7.6.b.ii. CEO Bulletin

I-EL-7.6.b.iii. Non-Agenda Packet

I-EL-7.6.b.iv. Board Fax Alert by the CEO or authorized designee

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I-EL-7.6.b.v. Telephone Call by the CEO or authorized designee

7.7. Supply for the consent agenda all items delegated to the BAOs yet required by law or contract to be Board-approved.

I-EL-7.7.a. CEO will establish a process to identify all delegated items that are legally required to be Board-approved are on the consent agenda.

7.9. Respond to individual Board member requests and Board requests within 30 calendar days, except as follows:

7.9.1. For Board member and Board requests for information, a BAO shall respond within 30 calendar days of the initial Board member request. In the event that the responsible BAO determines that a Board request will require more than 30 calendar days to complete, the BAO shall inform the Board within 30 calendar days of receiving the request. Upon making this notification, the BAO shall also specify the expected completion date for the request.

7.9.2. For Board member requests determined by a BAO to be non-routine and require redirection of employees to the detriment of their normally assigned duties, the BAO shall agendaize that request and report to the Board that fulfilling the request will require substantive work and request directions from the Board on whether to proceed with fulfilling the request.

I-EL-7.9.a. Individual Board Member Requests (IBMR) are recorded as an IBMR and employees respond within 30 calendar days of receiving the request.

I-EL-7.9.b. For requests for information that is readily available, the information is provided directly to the Board. For requests that require "substantive" work, the request must go to the full Board for direction. Board member requests are considered to require "substantive" work when:

I-EL-7.9.b.i. Request requires more than 4 hours of employee time to complete per request, and/or

I-EL-7.9.b.ii. Individual request includes materials and supplies above \$50 and are not already a budgeted expense.

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7.10. Make available to the public agendas and employee reports, if available, containing recommendations about any item on the agenda of a regular public meeting of the Board, or of a public hearing conducted by the Board, or of a Board Standing or Ad Hoc committee, no later than 10 days prior to the date of such a meeting or hearing except for the following reports, which shall be made available as soon as possible

I-EL-7.10.a. Maintain instructions to ensure public agendas are made available within policy deadlines.