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ENVIRONMENTAL POLICY  
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CENTER

**Comments on Texas Water Fund Surveys – Implementation of the Texas Water Fund, New Water for Texas and Statewide Water Public Awareness Program**

April 30, 2024

Chairwoman Paup and Directors Stepney and Peyton,

The following comment letter provides detailed responses on the TWDB’s Texas Water Fund, New Water for Texas and Water Awareness Campaign Surveys from multiple groups, many of whom are partners in the Texas Living Waters Project. The Texas Living Waters Project (texaslivingwaters.org) is a collaboration of conservation groups working to ensure that Texas has the water it needs for thriving communities and healthy fish and wildlife. In addition to the members of the TLW, the answers provided to Survey 1 also reflect input from the Environmental Policy Innovation Center (EPIC).

Those individual groups have in many cases also submitted separate comments through the online surveys. We would note because in some cases there were limits to the number of characters allowed in the online surveys, this letter provides more complete answers, including some references.

A few words about our organizations. The National Wildlife Federation’s Texas Coast and Water Program promotes and advocates for policies to ensure that Texas has the water it needs for thriving communities and healthy fish and wildlife. The Nature Conservancy Texas has preserved over 1 million acres of land, and over 200 miles of rivers and streams in our great state. TNC is a proud member of the Texas Living Waters Project and reiterates the priorities of our partners. The Hill Country Alliance is a regional nonprofit that works alongside local partners to protect the land, night skies, unique character, and water of the Hill Country. With

over 25,000 members, the Lone Star Chapter of the Sierra Club is the state chapter of the largest and oldest conservation organization in the United States, whose mission is to practice and promote the responsible use of the earth's ecosystems and resources; To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. The mission of the Galveston Bay Foundation is to preserve and enhance Galveston Bay as a healthy and productive place for generations to come. EPIC focuses on water equity, watershed partnerships, endangered species, environmental markets, and the use of data and technology in producing conservation outcomes—aiming to advance innovative policies that provide equitable access to safe, reliable, and affordable water. Bayou City Waterkeeper protects the waters and people of the Houston region through bold legal action, community science, and creative, grassroots policy to further justice, health, and safety for our region.

Our organizations are appreciative of the TWDB for engaging with stakeholders in advance of publishing draft rules, providing multiple opportunities for the public to both provide input and ask questions of staff. Overall we urge the TWDB to prioritize funding for communities that would not be able to otherwise invest in water infrastructure projects through additional principal forgiveness or grants. Further, we encourage the TWDB to undergo additional studies to answer questions of hyper-local importance, as limited responses and expertise that may be gleaned from this engagement may not paint a full picture of risks and needs throughout the state. We look forward to working with the TWDB to help ensure the Texas Water Fund, the New Water Fund for Texas, and the Texas Water Awareness Campaign promote equitable investments in Texas' water infrastructure, and creates awareness about the value and importance of water for all of Texas.

Thank you for the opportunity to submit these comments. Please don't hesitate to reach out with any questions or comments. We look forward to continuing to work with the TWDB in preparation for rulemaking around SB 28. Should you have any questions about our input, please don't hesitate to contact us.

Sincerely,

Jennifer Walker, Senior Director, Texas Coast and Water Program, National Wildlife Federation

Cyrus Reed, Legislative and Conservation Director, Lone Star Chapter, Sierra Club

Bob Stokes, President, Galveston Bay Foundation

Danielle Goshen, Senior Policy Analyst, Environmental Policy Innovation Center (EPIC)

Marisa Bruno, Water Program Manager, Hill Country Alliance

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Hillary Lilly, Director of External Affairs, The Nature Conservancy, Texas Chapter

## Texas Water Fund Survey 1: Financial Assistance for Water Infrastructure Projects

### 1. Organization or entity that you represent, if applicable:

Multiple organizations

2. The TWDB has typically solicited projects seeking financial assistance by requesting initial information through project information forms or abridged applications by individual programs. To implement the Texas Water Fund, the TWDB is considering a combined solicitation for project information for the Clean Water and Drinking Water State Revolving Funds, assistance for rural communities, water conservation strategies and water loss mitigation, and other project types.

Projects would then be sorted by relevant program, ranked, then invited to apply for funding in priority order according to the respective program's criteria. This type of solicitation would allow the applicant to seek financial assistance from any of the included funding programs, meaning that the applicant would not have to submit separate project information forms or abridged applications for each program. Additionally, if the project qualifies for multiple programs, the applicant could choose the best fit for its needs, including any grant or subsidy.

### Are in favor of this type of solicitation?

Yes/ No?

