

# **REGION H**

## **Water Planning Group**

### **MEETING MATERIALS**

**July 7, 2021**



## Common Region H Terms and Conversion Factors

### List of Abbreviations

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
IFR	Infrastructure Finance Report
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
RFIG	Regional Flood Planning Group
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
URS	Unique Reservoir Site
USS	Unique Stream Segment
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 = 1,120 ac-ft/yr



**Region H Water Planning Group**  
**10:00 AM Wednesday**  
**July 7, 2021**  
**Publicly Accessible Webinar/Telephone Conference**  
**(details below)**

**AGENDA**

1. Call to order.
2. Introductions.
3. Review and approve minutes of April 7, 2021 meeting.
4. **Receive public comments on specific issues related to agenda items 5 through 13.** (Public comments limited to 3 minutes per speaker)
5. Discuss vacancies on the RHWPG for voting members representing agriculture and counties and consider taking action to approve members to fill the vacancies on the RHWPG.
6. Receive update on the 87<sup>th</sup> Texas Legislative Session.
7. Review and discuss RHWPG recommendations from the 2021 RWP regarding Unique Stream Segments, Unique Reservoir Sites, and other regulatory, administrative, and legislative recommendations.
8. Receive report regarding submittals of Statements of Qualifications related to consultants for the 2026 round of Regional Water Planning and take necessary action to select a qualified consultant.
9. Receive update regarding the schedule and milestones for the development of the 2026 Region H Regional Water Plan (RWP).
10. Receive update on recent and potential upcoming changes to RWP rules and guidance.
11. Discuss potential timing and options for resuming in-person RHWPG meetings.
12. Receive report regarding recent and upcoming activities related to communications and outreach efforts on behalf of the RHWPG.
13. Agency communications and general information.
14. **Receive public comments.** (Public comments limited to 3 minutes per speaker)
15. Next Meeting: October 6, 2021.
16. Adjourn.

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## HOW TO PARTICIPATE IN THE PUBLIC MEETING

Notice is hereby given to all interested members of the public that the Region H Water Planning Group will hold a public meeting **via webinar / telephone conference call** pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, by the Governor of Texas in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas. The webinar will begin **at 10:00 a.m. on July 7, 2021** and is anticipated to conclude at noon. If you anticipate providing verbal comment at the public meeting and have email access, please contact [info@regionhwater.org](mailto:info@regionhwater.org) prior to the meeting to facilitate an accurate estimate of the number of speakers.

If you choose to participate via the webinar link below, you WILL have the opportunity to provide comments during the designated portion of the meeting.

Webinar Link: <https://attendee.gotowebinar.com/register/6019031630144358667>

*After registering, you will receive a confirmation email containing information about joining the webinar.*

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If you choose to participate via the **GoToWebinar App**, you WILL have the opportunity to provide comments during the designated portion of the meeting.

Please use Webinar ID: [353-070-235](#)

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If you choose to participate in the meeting using the conference call number below, you will NOT have the opportunity to provide comments during the designated portion of the meeting. The conference call phone number is provided for LISTENING PURPOSES ONLY.

Telephone conference call phone number: [+1 \(415\) 655-0052](#) and the audio access code is [531-495-276](#).

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*All members of the public may participate in the meeting via webinar, Webinar App, or telephone conference call.*

*Persons with disabilities who plan to attend this meeting and would like to request auxiliary aids or services are requested to contact Cynthia Bowman 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 April 7, 2021 meeting.





**REGION H WATER PLANNING GROUP  
MINUTES OF REGULAR MEETING  
APRIL 7, 2021**

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**MEMBERS PRESENT:** Gary Ashmore, David Bailey, John Bartos, Brad Brunett, Carl Burch, Jun Chang, James Comin, Mark Evans, Yvonne Forrest, Ivan Langford, Glenn Lord, Marvin Marcell, Mike Turco, Brandon Wade, Kevin Ward, and Pudge Willcox.

**DESIGNATED ALTERNATES:** Amber Batson for Jace Houston, Loyd Smith for John Blount.

**MEMBERS ABSENT:** W.R. Baker, Bob Herbert, Art Henson, Robert Istre, Carl Masterson, James Morrison, and William Teer.

**1. CALL TO ORDER**

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

**2. INTRODUCTIONS**

There were no introductions.

**3. REVIEW AND APPROVE MINUTES OF FEBRUARY 3, 2021 MEETING**

Mr. Turco made a motion to approve the minutes of February 3, 2021. The motion was seconded by Ms. Forrest and carried unanimously.

**4. RECEIVE PUBLIC COMMENTS ON SPECIFIC ISSUES RELATED TO AGENDA ITEMS 5 THROUGH 17**

There were no comments related to this item.

**5. DISCUSS VACANCIES ON THE REGION H WATER PLANNING GROUP (RHWPG), ACCEPT THE RESIGNATION OF PUDGE WILLCOX AS A VOTING MEMBER, DECLARE TWO VACANCIES FOR AGRICULTURE REPRESENTATIVES, AND APPOINT A NEW VOTING MEMBER REPRESENTING AGRICULTURE**

Mr. Evans announced the resignation of Mr. Willcox and an additional vacancy due to the passing of Mr. Robert Bruner. Mr. Willcox recommended he be replaced by Mr. Caleb Cooper. Mr. Turco made a motion to accept the resignation of Mr. Willcox, declare both positions vacant, and to appoint Mr. Cooper as a new voting member of the Region H Water Planning Group representing Agriculture. The motion was seconded by Mr. Lord and carried unanimously.

**6. CONSIDER AND APPOINT A NON-VOTING MEMBER TO THE REGION 6 SAN JACINTO REGIONAL FLOOD PLANNING GROUP AND LIAISONS TO THE EAST TEXAS WATER PLANNING GROUP (REGION I) AND THE REGION 8 LOWER BRAZOS REGIONAL FLOOD PLANNING GROUP**

Mr. Langford made a motion to appoint Mr. Brandon Wade to the Region 6 San Jacinto Regional Flood Planning Group and Mr. Glenn Lord to the Region 8 Lower Brazos Regional Flood Planning Group. The motion was seconded by Mr. Turco and carried unanimously.

**7. DISCUSS AND CONSIDER TAKING ACTION TO NOMINATE RHWPG MEMBERS TO SERVE AS A MEMBER AND ALTERNATE TO THE INTERREGIONAL PLANNING COUNCIL**

Mr. Ward made a motion to appoint Mr. Mark Evans as a member of the Interregional Planning Council and Mr. Jace Houston as alternate to same. The motion was seconded by Mr. Brunett and carried with all present voting aye.

**8. RECEIVE UPDATE ON NON-VOTING MEMBERSHIP ON THE REGION H WATER PLANNING GROUP**

Mr. Taucer provided an update and noted new non-voting members to the Region H Water Planning Group.

**9. RECEIVE PRESENTATION FROM THE CITY OF HOUSTON ON THE CITY'S WHOLESALE WATER CONSERVATION PROGRAM**

Ms. Sarah Robinson of the City of Houston and Mr. Stephen Cortes of Goldwater, provided information related to the various programs and incentives to encourage a reduction in water demand over the next five years in the City of Houston.

**10. RECEIVE UPDATE ON THE 87<sup>TH</sup> TEXAS LEGISLATIVE SESSION**

Mr. Taucer and Mr. Marcell provided a brief update and highlighted several bills that were passed during the 87<sup>th</sup> Legislative Session that directly impact water planning, funding, etc.

**11. RECEIVE UPDATE REGARDING THE SCHEDULE AND MILESTONES FOR THE DEVELOPMENT OF THE 2026 REGION H WATER PLAN**

Mr. Taucer provided information related to the 2026 RWP schedule and Sixth Cycle of Regional Water Planning provided by the Texas Water Development Board. Mr. Taucer announced that grant applications are due April 12, 2021.

**12. RECEIVE UPDATE ON THE SUBMITTAL OF AN APPLICATION FOR FUNDING AND THE SCOPE OF WORK FOR THE SIXTH CYCLE OF REGIONAL WATER PLANNING (2022-2026)**

Mr. Taucer stated that the Request For Qualifications (RFQ) was released on March 12 and has been submitted by the San Jacinto River Authority. He provided an overview relative to the additions of various tasks to the scope as well as proposed budget of same.

**13. DISCUSS AND CONSIDER TAKING ACTION AUTHORIZING THE SAN JACINTO RIVER AUTHORITY TO REQUEST STATEMENTS OF QUALIFICATIONS TO PREPARE THE 2026 REGION H REGIONAL WATER PLAN ON BEHALF OF THE RHWPG IN ACCORDANCE WITH 31 TAC 355.92(C)**

Mr. Taucer and Ms. Amber Batson explained the procurement process. Mr. Ward made a motion to authorize the San Jacinto River Authority to request statements of qualifications to prepare the 2026 Region H RWP on behalf of the RHWPG in accordance with 31 TAC 355.92(c). The motion was seconded by Mr. Bartos and carried unanimously.

**14. DISCUSS POTENTIAL TIMING AND OPTIONS FOR RESUMING IN-PERSON RHWPG MEETINGS**

The RHWPG discussed the various advantages and disadvantages of virtual versus in-person meetings. It was agreed that the next meeting in July will take place via GoToWebinar and in-person meetings will resume thereafter.

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

Mr. Taucer stated there were no upcoming activities.

**16. RECEIVE PRESENTATION FROM TWDB ON THE STATEWIDE ASR-AR SUITABILITY SURVEY**

Mr. James Golab of TWDB presented information related to the Statewide ASR-AR Suitability Survey.

**17. AGENCY COMMUNICATIONS AND GENERAL INFORMATION**

Mr. Bookout provided an overview of the various information related to TWDB.

**18. RECEIVE PUBLIC COMMENTS**

There were no public comments.

**19. NEXT MEETING: JULY 7, 2021**

Mr. Evans announced that the next meeting of the Region H Water Planning Group is scheduled for July 7, 2021.

**20. ADJOURN**

Without objection, the meeting was adjourned at 11:53 a.m.



## Agenda Item 5

Discuss vacancies on the RHWPG for voting members representing agriculture and counties and consider taking action to approve members to fill the vacancies on the RHWPG.



