

DRINKING WATER  
STATE REVOLVING  
FUND (DWSRF) -  
LOAN PROGRAM

**Program  
Guidance -  
December  
2022**

## Table of Contents

<b>Acronyms .....</b>	<b>3</b>
<b>I. Introduction .....</b>	<b>4</b>
<b>II. Program Eligibility .....</b>	<b>5</b>
<b>III. Financial Assistance Overview .....</b>	<b>6</b>
<b>IV. Project Solicitation and Intended Use Plan.....</b>	<b>10</b>
<b>V. Application and Commitment Process .....</b>	<b>15</b>
<b>VI. Closing and Release of Funds .....</b>	<b>19</b>
<b>VII. Planning Phase.....</b>	<b>24</b>
<b>VIII. Design Phase .....</b>	<b>27</b>
<b>IX. Bidding Phase .....</b>	<b>31</b>
<b>X. Construction Phase.....</b>	<b>35</b>
Attachment 1: AIS .....	39
Attachment 2: Disadvantaged Business Enterprise.....	39
Appendix A: Forms and Guidance Manuals.....	40
Appendix B: Links and Resources .....	41
Figure 1: Pre-Application Process.....	10
Figure 2: Full Application Process.....	15
Figure 3: Closing Process.....	19
Figure 4: Release of Funds Milestones .....	22

## Acronyms

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AIS	American Iron & Steel
AMHI	Annual Median Household Income
CCFI	Construction Contract Final Inspection
CE	Categorical Exclusion
COA	Certificate of Approval
DBE	Disadvantaged Business Enterprise
DWSRF	Drinking Water State Revolving Fund
EA	Executive Administrator
EFR	Engineering Feasibility Report
EPA	Environmental Protection Agency
FONSI	Finding of No Significant Impact
GPR	Green Project Reserve
HCF	Household Cost Factor
IIPL	Initial Invited Projects List
IUP	Intended Use Plan
MCL	Maximum Contaminant Level
PDF	Portable Document Format
PEFR	Preliminary Engineering Feasibility Report
PIF	Project Information Form
PPL	Project Priority List
PWS	Public Water System
ROD	Record of Decision
RWPD	Regional Water Project Development Team
SDWA	Safe Drinking Water Act
SFY	State Fiscal Year
SOF	Statement of Findings
SRF	State Revolving Fund
TAC	Texas Administrative Code
TCEQ	Texas Commission on Environmental Quality
TWDB	Texas Water Development Board
WSC	Water Supply Corporation

# I. Introduction

[The Drinking Water State Revolving Fund \(DWSRF\)](#) Program was created in 1996 from amendments to the Safe Drinking Water Act (SDWA) and assists communities by providing low-cost financing for a wide range of water projects that facilitate compliance with drinking water standards. Various levels of principal forgiveness are available for qualifying disadvantaged and small/rural disadvantaged communities, very small systems, disaster relief, urgent need, and projects with green components. Funding may be used for planning, acquisition, design, and construction project phases.

## Document Summary

This program guidance manual provides basic information for applicants and their consultants to understand how the DWSRF Program works, and how to comply with the program's rules and requirements, as outlined in [31 Texas Administrative Code \(TAC\) 10 Chapter 371](#).

This document covers the following subjects and any applicable procedures, requirements, and resources:

- Project Information Form (PIF) Submittal
- Full Application
- Loan Closing and Release of Funds
- Planning, Acquisition, Design, and Construction Phases
- Certificate of Approval (COA) and Project Close-Out
- Financial Compliance (Final Accounting and Monitoring)  
<https://www.twdb.texas.gov/financial/compliance/index.asp>



The main DWSRF webpage contains other guidance manuals and DWSRF-related resources, and can be found here:  
<https://www.twdb.texas.gov/financial/programs/DWSRF>

## II. Program Eligibility

### Eligible Applicants

Public water systems (PWS), including political subdivisions, nonprofit water supply corporations (WSC), and privately-owned community water systems are eligible to apply for assistance. Non-profit, non-community public water systems and state agencies may also apply for assistance.

#### Political subdivisions include:

- municipalities,
- intermunicipal agencies,
- interstate or state agencies,
- nonprofit water supply corporations created and operating under [Chapter 67 of the Texas Water Code](#),
- nonprofit community public water systems, and
- publicly and privately owned water systems.

### Eligible Projects

- Correcting water system deficiencies, including water quality, capacity, pressure, and water loss
- Upgrade or replace water systems
- Consolidation projects to provide new or existing water service to other water systems
- Purchase capacity in water systems. TWDB funds cannot be used to fund purchase of water or water rights unless the water rights are owned by a system to be purchased for consolidation as part of a capacity development strategy.
- Purchase other water systems
- [Implement green projects, pursuant to the Environmental Protection Agency \(EPA\) guidance](#)
- Implement source water protection projects
- Implement flood resiliency projects
- [Recover from disasters](#)
- Refinance (under limited scenarios)

### Ineligible Projects

- Construction or rehabilitation of dams
- Purchase of water rights, unless the water rights are owned by a system to be purchased for consolidation as part of a capacity development strategy
- Construction or rehabilitation of reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are on the property where the treatment facility is located
- Projects needed primarily for fire protection
- Projects needed primarily to serve future population growth  
(The DWSRF is meant to serve the public health needs of the existing population. Congress specifically directed in the SDWA that the DWSRF program avoid the use

of funds to finance the expansion of any public water system in anticipation of future population growth. The EPA specified in the DWSRF Interim Final Rule that a project which is intended primarily to address public health and/or regulatory compliance issues for the existing service population may be sized for a “reasonable” amount of population growth over the useful life of the project).

- Projects that have received assistance from the national set-aside for Indian Tribes and Alaska Native Villages under the SDWA §1452(i) (prohibited by statute)

### **DWSRF Program Requirements**

- Loan origination fee
- Projects must be included in the current IUP
- Projects must be consistent with the current state water plan
- National Environmental Policy Act (NEPA)-level environmental review
- A [Water Conservation](#) and [Drought Contingency Plan](#) are required for financial assistance greater than \$500,000, as per [31 TAC § 363.15](#).
- Water loss threshold limits requirements.
  - Entity needs to be below its water loss thresholds as determined by TWDB. If not, funds need to be included to mitigate the entity’s water loss. If the entity is or has plans to mitigate its loss, it can submit a waiver for consideration by the board. [31 TAC §358.6\(e\)\(f\)](#)
- Davis-Bacon wage rate requirements (see the TWDB’s Davis-Bacon Wage Rate Requirements Guidance for State Revolving Fund Projects ([DB-0156](#)) for more information)
- American Iron & Steel (AIS) requirements (see [Attachment 1: American Iron & Steel](#))
- **For DWSRF Equivalency:** compliance with the [Disadvantaged Business Enterprise \(DBE\) program](#) (see [Attachment 2: Disadvantaged Business Enterprise Program](#))

## **III. Financial Assistance Overview**

The DWSRF Program offers below-market interest rate loans, and additional subsidies are available in the form of principal forgiveness for qualifying projects (including disadvantaged, very small systems and green). Financial assistance is available for planning, design, acquisition, construction, operations (only for alternate delivery projects), and refinancing. Projects must be consistent with the current state water plan and listed in the current DWSRF Intended Use Plan (IUP). Projects are included in the DWSRF IUP only following submittal of a Project Information Form (PIF).

Note: Refinancing is only available for projects that were constructed as per DWSRF requirements. TWDB will not refinance a TWDB loan.

The IUP contains the state’s Project Priority List (PPL) and Initial Invited Project List (IIPL) for the DWSRF program. After Board approval of the IUP, TWDB will develop an Initial Invited Projects List (IIPL), based on project ranking and availability of funds.

### **Invitations to Apply**

Entities with PIFs on the IIPL will be informed of the opportunity to submit an application

for the specific project phases listed, using the available funding options. After a period of time, additional PIFs listed on the PPL will be invited to submit an application should there be funds remaining during that program year.

### Phases for Invited Projects

➤ **Planning, Acquisition, and Design**

A project that was not deemed ready to proceed to construction may receive an invitation to fund only the planning, acquisition, and/or design portion(s) of the project.

➤ **Construction Funding Only**

Projects determined to be ready to proceed to construction based on the status of their planning, acquisition, and design activities, may receive an invitation to fund the construction portion of the project

➤ **Refinancing**

Funds for refinancing are only available when

- the project complies with all DWSRF program rules and requirements, including evidence the environmental review and engineering criteria considered by the original lender were conducted in a manner consistent with the criteria in [31 TAC § 375.11](#), and
- federal tax regulations allow such refinancing.



**All required milestones** must be met for phase(s) in which funding is being requested. If a project is determined as not ready to proceed for funding during the application review process, it may be bypassed for any additional subsidy amounts or receive limited phase(s) of funding.