We believe that this approach is favorable. The combined solicitation in this format reduces burden on the applicant by only requiring a single "PIF" for each of the separate funding programs, and streamlining of these complex processes and flexibility in the allocation processes would be welcome improvements. However, there are multiple issues that the TWDB would have to address. For example:

- Would there be a separate ranking system for projects tapping into Texas Water Fund dollars vs the traditional state financial assistance programs?
- Each program has different timelines and deadlines. How would these separate timelines impact projects submitted under this combined solicitation format? How would the TWDB ensure that applicants are not confused about deadlines and miss out on opportunities for funding for a particular state fiscal year?

- For project and financial planning purposes, municipalities (and the TA providers that help them) need to understand what the mix of funding might be/is likely to be, which funding sources they are eligible for, and their likelihood of receiving funding – particularly their likelihood of receiving grants or principal forgiveness. Will communities have a good understanding of which funding sources they'd be eligible for and be able to self-assess their likelihood of receiving a grant or principal forgiveness?

Therefore, while a single PIF is preferable and will hopefully provide some efficiencies in the process, we encourage the TWDB to provide sufficient information to eligible applicants to ensure program transparency and accessibility.

**3. The TWDB may be able to fund many of the Texas Water Fund priority projects through the State Revolving Fund programs. Eligible projects would be designated as non-equivalency and super cross-cutter requirements related to American Iron and Steel, Davis-Bacon Wage Requirements, and Equal Opportunity and Affirmative Action would apply. Do you have any concerns regarding these requirements?**

We are comfortable with the cross-cutter requirements as they exist in the SRF programs.

The Environmental Protection Agency (EPA) mandates that a portion of SRF projects must meet equivalency requirements, meaning they adhere to all federal cross-cutter regulations. This portion must at least equal the annual federal capitalization grant amount given to the state SRF program.<sup>[1]</sup> Once a state has allocated enough of its funding to equivalency projects to match the federal grant amount, any additional projects funded can be considered non-equivalency, and do not have to meet many of the federal cross-cutting requirements.<sup>[2]</sup> Non-equivalency projects may be exempt from certain federal requirements, allowing for greater state flexibility, unless the super cross-cutter requirements apply. However, communities can avoid the cross-cutter requirements altogether if 100% of the funds provided come from state funding.

Therefore, we believe that in two ways, using TWF dollars can help alleviate cross-cutter requirements for communities. First, additional funding for the SRF programs through the TWF could provide increased amounts of principal forgiveness to communities who have trouble meeting the federal cross-cutting requirements with the amount of PF currently available – effectively alleviating some of the burden of meeting those requirements. Second, 100% grant funding from the Texas Water Fund could be made available to communities most in need to provide complete relief from federal cross cutter requirements. Due to the success of the SRF programs and the importance of projects eligible for funding under the SRFs, we do not have concerns regarding the super cross-cutting requirements as they exist in the SRF programs.

**4. Once money is transferred from the Texas Water Fund to a particular financial assistance program, upon approval of an application, all statutory and rule requirements applicable to that receiving program will apply to that project. Programs that have authorization for grants**

(or principal forgiveness) include the Rural Water Assistance Fund, the Clean Water and Drinking Water State Revolving Funds, and the newly created New Water Supply for Texas Fund (see Survey 2). Some programs, such as the Texas Water Development Fund and SWIFT, do not offer grants due to statutory or constitutional limitations. However, they may offer subsidies through reduced interest rates.

**What factors should be considered when offering grants from the Texas Water Fund?**

Please select at most 3 options.

- Household cost factor (including water/sewer rates, population decline, and unemployment rate)
- Average median household income (AMHI)
- Population decline
- Unemployment rate
- Rural designation
- Municipalities under 150,000 population
- Green project (i.e., projects that reduce energy usage or water loss; that incorporate innovative, nature-based solutions; or that seek to preserve the natural environment)
- Specific project type
- Other: \_\_\_\_\_

While each of these factors are important, we believe that a combination of factors is needed when considering which projects should receive grant funding. Using a combination of factors in a scaled approach acknowledges that there are many types of communities and urgent projects that are in need of grant funding. We therefore advocate for the TWDB to create a Disadvantaged Community (DAC) Score that considers providing points to multiple factors on a scaled approach, and adding those points for different factors together, to determine which projects should be prioritized for grant opportunities. For example, while smaller communities generally have greater difficulty in accessing funding when they lack the expertise or experience in applying for and receiving funding necessitating grant funding for essential water infrastructure projects, a larger urban community may have significant affordability concerns that require grant opportunities in order to reduce or limit additional affordability burdens. This shows that different communities may be in need of grant funding for different reasons.

