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AGENDA ITEM MEMO

BOARD MEETING DATE: March 31, 2026

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator

FROM: Jessica Peña, Deputy Executive Administrator, Water Supply and Infrastructure

SUBJECT: House Bill 500 Implementation Plan – Water Supply and Infrastructure Grants

ACTION REQUESTED

This item is a briefing and discussion on the Executive Administrator’s implementation of House Bill 500 relating to Water Supply and Infrastructure Grants (WSIG). No action is requested.

BACKGROUND

This is a one-time opportunity for a limited number of Texas communities to receive grant funding to implement water supply or water infrastructure projects. Once this initial appropriation is provided to communities by August 31, 2027, the Texas Water Development Board (TWDB) will no longer have these grant funds available to provide as financial assistance.

House Bill (HB) 500 from the 89th Texas Legislative Session appropriated \$1,038,000,000 from the general revenue fund to the TWDB but did not specify that the money was appropriated to a specific fund, which resulted as a deposit of the appropriated money into TWDB’s general revenue fund. Additionally, the appropriation language did not provide authority for the TWDB to transfer that money into another TWDB fund or account. Therefore, the money must be provided for the stated purposes directly from TWDB’s general revenue fund and not through an established financial assistance program.

Further, the purpose for the appropriation was stated in the HB 500 legislation as “water infrastructure and supply projects and grants as determined by the board.” As the language is specific to water infrastructure and supply, the plan excludes wastewater and flood projects.

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Bryan McMath, Executive Administrator

Additionally, water supply corporations (WSCs) will not be eligible for funding as the Texas Constitution prohibits granting public funds (1) for private purposes and (2) to “individuals” when the grant is not provided for in pre-existing law (Tex. Const., Art. III, §§ 51 and 44). Art. III, § 51 can be met for all of TWDB’s usual customers even when money is appropriated for general revenue grants that do not flow through an existing program, but Art. III, § 44 prevents TWDB’s private entity customers, such as (water supply corporations (WSCs) and investor-owned utilities, from receiving a general revenue grant. Section 51’s public purpose test is met by the typical projects funded by TWDB to typical governmental entities because (1) the grant is designed to accomplish a public purpose, not to benefit private parties; (2) TWDB will retain control over the funds to ensure the public purpose is accomplished and to protect the public’s investment; and (3) the state receives a return benefit. Section 44’s prohibition on grants to individuals without preexisting law would prohibit the use of these funds to provide a grant to WSCs because they are considered “individuals” under the provisions and no preexisting law authorizes the grant of these funds to WSCs. TWDB’s existing financial assistance programs are governed by statutes that clearly provide financial assistance to non-profit WSCs (see e.g., Tex. Water Code § 15.001(5)). Section 44 would not prohibit general revenue grants to cities, counties, or other governmental entities because they are not “individuals” within the meaning of that section of the Constitution.

Additionally, the TWDB will provide this funding in the form of a 100 percent grant because HB 500 does not provide authorization for the TWDB to use the funding to leverage bonds; therefore, the appropriation does not create a benefit to providing the funding in the form of a loan. The Constitution generally prohibits all state debt, except as otherwise authorized by the Constitution (Tex. Const., Art. III, § 49). More specifically, the TWDB’s authority to issue bonds must be “authorized by constitutional amendment or a debt proposition” (Tex. Const., Art. III, § 49-c). The TWDB’s authority to issue both revenue and general obligation bonds is specifically authorized in the Constitution. Constitutional provisions applicable to the TWDB can be found at Tex. Const., Art. III, §§ 49-c – 49-d-16. Each of those authorizations is specific to particular programs or accounts of the TWDB. The Constitution and statute provide clear and prescriptive language on where bond proceeds may be deposited and transferred, and how money may be deposited and transferred to pay debt service on those bonds. The TWDB does not have any applicable language in the appropriation from HB 500, existing statute, or existing constitutional provisions to leverage this appropriation with bonds or use this appropriation to pay debt service.