## **Agenda Item 5**

### **RWPG Vacancies**

#### **Action:**

1. Appoint a new voting member representing Agriculture.
2. Appoint a new voting member representing Counties.







**NOTICE OF VACANCY FOR  
REGION H WATER PLANNING GROUP  
MEMBER REPRESENTING AGRICULTURE**

The Region H Water Planning Group (WPG) is hereby giving notice of a vacancy on the Region H Water Planning Group for a voting member representing agriculture. The Region H WPG may consider making an appointment to fill this vacancy on or after July 7, 2021. The term of this appointment ends in 2021.

**Background:**

The Region H WPG was established by appointment of an initial coordinating body by the TWDB on February 19, 1998, and one subsequent additional appointment by the initial coordinating body. The purpose of the Region H WPG shall be to provide comprehensive regional water planning and to carry out the related responsibilities placed on regional water planning groups by state law, including Texas Water Code Chapter 16 and TWDB rules, including 31 TAC Chapters 355, 357, and 358, in and for the Region H Water Planning Area (WPA).

**Responsibilities:**

The Region H WPG shall have the responsibility for performing the functions defined in Texas Water Code, Chapter 16 and in 31 TAC Chapters 355, 357, and 358 related to regional water planning groups for the Region H WPA. Foremost among those responsibilities shall be the development of a regional water plan for the Region H WPA that identifies both short and long-term water supply needs and recommends water management strategies for addressing them.

**Conditions of Membership:**

In order to be eligible for voting membership on the Region H WPG, a person must represent the interest for which a member is sought, be willing to participate in the regional water planning process, and abide by the bylaws.

Any entity or individual within the Region H area interested in nominating a representative to serve as a voting member representing agriculture may submit a letter of interest or recommendation to:

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

**NOTICE OF VACANCY FOR  
REGION H WATER PLANNING GROUP  
MEMBER REPRESENTING COUNTIES**

The Region H Water Planning Group (WPG) is hereby giving notice of a vacancy on the Region H Water Planning Group for a voting member representing counties. The Region H WPG may consider making an appointment to fill this vacancy on or after July 7, 2021. The term of this appointment ends in 2023.

**Background:**

The Region H WPG was established by appointment of an initial coordinating body by the TWDB on February 19, 1998, and one subsequent additional appointment by the initial coordinating body. The purpose of the Region H WPG shall be to provide comprehensive regional water planning and to carry out the related responsibilities placed on regional water planning groups by state law, including Texas Water Code Chapter 16 and TWDB rules, including 31 TAC Chapters 355, 357, and 358, in and for the Region H Water Planning Area (WPA).

**Responsibilities:**

The Region H WPG shall have the responsibility for performing the functions defined in Texas Water Code, Chapter 16 and in 31 TAC Chapters 355, 357, and 358 related to regional water planning groups for the Region H WPA. Foremost among those responsibilities shall be the development of a regional water plan for the Region H WPA that identifies both short and long-term water supply needs and recommends water management strategies for addressing them.

**Conditions of Membership:**

In order to be eligible for voting membership on the Region H WPG, a person must represent the interest for which a member is sought, be willing to participate in the regional water planning process, and abide by the bylaws.

Any county within the Region H area interested in nominating a representative to serve as a voting member representing counties may submit a letter of interest or recommendation to:

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

## Agenda Item 6

Receive update on the 87th Texas Legislative Session.



## Agenda Item 6

### 87<sup>th</sup> Legislative Session



- 87<sup>th</sup> Texas Legislature
- Began January 12, 2021
- Concluded May 31, 2021



## Agenda Item 6

### 87<sup>th</sup> Legislative Session

#### HB 1905

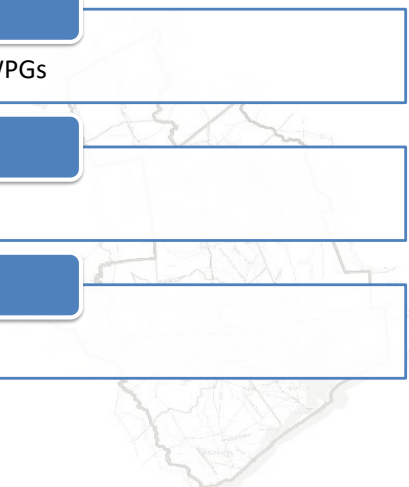
- Removes IFR survey and RWPG prioritization requirements from RWPGs

#### SB 905

- TCEQ guidance for direct potable reuse

#### SB 600

- Inventory of dams controlled by river authorities





## Agenda Item 7

Review and discuss RHWPG recommendations from the 2021 RWP regarding Unique Stream Segments, Unique Reservoir Sites, and other regulatory, administrative, and legislative recommendations.





## Agenda Item 7 2021 RWP Recommendations

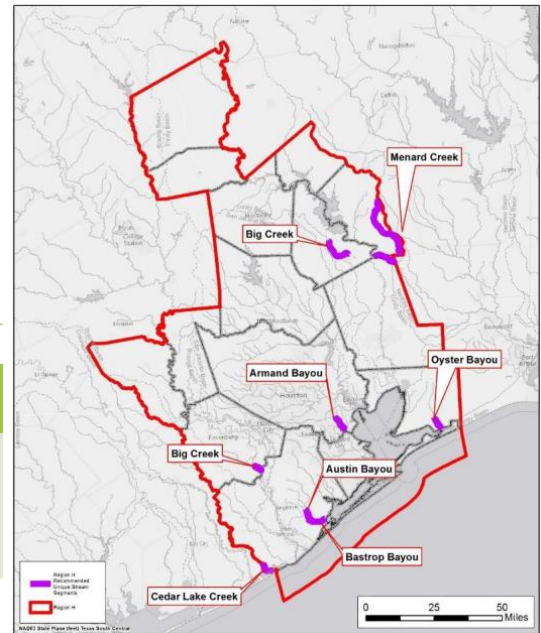
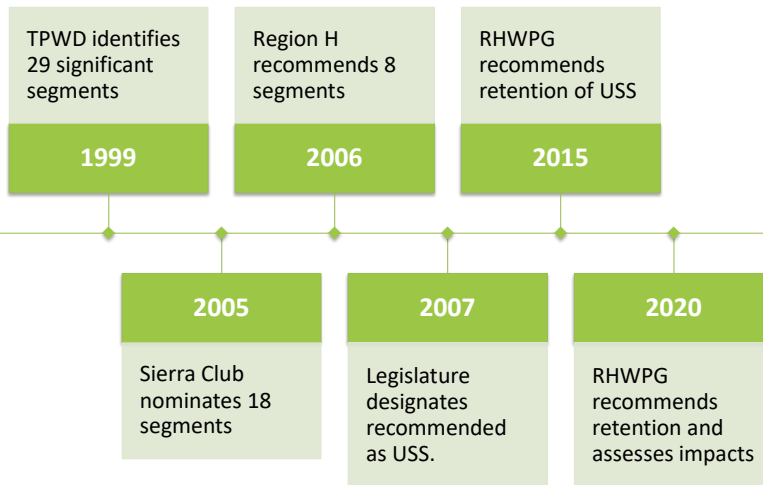
- What is a Unique Stream Segment?
- Unique ecological value
  - ➔ Biological Function
  - ➔ Hydrologic Function
  - ➔ Riparian Conservation Areas
  - ➔ High Water Quality / Exceptional Aquatic Life / High Aesthetic Value
  - ➔ Threatened or Endangered Species / Unique Communities



## Agenda Item 7 2021 RWP Recommendations

TWC 16.051: *“The legislature may designate a river or stream segment of unique ecological value. This designation solely means that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in a specific river or stream segment designated by the legislature under this subsection.”*

## Agenda Item 7 2021 RWP Recommendations



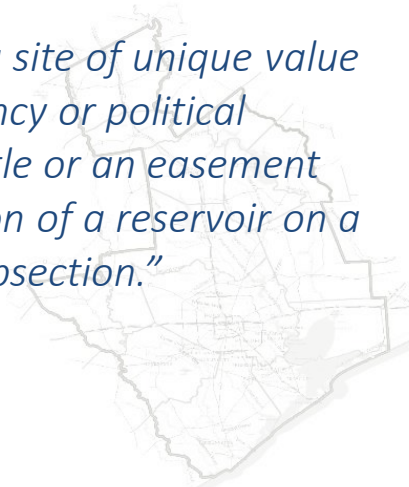
## Agenda Item 7 2021 RWP Recommendations

- What is a Unique Reservoir Site?
- Unique reservoir supply value
  - ☛ Recommended WMS or URS
  - ☛ Location
  - ☛ Hydrology and water availability
  - ☛ Geology
  - ☛ Topography
  - ☛ Water quality
  - ☛ Environmental characteristics
  - ☛ Cultural characteristics
  - ☛ Development properties

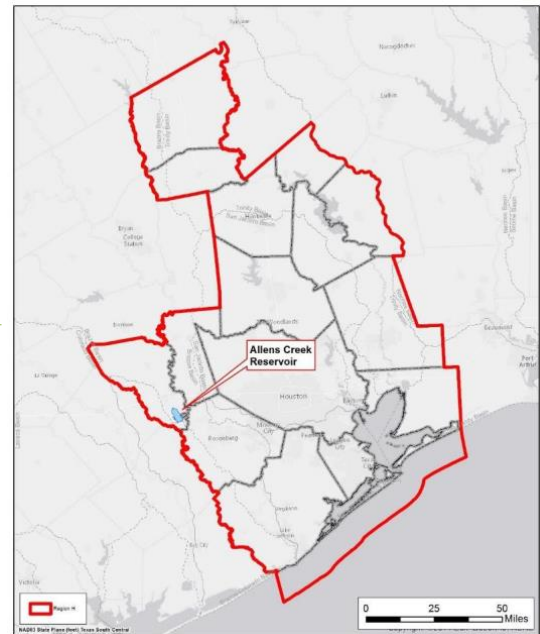
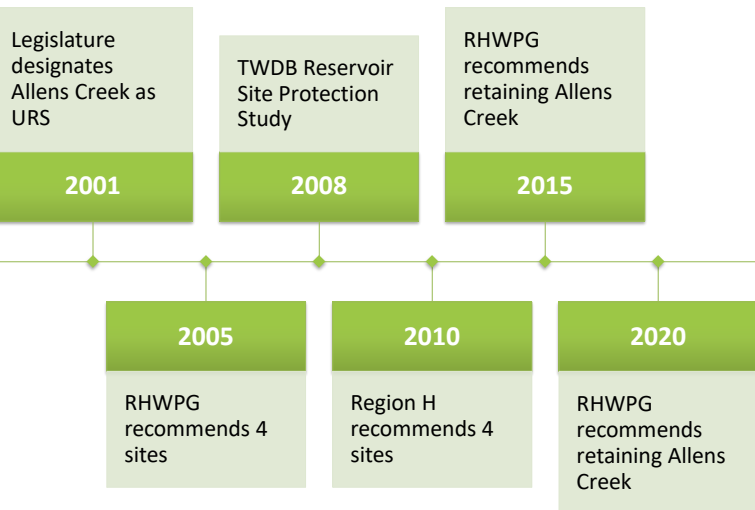