As it relates to specific factors to be considered in a DAC score, we encourage the TWDB to consider:

1. **Lowest Quintile Income (LQI)** and percent of population within that quintile for the service area as benchmarked by Statewide LQI;

2. **Household Burden Indicator:** instead of the current household cost factor utilized under the SRFs, we encourage the use of this metric that measures basic water service costs (combined) as a percent of the 20th Percentile of Community Household Income (the lowest quintile income, LQI);
3. **Poverty Prevalence Indicator:** the percentage of community households at or below 200% of federal poverty level (FPL);
4. **Social Vulnerability Score;** and
5. **Unemployment Rate.**

Note that our groups highly encourage the switch from AMHI, which is currently used in the SRF's DAC determination to LQI. Communities with similar median incomes can have vastly different levels of poverty and economic disadvantage. By using the lowest quintile income, SRF programs can more precisely identify those areas that are truly disadvantaged, even within regions that might appear to be relatively well-off at the median income level. This is because median household income provides a midpoint of income distribution within a community, which can sometimes mask the extremes of wealth and poverty. The lowest quintile income, on the other hand, directly reflects the economic status of the bottom 20% of the population, offering a clearer picture of income disparity and identifying communities where economic disadvantage is most pronounced. It is important to note that both the American Water Works Association (AWWA)<sup>[3]</sup> and EPA<sup>[4]</sup> encourage the use of LQI when considering affordability.

For each of these factors discussed above, we encourage the TWDB to create a scale that provides more points for the systems that are more in need. For example, the higher the social vulnerability score, the more points the community should receive for that factor. Once all the points are added up for each factor, the score can be used to determine how much grant funding the project will be eligible for, with the communities that receive the highest DAC Score eligible for up to 100% principal forgiveness. Essential in this calculation, we encourage the board to consider these factors at the project service area scale and not the applicant service area scale. This will help ensure that projects in the areas that need it most are able to receive funding.

### **5.What factors should be weighted the most heavily?**

**Please select at most 2 options.**

- **Household cost factor (including water/sewer rates, population decline, and unemployment rate)**
- **Average median household income (AMHI)**
- **Population decline**
- **Unemployment rate**
- **Rural designation**
- **Municipalities under 150,000 population**

- Green project (i.e., projects that reduce energy usage or water loss; that incorporate innovative, nature-based solutions; or that seek to preserve the natural environment)
- Specific project type
- Other: \_\_\_\_\_

See *Question 4*, above.

**6. Given the desire to balance grants and loans, should the TWDB use the Texas Water Fund to expand grant or principal forgiveness capacity in existing programs and/or to increase subsidies in existing programs? How can this be done in a manner that is both fair to communities and in the best interest of the state?**

As discussed in our answer to *Question 4* above, we encourage the TWDB to use the funds to provide up to 100% principal forgiveness or grants to communities most in need. Communities with the highest DAC score, developed above, should be eligible for up to 100% principal forgiveness or grants, with communities with lower DAC Scores eligible for lower amounts of principal forgiveness. Where there are extra funds available, the state could then fund additional projects through loan opportunities. It should be the goal of the TWDB that no community is turned away or discouraged from applying for funding due to an inability to repay loan financing.

This approach is consistent with the use of state funds from states like Michigan that have infused their SRF programs with additional grants from state funding. For example, the state of Michigan has invested \$35 million in FY2021 under Michigan’s Clean Water Plan.<sup>[5]</sup> These funds were then awarded as grants under the Drinking Water Infrastructure Grant Program to projects on the FY2022 DWSRF.<sup>[6]</sup> We believe this approach, which provides additional grants or principal forgiveness for communities most in need, is desirable for the use of TWF monies.

**7. How should the amount of additional loan subsidy provided by the Texas Water Fund be determined?**

As noted above, we believe that the primary use of the TWF should be to provide additional grants to disadvantaged communities most in need of funding, and which could not otherwise invest in essential infrastructure projects. However, for any funds left over to be spent on loans, we believe that a “market percentage rate benchmark” should be used to determine a reduction in interest rates.

As is discussed in a [recent blog by EPIC](#), historically, the bond market has been the primary source of funding for water projects. However, State Revolving Funds (SRFs) typically offer lower interest rates, providing a significant advantage to municipal entities and utilities, particularly those without a credit history or with a less favorable one. Since the establishment of the Clean



Water State Revolving Fund (CWSRF) in 1987 and the Drinking Water State Revolving Fund (DWSRF) in 1997, the lower interest rates offered by SRFs compared to bonds have resulted in savings of tens of billions of dollars for municipalities, utilities, and the communities they support.