Because these funds were deposited into the TWDB’s general revenue fund, they may not be transferred into an existing account to be used to leverage additional funding through TWDB-issued bonds in an existing program. Without statutory direction otherwise, loan repayments must be deposited into the account from which they originated. If loan repayments were deposited back into the general revenue fund, the TWDB would not have authority to then use those funds again without additional appropriation from the Texas Legislature, and they would revert to the State Treasury. From the TWDB’s perspective, any loans provided from this funding would effectively be “grants that require repayment” and would lack the benefit of a revolving corpus to justify the extra level of financial review necessary to confirm a borrower’s ability to repay a loan. Based on these circumstances, there would be no benefit to the TWDB or the local entities receiving funding to provide this funding in the form of a loan. The money could not be leveraged to provide more funding to additional borrowers and there would be no interest repayments to use for future benefit.

Additionally, the language of HB 500 only speaks to grants, thereby not providing clear legal authority to require repayment.

On January 5, 2026, the TWDB posted to its website the draft implementation plan for public comment. The period of public review and comment ended on February 4, 2026. In total, 244 comments and general questions were received. A public meeting was also held via webinar on January 20, 2026.

SUMMARY OF CHANGES

The following changes were made in response to public comments:

- Addition of a funding allocation for entities that serve a population size of 1,000 or less.
- Funding caps per project were increased to more closely reflect project costs of projects in the 75th percentile of the 2026 Drinking Water State Revolving Fund Project Information Forms.
- The \$131 million in unallocated funds was reduced to \$50 million to add an allocation for entities with populations under 1,000 and increase the allocation for entities with populations between 150,001 – 1 million.
- \$50 million remains unallocated pending receipt of applications at which time the Board could review submitted need and allocate at that time. The eligibility requirements applicable to applicant and project type as described above would apply.

Additional clarifications have been incorporated into the Frequently Asked Questions document found on the agency website and throughout relevant sections of this implementation plan.

KEY ISSUES

- Funds cannot be transferred to existing TWDB funding program accounts.
- Only political subdivisions, namely local governments, are eligible; therefore, Water Supply Corporations and Investor-Owned Utilities are not eligible entities.
- Funds must be committed and closed prior to August 31, 2027.
- Funding is designated for water infrastructure and supply projects only, including reuse, (e.g., addresses real or apparent water loss, or TCEQ violations, or upgrading or replacing water systems).
- Drainage, flood control, and wastewater projects are not eligible.
- Direct and indirect potable reuse are eligible through WSIG. Given the restriction of not using WSIG funds for wastewater projects, funding for reuse projects will be limited to the tertiary treatment of wastewater effluent and any applicable components thereafter to convey the water for potable usage.
- Implementation is subject to the Tex. Gov't Code, §783, Texas Grant Management Standards.
- Projects must be consistent with the 2027 State Water Plan and 2026 Regional Water Plans.
- Applicants must be current in their audited financial statements. For a funding application to be considered complete and eligible, it must include a 2025 fiscal year-end financial audit that has been adopted by the applicant's governing body.

- The WSIG funding will not flow through any of TWDB's existing funding programs; therefore, most policies and requirements that apply per statute or rule to the existing programs will not apply to this funding.
- Similar to General Revenue Grants, the TWDB will not issue environmental findings for these projects. However, TWDB will require an affidavit certifying compliance with all applicable local, state, and federal regulations and completion of any coordination and/or permitting required to ensure compliance with the Endangered Species Act of 1973, as amended; Section 404 of the Clean Water Act; Section 10 of the Rivers and Harbors Act of 1899; the Migratory Bird Treaty Act; Texas Antiquities Code; Texas Parks and Wildlife Code; Edwards Aquifer Rules; and any other applicable state, federal, and local regulations.
 - For ready-to-proceed projects, TWDB will require an affidavit of self-certification that any permitting or coordination required by applicable local, state, or federal regulations has been completed.
 - For projects receiving planning, acquisition, and design funding, TWDB will require the affidavit of self-certification along with the backup documentation during the planning phase.
- US Iron & Steel provisions apply. Tex. Gov't Code § 2252, Subchapter G
- Conveyance coordination requirements apply only **if land acquisition is a part of the project**. Tex. Water Code § 6, Subchapter H.
- All applicants are subject to requirements for:
 - Water conservation plan (Tex. Water Code §§ 16.402 and 16.4021; 31 Tex. Admin. Code (TAC) § 363.15)
 - Water use survey (Tex. Water Code § 16.012(m); 31 TAC § 358.5)
 - Water loss audit (Tex. Water Code § 16.0121; 31 TAC § 358.6) and
 - Water loss validation (Tex. Water Code §§ 16.0121 and 16.0122; 31 TAC § 358.6)

RECOMMENDATION

The Executive Administrator recommends the following WSIG plan. This plan is intended to be flexible and is subject to change.