## Agenda Item 7 2021 RWP Recommendations

TWC 16.051: *“The legislature may designate a site of unique value for the construction of a reservoir. A state agency or political subdivision of the state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir on a site designated by the legislature under this subsection.”*



## Agenda Item 7 2021 RWP Recommendations



## **Agenda Item 7**

### **2021 RWP Recommendations**

#### **Regulatory**

- Quantitative Environmental Analysis
- Access to Current Water Availability Models
- Availability of Groundwater within Jurisdictions of Groundwater-Regulating Entities
- Promoting OneWater Approaches in Regional Planning

## **Agenda Item 7**

### **2021 RWP Recommendations**

#### **Legislative**

- Interbasin Transfers
- Texas Bays and Estuaries Program Funding
- Rule of Capture
- Groundwater Conservation Districts
- Groundwater Availability Modeling Funding
- Water Supply Project Financing Mechanism

## **Agenda Item 7**

### **2021 RWP Recommendations**

#### **Legislative**

- Agricultural Conservation Funding
- Water Conservation
- Water Conservation Research Funding
- Flood Liability of Water Supply Reservoirs
- Technology Advancements in Projections
- Ongoing RWPG Activities

## **Agenda Item 7**

### **2021 RWP Recommendations**

#### **Finance**

- State Revolving Fund Programs
- Agricultural Water Conservation Loan Program
- Texas Community Development Program
- Water and Waste Disposal Loans and Grants
- Innovative Water Technologies
- Regionalization





**APPENDIX 8-A**

**DETAILED DISCUSSION OF OTHER REGULATORY, ADMINISTRATIVE, AND  
LEGISLATIVE RECOMMENDATIONS**



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Recommendation	Type
Quantitative Environmental Analysis	Regulatory and Administrative
<b>Discussion:</b>	
<p>The Regional Water Planning Guidelines require that the evaluation of potentially feasible water management strategies include a quantitative analysis of environmental factors including effects on wildlife habitat, cultural resources, and effect of upstream development on bays, estuaries, and arms of the Gulf of Mexico (31 TAC §357.7.(a)(8)(A)). The TWDB has provided detailed guidance on specific study methods to be used in determining population, water demand, project costs, socioeconomic impacts and yield from current and proposed supply sources, but it has not provided similar guidance in the area of environmental impacts. This lack of specificity is resulting in different methods being used in different regions. Additionally, it places the planning groups at risk of needing to conduct additional analysis after state agencies review the Initially Prepared Plans and add those results to the report after the public review period has closed.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the TWDB determines, in conjunction with the TCEQ and TPWD, which specific environmental studies and analysis are required for each category of management strategy (i.e., new water right, new reservoir, etc.). Furthermore, the guidance should be added to the Planning Guidelines, so that Regional Water Planning Groups can reflect the cost of those requirements in their budgets and scopes of work. Adding environmental guidelines will also make water plans consistent across the state.</p>	

Recommendation	Type
Identification of Ecologically Significant River and Stream Segments	Regulatory and Administrative
<b>Discussion:</b>	
<p>The Regional Water Planning Guidelines offer planning groups the opportunity to identify river and stream segments of unique ecological value within a planning area (31 TAC §357.43(b)), including those with important biological or hydrologic functions, riparian conservation areas, threatened, endangered, or unique wildlife communities, or other criteria indicative of ecological significance. In prior planning cycles, the planning groups benefitted in this assessment from TPWD’s evaluation and recommendation of streams relative to the statutory criteria. TPWD’s recommendations for listings of ecologically significant segments were most recently updated in 2003. Due to the continuing growth in the state, the potential for changing stream and riparian conditions, and the importance of protecting ecological function, an updated identification of ecologically significant river and stream segments would be highly beneficial in guiding planning groups in making informed recommendations.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the TPWD, in cooperation with TWDB and the Regional Water Planning Groups, develop an updated analysis of ecologically significant river and stream segments, including identification of river and stream segments of unique ecological value.</p>	

Recommendation	Type
Access to Current Water Availability Models	Regulatory and Administrative
<b>Discussion:</b>	
<p>Water Availability Models (WAMs) are a core component of the regional water planning process and, furthermore, are required by TWDB’s rules for plan development. In response to requests by planning groups and others seeking water rights applications, House Bill 723 was adopted to provide for updates to the Brazos, Neches, Red, and Rio Grande River Basins prior to December 1, 2022. These updates will address revised drought conditions and general updates that have been made since the initial development of these WAMs. Due to the vital importance of these tools in statewide water planning, it is imperative that this initiative continue throughout the state and that up-to-date models are made readily accessible through the TCEQ WAM website.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that TCEQ continue routine updates to Water Availability Models across the state based on a prioritized methodology based on observed climate conditions and the overall limitation on water resources in each basin. This may be prescribed in future rulemaking. Furthermore, these rules should require that the most recent model for each basin be made available through the TCEQ website for use by both the RWPGs and the public.</p>	

Recommendation	Type
Availability of Groundwater within Jurisdictions of Groundwater-Regulating Entities	Regulatory and Administrative
<b>Discussion:</b>	
<p>During the development of the 2016 Region H Regional Water Plan, it was recognized that the approach to groundwater availability required by TWDB’s rules may place an unrealistic limit on groundwater production for various reasons, including local preference for how Desired Future Conditions (DFCs) may be met, differences between average and peak pumping, and the undue pressure on the Groundwater Management Areas (GMAs) to keep up with the regional planning cycle. The TWDB worked to address these issues with the implementation of a Modeled Available Groundwater (MAG) peaking factor that helps align the average conditions considered by GMAs with the peak demand conditions considered by RWPGs. This approach has greatly improved the harmonization of the two planning processes.</p>	
<b>Recommendation:</b>	
<p>Provide for additional opportunities for Groundwater Management Areas and Regional Water Planning Groups to align their planning through rules that recognize the inherent differences of these processes and account for the timing of the methodologies so that changes in groundwater management can be reflected in the Regional Water Plans.</p>	

Recommendation	Type
Promoting OneWater Approaches in Regional Planning	Regulatory and Administrative
<b>Discussion:</b>	
<p>A OneWater or comprehensive approach to water management has demonstrated potential for achieving the highest practicable value to return on investment for managing water, wastewater, recovered water, and stormwater resources. Recently, Austin’s Water Forward program has done the most to push Texas toward a comprehensive approach to water management. However, obstacles still exist to implementation of these sorts of programs. First, more can be done to promote these concepts of demand management and water supply development with water suppliers and utilities. Often, this requires utilities to work with regional partners in order to capture the complete water budget into a program. Second, several strategies such as the conjunctive use of water sources and “banked” supplies like aquifer storage and recovery are difficult to incorporate into Regional Water Plans due to their focus solely on drought-of-record supply. Effort should be made to better reflect these opportunities to maximize water supply.</p>	
<b>Recommendation:</b>	
<p>Work with water utilities and planners to identify the limitations of current planning approaches regarding OneWater management and how these programs may best be reflected in regional plans. This will have the added benefit of promoting these options for comprehensive water management.</p>	

Recommendation	Type
Interbasin Transfers	Legislative
<b>Discussion:</b>	
<p>Senate Bill One states that water rights developed as a result of an interbasin transfer become junior to other water rights granted before the interbasin transfer permit. Senate Bill One made obtaining a permit for interbasin transfer significantly more problematic than it was under prior law and thus, it discouraged the use of interbasin transfers for water supply. This is undesirable for several reasons. First, current supplies greatly exceed projected demands in some basins, and the supplies already developed in those basins can only be used via interbasin transfers. Second, interbasin transfers have been used extensively in Texas and are an important part of the State’s current water supply. For example, three of the Region H Major Water Providers (City of Houston, Trinity River Authority, and San Jacinto River Authority) maintain current permits for interbasin transfers collectively of over 1,000,000 acre-feet per year. A substantial portion of future water demands within the San Jacinto basin (Harris County in particular) of Region H must rely on interbasin transfers. Third, emerging regional water supply plans for major metropolitan areas in Texas (Dallas-Fort Worth and San Antonio) rely on interbasin transfers as a key component of their plans. It is difficult to envision developing a water supply for these areas without significant new interbasin transfers. Furthermore, the inability to meet demands through transfer of existing supplies may result in the need for development of additional, in-basin projects that may have additional cost and environmental impact.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the Legislature remove the unnecessary and counterproductive barriers to interbasin transfers that exist in current law.</p>	

Recommendation	Type
Texas Bays and Estuaries Program Funding	Legislative
<b>Discussion:</b>	
<p>The Texas 80<sup>th</sup> Legislature established the current process of assessing the environmental quality of riverine and estuarine systems and applying the “best available science” in prescribing actions to preserve these systems. These recommendations have, in turn, been incorporated into the Regional Water Planning process and serve as a critical standard for the evaluation of future water management strategies. However, the current levels of funding within the State of Texas Bay &amp; Estuary program are insufficient to continue the needed monitoring, study, and development of management strategies for the bay.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends establishment of additional and dedicated funding to pursue necessary future efforts of the State’s bay and estuary programs.</p>	