For information regarding the current state priority list, please see the DWSRF IUP, found on the [main DWSRF webpage](#).

### Funding Tiers and Options

The DWSRF has two tiers of funding: Equivalency and Non-Equivalency.

➤ **DWSRF Equivalency (Federal Requirements)** funded projects must follow all federal requirements commonly known as “cross-cutters.”

Cross-cutters include the following:

- EPA’s Disadvantaged Business Enterprise (DBE)
- American Iron and Steel (AIS)
- Davis-Bacon Wage Requirements
- Equal Employment Opportunity (EEO) and Affirmative Action

➤ **DWSRF Non-Equivalency (State Requirements)** projects are not subject to all federal requirements, apart from the federal anti-discrimination laws, also known as

the “super cross-cutters.”

Super cross-cutters include the following:

- American Iron and Steel (AIS)
- Davis-Bacon Wage Requirements
- Equal Employment Opportunity (EEO) and Affirmative Action

Note: DWSRF Equivalency comes with a higher subsidy than Non-Equivalency.

### **Funding Options Available**

Entities listed on the IIP and subsequent Project Priority List (PPL) may be invited to apply for either tier, in addition to one or more of the funding options listed here. Note, entities can refer to the table in the DWSRF IUP that outlines all funding options under “Allocations and Terms Available Under Each Funding Option.”

### **Below-Market Interest Rate Loans**

- Fixed-rate loans offered at below-market interest rates (basis points off borrower’s underlying credit rating)
- Loan terms available up to 30 years

For any additional information on subsidy, please refer to our DWSRF Intended Use Plan (IUP) at:

<http://www.twdb.texas.gov/financial/programs/DWSRF/index.asp>

### **Principal Forgiveness**

Principal forgiveness is available on a limited basis to eligible projects:

- Disadvantaged Community Funding (Equivalency only)
  - Eligibility and amount of principal forgiveness is dependent on:
    - Annual median household income (AMHI) - must be 75 percent or less of state-wide AMHI (may be documented with census data or household survey) and
    - Household cost factor - Must be greater than or equal to 1 percent if only water or sewer service is provided or greater than or equal to 2 percent if both water and sewer service are provided.

The maximum amount of principal forgiveness per project/entity is outlined in the Intended Use Plan (IUP) for each state fiscal year (SFY). A table summarizing the allocations and terms available under each funding option is provided in the IUP.

- Very Small Systems (Equivalency or Non-Equivalency)
  - For projects addressing public health, compliance, or water quantity issues
  - Projects that service a population of 1,000 or fewer
  - Community must not exceed 150 percent of state-wide AMHI
  - The maximum amount of principal forgiveness per project is outlined in the Intended Use Plan (IUP) for each state fiscal year (SFY). A table summarizing



the allocations and terms available under each funding option is provided in the IUP.

➤ Urgent Need (Non-Equivalency)

- Must address situations that require immediate attention to protect public health and safety
  - May result from one or more of the following:
    1. an unanticipated reduction in the adequate supply of water due to prolonged drought that will result in the loss of water service to customers within the next 180 days
    2. a catastrophic natural event or accident resulting in the loss of over 20 percent of the water service connections or 20 percent of the total water provided to customers
    3. situations that require immediate attention to address a substantial, imminent public health issue affecting at least 20 percent of the water provided to customers, such as contamination in excess of water quality standards
    4. situations that require immediate attention to address a substantial, imminent public health issue affecting at least 20 percent of the water provided to customers from severe flood damage that occurred during a Governor or Presidential-declared natural disaster
    5. other situations as established by TWDB guidelines
- The maximum amount of principal forgiveness per project/entity is based on the Applicant's eligibility for Disadvantaged Community funding and is outlined in the Intended Use Plan (IUP) for each state fiscal year (SFY). A table summarizing the allocations and terms available under each funding option is provided in the IUP.
- A limitation to urgent need funding is the project must not be for replacement of facilities that have failed because they exceeded their useful life or failed due to lack of adequate maintenance. The TWDB may request an Applicant provide a sealed response from a licensed professional engineer to assist them in making its funding determination.

➤ Green Project Reserve (GPR)

- Projects eligible for the [GPR](#) may receive a portion of their requested funding in the form of subsidy, up to 15 percent. Eligible components must total 30 percent of the project's cost subject to the availability of funds.

## IV. Project Solicitation and Intended Use Plan

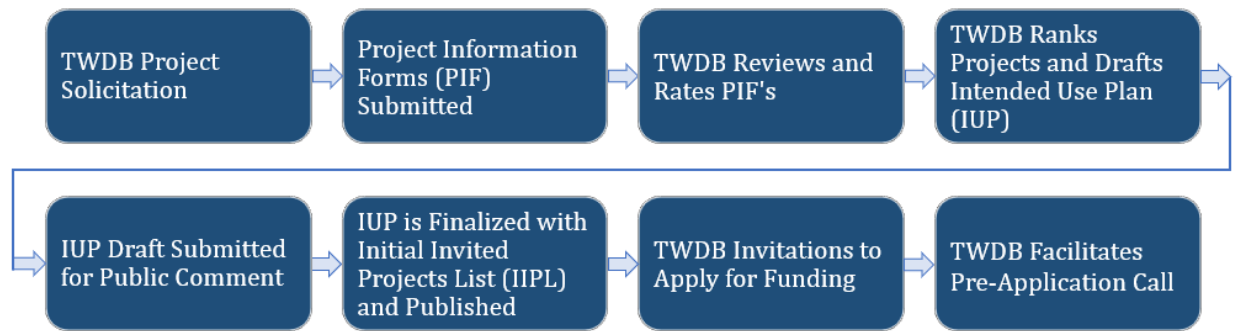


Figure 1: Pre-Application Process

### Project Solicitation

The Texas Water Development Board (TWDB) solicits information on proposed projects from eligible entities across the state using direct emails, a notice posted on the TWDB website, and financial assistance workshops held throughout the state. Check the TWDB's [DWSRF webpage](#) for more information on upcoming financial assistance workshops and recordings of previous workshops.

Eligible entities interested in DWSRF funding are required to submit proposed project information on a PIF. DWSRF PIFs provide the information necessary to evaluate, rate, and rank proposed projects in an IUP.



**Before submitting a PIF**, it is recommended to meet with the [Regional Water Project Development Team \(RWPD\)](#) assigned to the Applicant's area and schedule an informational meeting to discuss funding options. Each team consists of a manager, financial analyst, engineers, an environmental reviewer, planners, legal, and administrative support. Connecting with a RWPD team early in the process to discuss program requirements as they apply to the specific project can improve the efficiency and timely processing of the PIF.

### Required information submitted on a PIF consists of:



- a detailed description of the proposed project,
- a map(s) showing the location of the service area,
- the estimated total project cost, certified by a professional engineer registered in the State of Texas, if project costs are over \$100,000,
- a checklist and schedule of milestones to determine a project's readiness to proceed to construction,
- the population currently served by the applicant,
- green project information, if applicable,
- signature of the applicant's authorized representative, and
- any additional information detailed within the solicitation for projects, as needed to establish the priority rating.



Any survey being used for income determination must be completed within five years of the date the TWDB receives the PIF.

## Submitting a PIF

Entities will need to submit a [completed PIF](#) for inclusion in the draft IUP and the subsequent PPL.

PIFs can be submitted online using the Online Loan Application (OLA) system. A Microsoft Word version is also available for submittal via email. Whichever option is chosen, **PIFs must be received by the posted due date to be included in the IUP.**

### ➤ Online Submittal (OLA)

- Refer to the [OLA Project Information and Abridged Application Guidelines](#) for a step-by-step walk through.
- For “PIF Type” select “DWSRF.”

### ➤ Email Submittal (Word)

- Download the DWSRF PIF Word document from the [State Revolving Fund Project Information Forms webpage](#).
- Submit the completed PIF by email to [DWSRF@twdb.texas.gov](mailto:DWSRF@twdb.texas.gov) (file size must be less than 100 MB).

## PIF Submittal Deadline for the IUP

Solicitations for new PIFs occur annually, along with update requests to projects on the current IUP. Refer to the [TWDB DWSRF webpage](#) for updates on deadlines to submit PIFs.

## Updating Projects from the Prior Intended Use Plans

To ensure the TWDB has current information, all entities with a PIF submitted in a prior funding cycle must update the form to be included in the upcoming IUP. Entities must update, at a minimum:

- the readiness to proceed information (if an entity previously received a commitment for planning, acquisition, and/or design (PAD) only and wants to be considered for the construction phase funding),
- the socioeconomic census data and utility rate information (if seeking disadvantaged community eligibility), and
- the updated project budget (with engineer’s signature).

