

REGION H

Water Planning Group

MEETING MATERIALS

February 5, 2020

San Jacinto River Authority

Common Region H Terms and Conversion Factors

List of Abbreviations

COA	Certificate of Adjudication
CRU	Collective Reporting Unit
DCP	Drought Contingency Plan
DFC	Desired Future Condition
DOR	Drought of Record
EA	Executive Administrator
EPA	Environmental Protection Agency
FWSD	Fresh Water Supply District
GAM	Groundwater Availability Model
GCD	Groundwater Conservation District
GMA	Groundwater Management Area
GPCD	Gallons Per Capita Per Day
GRP	Groundwater Reduction Plan
IPP	Initially Prepared Plan
MAG	Modeled Available Groundwater
MPC	Master Planned Community
MUD	Municipal Utility District
MWP	Major Water Provider
PDSI	Palmer Drought Severity Index
PWS	Public Water Supply
RHWPG	Region H Water Planning Group
ROR	Run-of-River
RWP	Regional Water Plan
RWPA	Regional Water Planning Area
RWPG	Regional Water Planning Group
SWIFT	State Water Implementation Fund for Texas
SWP	State Water Plan
TAC	Texas Administrative Code
TCEQ	Texas Commission on Environmental Quality
TPWD	Texas Parks and Wildlife Department
TWC	Texas Water Code
TWDB	Texas Water Development Board
UCM	Unified Costing Model
WAM	Water Availability Model
WCID	Water Control and Improvement District
WCP	Water Conservation Plan
WMS	Water Management Strategy
WRAP	Water Rights Analysis Package
WUD	Water Utility Database
WUG	Water User Group
WWP	Wholesale Water Provider

Water Measurements

1 acre-foot (AF) = 43,560 cubic feet = 325,851 gallons

1 acre-foot per year (ac-ft/yr) = 325,851 gallons per year = 893 gallons per day

1 gallon per minute (gpm) = 1,440 gallons per day = 1.6 ac-ft/yr

1 million gallons per day (mgd) = 1,000,000 gallons per day = 1120 ac-ft/yr

Region H Water Planning Group
10:00 AM Wednesday
February 5, 2020
San Jacinto River Authority Office
1577 Dam Site Rd, Conroe, Texas 77304

AGENDA

1. Call to order.
2. Introductions.
3. Review and approve minutes of January 8, 2020 meeting.
4. **Receive public comments on specific issues related to agenda items 5 through 12.** (Public comments limited to 3 minutes per speaker)
5. Discuss and elect officers and members of the Executive Committee of the Region H Water Planning Group (RHWPG).
6. Receive update from Consultant Team regarding the schedule and milestones for the development of the 2021 Region H RWP.
7. Receive update from Consultant Team regarding the schedule of public hearings.
8. Discuss and take action on approval of public hearing schedule for presentation of the 2021 Region H Initially Prepared Regional Water Plan and authorize San Jacinto River Authority and the Consultant Team to prepare and mail notices related to the public hearings.
9. Review comments received and revisions made to the draft Initially Prepared Plan.
10. Consider and adopt the IPP and approve the Consultant Team to prepare final copies of the revised Initially Prepared Plan and supporting documentation and submit to Texas Water Development Board no later than March 3, 2020.
11. Receive report regarding recent and upcoming activities related to communications and outreach efforts on behalf of the RHWPG.
12. Agency communications and general information.
13. **Receive public comments.** (Public comments limited to 3 minutes per speaker)
14. Next Meeting: June 3, 2020.
15. Adjourn.

Persons with disabilities who plan to attend this meeting and would like to request auxiliary aids or services are requested to contact Sonia Zamudio at (936) 588-3111 at least three business days prior to the meeting so that appropriate arrangements can be made.

Agenda Item 3

Review and approve minutes of January 8, 2020 meeting.

**REGION H WATER PLANNING GROUP
MINUTES OF REGULAR MEETING
JANUARY 8, 2020**

MEMBERS PRESENT: Gary Ashmore, David Bailey, John Bartos, Robert Bruner, Brad Brunett, James Comin, Mark Evans, Art Henson, Jace Houston, Robert Istre, Ivan Langford, Glenn Lord, Marvin Marcell, and Pudge Willcox.

DESIGNATED ALTERNATES: Alisa Max for John Blount, Veronica Osegueda for Yvonne Forrest, Ken Kramer for Carl Masterson, Zach Holland for James Morrison, Jun Chang for Jimmie Schindewolf, Christina Petersen for Mike Turco, and Jim Sims for Kevin Ward.

MEMBERS ABSENT: W.R. Baker, Carl Burch, Bob Hebert, William Teer.

NON-VOTING MEMBERS PRESENT: Lann Bookout, Kristen Lambrecht, and Rusty Ray.

1. CALL TO ORDER

The meeting was called to order at 10:00 a.m.

2. INTRODUCTIONS

There were no introductions.

3. REVIEW AND APPROVE MINUTES OF NOVEMBER 6, 2019 MEETING

Mr. Houston made a motion to approve the minutes of November 6, 2019. The motion was seconded by Mr. Chang and carried unanimously.

4. RECEIVE PUBLIC COMMENTS ON SPECIFIC ISSUES RELATED TO AGENDA ITEMS 5 THROUGH 10

Mr. Rob VanTil of Houston Stronger explained that the group is a coalition of civic groups, business associations, and active citizens from throughout the Texas Gulf Coast region dedicated to working with local, state, and federal officials to implement a comprehensive regional flood control plan that safeguards citizens and property with a goal to invest the resources required to help the entire region meet or exceed the 100-year flood plain standard. He stated that the organization is submitting comments/concerns regarding SB8 and relayed same to the group.

5. DISCUSS STATE FLOOD PLANNING PROCESS AND CONSIDER TAKING ACTION TO DIRECT THE CONSULTANT TEAM TO SUBMIT INPUT ON DRAFT RULES FOR STATE FLOOD PLANNING AND FUNDING ON BEHALF OF THE RHWPG

Mr. Taucer explained that the comment period for input on the draft rules for the flood financial assistance rules and Flood Intended Use Plan ends January 13, 2020, while comments related to the Regional and state flood planning rules and flood planning regions are due by February 3, 2020. It was expressed that formulating comments within the specified timeframe, as well as incorporating comments from all interest groups representing the Region H Water Planning Group (RHWPG) would be challenging, therefore it was determined that comments would not be submitted at this time.

6. RECEIVE UPDATE FROM CONSULTANT TEAM REGARDING THE SCHEDULE AND MILESTONES FOR THE DEVELOPMENT OF THE 2021 REGION H RWP

Mr. Taucer provided information related to the schedule and milestones for the development of the 2021 Region H Regional Water Plan by reviewing upcoming deadlines. He explained that the deadline for the Initial Prepared Regional Water Plan is in March to be followed by a series of public hearings related to same. It was discussed that several public hearings would be conducted at various locations such as Montgomery, Harris, and Walker Counties.

7. RECEIVE PRESENTATION FROM THE CONSULTANT TEAM REGARDING TWDB ANALYSIS OF SOCIOECONOMIC IMPACTS OF UNMET WATER NEEDS IN THE REGION H WATER PLANNING AREA

Mr. Taucer explained that evaluating the social and economic impacts of not meeting identified water needs is a required analysis in the regional water planning process. He stated that the Texas Water Development Board (TWDB) provided the study for the Region H Water Planning Group. Mr. Taucer provided a summary of the findings of the analysis. In short, the executive summary provided that based on projected water demands and existing water supplies, Region H identified water needs (potential shortages) that could occur within its regions under a repeat of the drought of record for six water use categories (irrigation, livestock, manufacturing, mining, municipal, and steam-electric power). The analysis explained that TWDB then estimated the annual socioeconomic impacts of those needs – if they are not met – for each water use category and as an aggregate for the region. It went on explain the software utilized and other economic analysis techniques used. The analysis concluded that it is estimated that not meeting the identified water needs in Region H would result in an annually combined lost income impact of approximately \$4.6 billion in 2020, increasing to \$13.8 billion in 2070. Further, in 2020, the region would lose approximately 29,000 jobs, and in 2070 job losses would increase to approximately 149,000 if anticipated needs are not mitigated. Further, all impact estimates are in year 2018 dollars and were calculated using a variety of data sources and tools including the use of a region-specific IMPLAN model, data from TWDB annual water use estimates, the U.S. Census Bureau, Texas Agricultural Statistics Service, and the Texas Municipal League.