Through the SRF programs, states either adopt a market rate or fixed rate benchmark to set interest rate reductions. Under the Texas DWSRF program, equivalency projects receive 35% reduction while non-equivalency projects receive 30% reduction from the Thomson Reuters Municipal Market Data rate, adjusted to maturity that is applicable to the entity's rating, with non-rated entities using the Baa rate interest rate.<sup>[7]</sup> This is similar in the CWSRF, however, equivalency projects receive an interest rate reduction of 40% for equivalency projects and 35% reduction for non-equivalency projects.<sup>[8]</sup>

This can be considered a "market percentage rate benchmark," which is a common structure across states. Two-thirds of all states fall into a market-based rate broadly, and 28% of all subcategories (the largest subgroup) are a percentage-based discount from a market rate – meaning that Texas' policies fall in with the majority broadly and the plurality for market-based rate states (would be 40% of all market-rate states who have a percentage discount policy). This structure avoids pitfalls of other structures such as fixed-variable and market-variable categories, which lack a discernable structure for assigning rates and lack transparency in rate calculations. Instead, this structure, which reflects current market conditions, makes loans more affordable for borrowers, provides transparency, ensures rates are competitive, and reflects the true cost of borrowing, while also allowing the state to better manage risk. Therefore, we support utilizing this approach when determining the loan subsidy for TWF projects across state programs. However, we also note that for applicants who demonstrate financial hardship, longer-term loans, increased rate subsidies, and waiver of fees should also be considered when determining loan financing terms.

**8. The TWDB must ensure that a portion of the money transferred from the Texas Water Fund is used for water infrastructure projects, prioritized by risk or need, and for rural political subdivisions and municipalities with a population less than 150,000.**

**What are the greatest non-flood water infrastructure-related risks or needs for rural (generally 10,000 in population or less) communities?**

**Please select at most 2 options.**

- **Regulatory compliance for water systems**
- **Regulatory compliance for wastewater systems**
- **Water conservation/water loss mitigation**
- **Support for economic development**

- Risk of loss of service for water systems
- Risk of loss of service for wastewater systems
- Other: \_\_\_\_\_

These issues are all hyper-local and are hard to generalize. In order to develop a fuller picture, we strongly encourage the TWDB to develop a survey or complete a study on both risks and needs facing these communities in order to better target funding. However, we believe providing support to communities at risk of loss of service should be a top priority.

In addition, TWDB has the opportunity to implement strategies and encourage investments that will address water loss mitigation and water conservation– strategies that are crucial to using our existing resources prudently. Our research has found that statewide, we are losing 572,000 acre-feet of water per year. Therefore, we strongly encourage TWDB to use data to identify communities where a relatively small investment in addressing water loss or water conservation could help communities that are facing water shortages.

**9.What are the greatest non-flood water infrastructure-related risk or needs for municipalities with a population less than 150,000?**

Please select at most 2 options.

- Regulatory compliance for water systems
- Regulatory compliance for wastewater systems
- Water conservation/water loss mitigation
- Support for economic development
- Risk of loss of service for water systems
- Risk of loss of service for wastewater systems
- Other: \_\_\_\_\_

See *Question 9*, above.

**10.Within these categories, how should the greatest risk/highest needs be defined?**

See *Question 9*, above.

**11.What kind of technical assistance do you believe to be most beneficial to smaller communities?**

- Asset management evaluation
- Preparation of a rate study
- Review of existing organizational operations procedures

- Review of existing financial statement/budgeting procedures
- Completion of project information forms/financial assistance applications
- Development of water conservation plans
- Water loss audits
- Financial, managerial, and technical assistance related to regulatory compliance
- **Other:** \_\_\_\_\_

While we regularly hear that smaller systems desperately need system modernization, including building and maintaining records, we believe that many of these forms of assistance are needed. Again, a study or targeted surveys could help the TWDB in developing improved TA programs.

**12. What are the greatest challenges/barriers that rural and small communities face in implementing water infrastructure projects?**

- Affordability
- Local support for rate increase
- Community trust/"buy in"
- Availability of local professionals
- Organizational capacity to manage the project through all phases of development
- **Other:** \_\_\_\_\_

While all of these are concerns facing smaller communities, we believe one of the highest priorities for the TWDB should be addressing affordability issues through increased grant opportunities.