1. Limiting one application per entity to expedite the review process and encourage entities to prioritize system needs.
2. Limiting funding eligibility.

Entities with population of 150,000 or less

- a. May request planning, acquisition, design, or construction.
- b. If only construction is requested, the project must be ready to proceed: all environmental coordination, acquisition of 100 percent of all required water rights, land and easements, design (plans and specifications with design report), and permitting must be completed.
- c. Reimbursement of previously incurred costs for the project will only be considered if they were incurred on or after June 22, 2025.

Entities with population of 150,001 or greater

- a. May only request construction funding.

- b. The project must be ready to proceed: all environmental coordination, acquisition of 100 percent of all required land and easements, design (plans and specifications with design report), and all permitting must be completed.
 - c. Reimbursement of previously incurred costs for the project will not be eligible.
3. If a project previously received a funding commitment from a TWDB funding program (except for unclosed SWIFT commitments slated to close in 2027 or later), these grant funds may not be used for the same activities that previously received funding commitments. However, if a project previously received funding commitments for only planning, acquisition, or design, the project is eligible to receive funding from these grants for construction.
4. If a project has an active application with the TWDB, the processing of those non-Water Supply and Infrastructure Grant applications may be postponed, allowing entities to pursue the most advantageous funding opportunity.
5. Allocation of the available funding. This allocation is based on the average requested funding within the State Fiscal Year 2026 Drinking Water State Revolving Fund Intended Use Plan.

Service area population size	Less than 1,000	1,001-10,000	10,001-150,000	150,001-1 million	Greater than 1 million	Total
Funding Cap per project	\$6 Million	\$10 Million	\$21 Million	\$35 Million	\$55 Million	
Total funding target	\$42 Million	\$71 Million	\$142 Million	\$220 Million	\$400 Million	\$875 Million
Canal lining/conversion projects	Up to \$100 Million for match funding for North American Development Bank projects					\$975 Million

- To address canal lining and conversion projects, an amount not to exceed \$100 million is proposed to be allocated for joint funding efforts with the North American Development Bank’s Water Resiliency Program, which is geared at expediting water needs along the border. Water Supply and Infrastructure grants funds would be 50 percent of the proposed project costs for eligible projects. Additional information regarding the Water Resiliency Program can be found at <https://nadbank.org/solutions-and-services/water-resiliency-fund>
 - \$50 million remains unallocated pending receipt of applications at which time the Board could review submitted need and allocate at that time. The eligibility requirements applicable to applicant and project type as described above would apply.
 - \$13 million is reserved for administrative costs as authorized in Senate Bill 1.
6. A simplified project prioritization for allocating available funding. This criteria list is intended to simplify and expedite the ranking process.

Criteria	Points Calculation	Points
Retail Water Providers: Service Area's Annual Median Household Income (AMHI) (if using a TWDB-approved socioeconomic survey; the AMHI will be inflation adjusted)	$(76,292 \div \text{AMHI}) \times 10$	Result
Wholesale Water Providers: Total population (POP) served by Retail Water Providers that purchase wholesale from applicant as listed in TCEQ's Drinking Water Viewer .	$(100,000 \div \text{POP}) \times 10$	Result
For projects with populations under 150,000: Projects that are deemed ready to proceed.		10 points
Tiebreaker: Preference given to the community that has never or has the greater amount of time since it last received financial assistance from the TWDB.		

7. Land/easements acquisition to be limited to small entities requesting pre-design funding. All required land and easements must already be acquired for a project to qualify as ready to proceed.
8. For ready-to-proceed projects, TWDB will not review planning documents.
9. Entities must have submitted their applicable water use survey, water loss audit, and water conservation plan and annual report by their respective deadlines or before the application deadline to be eligible.
10. TWDB will rely on TCEQ design approval for ready-to-proceed projects. TWDB will need to review Plans and Specifications to ensure these requirements are met:
 - a. US Iron & Steel
 - b. Performance bonds
 - c. Retainage
11. The TWDB will issue a Certificate of Approval prior to authorization of release of final retainage ensuring the funds have been utilized in accordance with the committed project.
12. The TWDB will not accept or process requests for water loss or state water plan consistency waivers due to the limited timeframes.
13. Funds will be disbursed to applicants through an entity-established escrow account. All commitments, grant agreements, and closings to escrow should be completed by May 1, 2027.
14. All Water Supply Infrastructure Grant recipients with funds closed to escrow by May 1, 2027, will have until August 31, 2031, to expend their escrowed funds. Under no circumstances will funds be released from project escrow accounts after August 31, 2031.