Update forms are available on the [State Revolving Fund Project Information Forms](#) webpage.



**Applicants must submit a PIF for inclusion in the IUP and receive an invitation from the TWDB before submitting a full application for financial assistance.**

## **Project Evaluation and Rating**

All PIFs receive an initial review by the TWDB. Proposed eligible projects are rated by the Texas Commission on Environmental Quality (TCEQ) and given a Combined Rating Factor. The Combined Rating Factor is based on health and compliance factors, physical deficiency factors, and consolidation factors.

General rating criteria for projects are briefly described below.

### **Rating Criteria for Water System Projects**

- Health and Compliance: factors regarding public health concerns/issues, or violations of Maximum Contaminant Levels (MCL), pursuant to [40 Code of Federal Regulations Part 141](#)
- Secondary Compliance: factors regarding secondary chemicals and/or physical deficiencies
- Effective Management: factors relating to the implementation of effective management practices
- Affordability/PAD: factor applied to an entity that qualifies as a disadvantaged community, or has TWDB PAD financing for the project

### **Rating Criteria for Source Water Protection Projects**

- Groundwater System Vulnerability: factor relating to vulnerability of groundwater systems
- Surface Water System Vulnerability: factor relating to vulnerability of surface water systems
- Effective Management: factors relating to the implementation of effective management practices
- Affordability/PAD: factor applied to an entity that qualifies as a disadvantaged community, or has TWDB PAD financing for the project



Scoring information on specific projects can be found on the [main DWSRF webpage](#). Select a report from the *Project Priority List* drop down.

## Ranking and Creation of the PPL

Each PIF submitted by the initial deadline, and determined to be eligible, is rated and ranked using combined rating factors and included on the PPL. In the event of a tie, priority is given to the project serving the smaller total population.

An Initial Invited Project List is created from the PPL. Selected PIFs on the IIPPL will be allotted subsidization based on rank order and eligibility. Upon Board approval, entities with PIFs on the IIPPL will be informed of the opportunity to submit an application.

Please note, project information submitted after the initial deadline will not be considered for rating until after adoption of the IUP and the PPL.

## Project Changes Following Approval of the IUP

Following approval of the IUP, any changes to a ranked project that result in a project no longer addressing the issues for which it was rated will require re-rating and re-ranking.

- Project changes that do not trigger re-rating and re-ranking
  - The Applicant for a proposed project changes, but the project does not
  - The number of participants in a consolidation project changes, but the change does not affect the combined rating factor
  - The fundable amount of a proposed project does not increase by more than 10 percent of the amount listed in the approved IUP. The Executive Administrator (EA) may waive the 10 percent limit to incorporate additional project elements; however, *any additional subsidization awarded may not exceed the original IUP amount's allocation.*

## Applicants May Submit a PIF at Any Time

Applicants may submit a PIF at any time for project consideration to be included on the amended PPL.

- The new projects will be considered after those on the original PPL have been invited.
- Amendments to the project lists will undergo a 14-day public review period that will be advertised on the TWDB website.
- Projects requesting Urgent Need funding may undergo a 7-day public review period, if the TWDB determines it is necessary to protect public health and safety.

## Intent to Apply

As part of the invitation process, the TWDB may require the applicant to submit an intent to apply form or request information by a specified deadline, showing the applicant's intent to request up to the eligible amount of funding in the IUP.

After the initial invitation period, if any funds remain unallocated, other projects on the PPL will be invited in rank order.



Failure to provide the requested intent to apply information by the established deadline will result in the TWDB bypassing the project on the IUP list.



**Entities on the PPL may not submit an application until they have received an invitation from the TWDB and participated in a pre-application meeting.**

## V. Application and Commitment Process

This section outlines the steps necessary for submission of a DWSRF Application for funding, and recommendation to the Board for commitment. The TWDB conducts a technical review of the application by the legal, engineering, environmental, planning and water conservation disciplines, as outlined in the [financial assistance review process document](#). More resources can be found on the [application webpage](#).

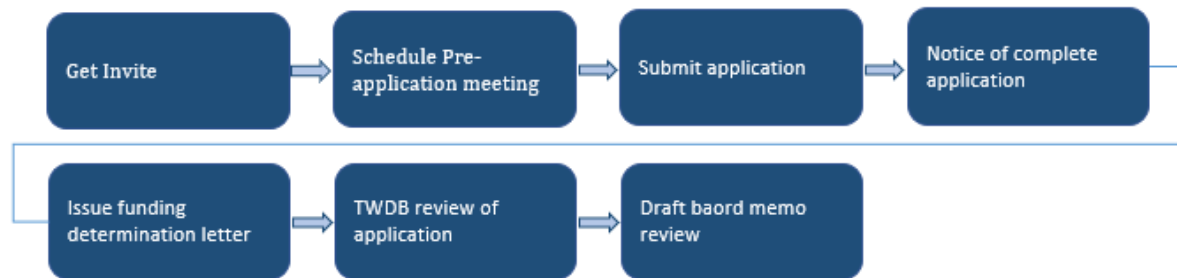


Figure 2: Full Application Process

### Pre-Application Meeting



Entities **are required** to participate in a pre-application meeting with RWPD team members to discuss the application process and project requirements. Videoconferencing is available, and the following individuals should attend:

- A member of the governing body of the Applicant
- The consulting engineer
- The financial advisor



**NOTE:** Intended use of alternative delivery methods (e.g. design-build, Construction Manager at Risk, etc.) must be discussed with TWDB staff at the pre-application meeting, or earlier, if possible.

### Application Submittal

The Financial Assistance Application can be submitted online using the OLA system. A Microsoft Word version is also available for submittal via email or mail. Whichever option is chosen, applications must be received by the posted due date to be considered for funding.

#### ➤ Online Submittal (OLA)

- Using the OLA system, log in with the credentials created when submitting your PIF.
  - Note: Access to the online application will be limited to the applicant's representative listed in the PIF.

- Accepted PIFs will create an application at the bottom of the OLA dashboard.
- Click the “Open Application” button on the bottom of the dashboard to begin a new application.
- Most document uploads to the OLA system must be in portable document format (PDF). Clearly label all attachments with the corresponding document name and entity name.
- You may save your progress and return as needed until you have completed the application. Incomplete applications will **not** be processed until all required information is provided.
- Additional contributors may be added to the application.
- Refer to the TWDB [Financial Assistance Application](#) webpage for further guidance.



**It is imperative** that all contributors use consistent language, and only one at a time be working in the OLA system. **If multiple users are working on the application at the same time, the TWDB cannot guarantee your data will be saved.**

➤ **Email/Hardcopy Submittal (Word)\***

- Download the [Financial Assistance Application \(TWDB-0148\) \(Word document\)](#) from the TWDB [Financial Assistance Application](#) webpage.
- Refer to the TWDB [Financial Assistance Application](#) webpage for further guidance.
- Email the completed application and applicable attachments to [DWSRF@twdb.texas.gov](mailto:DWSRF@twdb.texas.gov) or,
- Send one (1) double-sided physical copy, and one (1) indexed electronic copy via electronic storage media (i.e., flash drive), using Microsoft Word, Excel, or Adobe Acrobat, to the address below:

Texas Water Development Board  
 ATTN: DWSRF Application  
 P.O. Box 13231  
 Austin, Texas 78711-3231

*\* Not applicable if using the Online Application*



If at any point you have questions, or need assistance with the application, please contact your [RWPD Team](#).



## Notice of Complete Application



The Applicant will be notified in writing if their application is administratively complete or incomplete. **If the application is incomplete, any deficiencies must be remedied within 14 calendar days.**

### Engineering

A Preliminary Engineering Feasibility Report (PEFR), signed and sealed by a professional engineer registered in the State of Texas, as outlined in the application, is required. During the planning phase of the project, the Applicant must provide a final Engineering Feasibility Report (EFR) in accordance with the relevant guidance for the preparation of EFRs for drinking water projects, [TWDB-0555](#).

### Environmental

During the application phase, the TWDB Environmental Reviewer will determine which level of environmental review will be required based on the type and scope of the project and the potential for adverse environmental impacts.

This assessment will be made based on information provided in the engineering and environmental sections of the financial assistance application. If additional information is required by the TWDB, a request for supplemental information will be sent to the Applicant or their consultant.

### TWDB Forms Applicable to DWSRF

Forms and guidance materials referenced below can be accessed online through the TWDB [Program Guidance & Manuals \(Guidance and Forms Library\)](#) by using the Search box and typing in the form name or guidance number needed.