**13. The TWDB must ensure that a portion of the money transferred from the Texas Water Fund is used for water conservation strategies and water loss mitigation projects.**

**What factors should be given the highest priority in funding these types of projects?**

**Please select at most 2 options.**

- Total volume of water estimated to be saved
- Volume of water saved per connection per day
- Volume of water saved per capita per day
- Systems with developed water loss mitigation plans based on water loss audit data
- Previous infrastructure failures that resulted in significant water losses
- **Other:** \_\_\_\_\_

Ovall, we believe that there should be a separate reserve for water loss mitigation projects as this should be our first line of defense when it comes to ensuring resilient water supplies for our communities. Funding for these projects could be prioritized based on the following:

- **Volume of water saved per connection per day** – this is a widely utilized measure that we recommend considering when prioritizing funding. Unlike per capita which considers density and migration of people into and out of cities during the workday, per connection considers the infrastructure involved and is an accurate representation for the volume of water loss.
- **Water stress/scarcity** – the TWDB should consider how water scarce a community is, when prioritizing water loss mitigation projects. While it would be important for a community that does not have imminent water scarcity issues to address water loss in its system, the more water stressed an area is, the more urgent the water loss mitigation intervention is.
- Recognizing that not all communities are equally able to invest in needed water loss mitigation projects, in addition to the factors above, we encourage the board to consider socioeconomic factors related to **affordability** including:
  - **Lowest Quintile Income** and percent of population within that quintile;
  - **Household Burden Indicator**: instead of the current household cost factor utilized under the SRFs, we encourage the use of this metric that measures basic water service costs (combined) as a percent of the 20th Percentile of Community Household Income (the lowest quintile income, LQI);
  - **Poverty Prevalence Indicator**: the percentage of community households at or below 200% of the federal poverty level (FPL).

We have provided some feedback and context on the other evaluation factors proposed in Question 13 below. While these factors can be considered in evaluating water loss project, we do not think that these should be the primary factors for prioritizing water loss mitigation projects:

- **Total volume of water estimated to be saved** – this metric depends on how much water a community has access (for example San Antonio can save a high total volume of water compared to another community that has greater water scarcity but smaller amounts of water that can be saved) to and is not recommended for use in prioritization.
- **Volume of water saved per capita per day** – this metric is not generally recommended as we typically don't know how many people are represented by each connection. Volume of water per connection is a more appropriate metric.
- **Systems with developed water loss mitigation plans based on water loss audit data** – The development of water loss mitigation plans should be encouraged as they can lay

out a strategic pathway for water loss mitigation investment and action. Not all communities have these plans in place and some may be seeking funding to develop these plans. The TWDB should encourage development of these plans and provide funding and follow up assistance to do so.

- **Previous infrastructure failures that resulted in significant water losses** – The prioritization of water loss mitigation projects should be based on current needs and not past events. If the cause of previous infrastructure failures have not been addressed and there is a plan in place the utility should apply for financial assistance.

**14.What types of incentives are needed to implement these types of projects?**

- **Financial assistance, including onsite contractors and leak detection surveys**
- **Technical assistance**
- **Public awareness initiatives**
- **Other:**

We believe that the two greatest incentives to implement water loss mitigation projects are financial assistance and technical assistance. There are several ways to proactively identify water loss mitigation project candidates. One option is to utilize recent water loss audits to identify communities that are above TWDB’s threshold for HB 3605 compliance and reach out to them through the TA program. The board could also utilize the most recent WLA data and perform a Frontier Analysis. We’d also encourage creating set-aside funds, more favorable financing opportunities, and prioritization points for water loss mitigation projects in existing programs.

**15.How would you define “having substantially completed state or federal permitting” within the scope of a water infrastructure project?**

- **All necessary permits obtained**
- **Major permits obtained, minor pending**
- **All permit applications submitted and awaiting approval within an expected timeframe**
- **Other:**

We do not feel comfortable answering this question without additional details regarding when the stated phrase would be used.

**16.Any other input that you would like to provide related to Texas Water Fund financial assistance:**

While much of the funding could flow through existing programs, we have a concern that water conservation, water loss and water reuse projects might not be considered without technical assistance and more direct outreach. TWDB has the opportunity to implement strategies and encourage investments that will address water loss mitigation and water conservation—strategies that are crucial to using our existing resources prudently. Our research has found that statewide, we are losing 572,000 acre-feet of water per year.

