



**WORKFORCE SOLUTIONS**  
of the Coastal Bend

---

<b>CATEGORY:</b>	Administration	No: 1.0.103.02
<b>SUBJECT:</b>	Open Meetings	
<b>SUPERSEDES:</b>	1.0.103.01, dtd 8/26/2011	
<b>EFFECTIVE:</b>	June 27, 2014	
<b>BOARD APPROVAL:</b>	June 26, 2014	
<b>DATE OF LAST REVIEW:</b>	May 15, 2014	

---

**I. PURPOSE:**

The purpose of this policy is to provide guidance to the Board of Directors regarding compliance with the Texas Open Meetings Act(TOMA).

**II. DEFINITIONS:**

*Board-* The appointed Board of Directors of Workforce Solutions of the Coastal Bend

Coastal Bend Workforce Development Board (Workforce Solutions of the Coastal Bend)- Board of Directors (Board), President/CEO & Board Staff responsible for the planning, oversight and evaluation of the local workforce centers, operated by Contracted Service Providers

*Executive Session-* A meeting to which the public does not have access.

*Meeting-* A deliberation between a quorum of the Board of Directors.

*Open Meeting-*A meeting open to the public.

*Quorum-* The presence of a majority of the Board of Directors.

**III. POLICY STATEMENT:**

The Board shall comply with all requirements of the Texas Open Meetings Act (TOMA).

**IV. PROCEDURES:**

Workforce Solutions of the Coastal Bend's Public Information Officer will serve as the Board staff contact person for all inquiries regarding compliance with the Texas Open Meetings Act.

All members of the Board will complete required TOMA training available through the Office of the Attorney General (OAG) of Texas.

## Posting Open Meetings

Any meeting that includes a quorum of the Board of Directors shall be posted as an open meeting and held in open session.

Any meeting of the Board Executive Committee shall be posted as an open meeting and held in open session.

Any meeting of a Board Committee, other than those committees that serve in an advisory function, shall be posted as an open meeting and held in open session.

The notice for any open meeting shall be posted at a place convenient to the public at least 72 hours preceding the meeting. Notices for emergency meetings shall be posted not less than two hours preceding the meeting and must include a reason for calling the emergency meeting.

Posted notices of meetings shall contain the date, hour, place and a description of each subject to be discussed at the meeting.

Items to be discussed in closed session are not required to be posted on the agenda.

If an un-posted issue is raised at an open meeting the Chair, or other person presiding over the meeting, shall refer the person to visit with Board staff about the issue and offer to place the item on the next agenda.

The Board may adjourn an open meeting and convene at a later time without re-posting if such an action is necessary and is done in good faith. The time of the continuation of the meeting shall be announced at adjournment of the posted meeting, shall re-convene within 24 hours of adjournment, and shall be held at the same location as the original meeting.

## Minutes

The Board shall keep minutes or make a tape recording of every open meeting. If the Board Chair chooses to keep minutes rather than make a tape, the minutes shall state the subject of each deliberation and indicate every action that is taken.

The minutes or tape recordings of an open meeting are open to the public and shall be available for inspection and for copying. The Board shall permanently retain copies of its minutes for its meetings, however, except for meetings held by teleconference or videoconference is not required to retain audio tapes of meetings that have been transcribed into minutes. The Board is not required to publicly post minutes.

## Executive Sessions

The rules for posting executive session items are the same as the general rules for posting issues that will be considered in open session. In order to go into executive session, the Board shall first convene in a properly posted open session. During that session the presiding officer shall announce that a closed meeting will be held and identify the section or sections of the TOMA which authorize such a closed meeting. The presiding officer shall announce the date and time the session started at the beginning of the

meeting and again at the end of the meeting. Any action or vote on an agenda item may only be taken during an open session.

The Board may only hold an executive session for one or more of the following reasons:

- *Consideration of Personnel Matters* – The Board may meet in executive session for consideration of personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a Board member or employee. The Board may also meet in executive session to hear a complaint or charge against a Board member or employee.

The Board is not allowed to meet in executive session about a Board member or employee if the subject of the deliberation requests that the item be heard in an open session. Neither committee appointments nor the hiring of independent contractors may be discussed in executive session.

- *Certain Consultations with an Attorney* – The Board may meet in executive session to receive legal advice about pending or contemplated litigation or about settlement offers. The Board may also meet in executive session to receive legal advice on any matter. The Board may meet in executive session to receive legal advice regarding a proposed contract but may not discuss the merits of a proposed contract, financial considerations, or other non-legal matters related to the contract while in executive session.
- *Discussions about the Value or Transfer of Real Property* – The Board may meet in executive session to discuss the purchase, exchange, lease, or value of real estate but only if an open meeting would have a detrimental effect on the ability of the Board to negotiate with a third party.
- *Discussions about Security Personnel or Devices* – The Board may meet in executive session to discuss security personnel or devices.
- *Discussions about Prospective Gift or Donation to the Board* – The Board may meet in executive session to discuss the negotiations for a contract for a prospective gift or donation. Such a contract shall relate to a gift to be given to the Board. The Board may only meet in executive session for this purpose if the Board's negotiation position with a third person would be negatively affected if the Board discussed the contract in open session.
- *Discussion of Certain Economic Development Matters* – The Board may meet in executive session to discuss commercial or financial information that the Board has received from certain business prospects. The business prospect shall be one that local authorities are negotiating with for economic development purposes to locate, stay, or expand in or near a location within the Workforce Development Area. The Board may hold an executive session to discuss a potential offer of incentives to the business prospect.