8. RECEIVE PRESENTATION FROM THE CONSULTANT TEAM REGARDING THE DRAFT 2021 REGION H INITIALLY PREPARED REGIONAL WATER PLAN

Mr. Taucer provided a brief summary of each of the chapters of the draft Initially Prepared Plan (IPP). He stated that the Conservation Approach, MAG Peak Factors, Drought Management Analysis, and HB 807 Requirements were some key differences between previous IPP submissions and this one. Mr. Taucer stated that any comments submitted would be reviewed and discussed at the next meeting.

9. RECEIVE REPORT REGARDING RECENT AND UPCOMING ACTIVITIES RELATED TO COMMUNICATIONS AND OUTREACH EFFORTS ON BEHALF OF THE RHWPG

There were no upcoming activities to report.

10. AGENCY COMMUNICATIONS AND GENERAL INFORMATION

Mr. Bookout provided an update related to various TWDB program due dates. Mr. Rusty Ray provided information on behalf of the Texas State Soil and Water Conservation Board.

11. RECEIVE PUBLIC COMMENTS

There were no public comments.

12. NEXT MEETING: FEBRUARY 5, 2020

Mr. Evans announced that the next Region H Water Planning Group meeting would be February 5, 2020.

13. ADJOURN

Without objection, the meeting was adjourned at 11:23 a.m.

Agenda Item 5

Discuss and elect officers and members of the Executive Committee of the Region H Water Planning Group (RHWPG).

Agenda Item 5

Membership

Action:

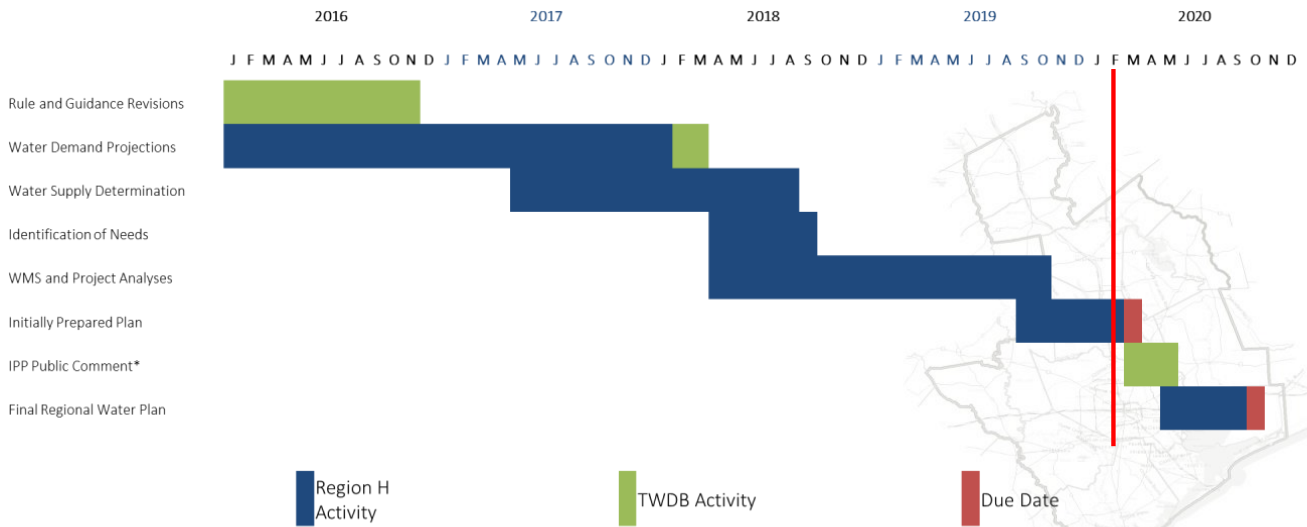
Elect officers and members of the Executive Committee of the Region H WPG.



Agenda Item 6

Receive update from Consultant Team regarding the schedule and milestones for the development of the 2021 Region H RWP.

Agenda Item 6 2021 RWP Schedule



*Region H accepts public comment throughout the planning cycle and at each RWPG and committee meeting.

Agenda Item 6 2021 RWP Schedule

Date	Scheduled Events/Tasks
02/2020	RWPG Meeting: Review / Approve Initially Prepared Plan
03/2020	DUE DATE: Initially Prepared Plan to TWDB
<i>PUBLIC PROCESS</i>	
04/2020	Public Hearings on IPP
06/2020	RWPG Meeting: Discuss comments to IPP
08/2020	RWPG Meeting: Discuss comments to IPP
09/2020	RWPG Meeting: Review / Approve Final Plan
10/2020	DUE DATE: Final Adopted Plan to TWDB

Agenda Item 6

2021 RWP Schedule



Infrastructure Finance Survey



Project Prioritization

2021 Regional Water Plans

Summary of Posting Requirements for Public Hearings for Initially Prepared Plans (IPP), Adoption of IPPs, and Adoption of Final Plans

See the document below for detailed posting information:

http://www.twdb.texas.gov/waterplanning/rwp/planningdocu/2021/doc/current_docs/admin_docs/public_notice_quick_ref.pdf

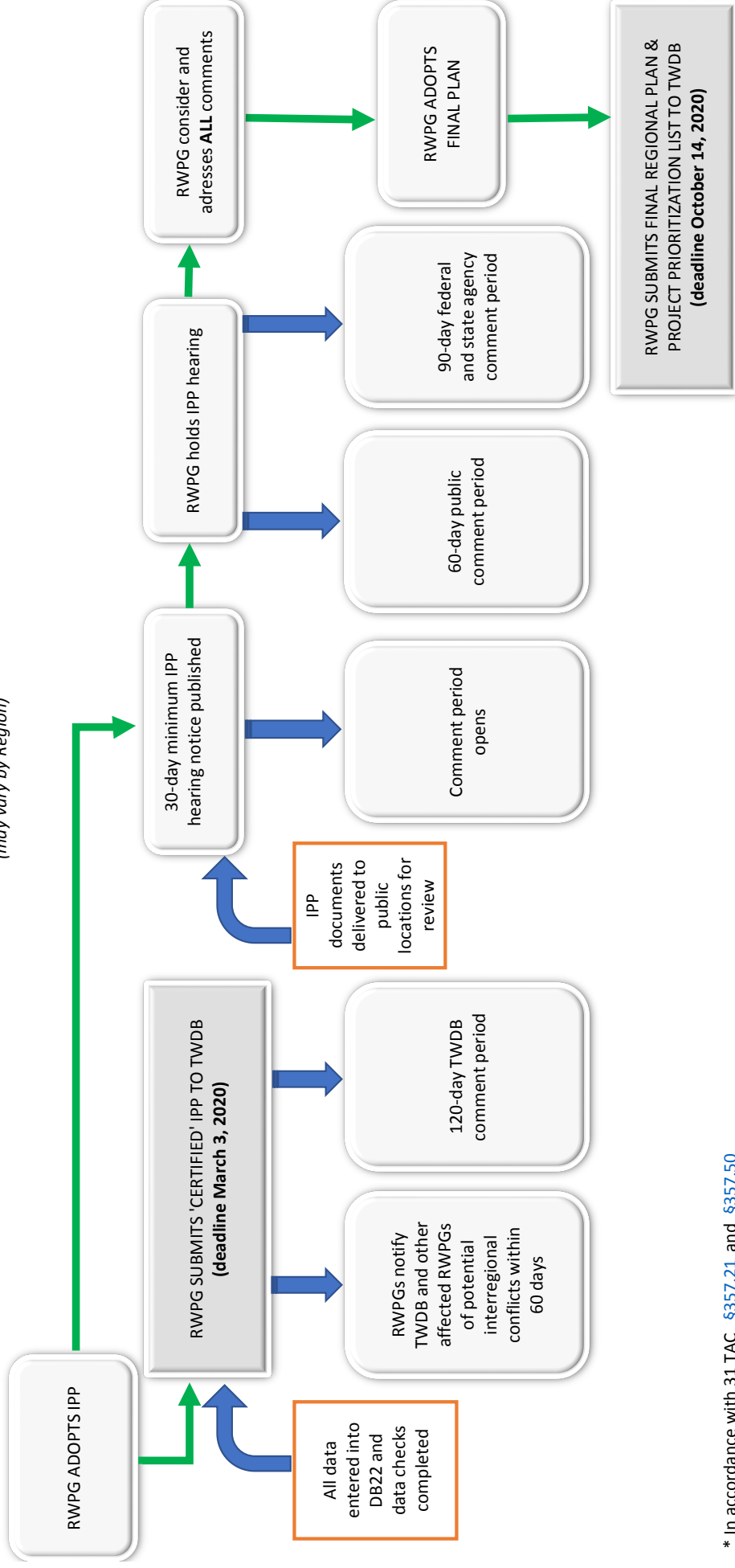
Posting Requirements	Public Hearing for IPP	Adoption of IPP and Adoption of Final Plan
Minimum Notice:		
72 hours prior the meeting		✓
30+ days prior the hearing	✓	
Notice Must Contain:		
Date, time, and location of the public meeting or hearing; summary of the proposed action to be taken; the name, telephone number, and address of a RWPG contact to whom questions or requests for additional information may be submitted	✓	✓
Information that the RWPG will accept written and oral comments at the meeting or hearing; how the public may submit written comments separately; and a specific deadline for submission of written public comments	✓	
Locations of IPPs available for public inspection	✓	
Comment Period:		
30 days prior to the hearing; until 60 days after hearing (public); until 90 days after hearing (federal and state agencies); TWDB issues comments within 120 days after IPP receipt	✓	
Entities Notified:		
All voting and non-voting RWPG members	✓	✓
Any person or entity who has requested notice of RWPG activities	✓	✓
Each RWPG where a recommended or alternative WMS being considered would be located	✓	
Each mayor of a municipality, located in whole or in part in the RWPA, with a population of 1,000 or more or which is a county seat	✓	
Each county judge of a county located in whole or in part in the RWPA	✓	
Each special or general law district or river authority with responsibility to manage or supply water in the RWPA (use list obtained from TCEQ)	✓	
Each Retail Public Utility, defined as a community water system, that serves any part of the RWPA or receives water from the RWPA (use list obtained from TCEQ)	✓	
Each holder of record of a water right for the use of surface water the diversion of which occurs in the RWPA (use list obtained from TCEQ)	✓	
Posting Venues:		
On the website of the RWPG or host Political Subdivision (must post notice and agenda). In lieu of posting the meeting notice and agenda on the website of the RWPG or host Political Subdivision, the notice and agenda may be provided, in writing, to the County Clerk of each county in the RWPA	✓	✓
Texas Secretary of State website	✓	✓
In the Texas Register	✓	
Publish in a newspaper of general circulation in each county located in whole or part in the RWPA	✓	