The Board should proactively identify Water Loss Mitigation projects candidates:

- We suggest that TWDB utilize recent water loss audits to identify communities that are above the TWDBs threshold set for HB 3605 compliance and proactively reach out to them through the TA program. This could include assisting utilities in developing water loss mitigation plans and assistance with identifying projects for and applying for funding.
  - Another approach is to utilize the most recent Water Loss Audit data and perform a Frontier Analysis to identify low performing utilities.
  - Consider creating set-aside funds, more favorable financing opportunities, and prioritization points for water loss mitigation projects in existing programs, particularly programs with limited financial capacity.
  - Water Conservation:
    - The Board should consider utilizing 5-year water conservation plans to identify water utilities with high GPCD and 5-10 year goals that are not progressive. Proactively reach out to those communities and work with them on planning, program design and implementation. Help partner these utilities with high- performing peers. To encourage water conservation, TNC suggests utilizing 5-year water conservation plans to identify water utilities with high GPCD, 5–10-year goals that are not progressive, and setting aside funds for water conservation, perhaps in the form of grants.
    - Set aside a certain amount of funds for water conservation, including grants . As we have seen with SWIFT, utilities do not generally apply for funds to support water conservation programs. There is a concern that this particular part of the program could be undersubscribed.
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[1] See 40 CFR § 35.3575 (outlining federal cross-cutting requirements for DWSRF). See also 40 CFR § 35.3145 (outlining federal cross-cutting requirements for CWSRF).

[2] See 40 CFR § 35.3575(b)(2) (stating that for the DWSRF “[p]rojects and activities for which a State provides assistance in amounts that are greater than the amount of the capitalization grant deposited into the Fund or set-aside accounts are not subject to the requirements of the cross-cutters”). See also 40 CFR § 35.3145(a) (explaining that for the CWSRF, only funds directly made available must apply to applicable Federal authorities).

[3] AWWA, Developing a New Framework for Household Affordability and Financial Capability Assessment in the Water Sector (April 17, 2019), available at: <https://www.awwa.org/Portals/0/AWWA/ETS/Resources/DevelopingNewFrameworkForAffordability.pdf?ver=2020-02-03-090519-813>.

[4] See e.g., EPA, Clean Water Act Financial Capability Assessment Guidance (March 2024 Revision) available at: <https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdf/>

[5] Michigan DWSRF IUP FY 2024 (pg. 7), available at <https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Funding/DWSRF/FY2024-DWSRF-IUP.pdf?rev=07a62ef9d336456cabf28458c4399e95&hash=BFF7CAC7AA499FDC244BEB2923EB2F51>.

[6] *Id.*

[7]

<https://www.twdb.texas.gov/financial/programs/DWSRF/doc/SFY2024/SFY2024-DWSRF-IUP.pdf>

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[8] <https://www.twdb.texas.gov/financial/programs/CWSRF/doc/SFY2024/SFY2024-CWSRF-IUP.pdf>.

## **Texas Water Fund Survey 2: New Water Supply for Texas Fund**

The Texas Water Fund will support the newly created New Water Supply for Texas Fund, which is designed to implement innovative water supply strategies such as marine and brackish water desalination; oil and gas produced water treatment projects; and aquifer storage and recovery projects. Political subdivisions of the state will be eligible for financial assistance from the fund.

In evaluating applications for financial assistance for the New Water Supply Fund for Texas, the TWDB is directed to consider the “relationship” of the project to the water supply needs of the state overall and the relationship of the project to the state water plan. This requirement differs from the SWIFT program, where projects must be specifically included in the state water plan (Texas Water Code § 15.432), and other financial assistance programs that require projects to be “consistent” with the regional water plans and state water plan (Texas Water Code § 16.053(j)).

### **1. Organization or entity that you represent, if applicable:**

Multiple.

### **2. In addition to the specific types of strategies included in statute (listed above), should there be other specific types of strategies that should be eligible for the program as “new water supplies” in the TWDB’s draft administrative rules?**

Water Reuse should be considered for funding through the New Water Supply for Texas Fund. Every community already has this source water available through their wastewater systems. Cleaning and reusing water that is already in our communities via proven technologies is a win for water supplies. Both potable and non-potable reuse projects should be eligible for funding. These types of projects have not been widely deployed across Texas and have the potential to make a significant water supply benefit at the local and regional level. Wastewater reuse is a key strategy for augmenting a community's water supply. From the cities of El Paso, which has a well established reuse system, to cities like Marble Falls and Liberty Hill, which are working towards direct potable reuse, to communities like Bandera, which is exploring Aquifer Storage and Recovery and indirect potable reuse, there is no doubt that reuse is a priority for achieving water resilience. The benefits of reuse are numerous: it is a local supply, it is often cheaper than bringing in new water, and it minimizes the need for cross regional pipes that are prone to leaks. While wastewater is a resource that all communities can access, its introduction as a water



supply source is very much a new supply, requiring heavy investments in infrastructure and technology.

Thus, direct and indirect potable reuse, non-potable reuse, and onsite reuse should all be considered new water supplies. While these technologies may not be that new, they represent a new water supply source for our communities. In many cases, this supply would be inaccessible without financial support from the state. Proliferation of this type of water supply may also have the positive benefit of driving down costs for the technology and building a workforce that is knowledgeable about this type of water supply treatment and delivery. Reuse is the future and we should be prepared.