- Resolution from governing body requesting financial assistance ([TWDB-0201A](#)) \*
- Applicant Affidavit for Public Entities ([TWDB-0201](#)), or for Private Entities ([TWDB-0201P](#)) \*
- Application Resolution - Certificate of Secretary ([TWDB-0201B](#)) \*
- Planning Information Form ([WRD-253d](#))
- Project Cost Estimate Budget ([TWDB-1201](#))
- If assistance is requested from the **DWSRF Equivalency Program**, the forms referenced below will also be required.
- Certificate of Debarment, Suspension, and Other Responsibility Requirements ([SRF-404](#))
- Assurances – Construction Programs ([EPA-424D](#))
- Affirmative Steps Certification and Goals ([TWDB-0215](#)) \*
- Affirmative Steps Solicitation Report ([TWDB-0216](#)) \*
- Prime Contractor Affirmative Steps Certification and Goals ([TWDB-0217](#))
- Loan/Grant Participation Summary ([TWDB-0373](#)) \*

\* *Forms Requiring the Applicant's Signature*



If assistance is requested for **Green Projects**, the form referenced below will also be required.

- Green Project Reserve Worksheet ([TWDB-0163](#))



A complete checklist of documents required to be submitted can be found on pages 3 and 4 of the application ([TWDB-0148](#)). Applicants should work with the TWDB to identify which documents are required for your specific project.

## Draft Board Memo Review

A funding determination letter will be created, outlining what principal forgiveness, 0% loan, and/or other low interest loan the Applicant is eligible for based on the final project costs. This letter becomes the basis for the draft Board memo and resolution.

The Applicant will be provided a draft Board memo and resolution for review. While most of the resolution uses standard language, the Applicant must verify language related to the pledge and any special conditions. TWDB must be notified of any issues with the draft Board memo and resolution within seven calendar days of receipt to ensure the commitment is not delayed.

## Funding Approval and Financial Assistance Commitment

If the application is recommended for approval by the TWDB, the application is placed on the TWDB Board meeting agenda. If a Board commitment for financial assistance is made, it will expire on the date noted in the commitment, or as outlined in the IUP.

- 12 months for 100 percent bonds/loan,
- 6 months for combination bonds/loan and principal forgiveness, or
- 3 months for principal forgiveness only.

If you are unable to close your commitment prior to its expiration, you may request an extension of the expiration period as specified in [31 TAC Subchapter D § 371.35](#).

- To request an extension, submit a written request at least 45 days prior to the expiration date with the following and include the following basic project information:
  - explanation of the need/necessity for the request
  - benefits the extension would provide
  - current project status
  - updated project schedule
  - a new proposed date for closing.

## VI. Closing and Release of Funds

### Closing

After a financial assistance commitment has been approved by the Board, additional legal, financial, and engineering documentation must be submitted to close on the loan and release funds.

Please refer to the [Closing a TWDB Commitment](#) webpage for more information, including helpful pointers for navigating the closing process, lists of required documents, and closing timeline tools.

Further explanation of TWDB closing requirements for the DWSRF Program is provided in, [31 TAC Subchapter A § 363.42](#) (Loan Closings) and [§ 363.43](#) (Release of Funds).

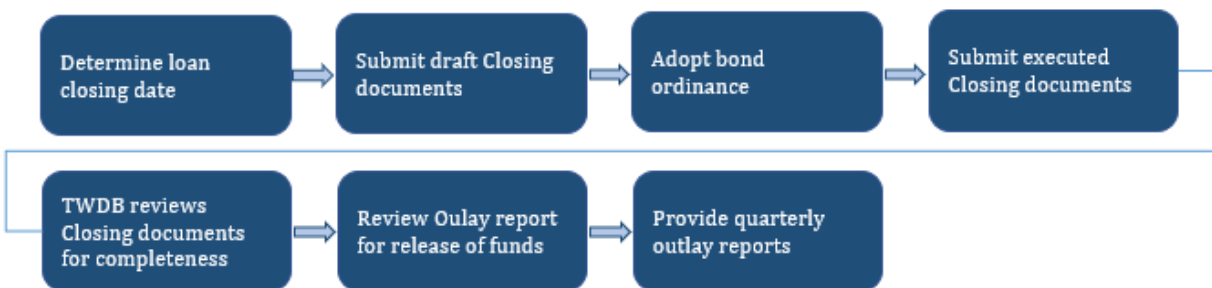


Figure 3: Closing Process

### After TWDB Commitment – First Steps



**The Applicant will receive** a Board Action Letter (BAL) via email shortly after Board commitment. This letter summarizes all pertinent information needed to close on the loan.



**Respond** to the assigned TWDB financial analyst with a tentative closing schedule containing the preferred loan closing date. The BAL will include the appropriate TWDB contact information.



**Be sure to communicate early and often** with the TWDB team, consultants, and community contacts to ensure all parties are on the same page. Be sure to include the project engineer, financial advisor, and bond counsel.



**Pay close attention to closing deadlines.** Timely delivery of documents is critical for maintaining closing dates.

## Key Closing Milestones



The **closing date** requested in the application will be used to plan the closing of the Applicant's commitment. The requested date may be revised if desired, with concurrence from the [TWDB](#).

1. Submit the following items to the TWDB Financial Analyst and Attorney for approval **at least 20 business days prior to the adoption date** of the bond ordinance or resolution by the Applicant's governing body:
  - Bond Counsel's legal opinion, draft
  - No-Arbitrage (Federal Tax) Certificate, draft
  - No-Litigation Certificate, draft
  - Proposed bond ordinance or resolution, draft
  - Paying Agent Agreement and Escrow Agreement, draft
  
2. Submit the following items to the TWDB Project Engineer/Reviewer **18 days prior to closing**:
  - Copies of executed engineering contracts and other draft contracts
  - Any permits the TWDB determines are required prior to closing
  - An [updated TWDB – 1201](#) budget form with funds identified to be released at closing.
  - Sufficiency of Funds Statement and Release of Funds request:
    - **Option A:** If the project is funded **100 percent with TWDB funds**, submit a statement that identifies the amount of funds to be released at closing.
    - **Option B:** If the project is funded with a **combination of TWDB funds and other funds**, provide a statement as to the status of securing non-TWDB funds, and identify the amount of TWDB funds to be released at closing. Include a current budget of costs and sources of funds.
  - If the funding request is greater than \$500,000, an approved Water Conservation Plan is required for closing.
  - For **DWSRF Equivalency** funding, the following must also be submitted:
    - **DBE Documentation** for all professional services currently procured:
      - Affirmative Steps Solicitation Report ([TWDB-0216](#))
      - Prime Contractor Affirmative Steps Certification and Goals ([TWDB-0217](#))
      - Loan/Grant Participation Summary ([TWDB-0373](#))
  
3. The Applicant will need to adopt a bond ordinance to approve the conditions of the TWDB financial commitment approximately **15 business days prior to the applicant's closing date**.
  
4. Submit a completed Outlay on the template provided by the Outlays and Escrows team to [outlays@twdb.texas.gov](mailto:outlays@twdb.texas.gov) **at least 15 days prior to the closing**. For more information on the Outlay process, please see the [Outlay Reports](#) webpage.

5. After the Applicant has adopted a bond ordinance to approve the conditions of the TWDB financial commitment, they will submit the final closing documents to the TWDB to close the commitment:
- Attorney General Opinion (5 business days prior)
  - Comptroller's Certificate (5 business days prior)
  - Debt Service Schedule
  - Executed Escrow Agreement
  - Financial Advisor's Closing Instructions
  - Executed Paying Agent Agreement
  - Private Placement Memorandum – with all attachments, including:
    - Semiannual amortization schedule
    - Bond Ordinance or Resolution adopting the issuance
    - Draft Bond Counsel Opinion
  - TWDB Vendor Set-Up of Direct Deposit Form
  - Blanket Issuer Letter of Representations (BLOR)
  - Bond Counsel Opinion
  - No Litigation Certificate
  - No Arbitrage/Federal Tax Certificate
  - Executed Principal Forgiveness Agreement
  - Any other documents required by special condition in the resolution, such as:
    - Financing Agreement
    - Additional Bonds Test Certification

## Outlay Reports and Release of Funds

The DWSRF Program releases funds on a reimbursement basis upon the receipt of an outlay report supported by detailed invoices of expenditures. Funds not eligible for release on the closing date will be held in an escrow account until the required project milestones have been completed and approved.

Outlay reports must be submitted to request the release of funds for reimbursement of eligible project costs. Outlay reports, supported by detailed invoices for incurred costs as the project progresses in accordance with the project schedule, are required on a quarterly basis from the time of closing until construction begins. Monthly reports are required once construction begins until project close-out. Reports must be submitted even if no expenses have been incurred. Further information on Outlays is available on the TWDB [Outlay Reports](#) webpage.