Posting Requirements	Public Hearing for IPP	Adoption of IPP and Adoption of Final Plan
Document Provision:		
Documents to be made available on the internet or in hard copy for public inspection prior to and following the meeting include: 1) meeting agenda, and 2) copies of all materials, reports, and/or plans presented or discussed at the meeting	✓	✓
Copies of the IPPs must be available for public inspection in: 1) at least one public library in each county, and 2) either the county courthouse's law library, the county clerk's office, or some other accessible place within the county courthouse of each county having land in the RWPA. According to the capabilities of the facility, the RWPG may provide copies electronically, on electronic media, through an internet web link, or in hard copy	✓	
OMA and PIA:		
Each RWPG and any committee or subcommittee of an RWPG are subject to Chapters 551 [Open Meetings Act] and 552 [Public Information Act], Government Code. A copy of all materials presented or discussed at an open meeting shall be made available for public inspection prior to and following the meetings and shall meet the additional notice requirements when specifically referenced as required under subsections	✓	✓

2021 Regional Water Plans

Initially Prepared Plan (IPP) and Final Plan Process Schematic*

(may vary by Region)



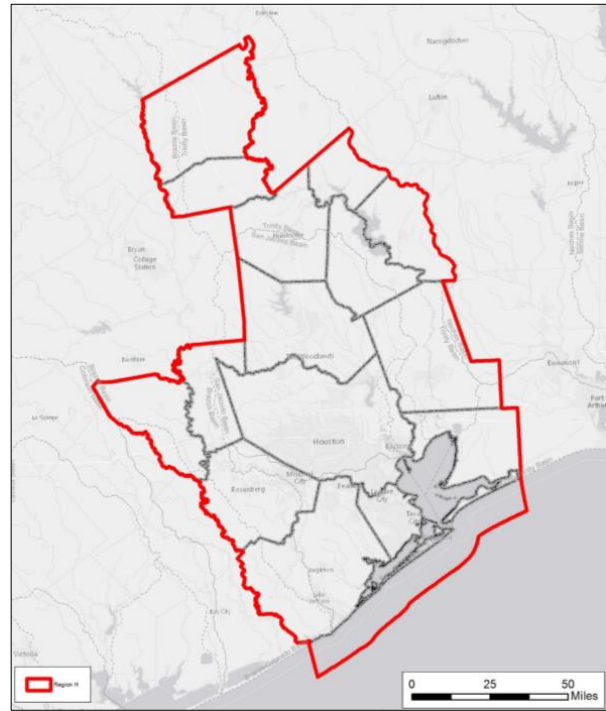
* In accordance with 31 TAC [§357.21](#) and [§357.50](#)

Agenda Item 7

Receive update from Consultant Team regarding the schedule of public hearings.

Agenda Item 7 Public Hearing Schedule

- Not RWPG meetings
- 30-day notice
- 60-day public comment
- 90-day agency comment
- All comments in RWP
- Multiple hearings



Agenda Item 8

Discuss and take action on approval of public hearing schedule for presentation of the 2021 Region H Initially Prepared Regional Water Plan and authorize San Jacinto River Authority and the Consultant Team to prepare and mail notices related to the public hearings.

Agenda Item 8 Hearing Notice

Action:

Approve public hearing schedule for presentation of the 2021 Region H Initially Prepared Regional Water Plan and authorize San Jacinto River Authority and the Consultant Team to prepare and mail notices related to the public hearings.



Agenda Item 9

Review comments received and revisions made to the draft
Initially Prepared Plan.

Agenda Item 9 Comments and Revisions



- Comments from RWPG
- Project sponsor request
- Consultant team review
- To be included in IPP

Agenda Item 9 Comments and Revisions

Additions

- Cedar Bayou Desalination Facility
- City of Houston Groundwater Exp.
- City of Houston GRP Transmission
- CWA Transmission Line
- Lower Brazos Industrial Reuse

Adjustments

- Brackish Groundwater Development
- City of Houston Reuse
- Neches-Trinity Basin Interconnect
- Northeast Water Purification Plant
- Southeast Transmission Line
- West Water Purification Plant

Agenda Item 9 Comments and Revisions

- Clarification on drought for multi-region basins
- Fine-tuning of recent contracts
- Clarify multi-region MWP summaries
- Interregional concerns – Alluvial groundwater



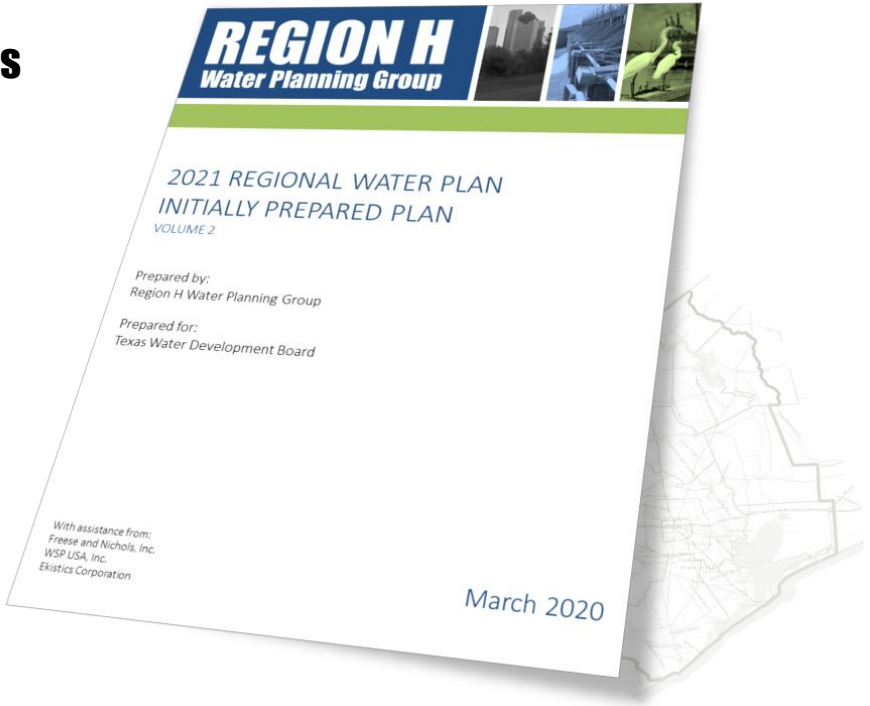
Source: Brazos G December 18, 2019 RWPG Meeting Information

Agenda Item 9 Comments and Revisions



Agenda Item 9 Comments and Revisions

- Volume 2
 - DB22 tables
 - MWP summaries
 - Appendix 5-A
 - Appendix 5-B
- Other changes
 - TWDB DB22
 - GIS



Agenda Item 9 Comments and Revisions



Printed and
Electronic IPP



Adoption, TOMA,
and PIA Statements



Potentially Feasible
WMS List



Project GIS Dataset



Supply Model Files



Inter-Regional
Supply Document

January 13, 2020

Dear Regional Water Planning Group Chairs:

Re: Identification of Potential Interregional Conflicts in the 2021 Regional Water Plans

As you are aware, the Initially Prepared Plans (IPP) are due to the Texas Water Development Board (TWDB) by March 3, 2020. The TWDB will review the IPPs and provide comments to each Regional Water Planning Group (RWPG) within 120 days. Upon receipt of the IPPs, TWDB staff will “close” the state water planning database (DB22) to further edits by RWPGs and utilize that DB22 data to conduct analyses to ensure that no water source is over-allocated.