The Board Chair has discretion to determine who may attend executive sessions and may decide not to admit parties who are adversaries or whose presence would otherwise prevent privileged communications from taking place.

The Board shall produce a "certified agenda" of every executive session, unless the closed session is being held under the exception for consultation with an attorney. The Board may stop taking notes during the portion of a closed meeting that involves consultations with an attorney. The certified agenda must state

the subject matter of each deliberation. The certified agenda does not have to be a verbatim transcript of what happened in the session but must summarize what was discussed on each topic. The certified agenda shall include an announcement by the presiding officer of the date and time that the executive session began and ended. The presiding officer is responsible for certifying that the certified agenda is a true and correct record of the proceedings.

- Notes made by attendees for personal use during an executive session are considered to be confidential and shall be surrendered to the presiding officer at the end of the meeting or be destroyed.
- A certified agenda may only be disclosed to a member of the public under a court order. Releasing a copy of the certified agenda to the public without a court order is a criminal offense. A member of the Board participating in an executive session may not tape the meeting. Board members may not make a copy of any tape recordings of an executive session but may, in the presence of the presiding officer of the Board or his/her designee, review the tape recording. Certified agendas or tapes of executive sessions are to be preserved for a period of two years after the date of the executive session or until any legal action brought within this time period is finished.

### Teleconference

The Board may hold an emergency meeting by teleconference only if an emergency or public necessity exists, and it is difficult or impossible to convene a quorum at one location. When holding such a meeting the meeting shall be posted and open to the public in the same manner as a regular meeting. The meeting shall be held in the same place as they are regularly held. The identity of each speaker shall be clearly stated prior to that person speaking. The meeting shall be set up so as to provide two-way communication throughout the entire meeting. All portions of the meeting shall be audible to the public, including the entire conference call. The meeting shall be recorded and a copy of the recording shall be made available to the public.

### Video Conferencing

The Board may hold an open meeting by videoconference if a quorum of the Board is physically present at one location for the meeting. Notice of a videoconference meeting shall specify the location where a quorum of the Board will be physically present and shall specify the physical location of each Board member who will be participating in the meeting from another location. All of the locations identified in the notice shall be accessible to the public, and the entire videoconference meeting shall be visible and audible to the public at each of those locations. Each location shall have two-way communication with all the other locations during the entire meeting. Each participant shall be clearly audible and visible to all the other participants and to the public. The quality of the audio and video signals shall meet the requirement set forth by the Texas Department of Information Resources and by section 551.127 of the Texas Government Code. The entire meeting shall be recorded, and the tape shall be made available to the public.

### Emergency Meetings

An emergency meeting of the Board may only be called if immediate action is required because of an imminent threat to public health and safety or because of a reasonably unforeseeable situation. A situation is not "unforeseeable" if the Board knew about or should have known about the situation prior to a deadline.

Notice of an emergency meeting shall clearly identify the emergency and the reason for the emergency must be posted in the notice. Non-emergency items may not be added to the agenda for the emergency meeting. Members of the public may be notified of emergency meetings but must file a request to be notified of such items at the Board office. The request shall also include information on how to contact the interested party. A member of the public who files a request to be notified of emergency meetings shall agree to reimburse the Board for the cost, if any, of providing the special notice.

#### Invalidation of Meetings Not In Compliance with the Open Meetings Act

Actions that violate the TOMA may only be invalidated by a court of law. Any actions taken in good faith by the Board in regular meetings, emergency meetings, committee meetings, or in executive sessions will be considered to be valid unless and until such actions are invalidated by a court of law.

#### Training

Board members appointed on or after January 1, 2006 will complete the training within 90 days of the appointment. Upon completion Board staff will ensure that Board members obtain course completion certificates by providing OAG with the identification code given to them at the end of the training course. The training completion certificates will be maintained and made available at the Board office.

Training at:

<https://www.texasattorneygeneral.gov/media/videos/play.php?image=2005openmeetings&id=149>

#### **V. RELATED POLICY INFORMATION:**

Texas Government Code Section 551.001 (3) (Vernon Supp. 2001), Section 551.005, Section 551.050 (Vernon 1994), Section 551.043 (Vernon 1994) and 551.041 (Vernon 1994); Texas Local Government Code Section 43.052 (Vernon Supp. 2001); Attorney General Opinion Nos. H-3 (1974), JC-0060 (1999), JC-0160 (1999), JC-0313 (2000), JM-1072 (1989), LO 93-55 (1993), LO 96-113 (1996), DM-7 (9191), JC-0327 (2001), JM-595 (1986), ORD-605 (1992), ORD-485 (1987); 22 S.W.3d 351, 366-67 (Tex. 2000), Texas Penal Code Section 12.23.

Texas Workforce Commission Letter WD 48-01, 28-01 (Change 4) 80-05 (Change 1)

Open Meeting 2010 Handbook, Office of the Attorney General

Additional information is available on the Attorney General of Texas web site

([https://www.oag.state.tx.us/open/og\\_resources.shtml](https://www.oag.state.tx.us/open/og_resources.shtml) )

#### **VI. RESPONSIBILITIES:**

The President/CEO will ensure that the Board and Board Staff are aware and comply with this policy. The Board's Public Information Officer is responsible for all inquiries regarding compliance with the Texas Open Meetings Act.

#### **VII. FORMS AND INSTRUCTIONS:**

N/A

#### **VI. DISTRIBUTION:**

Board     Board Staff     Contracted Service Provider

**IX. Signatures**

\_\_\_\_\_  
Reviewed by EO Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
President/CEO

\_\_\_\_\_  
Date