Recommendation	Type
Rule of Capture	Legislative
<b>Discussion:</b>	
<p>Groundwater is a vital resource within Region H. This is especially true within the rural counties of the region that are predominantly dependent on groundwater. Current groundwater law based on the Rule of Capture has facilitated orderly development of groundwater systems throughout the State of Texas, barred the intrusion of private interests, and it could continue to serve the water usage interests throughout the state. It appears that the Rule-of-Capture could continue per the status quo to serve the groundwater interests within the region.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group supports continued usage of the Rule of Capture as the basis of groundwater law throughout the State of Texas except as modified through creation of certified groundwater conservation districts.</p>	



Recommendation	Type
Groundwater Conservation Districts	Legislative
<b>Discussion:</b>	
<p>Region H communities, particularly those within the rural areas of the region, are dependent on groundwater supplies. Groundwater is a very valuable resource to this region. Region H contains counties, specifically Austin, Leon and Madison, where some municipalities, water supply corporations, and property owners believe Groundwater Conservation Districts (GCD) are needed to retain long-term groundwater supplies within their respective counties. Region H also has several counties, including Brazoria, Waller and Montgomery, where groundwater supplies will reach their maximum sustainable yield due solely to projected in-county water usage. A GCD is a potential vehicle for these counties to manage and protect groundwater supplies from over-development within each respective county.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group supports creation of groundwater conservation districts, as necessary, by local subarea water interests. These districts provide a unique opportunity for balancing local management with regional planning through the joint planning exercises of Groundwater Management Areas.</p>	

Recommendation	Type
Water Supply Project Financing Mechanism	Legislative
<b>Discussion:</b>	
<p>The Region H Regional Water Plan includes development of several major water supply projects. The capital cost to develop these projects is significantly higher than the historic cost of water supply projects, as future resources are more difficult to perfect than the supplies that have already been developed. The high projected costs can dissuade local communities from making a financial commitment to support future projects and these challenges may delay the implementation of needed projects.</p>	
<p>The 80th Texas Legislature (2007) appropriated funding to enable issuance of \$440 million in bonds for the Water Infrastructure Fund (WIF) to fund water plan projects. The program is designed with a maximum repayment period of 20 years, which may not be adequate for financing larger projects such as surface water reservoirs.</p>	
<p>In 2013, the Texas Legislature created the State Water Implementation Fund for Texas (SWIFT) which was approved by Texas voters to provide \$2 billion dollars for the creation of a new loan program for the implementation of the State Water Plan. This program offers low-interest and deferred loan with maturities up to 30 years which enhances the opportunity for finding large, capital projects that are critical to the SWP. In addition, the program also funds the option of State ownership in projects as another alternative for development.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group wishes to recognize the Legislature’s efforts in implementing the SWIFT program and also supports ongoing and expanded support for financing methods by the State of Texas for development of water supply projects recommended within adopted Regional Water Plans.</p>	

Recommendation	Type
Groundwater Availability Modeling Funding	Legislative
<b>Discussion:</b>	
<p>Many areas of Region H are totally dependent on groundwater to support the long-term viability of these areas. The current Groundwater Availability Modeling (GAM) effort is supported since it is the most comprehensive groundwater assessment and analysis effort of the previous 20 years.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group supports continued funding for the Groundwater Availability Modeling effort and recommends comprehensive analysis of all groundwater resources within the state.</p>	

Recommendation	Type
Agricultural and Irrigation Conservation Funding	Legislative
<b>Discussion:</b>	
<p>The Region H water management plan includes a number of irrigation conservation based water management strategies. It is apparent that adoption of irrigation conservation practices may benefit the irrigation and agricultural industry in addition to local communities that may take advantage of water supply savings resulting from irrigation conservation. Additionally, the RHWPG supports further research and development of water-efficient and drought-resistant crops and species.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group supports funding of research and development studies associated with the efficient usage of irrigation technologies and practices.</p>	

Recommendation	Type
Water Conservation	Legislative
<b>Discussion:</b>	
<p>The Region H Water Planning Group (RHWPG) strongly supports water conservation at all levels. The RHWPG has incorporated water conservation in the regional water plan as a management strategy. However, realizing advanced conservation savings in municipal county-other areas may be difficult, as these practices require some management, funding, and oversight. While the RHWPG does not advocate a one-size-fits-all conservation program for the State of Texas, they recommend that the Legislature address water conservation and provide some guidance and ability for county and local governments to implement these programs. The 78<sup>th</sup> Legislature appointed a Water Conservation Task Force to study water conservation policies and best management practices, and to report their results to the 79<sup>th</sup> Legislature in 2005. The 80<sup>th</sup> Legislature passed Senate Bill 3 creating a Water Conservation Advisory Council consisting of 23 members to provide a resource with expertise in water conservation. In 2018, TWDB funded the development of a water conservation planning tool specifically constructed for Texas water utilities. These efforts provide significant assistance to water suppliers that lack the resource to plan and implement water conservation approaches independently.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group supports water conservation and recommends that the Legislature continue to address and improve water conservation activities in the state. In addition, the RHWPG recommends the State consider improvements to statewide efforts and messaging regarding the importance of water conservation.</p>	

Recommendation	Type
Water Conservation Research Funding	Legislative
<b>Discussion:</b>	
<p>The Water Conservation Implementation Task Force identified numerous best management practices in <i>TWDB Report 362 – Water Conservation Best Management Practices Guide</i>. The Best Management Practices outlined in the report were developed using information compiled from past research and studies along with information provided by the task force members. Additional water-saving technologies may still be developed in the future.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the State fund research into advanced conservation technologies.</p>	

Recommendation	Type
Flood Liability of Water Supply Reservoirs	Legislative
<b>Discussion:</b>	
<p>Flood control reservoirs are generally drawn down at the beginning of the annual wet season so that when large rain events occur, the runoff may be captured and later released more slowly into the receiving stream. These reservoirs therefore reduce downstream flood levels and prevent inundation in low areas. In contrast, water supply reservoirs are operated to capture and retain as much stream flow as allowable under their permits in order to have supply available during periods of high demand. This practice results in less available storage volume to capture runoff during major storms. When a major storm event occurs upstream or above a water supply reservoir, the reservoir operator must sometimes release flood flows during and after the event to prevent flooding upstream of the reservoir or to prevent damage to the dam and other facilities associated with the reservoir. Although this flood flow can contribute to downstream flooding, most reservoirs actually reduce the amount of flooding which could have occurred had the reservoir not been constructed.</p> <p>In recent years, plaintiffs with property in the downstream floodplains have brought multiple lawsuits against major water supply reservoir operators. Some recent court decisions have held the operators liable for damages to the downstream properties. If this trend is allowed to continue, it will increase insurance rates for these entities and will force operational changes to occur that may result in less available water supply for periods of need. The net effect to water users will be an increase in the cost of surface water throughout the state.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the State consider legislation clarifying the liability exposure of reservoir operators for passing storm flows through water supply reservoirs.</p>	

Recommendation	Type
Incorporation of Technology Advancements in Projections	Legislative
<b>Discussion:</b>	
Current population projections based on traditional historic growth patterns may not accurately reflect the changes likely to occur in the future as digital connectivity continues to alter our economic, educational, and social institutions.	
<b>Recommendation:</b>	
The Region H Water Planning Group recommends that the State direct the State Demographer's office to explore the potential changes in population distribution made possible by rapid advancements in information technology.	



Recommendation	Type
Ongoing RWPG Activities	Legislative
<b>Discussion:</b>	
<p>It is apparent that the RWPGs will have to meet periodically to address changed conditions related to the adopted regional water management plans. Ongoing activities will include, but not be limited to:</p> <ol style="list-style-type: none"> <li>1. Consideration of additions and modifications to the adopted plans</li> <li>2. Serving as communications liaisons with the water user communities within each region</li> <li>3. Assisting in the reconciliation of inter-regional water issues</li> </ol>	
<p>It will be necessary to consider additional and adequate funding to support maintenance of the RWPGs.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends that the TWDB request additional and adequate funding and the adoption of the appropriate administrative procedures from the Legislature to facilitate ongoing activities of the RWPGs. Funding should be made available throughout the entirety of the planning cycle without funding gaps that make it difficult for planning groups to accomplish their ongoing efforts.</p>	

Recommendation	Type
State Revolving Fund Programs (Drinking Water State Revolving Fund and Clean Water State Revolving Fund)	Infrastructure Finance
<b>Discussion:</b>	
<p>These programs provide loans at subsidized interest rates for the construction of water treatment and distribution systems and for source water protection (DWSRF) and for wastewater collection and treatment systems (CWSRF). As the loans are paid off, the TWDB uses the funds to make new loans (thus the name Revolving Fund). State funds for the program receive a federal match through the Environmental Protection Agency. These loans are intended for projects to bring existing systems into compliance with rules and regulations, and are available to political subdivisions, water supply corporations, and privately-owned water systems. Applications are collected at the beginning of each year, given a priority ranking, and funded to the extent possible. Projects not funded in a given year may carry forward into the next year’s ranking.</p> <p>These programs are important in that they assist sub-standard water systems in attaining the minimum water quality mandated by Federal and State regulations, but they are not intended to fund system expansions due to projected growth. However, these programs may apply to individual systems in the Region experiencing water quality declines, or to those systems affected by the changed standard for Arsenic. The SRF Fund may also provide assistance to water providers with aging treatment systems and transmission lines.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends increasing the funding of the State Revolving Funds Program in future decades and expand the program to include coverage for system capacity increases to meet projected growth for communities.</p>	