In accordance with regional water planning rules (31 Texas Administrative Code (TAC) § 357.50(d)), any assertions of potential interregional conflicts made by RWPGs must be provided in writing to the TWDB Executive Administrator and the other affected RWPG within 60 days of the IPP deadline for submittal.

An interregional conflict exists when:

- more than one regional water plan includes the same source of water supply for identified and quantified recommended water management strategies (WMS) and there is insufficient water available to implement such WMSs; or
- in the instance of a recommended WMS proposed to be supplied from a different regional water planning area, the RWPG with the location of the strategy has studied the impacts of the recommended WMS on its economic, agricultural, and natural resources and demonstrated to the TWDB Board that there is a potential for a substantial adverse effect on the region as a result of those impacts.

An RWPG identifying a potential interregional conflict must submit the following information to the Executive Administrator by the deadline:

- Identification of the specific recommended WMS from another RWPG’s IPP.
- A statement of why the RWPG considers there to be an interregional conflict.
- Any other information available to the RWPG that is relevant to the Board’s decision.

The attached information sheet on interregional conflicts provides more information on the process. The information sheet can also be found on our website at:

Regional Water Planning Group Chairs

January 13, 2020

Page 2

[http://www.twdb.texas.gov/waterplanning/rwp/education/RWP Interregional Conflict.pdf](http://www.twdb.texas.gov/waterplanning/rwp/education/RWP%20Interregional%20Conflict.pdf)

You are also reminded that regional water planning rules (31 § TAC 357.50(b)) require that if your RWPG recommends a WMS to be supplied from a different regional water planning area, you must submit, concurrently to the Executive Administrator, a copy of the IPP (or a letter identifying the WMS along with an internet link to the IPP) to the RWPG associated with the location of the WMS.

I encourage all RWPGs to continue to communicate, share information, and work cooperatively to avoid potential interregional conflicts. Please contact your TWDB project manager if you need any information or technical assistance.

Sincerely,



Jessica Zuba
Deputy Executive Administrator
Water Supply and Infrastructure

Attachment: Interregional Conflict Information Sheet

c: Designated Political Subdivisions for RWPGs

Regional Water Planning in Texas: Interregional Conflict

What is an interregional conflict?

An interregional conflict exists when

- more than one regional water plan (RWP) includes the same source of water supply for identified and quantified recommended water management strategies (WMS) and there is insufficient water available to implement such WMSs; or
- in the instance of a recommended WMS proposed to be supplied from a different regional water planning area, the regional water planning group (RWPG) with the location of the strategy has studied the impacts of the recommended WMS on its economic, agricultural, and natural resources and demonstrated to the Texas Water Development Board (TWDB) Board members (Board) that there is a potential for a substantial adverse effect on the region as a result of those impacts.

What coordination should be undertaken prior to identification of a potential interregional conflict?

During the development of their Initially Prepared Plan (IPP)—draft plan—all RWPGs are encouraged by the TWDB to coordinate with neighboring regions and to proactively identify and work cooperatively to avoid potential interregional conflicts.

The TWDB's state water planning database, which contains data from the RWPs, will be a key tool in identifying potential conflicts associated with over-allocations of sources. The TWDB may use this database and information submitted by RWPGs on their methodologies to analyze water availability to identify areas that may warrant additional interregional coordination. If such areas are identified by the TWDB, certain RWPGs may specifically be asked by the TWDB to share information on technical approaches and data development with neighboring regions prior to submitting their IPP to the TWDB.

This sharing of information may be in the form of formal or informal coordination between the RWPG technical consultants, joint RWPG subcommittee meetings, or joint RWPG meetings, for example.

TWDB staff will conduct final water source over-allocation analyses as part of the agency's review of IPPs and final RWPs and notify RWPGs.

Additionally, RWPGs are encouraged to include tabulated quantified information associated with evaluations of feasible (including recommended) WMSs in one place within the RWP to aid RWPG members, other RWPGs, the public, and TWDB staff in understanding and reviewing RWPs.

How does an RWPG identify a potential interregional conflict?

Within 60 days of the submission of IPPs to the TWDB's Executive Administrator (EA), the RWPGs shall submit in writing to the EA and the other affected RWPG the identification of potential interregional conflicts. The RWPG identifying the potential conflict must provide the following information:

- Identification of the specific recommended WMS from another RWPG's IPP.
- A statement of why the RWPG considers there to be an interregional conflict.
- Any other information available to the RWPG that is relevant to the Board's decision.

The RWPGs shall seek to resolve conflicts with other RWPGs and shall promptly and actively participate in any TWDB sponsored efforts to resolve interregional conflicts.

What process does the TWDB follow when a potential interregional conflict has been identified?

Upon receiving an assertion of an interregional conflict, the EA will review the materials submitted

OCTOBER 2019

by the RWPG and take a recommendation on the potential conflict to the Board.

If the Board determines that an interregional conflict exists, the EA may use the following process to commence resolution of the conflict:

- Notify the affected RWPGs of the nature of the interregional conflict.
- Request affected RWPGs to appoint a representative or representatives authorized to negotiate on behalf of the RWPG and notify the EA in writing of the appointment.
- Request affected RWPGs' assistance in resolving the conflict.
- Negotiate resolutions of conflicts with RWPGs as determined by the EA.

If negotiated resolutions are successful and confirmed by the RWPG Chairs or designated representatives, the interregional conflict will be considered resolved.

In the event the negotiation is unsuccessful, the EA may take the following steps:

- Determine a proposed recommendation for resolution of the conflict.
- Provide notice of intent to hold a public hearing on proposed recommendations for resolution of the conflict.
- Hold a public hearing on the proposed recommendation for resolution of the conflict.
- Make a recommendation to the Board for resolution of the conflict.

The Board shall consider the EA's recommendation and any written statements by a designated representative for each affected RWPG and determine the resolution of the conflict. The Board's decision is final and not appealable. The EA shall notify affected RWPGs of the Board's decision and shall direct changes to the affected RWPGs.

What steps must an RWPG take following a Board decision on conflict resolution?

In accordance with Texas Water Code § 16.053(h)(6) and direction from the TWDB, each RWPG involved will be required to prepare revisions to their respective plans and hold, after notice, at least one public hearing at a central location readily accessible to the public within their respective regional water planning areas.

The RWPGs shall consider all public and Board comments; prepare, revise, and adopt their respective plans; and submit their plans to the Board for approval and inclusion in the state water plan.

What if an interregional conflict cannot be resolved before regional water plans are finalized?

In the event that the Board has not resolved an interregional conflict early enough to allow an involved RWPG to modify and adopt its final RWP by the statutory deadline, all RWPGs involved in the conflict shall proceed with adoption of their RWP by excluding the relevant recommended WMS and all language relevant to the conflict.

Each RWPG involved must also add language to the RWP explaining the unresolved interregional conflict and acknowledging that the RWPG may be required to revise or amend its RWP in accordance with a negotiated or Board resolution of an interregional conflict.

Additional Resources

31 Texas Administrative Code, Regional Water Planning Rules, §357.10 (16), §357.50 (d), (e), and (f) (5), and §357.62:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=31&pt=10&ch=357&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=31&pt=10&ch=357&rl=Y)

Texas Water Code, §16.053 (h) (5), (6), and (7) (A):
<https://statutes.capitol.texas.gov/Docs/WA/htm/WA.16.htm#16.053>

For additional information, please call 512-936-2387 or visit

www.twdb.texas.gov/waterplanning/rwp/index.asp.

Agenda Item 10

Consider and adopt the IPP and approve the Consultant Team to prepare final copies of the revised Initially Prepared Plan and supporting documentation and submit to Texas Water Development Board no later than March 3, 2020.