15. Construction contracts must not have an end date past January 31, 2031. Construction closeout documents must be submitted by February 28, 2031, including completion of a final site visit by TWDB staff.
16. Each escrow account will need to be interest bearing. Furthermore, all remaining escrow account funds plus escrow account interest earnings shall be returned to the TWDB no later than September 1, 2031.

Failure to submit any of the required information at the time the application is submitted will disqualify the application from the selection process. Questions can be directed to the TWDB, and two pre-application webinars will be held and posted to the TWDB website. Applications may be submitted prior to the July 30, 2026, deadline, but the TWDB will not initiate review until the deadline has passed. Entities may withdraw and resubmit an early application, provided the revised submission is a fully completed package.

IMPLEMENTATION TIMELINE

March 31, 2026	Board briefing on the implementation plan
April 1, 2026	Solicitation of applications opens for 120 days
April 23, 2026	First Pre-Application Webinar
May 13, 2026	Second Pre-Application Webinar
July 30, 2026	Applications due
Fall 2026	Commitments
Winter 2026 – May 1, 2027	Closings

LEGAL/SPECIAL CONDITIONS

- Entities must submit, with their financial assistance application, a resolution from their governing body requesting financial assistance.
- Entities must submit with their financial assistance application, an application affidavit.
- Entities must have submitted their Water Use Surveys, Water Loss Audits, and Water Conservation Plans, as applicable, by their respective deadlines prior to submitting an application.

IMPLEMENTATION PLAN

Attachments:

1. Water Supply and Infrastructure Grants Public Comments Executive Summary

Water Supply and Infrastructure Grants Public Comments Summary

Executive Summary

The Texas Water Development Board received nearly 250 comments and questions on the Water Supply Innovation Grant (WSIG) opportunity. Comments were reviewed in the order received and reflect strong statewide engagement from water supply corporations, political subdivisions, regional entities, and the public. Several themes appeared consistently across submissions.

The most frequent area of inquiry involved eligibility, seeking clarification on how nonprofit water supply corporations qualify for the opportunity. Many commenters requested clear, consistent guidance on eligibility pathways and documentation expectations.

A significant number of comments focused on the funding structure, particularly the role of the North American Development Bank (NADBank) and how its financing interacts with WSIG requirements and other funding sources.

Stakeholders also emphasized equitable prioritization, addressing how disadvantaged, rural, or small population communities would be considered in the evaluation process and whether prioritization criteria would meaningfully reflect community need. There was also a request to include scoring criteria for innovative projects and regionalization projects.

Stakeholders asked for separate funding categories for source water protection projects, very small systems serving populations fewer than 1,000, and using the WSIG as a match for any federally funded project, not just those funded through the NADBank.

Several commenters sought clarity on project types, specifically how innovative or emerging projects should demonstrate consistency with the State Water Plan when not explicitly listed in regional plans. Also, there were comments that addressed administrative conditions, including questions about the applicability of U.S. Iron & Steel requirements.

Additional recommendations included support for rural systems, with requests for simplified requirements, technical assistance, and funding structures that reflect limited administrative capacity.

The comments reflected broad and substantive support for the WSIG opportunity, with stakeholders consistently emphasizing the expectation for transparent eligibility criteria, predictable funding structures, and equitable access for communities of all sizes, especially rural and disadvantaged communities. To aid in maintaining the integrity and context of each submission, comments are presented in the order received and any screenshots, hyperlinks, or embedded items appear as originally submitted. When an official letter was provided, the accompanying email content is included first, followed by the full letter to preserve the submitter's intent. In response to the volume and consistency of these inquiries, the TWDB has developed, and continues to develop, targeted FAQs to address the questions and concerns raised. These resources will support and guide applicants as the opportunity is further defined and implemented, ensuring clarity, consistency, and accessibility throughout the process.