Recommendation	Type
Agricultural Water Conservation Loan Program	Infrastructure Finance
<b>Discussion:</b>	
<p>This program provides loans to soil and water conservation districts, underground water conservation districts and districts authorized to supply water for irrigation. These districts may further lend the funds to private individuals for equipment and materials, labor, preparation, and installation costs to improve water-use efficiency related to irrigation of their private lands. There is also a grant program for equipment purchases by eligible districts for the measurement and evaluation of irrigation systems and agricultural water conservation practices, and for efficient irrigation and conservation demonstration projects, among others. However, these grants are not available to individual irrigators. Similar Federal loan and grant programs are available but require a 25% to 50% local match.</p> <p>In the Region H Water Plan, irrigation conservation is a recommended strategy in eight counties (Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, and Waller). In some cases, the conservation of water through these agricultural programs provides additional water for use by municipalities that also use groundwater supplies. As it is unlikely that municipalities will seek out and fund irrigation conservation projects, the task of encouraging conservation will fall to the wholesale water providers and those government entities with jurisdiction in those counties. Even with Agricultural Water Conservation Loan Program assistance, irrigators will be slow to invest in water-conserving equipment until water rates increase, making it economically advantageous to do so. The difficulty increases in areas where groundwater is the primary supply source for irrigation.</p> <p>Additionally, irrigators in Region H also find it difficult to access funding programs as these typically require ownership of the irrigated property. Much of the production within the region is performed by farmers who lease land from others, making them ineligible for these programs.</p> <p>Eligible districts will need to act as conservation brokers, identifying those irrigators with the potential to reduce water demand through equipment improvements, and matching them with available loans. To assist with the immediate adoption of these improved conservation practices, a one-time grant or subsidy program for water-efficient equipment purchases may help by reducing the loans amounts required by each irrigator. If the requirements of an existing Federal loan or grant program could be met, the State could provide all or part of the local matching share. Since the methods used by irrigators vary across the state, such a program would need to be flexible, with local oversight provided by those districts currently eligible for the Agricultural Water Conservation Loan Program. Consistency with the applicable Regional Water Plan may be included as a prerequisite for this program, as it is for other State grants and loans.</p>	
<b>Recommendation:</b>	
<p>Provide a mechanism to leverage federal grant programs for agriculture by providing the local matching share. Increase funding of associated loan programs and consider adding a one-time grant or subsidy component to stimulate early adoption of conservation practices by individual irrigators. Provide opportunities for joint cooperation between growers and landowners to facilitate the use of funding programs for property under long-term lease agreements.</p>	

Recommendation	Type
Texas Community Development Program	Infrastructure Finance
<b>Discussion:</b>	
<p>The federal Community Development Block Grant program provides grants and loans to low-income communities for certain projects, including water and wastewater infrastructure. It is administered in Texas under the Office of Rural Community Affairs as the Texas Community Development Program. The Small Town Environment Program (STEP) under the TCDP provides water and sewer system grants to cities and counties not eligible for funding under the Colonias or Economically Disadvantaged Areas Programs (EDAP). Within Region H, there are no Colonias or EDAP-eligible communities, but STEP grants may be obtained.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends continued state and federal support of the Texas Community Development Program and increasing the allocation of funds for the Small Town Environment Program.</p>	

Recommendation	Type
Water and Waste Disposal Loans and Grants from the USDA Rural Utilities Service	Infrastructure Finance
<b>Discussion:</b>	
<p>This Federal program provides loans and grants in rural areas and communities of up to 10,000 people for water, wastewater, storm water, and municipal solid waste projects. The program is intended for communities that cannot obtain commercial loans at reasonable rates. Loans are made at or below market rates, depending upon the eligibility of the recipient. Grants can cover up to 75% of project costs when required to reduce user costs to a reasonable level. A separate program of Emergency Community Water Assistance Grants (up to \$500,000 per project) is also available to communities experiencing rapid declines in water quality or quantity.</p>	
<p>This program is similar to the state loan and revolving fund programs. It offers another option to small communities and rural areas unable to finance required infrastructure without assistance. However, this is a nationwide program, and the competition for available funds is correspondingly greater. Colonias and border areas are specifically identified as target areas for the grant portion of this program, and it is therefore in the State’s interest to support its continued funding.</p>	
<b>Recommendation:</b>	
<p>The Region H Water Planning Group recommends continued support and increased funding of Water and Waste Disposal Loans and Grants from USDA Rural Utilities Service at the federal level.</p>	

Recommendation	Type
Innovative Water Technologies	Infrastructure Finance
<b>Discussion:</b>	
<p>The Texas Water Development Board’s Innovative Water Technologies Program has provided technical assistance for development of seawater desalination, brackish groundwater, rainwater harvesting, water reuse, and aquifer storage and recovery programs. This has included several statewide feasibility studies and participation in site-specific demonstration programs. These and similar projects will be an essential resource in progressing the status of innovative water supply projects that will form a critical component of the overall water budget as Texas continues to grow.</p>	
<b>Recommendation:</b>	
<p>Provide technical assistance grants for the advancement of desalination water supplies and implementation of new desalination technologies available to wholesale and retail water suppliers. Provide resources for identification and feasibility assessment of opportunities for aquifer storage and recovery projects. Continue to fund appropriate demonstration facilities to develop a customer base and pursue federal funding for desalination programs.</p>	

Recommendation	Type
Regionalization	Infrastructure Finance
<b>Discussion:</b>	
<p>As communities assess the growing costs of water infrastructure, economies of scale can be realized by combining the needs of water user groups into larger, more efficient water supply, treatment and distribution facilities. Regional facilities offer interconnections between existing systems, which can increase overall reliability. The individual system connections to these systems can be phased over time to meet regional demands with less impact on individual systems than each individually trying to expand. In areas where groundwater limits are being reached, regional groups can identify areas where surface water supply is most needed, and allow other areas to remain on groundwater systems. Sharing costs across a wide customer base keeps rates comparable between service areas.</p> <p>A range of cooperative options exists, including formation of regional authorities, inter-local agreements, public-private partnerships, local government corporations, and public contracting with a private regional supplier. The optimal arrangement between political subdivisions depends upon the specific project and the goals of the parties. Partnerships with private investors through public-private partnerships and direct contracting with privately-owned facilities offer an advantage of using private financing to meet part of the initial planning and construction costs. The regulations governing these partnerships must protect the public represented by the partnership, but if too restrictive, may prevent the partnership from realizing potential cost savings through the use of private-sector procurement and construction practices.</p> <p>Consideration should be given to reducing procurement restrictions for Local Government Corporations to encourage the pooling of resources for funding regional projects. Also, existing assistance programs should remain available when political subdivisions enter into public/public or public/private partnerships.</p>	
<b>Recommendation:</b>	
<p>Region H supports the forming of regional partnerships and encourages the State to allow them the greatest possible latitude for financing in their governing regulations. Additionally, funding opportunities should be made available to these public/private partnerships and to private nonprofit water supply corporations.</p>	

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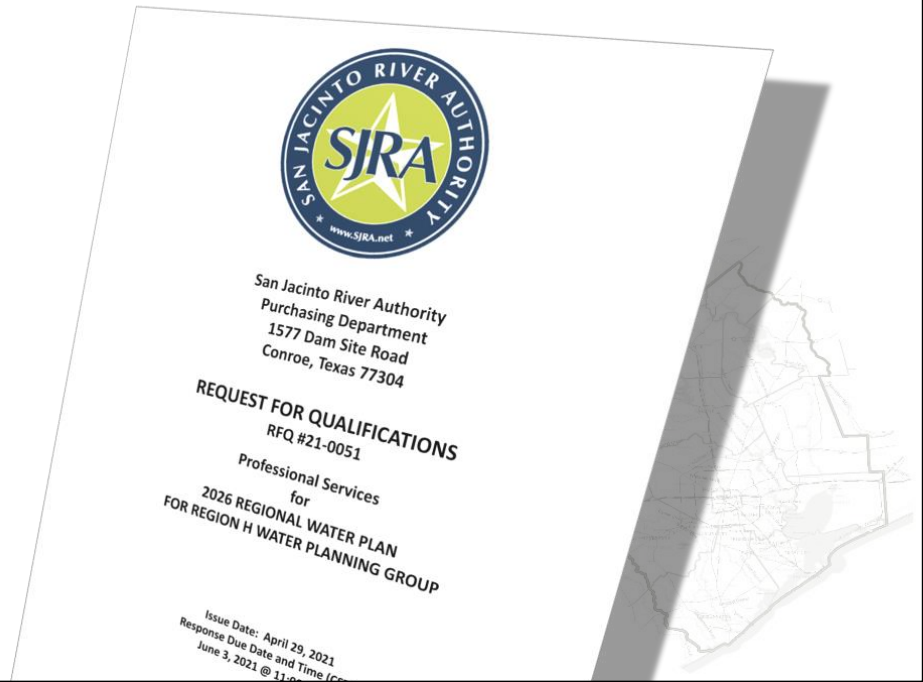


## Agenda Item 8

Receive report regarding submittals of Statements of Qualifications related to consultants for the 2026 round of Regional Water Planning and take necessary action to select a qualified consultant.



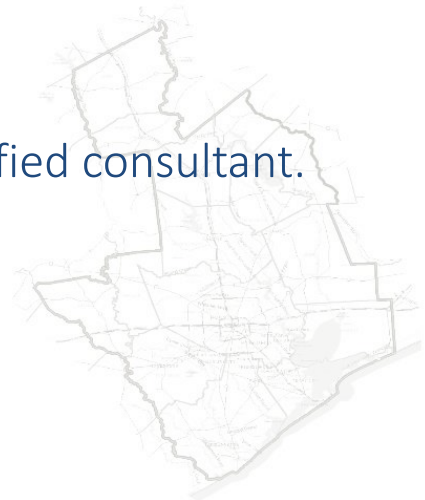
## Agenda Item 8 2026 Cycle RFQ



## Agenda Item 8 2026 Cycle RFQ

### **Action:**

Take necessary action to select a qualified consultant.





## Agenda Item 9

Receive update regarding the schedule and milestones for the development of the 2026 Region H Regional Water Plan (RWP).