Agenda Item 10

IPP Adoption

Action:

Move to adopt and certify the Initially Prepared Plan as amended, approve the Consultant Team to prepare final copies of the revised Initially Prepared Plan and supporting documentation, and submit to Texas Water Development Board no later than March 3, 2020.



Agenda Item 12

Agency communications and general information

Texas Water Development Board

P.O. Box 13231, 1700 N. Congress Ave.
Austin, TX 78711-3231, www.twdb.texas.gov
Phone (512) 463-7847, Fax (512) 475-2053

January 9, 2020

Mr. Mark Evans
Chair, Region H Water Planning Group
c/o San Jacinto River Authority
P.O. Box 329,
Conroe, Texas 77305

RE: Regional Water Planning Contract with the San Jacinto River Authority; Contract No. 1548301836, Task 5A Notice to Proceed Request

Dear Mr. Evans:

Texas Water Development Board (TWDB) staff has reviewed the Region H request dated December 17, 2019 regarding a Notice to Proceed for remaining work for plan development. The request stated that additional funding is intended to expand on efforts and project categories currently in the existing scope of work, including Water User Group Level Reuse and Other Facility and Storage Projects categories (Task 5A, subtasks 21 l and p). The other efforts requested are included in Task 5A under subtasks 16, 18, and 20.

Since all additional work appears to be eligible under currently scoped subtasks, the TWDB approves the release of additional funds for the aforementioned subtasks, as referenced in Amendment 4 of Contract No. 1548301836.

This letter serves as a Notice to Proceed in the amount of \$118,395 for Task 5A. All other terms of the contract shall remain in full force and effect.

If you have any questions, please do not hesitate to contact Lann Bookout of our Regional Water Planning staff, at 512-936-9439 or via email at lann.bookout@twdb.texas.gov.

Sincerely,



Jessica Zuba
Deputy Executive Administrator
Water Supply and Infrastructure

c: Jace Houston, SJRA
Angela Wallace, TWDB

Our Mission

To provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas

Board Members

Peter M. Lake, Chairman | Kathleen Jackson, Board Member | Brooke T. Paup, Board Member
Jeff Walker, Executive Administrator

January 28, 2020

Dear Designated Political Subdivisions for Regional Water Planning Groups:

The Texas Water Development Board (TWDB) staff is beginning to evaluate funding for the sixth cycle (2022-2026) of regional water planning. TWDB is requesting your input on the regional water planning grant funding amounts. At the start of each 5-year planning cycle, regional water planning grant allocations are determined using a formula funding tool that allocates grant funds amongst the 16 regions based on the estimated workload, as informed by previous grant contract budgets and workloads. It has been four planning cycles since the development of the first state water plan and a funding allocation approach. Changes to the process have been made by the legislature and through rule revisions to warrant examination of the funding amounts and allocation formula.

We are seeking information regarding the extent to which the regional water planning grants are sufficient to meet the current regional planning requirements. Importantly, the question is focused on *the real net change in the cost* of developing plans from the first planning cycle (i.e., the *net, actual changes* in work and costs required); it is not simply a question about how much would have been an ideal funding amount if we were starting anew today.

Of particular interest are your estimates of the cost of meeting new, expanded, or clarified planning requirements that have been implemented after the first cycle of regional planning.

One way to approach this is to ask:

- 1) What additional effort is needed to properly address new planning requirements that have been added to the scope of planning, including requirements from Senate Bill 1511 (infeasible strategy assessments, impediments to implementation) and House Bill 807 (setting gallons per capita daily targets, conducting aquifer storage and recovery assessments, assessing regionalization, and determining incompatible drought responses) etc.
- 2) What factors have increased the workload of developing regional water plans including unexpected ones?
- 3) Importantly, also take into consideration and acknowledge, as appropriate, actions by the legislature or TWDB or others *that may have reduced* the workload of certain

Our Mission

To provide leadership, information, education, and support for planning, financial assistance, and outreach for the conservation and responsible development of water for Texas

Board Members

Peter M. Lake, Chairman | Kathleen Jackson, Board Member | Brooke T. Paup, Board Member

Jeff Walker, Executive Administrator

activities related to developing the regional water plans (e.g., removal of the requirement to report data for every wholesale water provider in the planning area.)

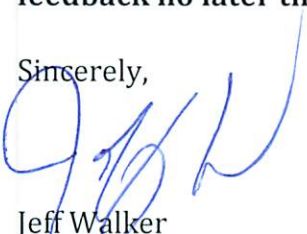
These questions may be considered/organized on a task-for-task basis or other means and should also include an estimate of how much (in dollars or +/- percent) the cost changed, and a general explanation of why you think it increased (or decreased) by that amount.

Whereas efficiencies in the process and work have no doubt been developed and evolved over each planning cycle, it is acknowledged that there is a baseline level of work required to collect the information needed to produce a regional water plan. Therefore, for scope of work tasks that are entirely new since the first planning cycle and/or that you consider funding to be inadequate overall, please provide an estimate of a reasonable increase for each specific task and associated justification.

Please note that your response should remain within the general bounds and framework of the existing grant contracts and that grant funding for labor costs associated with Political Subdivision staff remains prohibited by Texas Administrative Code rules.

Thank you for your participation in the regional water planning process and consideration of this request. Please provide any feedback on this request to Sarah Backhouse, Manager of Regional Water Planning at Sarah.Backhouse@twdb.texas.gov. **We request your feedback no later than February 12, 2020.**

Sincerely,



Jeff Walker
Executive Administrator

cc: RWPG Chairs
RWPG Prime Technical Consultants



Best Management Practices Guide for Regional Water Planning Group Designated Political Subdivisions

Fifth Cycle of Regional Water Planning

Water Use, Projections, & Planning Division

Regional Water Planning

**Maintained and published by the Texas
Water Development Board on behalf of
Regional Water Planning Group
administrators**

Latest updates to this document as of January 23,
2020 are highlighted in yellow.

January 2020

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1 Introduction

The purpose of this guide is to provide an orientation to the responsibilities of acting as a regional water planning group's (RWPG) designated political subdivision and/or administrative agent, and to provide suggestions on some of the best administrative practices that may be used by a political subdivision in the execution of their duties on behalf of the RWPG. This guide has been distributed to the 16 RWPG political subdivisions for review and input.

Each five-year planning cycle, an RWPG must designate a political subdivision to act as a representative of the RWPG and apply for and receive financial assistance from the Texas Water Development Board (TWDB) to develop a regional water plan or revision pursuant to 31 Texas Administrative Code (TAC) §355, Subchapter C. Examples of designated political subdivisions include river authorities, municipalities, or councils of governments.

The political subdivision enters into a primary contract with the TWDB on behalf of the RWPG and administers the contract throughout the planning cycle. The political subdivision also executes and administers a subcontract with the primary technical consultant on behalf of the RWPG that mirrors the requirements laid out in the primary TWDB contract. Political subdivisions may expend a portion of these funds for direct costs related to public notice and other administrative costs. In addition, some planning groups also authorize their designated political subdivision to raise local funds from the region's stakeholders in order to cover expenses not eligible for reimbursement through the TWDB's grant funds.

In the capacity of serving as the RWPG's administrative agent, the political subdivision (or other identified entity) organizes the RWPG meeting locations, public notices, agendas, meeting presentations, handouts, and meeting minutes.

Political subdivisions may familiarize themselves with and utilize the RWPG administrative resources located on the TWDB's Regional Water Planning (RWP) Fifth Cycle Working Documents webpage. Hyperlinks to useful TWDB webpages and documents mentioned throughout this document are found in Section 6.

2 TWDB requirements¹

RWPGs and their designated political subdivisions must adhere to the TWDB's rules on regional water planning and regional water planning grants, as well as requirements in the TWDB grant contracts. This section highlights the specific responsibilities within the TWDB's rules and notable contract requirements that are directly applicable to the political subdivisions.

2.1 Political subdivision and administrator responsibilities from 31 TAC §355 and §357

1. Obtain designation by the RWPG as the political subdivision in order to be eligible to apply for, receive, and administer TWDB funds on behalf of the region (§357.12(a)(4); §355.90(b)(5)).
 - This process must occur before or at the beginning of each new five-year planning cycle.

¹ See the TWDB water planning rules pamphlet (Section 6) for full rule requirements.