Water Bank Transactions should also be included as an option for the New Water Fund. As part of this effort, TWDB could use some of the money to inject funding for the Water Bank and Water Trust. TWDB could also with TCEQ conduct a comprehensive study on non-use of water rights to identify water that is currently not being used and could be used for humans or environmental flow purposes. The board could also provide funding for studies on groundwater/surface water interactions, and provide groundwater conservation districts with resources to identify and manage for sustainable levels of groundwater pumping.

**3. What factors should the TWDB consider in defining “creating new water sources for the state?” How would you define “new water”?**

We believe that the definition of “new water sources” should be kept broad to include any water sources outside of direct pumping from groundwater or surface water

**4. What types of projects should be given priority?**

Please select at most 2 options.

- o Projects providing a certain volume of water supply
- o Projects that serve the most people
- o Projects that serve smaller communities
- o First-time projects (as opposed to expansions of existing facilities)
- o Certain types of projects, such as desalination or aquifer storage and recovery
- o Other:

Communities and regions that face high water supply stress/scarcity should be prioritized for Assistance. In addition, the TWDB should prioritize new water supply projects that have demonstrated minimal environmental and health impacts, or even those like “Green” projects that can enhance environmental protection.

**5. Please provide any narrative you would like related to the previous question.**

Due to the dual pressures of recurring drought and explosive population growth, many areas of Texas face huge risks to its water supply. Communities that face demonstrable water supply shortages should be prioritized.

In addition, the TWDB should carefully consider whether the regulatory framework currently exists to safely move forward with proposed new water supplies such as produced water and marine desalination. Impacts to human health and the environment must be fully understood and avoided. The NWSTF should prioritize new water supply projects that have demonstrated minimal environmental and health impacts.

**6. What technological, economical, or regulatory constraints do you see related to these types of technologies?**

**Produced Water Constraints:** For produced water, the highest and best use of produced water is reuse within the oil field since it can lower the use of other sources of water for the oil and gas industry. To the extent produced water is used outside the oil and gas field, first the state should Complete Phase 1 and subsequent Phase 2 pilot projects to study constituent characterization, perform risk and toxicology assessments, and assess how produced water projects could impact public health and the environment – as recommended by the Texas Produced Water Consortium. Once pilot projects have been established, TCEQ should establish protective water quality standards.

**Marine Desalination Constraints** - The Texas Commission on Environmental Quality has yet to establish updated numerical and narrative water quality criteria for salinity in their water quality standards so that permitting for highly saline desalination projects could be updated to reflect this. TCEQ should be encouraged to develop these new standards before funding for marine desalination projects move forward.

**7. How should the TWDB rules define the “relationship” of water supply projects funded by this program to the state water plan?**

The New Water Supply for Texas Fund presents a conundrum since it is the intention that water supplies funded through this program are outside of the box and different from projects that are included in the state water plan. However, while there should not be a requirement that a new water supply project must be in the state (or regional) water plans, those that are should be given higher priority.

**8. Should projects included in the state water plan receive higher priority or more points in a ranking system?**

- Yes
- No
- Other

**Or should the TWDB require projects to be consistent with, or be recommended in, the state water plan?**

- New water supply projects should be recommended projects or strategies in the state water plan
- New water supply projects should be reasonably consistent and not in conflict with projects or strategies recommended in the state water plan
- Other:

**10. Please provide any narrative you would like related to the previous two questions.**

**11. Should subsidized interest rates be available in this program?**

- Yes
- No
- In some circumstances

**12. Should grant funding be available in this program?**

- Yes
- No
- In some circumstances

**13. What factors should be considered when offering grants from the fund?**

Please select at most 3 options.

- Household cost factor (including water/sewer rates, population decline, and unemployment rate)
- Annual median household income
- Population decline
- Unemployment rate
- Rural designation
- Municipalities under 150,000 population

o “Green” projects (i.e., projects that reduce energy usage or water loss; that incorporate innovative, nature-based solutions; or that seek to preserve the natural environment)

**o Other:**

Communities and regions that face high water supply stress/scarcity should be prioritized for Assistance. In addition, our organizations also favor “green” projects, or at least projects that will not have major impacts on human health or the environment.

**14. Should there be a single type/level of subsidy or should subsidies vary depending on the specific new water project type (e.g., seawater desalination vs. brackish groundwater desalination)?**

o There should be only one level of subsidy

o Subsidy levels should vary depending on the project type

**o Other:**

Subsidies should be provided for public projects that serve public needs such as municipal water use, but not for any private entities, such as industrialization projects, or public-private partnerships. These are taxpayer dollars and they must be used for projects that directly benefit the public good.

