

OPERATIONAL AUTHORITY (VER 1.0)

What is it? Operational authority is the degree of control granted to the regional entity to carry out the responsibilities of day-to-day operations to meet its obligation of service (i.e. water production).

How it Fits in the Regional Plan? If it is the regional entity's obligation to provide for the Members' water production requirements, then its ability to direct day-to-day operations is what enables the entity to meet that obligation. Currently, the authority and responsibility for the day-to-day operations of the water production facilities rests with Des Moines Water Works. To what degree does this need to change in order to fulfill the vision for the regional entity?

A PROPOSED STARTING POINT FOR DISCUSSIONS:

The Guiding Principles partially define operating authority in acknowledging that the regional entity will negotiate an operating contract with DMWW. What specific authorities should the regional entity possess in order to manage this and other necessary operational needs? There are four elements of operational authority that provide a starting point for discussion. The below table lists these as well as a description of what this would possibly mean under a strong operational authority.

Element of Operational Authority	Provision for Strong Operational Authority
Contracts	<ul style="list-style-type: none"> The regional entity has the authority to negotiate and enter into contracts related to the operations and maintenance of <u>existing and future</u> water production facilities.
Budgets	<ul style="list-style-type: none"> The regional entity has the authority to approve operating budgets for the regional water production facilities and related administrative and general costs.
Self-Performance	<ul style="list-style-type: none"> The regional entity has the authority to perform any operational tasks necessary to fulfil its obligation to serve including hiring its own workforce as necessary.
Rate setting	<ul style="list-style-type: none"> The regional entity has the authority to recover its costs by establishing rates and fees and assess those charges to its Members.

THINGS TO CONSIDER:

In order for the regional entity to fulfill its obligation to serve, it seems logical that the entity would *need* the provisions of strong operational authority mentioned in the previous table. However, there are challenges to granting this authority. If the group agrees that a strong operational authority is necessary, then some or all the challenges below may need further consideration.

These challenges rest on the relationship between DMWW and the regional entity going forward. DMWW currently operates nearly all water production facilities in the region. The Guiding Principles suggest there is some agreement that DMWW should continue as the operating agency. However, this would seem to require that the regional entity (its Board) assume some authorities currently reserved to the DMWW Board (for example, setting a budget).

This raises important if not difficult questions:

- *Would the regional board have substantive approval authority of the operating budget?*

The operating contract with DMWW may constitute nearly 100 percent of the operational costs for the regional entity, at least for some time. If so, is it feasible that the regional board could actually reject (not approve) the operating budget? In other words, how much authority truly exists regarding budgetary approval?

- *Can the regional entity really select a contractor for the operations?*

The Guiding Principles point to an operating contract with DMWW, but if the regional entity isn't free to select a vendor, is there really a selection or an arm's length transaction?

- *What additional responsibilities does the regional entity incur if granted these authorities?*

If the regional entity has the ultimate authority for the operations of the water production facilities, does it take on regulatory requirements or other responsibilities? It will be important to discuss and understand the cascading effects of greater authority on the entity's responsibilities going forward.

- *Is it legally feasible for DMWW to delegate its authority?*

If DMWW is to delegate authority for the items in the prior table, it will be important for the group to consider the legally feasible of doing so. We may not know that answer right now, but the group should still discuss the outcomes it would prefer allowing room for legal interpretation a little later in the process.