## Key Policies and Procedures

- Outlay reports require invoices as supporting documentation for all reimbursable costs, except the loan origination fee. If an invoice includes costs associated with a different project, the DWSRF costs included in the invoice must be clearly distinguished.
- Within each budget category (engineering, planning, environmental, permits, construction contract, etc.), the TWDB can *only* reimburse up to the amount approved in the commitment for that category. However, you can reallocate funds

from one budget category to another, after commitment, by requesting a budget amendment from your TWDB Project Engineer/Reviewer. Budget amendments should be requested prior to the submission of an Outlay requesting the funds in question.

- Project Budget Ceiling: the budget line-item ceiling is set by the PE/PR to represent the maximum amount of funds that can be released for a budget category. The ceilings are adjusted as the project progresses and milestones are achieved.
- All monthly Outlay submittals for construction contract expenses in the DWSRF Program must be accompanied by the following certifications:
  - Monthly American Iron and Steel Certificate, Compliance Submittal by Owner ([TWDB-1106-A](#))
  - Monthly Davis-Bacon Wage Rate Certificate of Compliance Submittal by Owner ([DB-0154](#))

The forms must cover the entire period of the construction contract invoices.



- Outlay reports should be submitted electronically to [outlays@twdb.texas.gov](mailto:outlays@twdb.texas.gov).

If you are unable to submit your outlay report electronically, please contact the Outlays and Escrows team for alternate submission instructions at (512) 463-5070 or [outlays@twdb.texas.gov](mailto:outlays@twdb.texas.gov).

The diagram below illustrates key project milestones during the planning, design, and construction phases of a project that are tied to the release of funds.

## Key Project Milestones

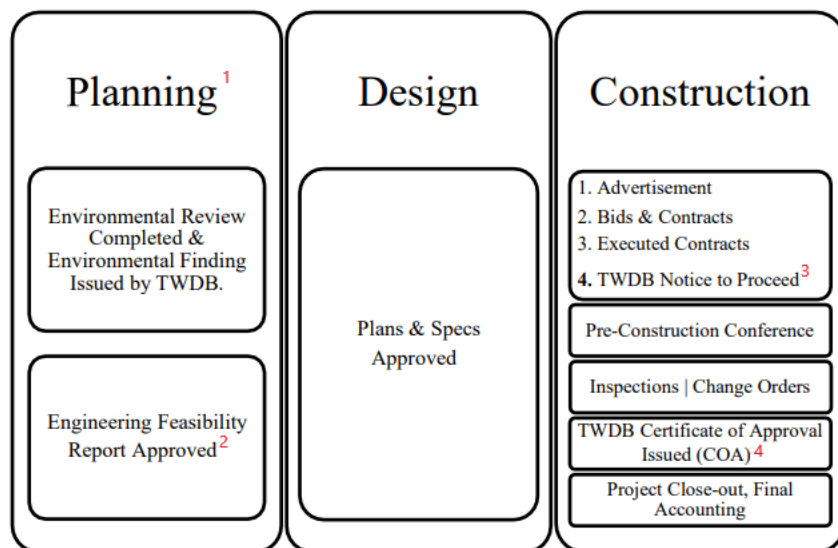


Figure 4: Release of Funds Milestones

1. **Planning:** Funds for planning and permitting costs are eligible for release once all financing closing documents have been submitted and approved, any special conditions from the TWDB resolution have been met, and the closing has occurred. Executed professional services agreements for the phases that TWDB is funding, including DBE procurement related documents for DWSRF Equivalency projects, any water supply contracts needed for the project must also be received. Approval of a Water Conservation Plan and fulfillment of any Special Conditions in the Resolution are required.
2. **Design:** Funds for design are eligible for release after the TWDB has completed the environmental review and approved the EFR. Executed engineering contracts for the design phase are also required before the release of design funds.
3. **Construction:** Construction funds for a contract can be requested after the issuance of any applicable permits, and after contract documents are approved (including Plans and Specifications), executed construction documents are contingently awarded and a Notice to Proceed (NTP) has been issued. Executed engineering contracts for the construction phase are also required before release of funds for construction phase engineering tasks (if not previously submitted).
4. **Contract closeout:** The retainage and its interest earnings, if any, shall not be paid to the Contractor until the TWDB has authorized a reduction in, or release of, retainage on the contract work. Contract retainage can be released once the TWDB issues a Certificate Of Approval.

## VII. Planning Phase

The planning phase prepares the framework required for accomplishing the purpose and objectives of the project. During planning, specific requirements and needs are identified to prepare for the project's acquisition, design, and construction phases.

The planning phase includes TWDB's issuance of the environmental finding, and approval of the EFR.

### Environmental Review

Environmental review of DWSRF projects is a requirement for the use of DWSRF financial assistance, as detailed in [31 TAC 10 Chapter 371, Subchapter E](#), (Environmental Reviews and Determinations).

#### Federal Funding Level Environmental Review

With the use of federal funds, a NEPA-level environmental review will be required. At the culmination of the environmental review process, the Board will issue one of the following environmental findings:

1. **Categorical Exclusion (CE):** A CE is an exclusion from a full environmental review, based on
  - a. the eligibility criteria described in [31 TAC § 371.43](#) as supplemented by federal requirements and
  - b. review of information submitted by the Applicant in the application and any requested information.

**Process:** If a project is potentially eligible for a CE, the Applicant must fill out and submit the [CE request form \(TWDB-0803\)](#) and include any additional information required to make a determination. The Applicant must provide all requested information to the TWDB in a timely manner.

**Once a CE is issued,** it will be posted on the TWDB website, and the TWDB Environmental Reviewer will notify the Applicant that they must publish notification of the CE issuance in a local newspaper with general circulation in the project area.

The Environmental Reviewer will provide language as it must appear in the newspaper.

2. **Finding of No Significant Impact (FONSI):** A FONSI may be issued if the proposed project will not have a significant effect on the human environment. The FONSI must be supported by an Environmental Assessment (EA), prepared by TWDB, and meeting the requirements of a full federal environmental review, based on the review of the Applicant's Environmental Information Document EID ([TWDB-0801](#)), and other requested information.

**Process:** The Environmental Assessment is prepared by the TWDB, which is based



primarily on the EID submitted by the Applicant.

**Once a FONSI is issued**, it is subject to a 30-day public comment period. If comments are received during the 30-day comment period, they must be addressed before the environmental review can be considered complete.

3. **Record of Decision (ROD):** A ROD is an environmental determination issued for projects that have significant adverse environmental impacts, based on
  - a. review of an Environmental Impact Statement (EIS) prepared by the Applicant's third-party contractor.

**Process:** Typically, EIS-level projects are elevated to this level of review by a regulatory agency during the permitting process, (e.g., U.S. Army Corps of Engineers).

**The TWDB will then evaluate the ROD issued by the lead regulatory agency and adopt the finding.**

4. **Statement of Findings (SOF):** An SOF is an environmental finding issued by the TWDB to correct, clarify, modify, or adopt a previous environmental finding or determination issued by the TWDB or another agency, based on
  - a. review of a previous environmental finding or determination for the proposed project, or
  - b. review of proposed project modifications for consistency with a previous environmental finding.

### **Key Policies and Procedures**

- The environmental review must be completed prior to the approval of the EFR and release of funds for acquisition, design, and/or construction phase.
- If an existing environmental finding for the project meets DWSRF Program requirements, it can be adopted by the TWDB. Discuss this with the TWDB environmental review staff as soon as possible.
- At all times throughout the design, construction, and operation of the project, the Applicant shall comply with the environmental special conditions and findings resulting from the environmental review.
- Environmental findings that are five years old or older must be reevaluated by the TWDB to determine whether to conduct a supplemental review, or to affirm the original finding, for any project element that has not yet been implemented.



Any project changes after the issuance of an environmental finding may require additional review. Notify the TWDB Environmental Reviewer **immediately** if changes are needed.

If construction begins before the environmental review is complete, **your project may become ineligible for DWSRF funding.**

## Engineering Feasibility Report

Refer to the guidance for the preparation of EFRs (drinking water projects, [TWDB-0555](#)) for details on the information required in the EFR. The EFR sent to the TWDB Project Engineer/Reviewer must be submitted as a PDF, with searchable text, and must be signed, sealed, and dated by a professional engineer registered in the State of Texas as per [31 TAC § 363.13](#).

The EFR should also include the following (as applicable):

- **AIS requirements** ([TWDB-1106](#)) The EFR should include a discussion of any known issues or special considerations that may affect the design or construction as a result of the applicable iron and steel requirements. In addition, include a discussion of any potential waivers that are being considered.
- Revised **project schedule**
- Revised **project budget** ([TWDB-1201](#))
- List the status of any **anticipated permits** and the permitting agency



An EFR approval letter cannot be issued by the TWDB Project Engineer/Reviewer until the Environmental Review Process is complete.