**15. What should be the maximum allowable share of the one-time, upfront capital costs (planning, acquisition, construction cost) of a project to be subsidized via grant/loan forgiveness?**

o 5%

**o 10%**

o 20%

o 33%

o 50%

o Other:

**16. Should subsidies for planning, design, acquisition, and construction costs all be the same?**

**o Yes**

o No

o Other:

**17. What should be the maximum allowable interest rate subsidy (reduction in borrowing rate)?**

o 1/4 of the interest rate

**o 1/2 of the interest rate**

- 3/4 of the interest rate
- All of the interest? (that is, zero percent interest rate or interest free loan)
- Other:

**18. Should interest rate subsidies for planning, design, acquisition, and construction costs all be the same?**

Yes

- No
- Other:

**19. Please provide any other feedback you would like related to the New Water Supply for Texas Fund.**

Given the huge need in Texas for sustainable water management, we would prioritize the needs prioritized by the Texas Water Fund first, and limit spending in the New Water for Texas fund to the minimum \$250 million approved by voters. Because several of the options identified in statute face challenges, time will be needed to develop the science, technology and regulatory framework for some of the options such as produced water and desalination.

### **Texas Water Fund Survey #3: Statewide Water Public Awareness Program**

The TWDB must ensure that a portion of the Texas Water Fund is directed toward a statewide water public awareness program to educate Texas residents about water. The program must take into account the differences in water needs of various geographic regions of the state and shall be designed to complement and support existing local and regional water education or awareness programs.

1. Organization or entity that you represent, if applicable:

You Organization Name

2. The TWDB is proposing to implement this program by providing funds via contract, after a formal solicitation process, to support an existing or proposed statewide public awareness program or campaign. We would also like to explore TWDB-led initiatives that could further water public awareness. Given limited resources, what initiatives should receive the highest Priority?

- K-12 educational resources and programming
- Data visualization tools
- Selling merchandise, such as clothing, cups, stickers, etc., with water messaging and/or branding
- Other:

### **3. How could TWDB otherwise complement and support existing local and regional water education or awareness programs?**

To complement and support existing local and regional water education or awareness programs, the Texas Water Development Board (TWDB) can leverage its role as the steward of water-related data. TWDB should prioritize compiling and communicating this data to the public to enhance awareness of current water use, water source vulnerability, water use trends, and other relevant metrics. Utilizing data to craft a compelling narrative about water in

Texas—how it is used and the trends observed—will be instrumental in building water awareness across the state.

Many local and regional campaigns already exist in Texas, each with its unique goals and

objectives tailored to their communities. TWDB can provide valuable support by offering data compiled from water utilities, which can complement and enrich the existing efforts of these campaigns. Furthermore, TWDB could develop media toolkits that include resources for data-driven awareness initiatives, empowering communities to create impactful campaigns based on sound research and information.

By collaborating with local and regional partners and providing access to relevant data and resources, TWDB can enhance the effectiveness of existing water education and awareness programs, ultimately contributing to a more informed and water-conscious public in Texas.

#### **4. Any other input that you would like to provide related to the statewide water public awareness program:**

**Effective Data Visualization Platforms:** The Texas Water Development Board (TWDB) should prioritize the development of user-friendly data visualization platforms. These platforms should not only present data in a clear and compelling manner but also make the underlying data readily accessible to a wide range of stakeholders, including water utilities, advocates, researchers, and the general public. TWDB should invest in maintaining and enhancing these platforms to keep pace with technological advancements, ensuring that stakeholders can effectively utilize the data for educational purposes, research, and informed decision-making. There is tremendous value in being able to find and use information in this manner.

**Measuring and Impacting Behavior Change:** The practice of measuring and understanding what factors impact behavior change is very important for success in water awareness and to support conservation efforts. TWDB should conduct studies to analyze these factors and provide utilities with the necessary information and resources to support their initiatives. Behavioral economics can offer valuable insights into the effectiveness of conservation programs and outreach methods. TWDB should consider conducting studies in this area and provide guidance to utilities on conducting internal studies to measure the impact of their Programs.

**Annual Public Survey:** TWDB should conduct an annual scientific survey of the general public to gauge attitudes and behaviors related to water awareness, conservation, and water usage in general. This survey will provide valuable insights into public perceptions and behaviors, helping utilities and decision-makers tailor their programs and messages to be more effective. By implementing these additional measures, TWDB can enhance the resources available to utilities, enabling them to design and implement more impactful water awareness and conservation programs.