- The RWPG must provide a written designation to the TWDB Executive Administrator (EA) naming their authorized political subdivision.
2. Apply for planning grant funds through a formal Request for Application (RFA) process (§355.91).
 - Public notice requirements for this application are subject to §357.21(e).
 - Utilize the most up-to-date online “Regional Water Planning Public Notification Quick-Reference” document that is located on the TWDB’s RWP Fifth Cycle Working Documents webpage.
 - The RFA Process typically occurs twice during the planning cycle.
 - The TWDB will provide a special webpage for application instructions and supporting documentation during each RFA process.
 3. Execute contracts with the TWDB by the specified deadline (§355.93), including the following:
 - The initial TWDB/political subdivision contract that will contain initially committed grant funds.
 - All TWDB/political subdivision contract amendments that are issued during the planning cycle.
 - All political subdivision/consultant subcontracts and consultant sub-subcontracts must also be updated to reflect changes or additions to the TWDB/political subdivision contract and submitted to the TWDB for acceptance.
 4. Political subdivisions must adhere to the limitations of use of contractual funds that are identified in the expense budgets footnotes and elsewhere in these contracts (§355.92).
 5. Procure technical consultants at the beginning of each planning cycle in accordance with §355.92(c) and submit the required Certification of Procurement (COP) form to the TWDB.
 6. Submit either RWP advance or reimbursement payment requests with all necessary backup documentation to the TWDB on a quarterly basis as stated in the TWDB contract. These funds are utilized to reimburse eligible political subdivision, consultant, and voting member expenses.
 7. Ensure all meetings of the RWPG, committees, and subcommittees are posted and held in accordance with the Texas Open Meetings Act and additional Chapter 357 public notice requirements for specific RWPG activities (§357.21).
 - Post notices, meeting agendas, and materials in accordance with §357.21. An Excel file tool has been provided on the TWDB’s RWP Fifth Cycle Working Documents webpage, under ‘Administrative Documents’, to help calculate when various notices and/or documentation should be provided for a RWPG meeting and RWPG activities.
 - Maintain and use contact lists (depending on the activity) for voting and non-voting RWPG members, any person or entity who has requested notice of RWPG activities, county clerks within the regional water planning area (RWPA) (if notices are not posted on RWPG host website), each mayor of a municipality that is located in whole or in part of the RWPA with a population of 1,000 or more or which is a county seat, and each county judge of a country located in whole or in part of the RWPA.
 - Notification lists for surface water rights holders, public water utilities, and general/special law districts and river authorities may be obtained from the TWDB’s RWP Fifth Cycle Working Documents webpage.
 8. Maintain RWPG membership contact information and provide membership lists to the TWDB (§357.11(f)). Since the vast majority of planning group communications occur via email, it is recommended that the political subdivision request updated email address information from planning group members at every RWPG meeting. This could be successfully accomplished by utilizing a sign-in sheet for RWPG members prefilled with their name and current email

addresses, with an adjacent space to write updated email addresses. Full contact information may be solicited on a less frequent schedule.

9. Provide copies of updated bylaws to the TWDB (§357.11(c)). It is recommended that the planning groups review and/or update their bylaws at least at the beginning of each planning cycle in order to account for legislative or other changes that may have occurred since the previous bylaws update.
10. Follow draft and final regional water plan (RWP) submittal requirements, including holding a public hearing on the initially prepared plan (IPP) (§357.50) (see the “Regional Water Planning Public Notification Quick Reference Document”).

2.2 Notable contract requirements

At the beginning of each planning cycle, the TWDB will present a regional water planning contracts webinar as a refresher on important contract requirements. The current webinar is available as an on-demand video on the TWDB’s RWP 5th Cycle Working Documents webpage. Some of the important items covered in the webinar include the following:

1. All contract-related question emails should be sent to the TWDB’s Contracts Department (contracts@twdb.texas.gov) with the appropriate regional water planning project manager copied on the email.
2. All subcontracts must be submitted to the TWDB for review and acceptance prior to submitting invoices for reimbursement. Complete subcontracting guidelines are available on the TWDB website.
3. Consultant procurement and the COP form.
 - Every contractor and subcontractor must be listed on the COP.
 - COP responsibility resides with the entity that procures the subcontract.
 - COP forms must be submitted to the TWDB for review and acceptance prior to submitting subcontracts for review and acceptance, and invoices for reimbursement.
4. Payment request submittals, including the associated but separate task progress reports, are due on a minimum quarterly basis as part of the payment request as specified in the TWDB/political subdivision contract.
 - Advance/reimbursement request packets should be emailed to invoice@twdb.texas.gov and include copies of invoices, receipts, and statements. Provide details of travel information and proof of payment to subcontractors.
 - The TWDB will provide a payment request checklist to the political subdivision (a checklist template is available online).
 - If the political subdivision chose the “advance” method of distributing RWP funds, then these advances must be deposited into a separate interest bearing account and the “interest earned” amount must be recorded on the payment request checklist.
 - Advance requests may be submitted once 90 percent of the previous advance has been expensed.
 - Advances are distributed on a 20 percent maximum of total committed funds basis.
5. Adjustments may be applied to the TWDB/political subdivision contract task or expense budget, in line with the following contract requirements:
 - If the requested adjustment is less than 35 percent of either a task’s total budget or expense line amount, there is flexibility to do so informally by notifying the TWDB of this change in writing via email to contracts@twdb.texas.gov and the region’s project manager.

- If the requested adjustment exceeds the 35 percent threshold of either a task's total budget or expense line amount, the political subdivision must submit a request for a Budget Memorandum and obtain approval from the TWDB. The request must be approved by the RWPG at a regular RWPG meeting provides approval to the political subdivision to request adjustments to the TWDB/political subdivision contract task or expense budgets, then the political subdivision may send the request by email to contracts@twdb.texas.gov and the region's project manager. The request should include a written documentation of why the revision is necessary, the date the planning group approved the budget memorandum request, and a table showing the current budget and the proposed revision (contact the regional project manager, or contracts@twdb.texas.gov for a budget memorandum template).
- Please note that the TWDB considers subcontractor budgets as "working budgets" only and if revisions are needed, the political subdivision simply needs to send an email request to the TWDB contracts department providing the revised subcontract budget information. It is the discretion of the political subdivision whether subcontracts are amended following budget memorandums. Additionally, subcontracts should reflect the estimated total study cost allocated for tasks, as applicable; however, contractors are responsible for managing expenses within the committed amount. Clauses may be added to subcontracts limiting reimbursement up to committed amounts.

Please refer to the online TWDB contracts webinar for additional contract information.

It is also important to note that some task budgets may require scoping and a written "Notice to Proceed" prior to commencing reimbursable work, as noted in the contract.

3 Recommended Best Practices for Political Subdivisions

This section includes recommendations and information for political subdivisions related to communication, new member orientations, administrative costs, and web posting and newsletter distribution.

3.1 Communication with RWPG members

1. Request updated planning group member contact information at each RWPG meeting.
2. Forward all TWDB communications and data provided in emails to planning group members (the TWDB provides information to chairs, political subdivisions, and technical consultants) with the intent of creating more interest from the members and facilitating their engagement in the planning process by receiving these informational emails directly from the planning group's representative.
3. Forward meeting notices and agendas to neighboring planning groups via their liaisons. Liaisons should then pass along this information to their respective RWPGs.
4. During development of the draft RWPG meeting agenda, it is recommended that the political subdivision solicit comments from planning group chair and/or officers, consultants, and the TWDB project manager in order to ensure that the final agenda will meet necessary action item requirements.
 - Include a standing agenda item for updates from groundwater management area representatives, liaisons, and other non-voting members.
 - Include a standing agenda item to receive public input. RWPGs may want to consider the practice of handling items on the agenda so that members of the public have an opportunity to address the RWPG on an item before a vote is taken.

- Encourage the technical consultant to provide a planning process recap and next steps during each full RWPG meeting.
5. The Excel template on the TWDB's RWP Fifth Cycle Working Documents webpage may be used for calculating public notice deadlines for various types of meeting requirements, comment period requirements, and for scheduling political subdivision tasks prior to an RWPG meeting.
 6. Encourage technical consultants to provide meeting materials to members as far in advance as possible to allow for additional time for members to review and digest the material and make informed decisions.
 - It is recommended for this to occur at least one week before the meeting via email attachments or email links to the RWPG's website.
 7. Communicate with the membership to encourage meeting materials to be reviewed prior the scheduled meetings.
 8. Encourage appropriate time for agenda item discussion.
 9. Survey RWPG members occasionally to determine how frequently they feel the group should meet, within budget limitations, in order to effectively develop their regional water plan.
 10. Survey RWPG members occasionally to determine the preferred location, acknowledging facility constraints, to hold planning group meetings.
 11. Ensure that the RWPG's required website is kept up to date and that members are able to successfully navigate the website and access documents. Some RWPGs have the political subdivision directly perform the ongoing maintenance of the planning group's website while others delegate the maintenance to the consultants.
 12. Ensure that planning group members are aware of how they can access the groups bylaws.
 13. Ensure that planning group members are aware of the RWPG's terms of office and process for selecting new members. Note that groundwater management area representation should be appointed in accordance with the [2011 TWDB letter to RWPGs](#) regarding Senate Bill 660. This information will be reviewed following each Legislative Session to determine if there are new districts. Table 1 in the letter is correct as of 8/16/18.
 14. Encourage all planning group members to attend committee meetings to assist with informed decision making.
 15. Facilitate interregional cooperation as appropriate.