## Anticipated or Required Permits

The Applicant or consulting engineer should apply early and secure all permits that may be required for the project. Action should be taken as soon as practicable prior to completion of the plans and specifications (P&S) and advertising for construction bids. If a floodplain permit is required, P&S approval will not be granted until the Applicant has obtained a floodplain development permit from the local floodplain administrator.

## Land Acquisition, Buffer Zones, Right-of-Way, and Easements

Land acquisition, buffer zones, right-of-way, and easements need to be discussed in the EFR and addressed early in the planning phase to avoid redesign of the project. The Applicant should perform an initial site assessment to verify that hazardous waste contamination of the site has not occurred.

## VIII. Design Phase

Before starting design, Applicants and their consultants should take steps to verify all planning phase requirements have been met. Funds associated with design phase work will not be eligible for release until planning is complete and approved.

Detailed P&S will be developed during the design phase. P&S must be reviewed and approved by TWDB as per TAC 371.62.

Advertisement, bid, and draft contract documents **must also** be included in the bound P&S and submitted for review and approval by the TWDB during the design phase. The engineer must submit a [Plans and Specifications Submittal Form](#) (TWDB-0300) along with the bound P&S. The [form](#) is available through the TWDB's [Guidance and Forms Library](#) webpage.

TWDB will review the P&S:

(1) to ensure consistency with the approved engineering feasibility report and with approved environmental planning documents;

(2) to ensure the proposed construction drawings and specifications provide adequate information so that a contractor can bid and construct the project without additional details or directions;

(3) to ensure compliance with Commission rules at Title 30 Texas Administrative Code Chapter 290 relating to Public Drinking Water, and other applicable state and federal laws and rules;

(4) to ensure the contract documents notify the contractor about the Board's authority to audit project files and inspect during construction; and

(5) to ensure compliance with other requirements as provided in guidance forms and documents, including any additional documentation required by EPA for equivalency projects.

**Note:** Other approvals. The Applicant must obtain the approval of the plans and specifications from any other local, state, and federal agencies having jurisdiction over the project. The executive administrator's approval is not an assumption of the Applicant's liability or responsibility to conform to all requirements of applicable laws relating to design, construction, operation, or performance of the project.

Any federal, state, or local permits must be obtained prior to approval of P&S, including:

1. Railroad crossing;
2. TxDOT permits;
3. Irrigation district permits;
4. TCEQ wastewater discharge permit;

If the project includes requests for exceptions or variances to the Design criteria, TCEQ's approval is required.



**NOTE:** The Applicant shall not proceed to advertising for bids on the project without express written approval of the solicitation documents by the executive administrator. If the applicant proceeds to advertising without approval, it may affect eligibility for funding.

## Design Criteria

The [30 TAC Chapter 290](#) design criteria must be followed in the design of all work affecting water facilities. The project's design engineer is required to prepare and submit P&S for review.

## Plans and Specifications Technical Review

### TCEQ Review

For certain water projects funded by the TWDB, technical review authority for P&S is delegated to the TCEQ.

- New surface water treatment plants (WTP), including pilot and concentration-time studies
- Existing surface WTPs involving process related improvements or increase in capacity
- New well projects
- Existing well projects, including increase in capacity or process related improvements
- New raw water intakes, including pumping facilities at the intake location
- Any project involving treatment, such as membranes, ion exchange, UV disinfection, etc.
- New interconnections
- New construction or improvements to disinfection and other treatment projects
- New ground storage tanks (GSTs), or improvements to existing GSTs, when the source of water is surface water and GSTs are a clear well



Please coordinate with your TWDB Project Engineer/Reviewer and the TCEQ early to determine which agency has technical review authority for your specific project.



Where TCEQ review is required, **we highly encourage you** to coordinate with the TCEQ as early as possible during the project development process to ensure all required pilot testing, reports, permits, etc., are addressed with the TCEQ in a timely manner.

Memorandum of Understanding between TWDB and the TCEQ: [30 TAC Chapter 7](#): for Water Supply Projects funded by the TWDB, review of P&S is covered under Memorandum of Understanding (MOU) between the Texas Water Development Board and the Texas Commission on Environmental Quality executed as of July 1, 2015.



Any variances to the TCEQ rules must be submitted to and approved by the TCEQ regardless of whether the review of the P&S is done by the TCEQ or the TWDB.

**Along with the P&S submitted for review**, the project's design engineer shall submit the following documents:

- **All projects**
  - Completed [Plans and Specifications Submittal Form](#) noting where in the plans, specifications, or contract documents the required language, document, or form is found. The design engineer may choose to bookmark the project's contract documents; however, the checklist must still be submitted with the P&S for the submittal to be considered complete.
- **Water projects for which the TCEQ retains review authority**
  - Copy of TCEQ P&S approval letter
  - Copy of any exception or conditional approval
  - Copy of any correspondence with the TCEQ, including review comments and approval letter(s)
- **Water projects for which the TWDB is the review authority**
  - Complete, signed, and sealed Engineering Design Report ([30 TAC § 290.39 \(e\)](#))
  - Complete [P&S checklists](#) in accordance with TCEQ requirements

All P&S submitted to the TWDB for review must be sealed and signed by a professional engineer registered in the State of Texas. ([22 TAC § 137](#))

- For initial review, please submit
  - one (1) high-resolution, searchable PDF electronic set of P&S documents, and
  - one (1) or more hard copies, *only if requested by the TWDB Project Engineer/Reviewer.*
- After initial review comments are provided from the TWDB and addressed by the design engineer, please submit revised P&S for approval, including
  - a transmittal letter addressing each comment, including explanations, the location of the revisions (if any), and/or an explanation of why the revision is not necessary, and
  - one (1) high resolution, searchable PDF copy of the revised P&S for approval.

## Design Phase Submittals



The following items must be submitted to the TWDB Project Engineer/Reviewer during the design phase:

- Plans and Specifications Submittal Form ([TWDB-0300](#))
- Complete P&S, including advertisement, bid, and draft contract documents
  - P&S must be signed by and sealed by a Professional engineer, registered in the

State of Texas (Texas Board of Engineers Rules 137.33 and 137.77).

- TWDB supplement contract conditions ([TWDB-0550](#))/([TWDB-0551](#))
- Special board resolution or environmental finding conditions satisfied for design phase
- Construction Inspection Provisions, [ED-005](#)
- Cost and Effectiveness Cert (TWDB-1107)
- Variances, waivers, or exceptions to the state design criteria
- TCEQ Approval for Treatment Work design.

## Important Plans and Specifications Reminders



- **The TWDB supplemental contract conditions for projects funded through the DWSRF Program ([TWDB-0550](#)), contains three sections:**
  - Section I includes instructions to Applicants.
  - Section II includes language required in the “Instructions to Bidders” section of the construction contract documents.
  - Section III includes all supplemental contract conditions, and **must be included in its entirety in the contract documents**
- **P&S must include**
  - all documents required in the supplemental contract conditions,
  - mitigation measures and special conditions identified in the environmental review, and
  - conditions identified in the required permits.



**IMMEDIATELY** notify the TWDB Project Engineer/Reviewer and Environmental Reviewer if modifications have been made to the project scope, EFR(s), and/or the P&S.

**Amendments to the EFR(s) may require revisions to the environmental finding(s). Any significant changes to the project scope occurring after loan commitment may require Board approval.**

## IX. Bidding Phase

Competitive bidding is a widely used method of obtaining and selecting contractors for construction projects. Typically, the use of competitive bidding is mandated by law or regulation. The applicant and their consulting engineer must comply with [Subchapter B, Chapter 252 of the Local Government Code](#), and other applicable statutes. Applicants should consult their legal counsel if there is any uncertainty regarding which specific bidding laws apply to a particular project.

In general, the bid phase includes the following steps:

- Advertising
- Pre-bid conference
- Bid opening and bid evaluation
- Bid documents and TWDB approval to award contract
- Pre-construction conference?
- Contract Award and issuance of Notice to Proceed

### Alternative Delivery for Construction Projects



Intended use of alternative delivery methods **must be discussed with TWDB staff at the pre-application meeting.**

Design-build, construction manager at risk, and other alternative methods of project delivery are eligible approaches that can be used in accordance with programmatic requirements, as outlined in the Alternative Delivery Guidance ([TWDB-0570](#)) and is consistent with the requirements in [31 TAC 10 Chapter 371](#).

The TWDB will provide written guidance regarding modifications of the review, approval, and release of funds processes for alternative delivery projects based on the type of financial assistance and method of alternative delivery.