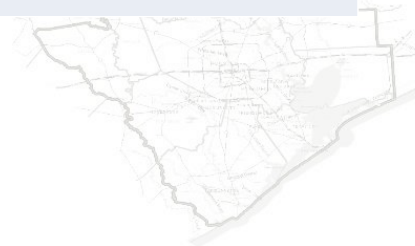
# Agenda Item 9 2026 RWP Schedule



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

# Agenda Item 9 2026 RWP Schedule

Date	Scheduled Events/Tasks
07/2021	RWPG Meeting
08/2021	DUE DATE: TWDB-RWPG Contract Execution
10/2021	RWPG Meeting / Pre-Planning Public Meeting
12/2021	Initial TWDB technical data











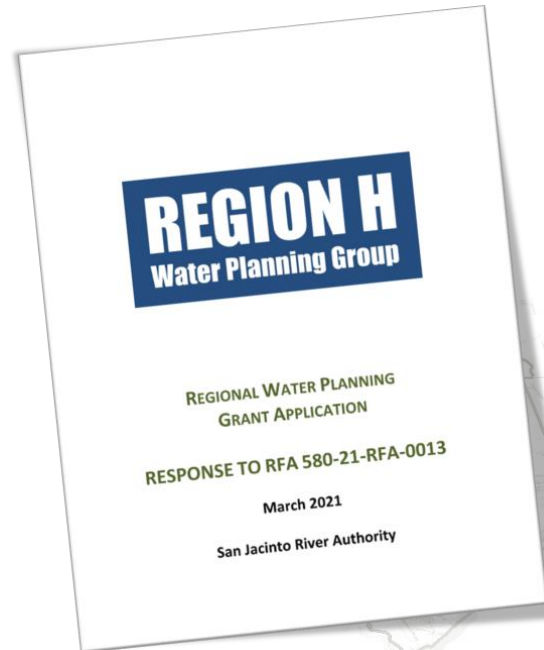
## Agenda Item 10

Receive update on recent and potential upcoming changes to RWP rules and guidance.

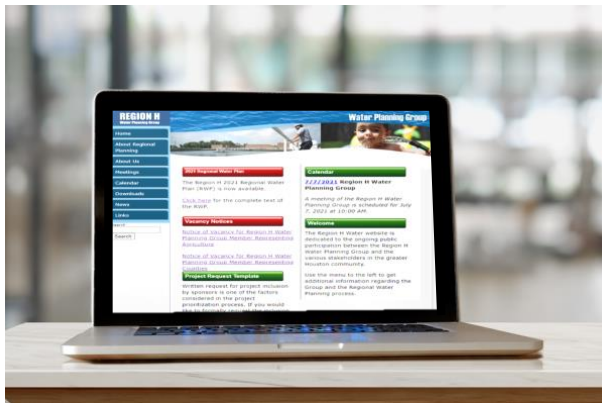


## Agenda Item 10 RWP Process Updates

- Grant application
  - No Texas Register posting
  - No 30-day public notice
  - One application per cycle
- Funding
  - EA ability to request cost-benefit
  - Expenses for Political Subdivision



## Agenda Item 10 RWP Process Updates



- General public outreach
  - Website for agendas and material
  - Written and oral public comment
  - Interested parties list
  - Electronic notice
- Regular meetings
  - 7-day notice
  - 3-day material lead time

## Agenda Item 10

### RWP Process Updates



- Plan adoption process
  - State/Federal comment period reduced to 60 days
  - Final RWP adoption notice extended to 14 days
- Still several major notice events
  - Pre-planning public input
  - IPP hearing
  - Interregional conflict resolution

**From:** [RegionalWaterPlanning](#)  
**To:** [RegionalWaterPlanning](#)  
**Cc:** [WSI-WSP-RWP](#); [Temple McKinnon](#); [Matt Nelson](#); [Jessica Pena](#)  
**Subject:** TWDB adopts amendments to regional water planning rules  
**Date:** Monday, May 10, 2021 4:08:24 PM

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Dear RWPG Stakeholders,

On May 6<sup>th</sup> the TWDB Board adopted amendments to regional water planning grant rules (31 Texas Administrative Code Chapter 355) and regional water planning notice and public participation rules (31 Texas Administrative Code Chapter 357.21).

The rules will be published in the May 21<sup>st</sup> edition of the [Texas Register](#) with an effective date of May 31, 2021. You can currently view the adopted rules in the following TWDB Board item: <http://www.twdb.texas.gov/board/2021/05/Board/Brd03.pdf>. Following the effective date, the revised rules will be available on the Secretary of State website. The TWDB is also updating the regional water planning rules pamphlet and public notification quick-reference documents.

Key changes to be aware of include:

**Chapter 355 (Regional Water Planning Grants)**

- The requirement to submit multiple applications for funding during a single planning cycle is removed.
- A new eligible expense is included to allow for limited reimbursement for political subdivision personnel costs. This expense will be limited by the TWDB contract expense budget.

**Chapter 357.21 (Regional Water Planning Notice and Public Participation)**

- The minimum public notice requirement for regular/committee meetings is increased from three to seven days.
- Minimum timeframes are added for the posting of meeting materials, depending on the action taken.
- The minimum public notice for adoption of final regional water plans is changed from three to 14 days
- The state/federal agency comment period on the Initially Prepared Plans is revised from 90 to 60 days to align with the 60 day public comment period. TWDB's 120 day comment period is not revised by this rule revision.
- The 30 day public notice associated with submitting an application for funding regional water plan development is removed.

Please contact your TWDB Planner with any questions.

*Note: This email has been sent to all RWPG members, administrators, and 5<sup>th</sup>/6<sup>th</sup> cycle consultants with emails on file with TWDB's regional water planning program.*

Best,

Sarah Backhouse

Manager, Regional Water Planning  
Water Supply Planning Division  
Texas Water Development Board  
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[www.twdb.texas.gov](http://www.twdb.texas.gov)



## AGENDA ITEM MEMO

**BOARD MEETING DATE:** May 6, 2021

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Ashley Harden, General Counsel  
Jessica N. Peña, Deputy Executive Administrator, Water Supply & Infrastructure

**FROM:** Sarah Backhouse, Manager, Regional Water Planning

**SUBJECT:** Adoption of rule amendments related to regional water planning.

### **ACTION REQUESTED**

Consider adopting amendments to 31 Texas Administrative Code (TAC) Chapter 355 relating to Regional Water Planning Grants and 31 TAC Chapter 357.21 relating to Regional Water Planning Notice and Public Participation.

### **BACKGROUND**

The Texas Water Development Board (TWDB) authorized publication of proposed amendments to 31 TAC Chapter 355 and 357.21 on February 10, 2021. The proposed amendments were published in the *Texas Register* on February 26, 2021, with a deadline to receive public comments by March 29, 2021.

The TWDB received a comment from the Texas Press Association on the proposed amendments to Chapter 357.21. By statute, the Board is required to respond to timely submitted comments and, if warranted, modify the proposed rules. The Executive Administrator has determined that no changes were warranted to Chapter 357 as a result of the public comment. No public comments were received on the proposed amendments to Chapter 355.

Staff identified a clarification necessary for inclusion in the final rules regarding the minimum timeframe for posting meeting materials for subsection §357.21(h). The adoption preamble includes the Board's response to the comment and changes in the final language considered for adoption are outlined below as key issues.

#### Our Mission

Leading the state's efforts in ensuring a secure water future for Texas and its citizens

#### Board Members

Brooke T. Paup, Chairwoman | Kathleen Jackson, Board Member

Jeff Walker, Executive Administrator

**KEY ISSUES**

The proposed amendments will address concerns raised by regional water planning groups, clarify language, and simplify and streamline regional water planning notice requirements.

Revisions made to the final rules include:

- 31 TAC §357.21(e): correction of a typographical error.
- 31 TAC §357.21(g)(1-3): clarification that materials must be posted on the website of the RWPG.
- 31 TAC §357.21(h)(8): clarification that meeting materials associated with this subsection are subject to a minimum posting requirement.

The comment received, and the response, is summarized in Attachment 2 to this memo as part of the rule adoption package.

**RECOMMENDATION**

The Executive Administrator recommends approval of this item in order to clarify existing regional water planning rules.

- Attachments:
1. Adoption of rule amendments for publication in the Texas Register - Chapter 355.
  2. Adoption of rule amendments for publication in the Texas Register - Chapter 357.21

Attachment 1  
Chapter 355 amendments

The Texas Water Development Board (“TWDB” or “board”) adopts amendments to 31 TAC §355. The proposal is adopted without changes as published in the February 26, 2021 issue of the Texas Register (46 Tex.Reg. 1305).

## BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The purpose of the amendments to 31 TAC §355 are to address concerns raised by the regional water planning groups, which was also identified as a recommendation from the Interregional Planning Council, established by House Bill 807 of the 86th Legislature, to allow for the limited reimbursement of certain labor costs for regional water planning administrative agents. The revisions also clarify language throughout the section.

## SECTION BY SECTION DISCUSSION OF ADOPTED AMENDMENTS.

### *Subchapter C. Regional Water Planning Grants.*

#### *Section §355.91. Notice of Funds and Submission and Review of Applications.*

Section §355.91(a) is revised to remove the requirement that the request for funding applications be published in the Texas Register. Eligible applicants are limited to the Political Subdivision designated by each regional water planning group. These entities will be notified directly by the Executive Administrator (EA) that funding is available.

Section §355.91(b) is revised to add clarity to the rule.

Section §355.91(c) is revised to comply with §357.21 as modified by the current rulemaking project.

New section §355.91(d) is added clarify the statutory requirements to be included in a funding application.

Renumbered section §355.91(e) is revised to remove the requirement for multiple applications during the five-year planning cycle. The Board has discretion to amend the regional water planning grant contracts to add additional funds and scope of work tasks without a new application for funding during the same planning cycle.

Renumbered section §355.91(f) is revised to closely adhere to the statutory requirements.

#### *Section §355.92. Use of Funds.*

Section §355.92(a)(5) is renumbered as §355.92(a)(4) and is revised to clarify that the EA may deem an analysis of benefits and costs of water management strategies eligible for funding at the EA’s discretion and specifies items the EA must consider. Section §355.92(d) is removed, as the EA consideration is now addressed in new §355.92(a)(4).

Section §355.92(a)(4) is renumbered as §355.92(b) and provides clarification on ineligible expenses for RWPG members and the RWPGs’ designated political subdivisions.

Section §355.92(b) is renumbered as §355.92(c) and clarifies certain eligible administrative costs that are specifically limited by the regional water planning grant contract. This includes a new eligible cost for limited reimbursement of the RWPG's political subdivision's personnel costs associated with RWPG meetings and hearings.