3.2 New member orientation

Planning groups have different methods of orienting new members. Many political subdivisions either call or hold meetings with new members to provide such orientations. Orientations may occur during planning group meetings, or held separately for the new members. Examples of topics covered by political subdivisions to new members include an overview of the state and regional water planning process, planning group history, open meetings requirements, groundwater and surface water law, and environmental flows. Examples of documents provided to new members include a copy of the region's bylaws, previous meeting packages or presentations, a copy of the current plan or plan summary (available online), a list of members and consultants, a map of the region, and the TWDB regional water planning rules pamphlet.

A new member guide under development by the TWDB and will include information on the regional water planning process, key roles and responsibilities, funding the planning process, required planning considerations, plan contents, and TWDB resources. The TWDB website includes a dedicated new RWPG member page, and additionally, TWDB staff is available to present regional water planning 101 as requested.

3.3 Paying for administrative costs

The TWDB RWP contracts contain Task 10 funding to cover eligible RWPG public participation activities as defined in the TWDB/political subdivision contracts. Eligible expenses are direct non-labor administrative costs as well as certain travel costs for voting members to attend RWPG meetings, if approved under §355.92(b)(1). These activities and the associated funds are reimbursable to the political subdivision and the technical consultants. As an example of the amount of time a political subdivision spends in their RWPG administrative role, Region N's political subdivision estimates 240 hours and \$60,000 per year was required to cover their administrative expenses for the previous 4th cycle of planning and this cost was paid for 100% with local funds.

For planning group administrative costs that are not eligible for reimbursement with the TWDB's funds, some RWPG's (A, C, I, O, M, N, L) have obtained additional local funds that may be necessary to support the administrative work performed by the political subdivisions.

Examples of how political subdivisions account for ineligible administrative expenses include the following:

- Some political subdivisions pass through all Task 10 funds for eligible reimbursable activities to the consultant, and the political subdivision volunteers all of its time and resources that are necessary to sufficiently perform contract administrative duties that are not eligible reimbursable activities.
- Some political subdivisions pass through all Task 10 funds for eligible reimbursable activities to the consultant and the political subdivision is authorized by the planning group to solicit local funds from RWPA stakeholders to cover their ineligible administrative expenses.
- Some political subdivisions split Task 10 funds for eligible reimbursable activities with the technical consultants, and the political subdivision is also authorized by the planning group to solicit additional local funds to cover the remaining ineligible administrative activities.
- Historically, most voting members have not requested to be reimbursed with RWP funds for their meeting travel expenses. Some of these members are reimbursed by their employers while others cover these costs themselves. Reimbursement of travel expenses to an RWPG member requires RWPG approval under §355.92(b)(1) and must meet the specifications listed in the contract expense budget.

3.4 Web posting and newsletter distribution

New for the Fifth Cycle of RWP is the requirement that all RWPGs have either an external website or an RWPG-dedicated webpage on the RWPG administrator's website. The required RWPG external website content includes RWPG meeting notices, agendas, materials, and plan information. Materials could include presentations and handouts, and meeting minutes can also be posted on the RWPG website. The RWPG could post additional links to relevant materials available on the TWDB website to save the planning group time and storage space, such as links to the current adopted regional water plans, the 2017 State Water Plan, Interactive State Water Plan, current planning cycle information, and water planning data.

Also new for the Fifth Cycle of RWP is the eligibility of expenses incurred in the development, production, and distribution of an RWPG newsletter. The maximum amount of eligible expenses that can be reimbursed as stated in the contract is up to 3% of Task 10 funds, not to exceed \$5,000.00.

4 Open Meetings Act and Public Information Act

Effective September 1, 2017, SB 347, 85th Legislative Session, requires that, in addition to RWPG meetings and hearings, RWPG committee and subcommittee meetings are subject to the Texas Government Code (Gov't Code) §§ 551 and 552 (Texas Open Meetings Act and the Public Information Act).

Although the TWDB is not in a position to provide legal advice to the RWPGs, an interpretation of Texas Water Code (TWC) §16.053(h)(12) (as added by SB 347) is described below. RWPG members may wish to consult with attorneys for their organizations to analyze the legislation themselves, rather than solely relying on the TWDB's interpretation. Members who would like a more in-depth understanding of the Open Meetings Act or Public Information Act will find the Attorney General's (AG's) handbooks on the Open Meetings Act and Public Information Act helpful resources:

- Open Meetings Act Handbook:
https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings_hb.pdf
- Public Information Act Handbook:
https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/publicinfo_hb.pdf

4.1 Training requirements

It is the TWDB's interpretation of TWC §16.053(h)(12) (as added by SB 347) that RWPG members must complete the Open Meetings Act training required by Texas Government Code (Gov't Code) §551.005 and the Public Information Act training required by Gov't Code §552.012. TWC §16.053(h)(12) states that the RWPGs themselves, not just their meetings, are "subject to" the Open Meetings Act. Gov't Code §551.005 applies to all elected or appointed officials who are members of a governmental body "subject to" the Open Meetings Act. Furthermore, TWC §16.053(h)(12) states that the RWPGs are subject to the Public Information Act. The Public Information Act applies to all elected or appointed officials who are members of a multimember governmental body. The AG's Public Information Act Handbook further explains that Public Information Act requirements apply to all governmental bodies "subject to" the Public Information Act.

The Open Meetings Act and Public Information Act both state that completing the training in one capacity satisfies the requirement in all capacities, so RWPG members who have completed these trainings as part of their outside employment with cities, water supply corporations receiving TWDB funds, groundwater conservation districts, etc., would not need to complete them again as RWPG members.

Additionally, for the Public Information Act training, the members of a governmental body may appoint a "public information coordinator" to attend training in their place so long as the designee is the person primarily responsible for the processing of open records requests for the governmental body.

It is the TWDB's interpretation that these training requirements only apply to voting members of the RWPGs and their alternates. However, the RWPGs may wish to require all members of the RWPGs and their alternates to attend or watch the training. The RWPGs may wish to consult with the attorneys for their organizations to discuss this question further. Each RWPG may have different rules and customs regarding non-voting members. Any individual who wishes to take the training may do so.

Because SB 347 becomes effective on September 1, 2017, it is the TWDB's interpretation that RWPG members have 90 days from that date to complete the Open Meetings Act and Public Information Act

trainings. Individuals may comply with the requirements by watching training videos on the AG's website and printing completion certificates:

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/open-meetings-act-training>

<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/public-information-act-training>

RWPGs shall maintain and make available for public inspection the record of its members' completion of training.

4.2 Meeting minutes and committee quorums

It is the TWDB's interpretation of TWC §16.053(h)(12) (as added by SB 347) that the RWPGs are required to either keep minutes or make a recording of each open meeting of the RWPG or its committees and subcommittees, in accordance with Gov't Code §551.021. According to Gov't Code §551.022, the minutes or recordings are public records, and the RWPGs would be required to keep these minutes or recordings available for public inspection. It does not appear that the Open Meetings Act requires the RWPGs to post these minutes or recordings anywhere; they are simply required to keep them and make them available for inspection if requested. The Open Meetings Act does not require minutes or recordings of closed (executive) sessions, but rather requires a certified agenda of those meetings. Please keep in mind that the regional water planning contracts also require contractors to "develop, provide, and archive minutes."

With regards to whether committees and subcommittees must keep minutes, note that meetings of less than a quorum of a governmental body are not subject to the Open Meetings Act. However, when a governmental body appoints a committee that includes less than a quorum of the parent body and grants it authority to supervise or control public business or public policy, the committee may itself be a governmental body subject to the Open Meetings Act. In other words, if a committee or subcommittee meets and this group constitutes less than a quorum of the RWPG as a whole, the meeting could still be subject to the Open Meetings Act if the committee or subcommittee has authority to supervise or control public business or public policy. If that is the case, a quorum is determined based on a quorum of the committee or subcommittee, not a quorum of the RWPG as a whole.