**Authorization from the TWDB's Project Engineer/Reviewer should be obtained prior to advertising bids.**

### Advertising

Authorization to bid is based on the TWDB review of the following documentation:

- TWDB approval of the P&S
- Acquisition of all property needed for the project certified on the TWDB Site Certificate Form ([ED-101](#))
- All permits, licenses, and other legal authorizations required by federal, state, and local agencies

For detailed information on language to be used in the advertisement for bids, see the TWDB supplemental contract conditions for projects funded through the DWSRF Program

([TWDB-0550](#)).



Advertisements for DWSRF Equivalency projects **must** clearly state the EPA's "Fair Share Objective" and "Good Faith Effort," as discussed in the TWDB's DBE guidance ([TWDB-0210](#)).

## Instructions to Bidders

The Instructions to Bidders (or Invitation to Bid) should summarize key information about the project. Its purpose is to attract bidders, announce the bidding schedule for the project, and provide sufficient information to enable prospective bidders to determine whether they should obtain copies of the bidding documents.

For detailed information on language to be used in the Invitation to Bid, see the TWDB supplemental contract conditions for projects funded through the DWSRF Program ([TWDB-0550](#)).

## Pre-Bid Conference

Pre-bid conferences help to familiarize prospective bidders with the site and scope of the work on projects.



The TWDB's Project Engineer/Reviewer **should be notified, concurrent with bidders**, of date, time, and location of the pre-bid conference.

It is advisable that **no oral statements** be made at the conference that cannot be appropriately reduced to written form in subsequent addenda.

## Addenda

Bidders must acknowledge receipt of all addenda with their bids to ensure that all bidders are bidding on the same effort. Addenda should be issued in an expeditious manner to all document holders of record. The addenda should be submitted to the TWDB concurrent with issuance to bidders.

## Bid Opening and Bidder Evaluation

Procedures to follow at the bid opening should be established ahead of time and included in the Instructions to Bidders.



The TWDB Project Engineer/Reviewer **should be notified, concurrent with bidders**, of date, time, and location of the bid opening.

After the bids have been opened and tabulated, the Applicant and consulting engineer **should evaluate the bids and bidders** according to the criteria and process outlined in the bid documents for determining responsiveness and responsibility of the bidder.



## Bidding Documents and TWDB Approval to Award Contract

The TWDB Project Engineer/Reviewer should receive the following information and documents **as soon as possible after bid opening and before execution** of the construction contract:



- Construction Award Submittal Form ([TWDB-0400](#))\*
- Bid tabulation
- Bid proposal of apparent low bidder with bid bond
- Advertisement and affidavit of advertisement
- Consulting engineer's recommendation to Applicant for award
- Explanation for any rejected bids or other bidding irregularities
- Construction inspection proposal
- Site Certificate ([ED-101](#))
- Bidder's Certifications ([WRD-255](#))
- Any addenda not previously submitted
  
- For **DWSRF Non-Equivalency** funding, the following must also be submitted:
  - Vendor Compliance with Reciprocity of Non-Resident Bidders ([TWDB-0459](#))
  
- For **DWSRF Equivalency** funding, the following must also be submitted:
  - Debarment/Suspension Certification ([SRF-404](#))
  - **DBE Documentation\*\***
    - Affirmative Steps Solicitation Report ([TWDB-0216](#))
    - Prime Contractor Affirmative Steps Certification and Goals ([TWDB-0217](#))
    - Loan/Grant Participation Summary ([TWDB-0373](#))

*\*Alternative delivery projects should submit Alternative Delivery Work Package Award Submittal Form ([TWDB-0400A](#))*

*\*\* Projects using DWSRF Non-Equivalency do not need to comply with DBE procurement requirements; however, local and state competitive bidding requirements still apply.*

After receiving and reviewing the information identified as bid document submittals, the TWDB Project Engineer/Reviewer will authorize the Applicant to contingently award the construction contract.



**Prior to the award of a contract, all required bid documents must have TWDB approval.**

## Contract Award Document Submittals

The Applicant/consulting engineer should submit the following documents as soon as possible after contract award and **prior to issuance of a Notice to Proceed to the contractor.**



Fully executed construction contract documents electronically submitted to the TWDB for review must include the following submittals:

- Executed Construction Submittal Form ([TWDB-0500](#))
- Executed contract agreement signed by all appropriate parties and notarized, if applicable
- Specifications **as approved by TWDB** with executed bid proposal
- Payment, performance, and other bonds with power of attorney
- Contractor's proof of insurance certificate
- Executed Contractor's Act of Assurance, ([ED-103](#))
- Executed Contractor's Resolution on Authorized Representative, ([ED-104](#))
- Sufficiency of funds statement, if applicable, and not previously submitted
- A schedule with anticipated construction start and end dates for contracts
- Water Rights Certification issued by the TWDB Deputy EA, if required
- For **DWSRF Equivalency** funding, the following must also be submitted:
  - SRF Project Public Awareness ([TWDB-1109-A](#))



The Applicant should double check that all blanks in the executed contract agreement are filled, and the dollar amounts match the dollar amount of the approved bid documents.

After approval of contingently executed contract documents, the TWDB Project Engineer/Reviewer will issue a letter concurring with the issuance of a Notice to Proceed with construction. At this time, construction phase funds associated with the approved construction contract are eligible for release.

## VIII. Construction Phase

**Prior** to issuing a Notice to Proceed to the Contractor, and before initiating construction, the Applicant should take steps to verify that all prerequisites are in place to ensure construction is performed in accordance with the approved contract documents.

The following construction-phase topics are discussed in detail in the TWDB supplemental contract conditions for DWSRF projects ([TWDB-0550](#)) to help with this goal.

### Preconstruction Conference



A preconstruction conference **should be scheduled prior** to issuance of a Notice to Proceed, and be attended by the owner, project engineer, Contractor, and the TWDB Project Engineer/Reviewer.

The purpose of this meeting is to establish a working understanding among the parties as to the work to be accomplished and to discuss project schedules, milestones, procedures, program requirements, etc., for each construction contract.

### Applicant Inspection

The Applicant shall provide adequate inspection of the project under the supervision of a licensed registered professional engineer. The engineer must provide assurance that the work is being performed in a satisfactory manner; in accordance with the approved P&S, other engineering design, and permits (including approved alterations and provisions for environmental mitigative measures); and in accordance with sound construction principles and practices.

- Please review the Guidelines for Inspector Qualifications ([ED-005](#)) for more information.
- The Applicant should require that a thorough daily log of activities be maintained.
- The Applicant is responsible for ensuring that all required testing is conducted, observed, and documented.

## Contractor Claims

Awareness, documentation, and communication will aid in prevention and resolution of contractor claims. Board funding may not be eligible for increased costs due to claims.

## TWDB Construction Site Visits

The TWDB may conduct site visits regarding construction and audit activities of any DWSRF project, at any time, and shall be provided access to the project site and any project materials, records, or reports.

- The TWDB Project Engineer/Reviewer will schedule periodic project site visits, issue inspection reports, and make them available to the Applicant and their consulting engineer.
- Inspection reports and observation visits do not relieve the Applicant of the responsibility to provide qualified on-site inspections and engineering reviews to determine the acceptability of work in progress.
- The Applicant is responsible for corrective actions regarding any items found to be noncompliant with DWSRF funding agreements during site visits or record review.

## Change Orders

The construction contract is between the Applicant and the Contractor, and any change orders signed by these two parties become part of that contract regardless of TWDB funding eligibility or participation. One (1) electronic copy of the fully executed change order should be sent to the TWDB's Project Engineer/Reviewer for review and approval.

### TWDB Staff reviews and approves change orders for

- eligibility of funding,
- conformance with design criteria,
- avoidance of environmental impacts and consistency with the environmental finding,
- a change of scope of the project that may require action by the TWDB, and
- a change order that may require action by the TCEQ.



Update all project stakeholders of any changes, concerns, or delays promptly. To ensure eligibility, please send change orders **immediately** to the TWDB for review and approval. **Substantial changes to the project scope or increases to the initial TWDB commitment amount will require Board authorization.**

## Retainage

Generally, a minimum of 5 percent retainage is required by law on all public loan contracts ([Texas Governmental Code F § 2252.032](#)). The amount, deposit, and investment requirements for retainage are unique to each construction project. If there is any uncertainty regarding specific situations, the Applicant's legal counsel should be consulted.

- Retainage must not be released or reduced below 5 percent without the consent of the TWDB.
- A COA will be issued by the TWDB after each contract is finalized and closeout documentation has been provided to the TWDB Project Engineer/Reviewer.
- The COA authorizes the Applicant to release retainage to the Contractor.