Section §355.92(c) is renumbered as §355.92(d) and is revised to clarify the subcontracting process is through the RWPG's political subdivision.

*Section §355.93. Board Consideration of Applications; Applicant's Responsibilities; and Contract.*

Sections §355.93(a), (b), and (c) are revised to clarify rule language.

Section §355.93(d) is revised to clarify that the contracts and subcontracts for regional water planning must, at the direction of the EA, include either a scope of work provided by the EA or a scope of work developed by the RWPG if requested by the EA and a budget subdivided into task budgets.

#### REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in the Administrative Procedure Act. A "major environmental rule" is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to define eligible expenses and clarify existing language.

Even if the rule were a major environmental rule, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed the a standard set by federal law or any other federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but rather under the authority of Texas Water Code § 16.053. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

## TAKINGS IMPACT ASSESSMENT

The board evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to clarify language and to provide for some reimbursement of labor costs for regional water planning administration.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that collects, analyzes, and disseminates water-related data and provides other services necessary to aid in planning and managing the state's water resources.

Nevertheless, the board further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

### PUBLIC COMMENT:

No comments were received.

### STATUTORY AUTHORITY

This rulemaking is adopted under the authority of the Texas Water Code § 6.101 which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

The rulemaking is adopted under the additional authority of Texas Water Code § 15.403 which provides the TWDB with the authority to adopt rules necessary to carry out the purposes of the Research and Planning Program and Texas Water Code § 15.4061 which provides the TWDB with the authority to enter into contracts with political subdivisions and pay from the research and planning fund, all or part of the cost of developing or revising Regional Water Plans in accordance with the statute.

<rule>

## **CHAPTER 355 RESEARCH AND PLANNING FUND**

### **SUBCHAPTER C REGIONAL WATER PLANNING GRANTS**

#### **§355.91 Notice of Funds and Submission and Review of Applications**

(a) The EA will notify the RWPGs that funds are available and that applications will be accepted from eligible applicants for grants to develop a scope of work or to develop or revise regional water plans. The notice will describe the form and manner for applications. A RWPG may not receive grant funds unless the RWPG has provided the EA with a copy of the RWPG's adopted by-laws.

(b) The RWPG shall provide a written designation to the EA naming the political subdivision that is authorized to apply for grant funds on behalf of the RWPG. The RWPG shall ensure that the designated political subdivision has the legal authority to conduct the procurement of professional services and enter into the contracts necessary for regional water planning.

(c) The political subdivision shall provide notice that an application for funding is being submitted in accordance with §357.21 of this title (relating to Notice and Public Participation).

(d) The application must include: the name of the political subdivision; citation to the laws under which the political subdivision was created and is operating, specific citation of all laws providing authority to develop and implement a regional water plan; the amount of funding requested; and any other relevant information requested by the EA.

(e) The EA may request clarification from the political subdivision if necessary to evaluate the application. Incomplete applications may be rejected and returned to the applicant.

(f) The applications shall be evaluated by the following criteria:

(1) degree to which proposed planning does not duplicate previous or ongoing water planning;

(2) project budget;

(3) scope of work;

(4) the relative need of the political subdivision for the money based on the scope of work and cost to develop the regional water plan;

(5) the legal authority of the political subdivision to participate in the development and implementation of a regional water plan; and

(6) the degree to which regional water planning by the RWPG will address the water supply needs in the regional water planning area.

\*n

STATUTORY AUTHORITY

This rulemaking is adopted under the authority of the Texas Water Code § 6.101 which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and Texas Water Code § 15.403 and 15.4061.

Cross-reference to statute: Texas Water Code Chapters 15.

<rule>

### **§355.92 Use of Funds**

(a) Limitations of Funding. The Board has sole discretion in determining which activities are necessary for the development or revision of regional water plans. However, no funds will be provided for the following:

(1) activities for which the Board determines existing information or data is sufficient for the planning effort including:

(A) detailed evaluations of cost of water management strategies where recent information for planning is available to evaluate the cost associated with the strategy;

(B) evaluations of groundwater resources for which a desired future condition has been submitted to the Board pursuant to Texas Water Code §36.108(d) (relating to Joint Planning in a Management Area);

(C) evaluations of groundwater resources for which current information is available from the Board or other entity sufficient for evaluation of the resource;

(D) determination of water savings resulting from standard conservation practices for which current information is available from the Board;

(E) revision of the adopted state population and demand projections;

(F) revision of state environmental planning criteria for new surface water supply projects; and

(G) collection of data describing groundwater or surface water resources where information for evaluation of the resource is currently available;

(2) activities directly related to the preparation of applications for state or federal permits or other approvals, activities associated with administrative or legal proceedings by regulatory agencies, and preparation of engineering plans and specifications;

(3) activities related to planning for individual system facility needs other than identification of those facilities necessary to transport water from the source of supply to a regional water treatment plant or to a local distribution system;

(4) analyses of benefits and costs of water management strategies are not eligible for funding, unless the EA at his or her discretion, has deemed an analysis necessary and appropriate, or



specifically authorizes reimbursement. In determining whether to authorize reimbursement for a cost benefit analysis for a water management strategy, the EA will consider:

(A) whether the water management strategy requires a state or federal permit and the RWPG has completed the analysis required by §357.34 of this title (relating to Identification and Evaluation of Potentially Feasible Water Management Strategies);

(B) whether these analyses are needed to determine the selection of the water management strategy;

(C) whether the analysis is for strategies that serve the same demand, but the costs and benefits differ significantly among the strategies; and

(D) the overarching benefits to the state when determining whether to provide such funding.

(b) Costs associated with participation on a RWPG and certain administrative activities by the RWPG's Political Subdivision and RWPG members are not eligible for funding. Ineligible costs include but are not limited to:

(1) compensation for the time or expenses of RWPGs members' service on or for the RWPG, including attendance at RWPG meetings and hearings;

(2) costs for training;

(3) costs associated with the development of an application for a regional water planning grant;

(4) costs of reviewing products developed due to this grant; and

(5) costs of administering the regional water planning grant and associated contracts.

(c) Funding Administrative Costs. The following administrative costs are eligible for funding as specifically limited by the expense budget included in the regional water planning grant contract between the TWDB and the RWPG's political subdivision and if the RWPG or its chairperson certifies, during a public meeting, that the expenses are eligible for reimbursement and are correct and necessary:

(1) travel expenses, as authorized by the General Appropriations Act are available only for attendance at a posted meeting of the RWPG unless the travel is specifically authorized by the RWPG and EA;

(2) costs associated with providing translators and accommodations for persons with disabilities for public meetings when required by law or deemed necessary by the RWPGs and certified by the chairperson;

(3) direct costs, not including personnel costs, for providing copies of information for the public and for members of the RWPGs as needed for the efficient performance of planning work;

(4) direct costs, not including personnel costs, of public notice postings including a maintaining a website and for postage for mailing notices of public meetings and hearings, including in newspapers pursuant to Chapter 357 of this title (relating to Regional Water Planning); and

(5) the RWPG's political subdivision's personnel costs, for the staff hours that are directly spent providing, preparing for, and posting public notice for RWPG meetings and hearings, including time and direct expenses for their support of and attendance at such RWPG meetings and hearings.

(d) Subcontracting. A RWPG through the political subdivision's contractor or subcontractor may obtain professional services, including the services of a planner, land surveyor, licensed engineer, or attorney, for development or revision of a regional water plan only if such services are procured on the basis of demonstrated competence and qualifications through a request for qualifications process in accordance with Texas Government Code Chapter 2254.

\*n

#### STATUTORY AUTHORITY

This rulemaking is adopted under the authority of the Texas Water Code § 6.101 which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and Texas Water Code § 15.403 and 15.4061.

Cross-reference to statute: Texas Water Code Chapters 15.

<rule>

#### **§355.93 Board Consideration of Applications; Applicant's Responsibilities; and Contract**

(a) The EA shall provide a summary of regional water planning funding applications with recommendations for approval to the Board for consideration at a regularly scheduled public meeting of the Board. The EA shall notify the applicants of the time and place of such meeting.

(b) Board Review. The Board may approve, deny, amend, or continue consideration of an application. If the Board approves the application for funding, then the RWPG's political subdivision will be notified of the amount of funds available and the deadline for executing a contract with the Board. If the applicant does not enter into a contract by the specified deadline, then the Board's approval expires and no funds will be provided. The political subdivision may request an extension of time for good cause shown prior to the contract execution deadline.

(c) Eligible Applicant's Responsibility. The RWPG's political subdivision must demonstrate the availability of matching funds when applicable. However, the Board may in its discretion award up to 100% of the necessary and direct costs of the development or revision of a regional water plan.

(d) The contracts and subcontracts for regional planning funds shall include:

- (1) a detailed statement of the purpose for which the money is to be used;
- (2) a scope of work provided by the EA or a scope of work developed by the RWPG if requested by the EA;
- (3) the total amount of money to be paid from the research and planning fund under the contract and, as determined by the EA, subdivided into task budgets;
- (4) the time for completion; and
- (5) any other terms and conditions required by the EA or agreed to by the contracting parties.

Attachment 2  
Chapter 357.21 Amendments

The Texas Water Development Board (“TWDB” or “board”) adopts an amendment to 31 TAC §357.21. The proposal is adopted with changes as published in the February 26, 2021 issue of the Texas Register (46 Tex.Reg. 1305).

## BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED AMENDMENT.

The purpose of this rule change is to simplify regional water planning public notice requirements and remove redundant references in the section to notice requirements. The revisions closely align with the new flood planning public notice rules, where applicable, to reduce confusion among public notice requirements of the two regional planning processes administered by the agency.

## SECTION BY SECTION DISCUSSION OF PROPOSED AMENDMENTS.

### *Subchapter B. Guidance Principles and Notice Requirements.*

#### *§357.21. Notice and Public Participation.*

Sections §357.21(b)-(e) are rescinded and the requirements within those subsections are rewritten as §357.21(g)(1-3)-(h). Section §357.21(e) is fully removed to no longer require a costly public notice for a non-competitive funding process.

New subsection §357.21(b) requires that each Regional Water Planning Group (RWPG) maintain a website where public notice and meeting materials are posted. This is currently already required by the regional water planning contract scopes of work.