Furthermore, TWC §16.053(h)(12) (as added by SB 347) states that each RWPG and any committee or subcommittee of a RWPG are subject to the Open Meetings Act. Therefore, quorums should be calculated based on the membership of the committee or subcommittee, **not the RWPG as a whole**.

For example, an RWPG has 30 members and a committee has 5 members. The committee has control over the public business or public policy of the RWPG. For a deliberation of committee to constitute a "meeting" under the Open Meetings Act, a quorum of 3 people must be present (not the RWPG quorum of 16).

Please see Section V(D) of the AG's Open Meetings Act Handbook for more information on this subject.

4.3 Additional guidance

The following information is based on questions TWDB staff has received.

1. Would a conference call (generally to discuss agenda setting) with Executive Committee members be subject to the Open Meetings Act?

- According to Gov't Code §551.125, an RWPG may not conduct meetings subject to the Open Meetings Act by telephone conference unless a statute expressly authorizes it to do so. The TWDB knows of no statute that would expressly authorize a RWPG to meet by telephone or conference. The RWPGs may wish to consult with attorneys for their organizations on this question. If the call constitutes a "meeting" subject to the Open Meetings Act, it can only be held by telephone conference call in limited circumstances (such as an emergency) and subject to procedures that may include special requirements for notice, record-keeping, and two-way communication between meeting locations. Video conference calls are addressed in a different section of the Open Meetings Act than telephone conference calls. These requirements are included in §551.127 and allow video conference calls in certain situations. Please see Section VI(G) of the AG's Open Meetings Act Handbook for more information on the issue of both telephone and video conference calls, including references to cases and AG Opinions that may be helpful.
 - A call would be a meeting subject to the Open Meetings Act if it meets the definition of "meeting" in Gov't Code §551.001(4). This analysis also requires an analysis of the definition of "deliberation" in Gov't Code §551.001(2). Please see Section VI of the AG's Open Meetings Act Handbook and the cases and AG Opinions cited in that section for more information on this issue. Section VI(E) provides important information on "walking quorums," which are serial meetings of less than a quorum.
2. Is having a pre-meeting "huddle" with Executive Committee members to discuss how the meeting will be run subject to the Open Meetings Act?
- A pre-meeting "huddle" with Executive Committee members to discuss how the meeting will be run is subject to the Open Meetings Act if it meets the definition of "meeting" in Gov't Code §551.001(4). This analysis also requires an analysis of the definition of "deliberation" in Gov't Code §551.001(2). Please see Section VI of the AG's Open Meetings Act Handbook and the cases and AG Opinions cited in that section for more information in this issue. Section VI(E) provides important information on "walking quorums," which are serial meetings of less than a quorum.
3. Are email discussions subject to the Open Meetings Act, if all member emails are visible in the "to" or "cc" fields?
- An email discussion is subject to the Open Meetings Act if it meets the definition of "meeting" in Gov't Code §551.001(4). This analysis also requires an analysis of the definition of "deliberation" in Gov't Code §551.001(2). The Open Meetings Act does not provide that the words exchanged must be spoken in person; members of a governmental body need not be in each other's physical presence to constitute a quorum. A deliberation may include an exchange of written materials or electronic mail. The definition of meeting reaches gatherings of a quorum of a governmental body even when the members of the quorum do not participate in deliberations among themselves or third parties; the governmental body may be subject to the Open Meetings Act when it merely listens to a third party speak at a gathering the governmental body conducts or for which the governmental body is responsible. An email discussion could be a meeting subject to the Open Meetings Act if a quorum of the RWPG (or committee/subcommittee) were in the to, cc, or bcc fields. Please see Section VI of the AG's Open Meetings Act Handbook and the cases and AG Opinions cited in that section for more information in this issue. Section VI(E) provides important information on "walking quorums," which are serial meetings of less than a quorum.

- Note: Attorney General Opinion GA-0896 specifically discusses questions regarding email exchanges.
4. What are record-keeping expectations for RWPGs now that they are fully subject to the Public Information Act?
 - The Public Information Act states that “a governmental body... may determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of state and local government records or public information” (Gov’t Code §552.004). The Public Information Act goes on to state that except for social security numbers, “the confidentiality provisions of [the PIA], or other law, information that is not confidential but is excepted from required disclosure under Subchapter C is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body” (Gov’t Code §552.0215). The RWPGs should consult with the attorneys for their organizations to determine whether any other laws or rules governing the preservation of records would apply to the RWPG. Please see Section IX of the AG’s Public Information Act Handbook and the cases and AG Opinions cited in that section for more information on this issue.
 5. Can staff from the RWPG’s designated political subdivision be appointed as the Public Information Act public information coordinator?
 - The Public Information Act states that “A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter...” (Gov’t Code §552.012). It is the discretion of the RWPG who they choose to be the designated coordinator, if one is designated. It is also up to the RWPGs if they desire additional individuals to complete the training than required by the Public Information Act.
 6. Can older training certificates be accepted for maintaining the record of members’ completion of training?
 - The Open Meetings Act and Public Information Act both state that completing the training in one capacity satisfies the requirement in all capacities, so RWPG members who have completed these trainings as part of their outside employment with cities, water supply corporations receiving TWDB funds, groundwater conservation districts, etc., would not need to complete them again as RWPG members. The Acts simply require public officials to complete the training within 90 days of taking office/assuming responsibilities as a member of the governmental body; it does not specify repeat training requirements.
 7. Would a notarized statement affirming training completion be acceptable if a member has taken the training but cannot locate the completion certificate?
 - It will be up to the RWPGs to prove compliance with the Act if they’re questioned on it. It is up to the RWPG to prove compliance however they see fit.
 8. May RWPGs meet via telephone conference calls?

- A governmental body may only hold a meeting by telephone conference call if (1) an emergency or public necessity exists within the meaning of Gov't Code §551.045; and (2) the convening at one location of a quorum of the governmental body is difficult or impossible; or (3) the meeting is held by an advisory board (Gov't Code §551.125(b)). If an entity holds an emergency meeting pursuant to §551.125, and a quorum is physically present at the meeting place, other members may not telephone in (Tex. Att'y Gen. Op. No. JC-0352 (2001)). "Difficult or impossible" contemplates meetings by telephone conference call in extraordinary circumstances and not merely when attending a meeting at short notice would inconvenience members of the governmental body.
- <https://www2.texasattorneygeneral.gov/opinions/opinions/49cornyn/op/2001/pdf/jc0352.pdf>

9. Are "workgroups" formed by the RWPG subject to the Open Meetings Act?

- The AG's Open Meetings Act Handbook states that when a governmental body appoints a committee that includes less than a quorum of the parent body and grants it authority to supervise or control public business or public policy, the committee may itself be a governmental body subject to the Act (see Section V(D) and (E) of the AG's Open Meetings Act Handbook). It further states that the fact that a committee is called an advisory committee does not necessarily mean it is considered an advisory committee under the Act. Based on the language in the AG's Open Meetings Act Handbook, the TWDB believes the more conservative interpretation would be to treat a workgroup in the same way as a committee.

Below are informational resources for the AG and links to the Open Meetings Act and Public Information Act.

- [Texas Open Meetings Act](#)
- [Texas Public Information Act](#)
- [Public Information Act and Open Meetings Act Training Resources](#)

5 Contacts

Below is a list of RWPG political subdivision administrator contacts and the associated TWDB project managers.

Region	Political Subdivision Point of Contact	TWDB Project Manager
A	Dustin Meyer (PRPC) dmeyer@theprpc.org	William Alfaro william.alfaro@twdb.texas.gov
B	Randy Whiteman (RRA) randy.whiteman@rra.texas.gov	Kevin Smith kevin.smith@twdb.texas.gov
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6 Useful TWDB webpage and document links

Rules and contract related links

- [31 Texas Administrative Code \(TAC\) §355, Subchapter C](#)
- [31 Texas Administrative Code §357](#)
- [Water Planning Rules and Texas Statute Reference Pamphlet](#)
- [Regional Water Planning Public Notification Quick-Reference Document](#)
- [TWDB Subcontracting Guidelines](#)
- [Certification of Procurement Form](#)
- [Regional Water Planning Advance Request Checklist](#)
- [TWDB Regional Water Planning Contracts Webinar](#)

State and regional water planning related links

- [Fifth Cycle of Regional Water Planning homepage](#)
- [Fifth Cycle Working Documents Page](#)
- [2016 Approved Regional Water Plans](#)
- [2017 State Water Plan](#)
- [Interactive State Water Plan](#)
- [Water Planning Data](#)
- [Water Supply & Infrastructure Staff Contact List](#)
- [Regional Water Planning Groups](#)
- [New RWPG Member page](#)