## TWDB Closeout Submittals



To closeout the contract and release final retainage, the TWDB must conduct a construction contract final inspection (CCFI). The following information and documents must also be submitted to the TWDB Project Engineer/Reviewer for review:

- A copy of the Contractor's final payment request
- Any outstanding change orders not approved by the TWDB to date, adjustment of quantities, or a statement that there are no further change orders
- An affidavit by the Contractor that all bills have been paid
- Certification by the consulting engineer that the contract has been completed and the work was constructed in accordance with the approved P&S
- Acceptance of the work under this contract by the owner in the form of a letter signed by the owner's representative
- Notification of the beginning date of the warranty period for the contract
- Confirmation that the owner has received as-built drawings from the contractor
- Final AIS Certificate ([TWDB-1106](#))



Once a CCFI has been conducted and approved and all the documents listed above have been submitted to the TWDB Project Engineer/Reviewer, the TWDB will issue a COA, allowing the release of retainage to the contractor. **Retainage must not be released or reduced below 5 percent without the consent of the TWDB.**

## Project Closeout Requirements



- COAs for all contracts issued.
- Final payment released.
- If Planning, Acquisition, and Design only (PAD) project, all portions of PAD phases have been completed and deliverables have been submitted.

Note: A Certificate of Approval (COA) is for a Construction Contract. There could be multiple COA's issued in a project. The Project Close-out is for the entire project.

## Project Records

It is in the Applicant's interest to keep an organized system of documentation for the project. Refer to Project Files and Construction Records ([WRD-017](#)) for guidance.

## Operation & Maintenance (O&M) Manuals

Preparation of an O&M manual is encouraged and is an eligible use of TWDB funds. We suggest the final O&M manual be submitted to the Applicant before construction is 85 percent complete so the manual will be available during start-up. For guidance, see O&M Manual Recommendations ([ED-006](#)).

## Operations

**The following are staffing guidelines for your project:**

- Hire and train operating personnel who will run the facility. They should be available during the later stages of construction and start-up and, if possible, they should have some input into the O&M manual.
- Operating personnel should visit the project during construction. Caution them to give no direction to the Contractor; however, their comments and suggestions should be forwarded to the Consulting Engineer for consideration.
- Provide operator training prior to the acceptance of the facility that includes review of the O&M manual and, if possible, on-site training by suppliers' representatives during start-up.
- Staffing should be in accordance with the O&M manual.

## TWDB Reporting

- **Status Reports:** The Applicant may be required to provide a status report as specified in the commitment resolution or as requested by the TWDB project engineer/reviewer.

## Post Construction

The TWDB has an interest in the continuing performance of the project components for the life of the loan.

Applicants should be aware that the Water Conservation Plan required by the loan should remain in effect for the life of the loan. Recipients of financial assistance of greater than \$500,000 are required to report annually on the implementation and status of the required water conservation program for a minimum of three years after the date of loan closing.

## Final Accounting/Monitoring

For loans under the DWSRF Program, the Financial Compliance Staff of the TWDB Finance Division is responsible for monitoring the Applicant's financial stability and compliance, from the first receipt of funds, until final repayment of the debt. Compliance staff is available by phone to assist all borrowers and can arrange a visit to the Applicant's location to assist in financial compliance matters.

Financial Compliance's goal is to provide the TWDB with reasonable assurance that all recipients continue with agreed upon terms of any debt agreement and that loan recipients

continue to have the ability to repay debt in a timely and agreed upon manner.

### **Loan Monitoring**

Financial Compliance monitors loan activities, including reviews of audited financial statements, of every entity in the TWDB's portfolio. In addition, Financial Compliance can arrange on-site assistance if appropriate.

### **Project Monitoring**

Project monitoring activities include reviews of final accountings, which are a summary of the sources and uses of funds usually provided at the completion of a project.

## **Attachment 1: AIS**

DWSRF assistance recipients are required to use iron and steel products that are produced in the United States for the construction, alteration, maintenance, or repair of all public water system projects. The Applicant may not use funds from other funding sources, including the Applicant's own funds, to pay for a non-compliant iron or steel product used in the project.

Information on AIS requirements, including compliance and waiver instructions, certification process, and necessary forms, can be found in the American Iron and Steel (AIS) Guidance for Clean Water & Drinking Water State Revolving Fund Projects ([TWDB-1106](#)).

Complete details of the federal requirements are available on the [EPA SRF website](#).

## **Attachment 2: Disadvantaged Business Enterprise**

The TWDB's DWSRF Program received federal funds from the EPA to provide financial assistance for water projects. Recipients of DWSRF **Equivalency** assistance, and their sub-recipients, are required to meet the EPA's Disadvantaged Business Enterprise (DBE) Program requirements.

Information on DBE requirements can be found on the [Disadvantaged Business Enterprise \(DBE\) Program](#) webpage or the Disadvantaged Business Enterprises for State Revolving Funds Project guidance ([TWDB-0210](#)).

## Appendix A: Forms and Guidance Manuals

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- Affirmative Steps Certification and Goals ([TWDB-0215](#))
- Affirmative Steps Solicitation Report ([TWDB-0216](#))
- Alternative Delivery Work Package Award Submittal Form ([TWDB-0400A](#))
- American Iron and Steel (AIS) Guidance for Clean Water & Drinking Water State Revolving Fund Projects ([TWDB-1106](#))
- Application Affidavit ([TWDB-0201](#))
- Application Filing and Authorized Representative Resolution ([TWDB-0201A](#))
- Application Resolution - Certificate of Secretary ([TWDB-0201B](#))
- Construction Award Submittal Form ([TWDB-0400](#))
- Contractor's Act of Assurance ([ED-103](#))
- Contractor's Act of Assurance Resolution ([ED-104](#))
- Disadvantaged Business Enterprises for State Revolving Fund Projects ([TWDB-0210](#))
- Engineering Feasibility Report Guidance for Drinking Water Projects ([TWDB-0555](#))
- Executed Construction Submittal Form ([TWDB-0500](#))
- Financial Assistance Application Checklist for Public Entities/Political Subdivisions ([TWDB-0148](#))
- Ground Water Affidavit Form ([TWDB-208B](#))
- Guidance on Davis-Bacon Wage Rate Requirements for State Revolving Fund Projects ([DB-0156](#))
- Guidelines for Inspector Qualifications ([ED-005](#))
- Loan/Grant Participation Summary ([TWDB-0373](#))
- O&M Manual Recommendations ([ED-006](#))
- Plans and Specifications Submittal Form ([TWDB-0300](#))
- Plans and Specifications Review Checklist ([Engineer Checklist](#))
- Project Files & Construction Records ([WRD-017](#))
- Prime Contractor Affirmative Steps Certification and Goals ([TWDB-0217](#))
- Planning Information Form for Drinking Water Projects ([WRD-253D](#))
- Project Budget Form ([TWDB-1201](#))
- Project Map Example ([TWDB-1800](#))
- Site Certificate Form ([ED-101](#))
- Surface Water Affidavit Form ([WRD-208A](#))
- Texas Water Development Board Supplemental Contract Conditions and Instructions for Construction Services for Projects Funded through the CWSRF and DWSRF Programs ([TWDB-0550](#)) ([TWDB-0551](#))
- Vendor Compliance with Reciprocity of Non-Resident Bidders form ([TWDB-0459](#))
- Water Conservation Plan Goals Table Form ([TWDB-1964](#))
- Water Conservation Plan Guidance Checklist ([TWDB-1968](#))
- Water Conservation Utility Profile Form (Retail) ([TWDB-1965R](#))
- Water Conservation Utility Profile Form (Wholesale) ([TWDB-1965W](#))



## Appendix B: Links and Resources

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### DWSRF Resources

The main DWSRF webpage, additional guidance manuals, and DWSRF-related resources can be found with the following links:

- [TWDB DWSRF Webpage](#)
- [DWSRF, 31 TAC 10 371](#)
- [TWDB Administrative Rules \(adopted per TAC\)](#)
- [Program Guidance and Manuals/Forms](#)
- [Green Project Reserve](#)
- [Disadvantaged Business Enterprise \(DBE\) Program](#)
- [Regional Water Project Development Teams](#)

### Application Resources

- [Financial Assistance Application](#)
- [Project Information Forms and Guidance](#)
- [Frequently Asked Questions on General Application Submittals](#)
- [TWDB Online Loan Application \(OLA\) Login](#)

### Water Planning Resources

- [State Water Plan](#)
- [Regional Water Planning Rules & Statutes](#)
- [Data, Apps and Maps/GIS](#)
- [Regional Water Planning](#)
- [Water Use Survey](#)
- [TWDB Water Supply and Infrastructure Staff](#)

### Water Conservation Resources

- [Water Conservation Plan and Reports TAC §363.15](#)
- [Water Loss Audits TAC §358.6](#)

### Financial Resources

- [Closing a TWDB Commitment](#)
- [Outlay Reports](#)