New subsection §357.21(c) clarifies that oral public comment must be accepted at each public meeting or hearing and the RWPGs must specify when and how the public may submit written comment.

New subsection §357.21(d) requires the RWPGs to maintain a list of interested parties of who will receive electronic notice of public meetings and hearings.

New subsections §357.21(e-f) specify the minimum requirements for all meeting and hearing notices. RWPGs may add additional notice requirements above the requirements specified by rule to their bylaws. Subsection §357.21(e) is revised to correct a typographical error.

New subsection §357.21(g)(1) specifies that regular RWPG meetings, and any committee or subcommittee meetings, are subject to a minimum seven-day public notice. Additional RWPG actions that would be subject to the seven-day notice are specified in this rule. This revises the previous requirement that regular RWPG meetings occur with a minimum three-day public notice. A seven-day public notice allows for increased public transparency of upcoming meetings. As referenced in the TWDB’s Best Practices Guide for RWPG Political Subdivisions, the TWDB’s Regional Water Planning Public Notice tool, developed in coordination with a RWPG political subdivision, recommends providing public notice at least seven days prior to a RWPG meeting. The rule also specifies the minimum time for posting

meeting materials as three days prior to and seven days following a public meeting. Subsection §357.21(g)(1) is revised to clarify that materials must be posted on the RWPG's website.

New subsection §357.21(g)(2) specifies certain actions that are subject to a minimum 14-day public notice and public comment period. The rule also specifies the minimum time for posting meeting materials as seven days prior to and 14 days following the public meeting. This subsection revises the previous 14-day public notice requirements by requiring adoption of the final regional water plan to be subject to a 14-day notice, removes the requirement for a 14-day follow up comment period after a RWPG takes action, and removes the requirement to submit public comments on minor amendments to the TWDB from the public notice section. The requirement to provide public comments on minor amendments to the TWDB will be moved to Section 357.50 during a subsequent rulemaking to occur in 2021. Subsection §357.21(g)(2) is revised to clarify that materials must be posted on the RWPG's website.

New subsection §357.21(g)(3) specifies public hearings requirements for declarations to pursue simplified planning and major amendments. These hearings are subject to a minimum 30-day public notice and public comment period prior to and after the hearings. This subsection revises the previous 30-day notice requirements for these hearings in that the notice requirements in Texas Water Code (TWC) 16.053(h) are no longer applied to these hearings to reduce the costly expense associated with a large mailout and posting notice in a newspaper. RWPGs may continue to provide newspaper notices and notify additional entities at their discretion and in accordance with their bylaws. Subsection §357.21(g)(3) is revised to clarify that materials must be posted on the RWPG's website.

New subsection §357.21(h) specifies public meeting and hearing requirements for pre-planning public meetings to obtain input on development of the next RWP and holding hearings on the Initially Prepared Plan (IPP) or making revisions to RWPs based on interregional conflict resolutions. These hearings are subject to public notice provision in TWC 16.053(h), including posting notice in a newspaper and providing a mailed notice to certain entities as specified in the rule. This subsection also requires notification of all adjacent RWPGs, which is an additional requirement not included in TWC 16.053(h). This subsection changes the 60 day "public comment" period on the IPP to a 60 day "written comment" period on the IPP. This will change the comment period of state and public agencies from 90 to 60 days in order to simplify the deadlines to submit written comment to the RWPGs. TWDB's 120-day comment period is not altered by this rule revision. The subsection also clarifies that if more than one hearing is held by a RWPG on the IPP, the notice and public comment periods apply to the date of the first hearing. The subsection adds in the requirements for RWPG hearings on making revisions to their RWPs based on interregional conflict resolutions. The requirements for this type of hearing are specified in TWC 16.053(h) but were not previously addressed in rule. The requirement to post notice for these meetings in the Texas Register is also removed. Subsection §357.21(h)(8) is added to clarify the minimum posting requirements for materials other than IPPs.

## DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The board reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code §2001.0225, and determined that the rulemaking is not subject to Texas

Government Code, §2001.0225, because it does not meet the definition of a “major environmental rule” as defined in the Administrative Procedure Act. A “major environmental rule” is defined as a rule with the specific intent to protect the environment or reduce risks to human health from environmental exposure, a rule that may adversely affect in a material way the economy or a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The intent of the rulemaking is to simplify regional water planning public notice requirements and remove redundant references in the rule related to notice requirements.

Even if the proposed rule were a major environmental rule, Texas Government Code, §2001.0225 still would not apply to this rulemaking because Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: (1) exceed a standard set by federal law, unless the rule is specifically required by state law; (2) exceed an express requirement of state law, unless the rule is specifically required by federal law; (3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or (4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not meet any of these four applicability criteria because it: (1) does not exceed the a standard set by federal law or any other federal law; (2) does not exceed an express requirement of state law; (3) does not exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; and (4) is not proposed solely under the general powers of the agency, but rather under the authority of Texas Water Code § 16.053. Therefore, this rule does not fall under any of the applicability criteria in Texas Government Code, §2001.0225.

## TAKINGS IMPACT ASSESSMENT

The board evaluated this rule and performed an analysis of whether it constitutes a taking under Texas Government Code, Chapter 2007. The specific purpose of this rule is to simplify regional water planning public notice requirements and remove redundant references in the section to notice requirements.

The board's analysis indicates that Texas Government Code, Chapter 2007 does not apply to this rule because this is an action that is reasonably taken to fulfill an obligation mandated by state law, which is exempt under Texas Government Code, §2007.003(b)(4). The board is the agency that collects, analyzes, and disseminates water-related data and provides other services necessary to aid in planning and managing the state's water resources.

Nevertheless, the board further evaluated this rule and performed an assessment of whether it constitutes a taking under Texas Government Code, Chapter 2007. Promulgation and enforcement of this rule would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject proposed regulation does not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulation. Therefore, the rule does not constitute a taking under Texas Government Code, Chapter 2007.

## GOVERNMENT GROWTH IMPACT STATEMENT

The board reviewed the rulemaking in light of the government growth impact statement requirements of Texas Government Code §2001.0221 and has determined, for the first five years the rule would be in effect, the rule will not: (1) create or eliminate a government program; (2) require the creation of new employee positions or the elimination of existing employee positions; (3) require an increase or decrease in future legislative appropriations to the agency; (4) require an increase or decrease in fees paid to the agency; (5) create a new regulation; (6) expand, limit, or repeal an existing regulation; (7) increase or decrease the number of individuals subject to the rule's applicability; or (8) positively or adversely affect this state's economy.

## PUBLIC COMMENTS

The following written comment was received from the Texas Press Association.

### *Comment*

The Texas Press Association asserted that the requirement to post notice in a newspaper for declarations of intent to pursue simplified planning and major amendments are set forth in statute and citizens would no longer be informed of these meetings if the requirement to post notice in newspapers are removed.

### *Response*

The requirement to post notice in a newspaper set forth in statute (TWC §16.053(h)(8)) is not applicable for hearings regarding declarations of intent to pursue simplified planning and major amendments. At a minimum, notices for these types of hearings are still required to be posted on the website for the RWPG and the Secretary of State website. The proposed rules continue to require newspaper notices for such meetings specified in statute as requiring newspaper notices. No change has been made in response to this comment.

## STATUTORY AUTHORITY

This rulemaking is adopted under the authority of the Texas Water Code § 6.101 which provides the TWDB with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State. The rulemaking is adopted under the additional authority of Texas Water Code § 16.053 which provides the TWDB with the authority to adopt rules necessary to carry out Regional Water Planning in accordance with the statute.

Texas Water Code § 16.053 is affected by this rulemaking.

<rule>

## CHAPTER 357 REGIONAL WATER PLANNING



## **SUBCHAPTER B GUIDANCE PRINCIPLES AND NOTICE REQUIREMENTS**

### **§357.21 Notice and Public Participation**

(a) Each RWPG and any committee or subcommittee of an RWPG are subject to Chapters 551 and 552, 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 other subsections. In accordance with Texas Water Code §16.053(r), certain information regarding water infrastructure facilities is excepted from the Public Information Act, Texas Government Code, Chapter 552. In addition to the notice requirements of Chapter 551, Government Code, the following requirements apply to RWPGs.

(b) Each RWPG shall create and maintain a website that they will use to post public notices of all its full RWPG, committee, and subcommittee meetings and make available meeting agendas and related meeting materials for the public, in accordance with this section.

(c) Each RWPG shall provide a means by which it will accept written public comment prior to and after meetings. The RWPGs must also allow oral public comment during RWPG meetings and hearings.

(d) Each RWPG shall solicit interested parties from the public and maintain a list of emails of persons or entities who request to be notified electronically of RWPG activities.

(e) At a minimum, notices of all meetings, meeting materials, and meeting agendas shall be sent electronically, in accordance with the timelines and any additional notice requirements provided in subsection (g)(1) - (3) and (h) of this section or any additional notice requirements in the RWPG by-laws, to all voting and non-voting RWPG members and any person or entity who has requested notice of RWPG activities. Notice must also be provided to the following:

(1) if a recommended or Alternative WMS that is located outside of the RWPG is being considered, the RWPG where the recommended or Alternative WMS is located must also receive notice of any meeting or hearing where action or public input may be taken on the recommended or Alternative WMS.

(2) for hearings on declarations of intent to pursue simplified planning, if a RWPG shares a water supply source, WMS, or WMSP with another RWPG, the RWPG declaring intent to pursue simplified planning must notify the RWPG with shared source, WMS, or WMSP.

(3) each project sponsor of an infeasible WMS or WMSP must be provided notice of any meeting or hearing where action may be taken on the infeasible WMS or WMSP.

(f) At a minimum, all meeting and hearing notices must be posted to the RWPG website and on the secretary of state website and must include:

(1) the date, time, and location of the meeting;

(2) a summary of the proposed action(s) to be taken;

(3) the name, telephone number, email address, and physical address of a contact person to whom questions or requests for additional information may be submitted; and

(4) a statement of how and when comments will be received from the members and public.

(g) In addition to subsections (a) - (f) of this section, and the notice requirements of Chapter 551, Government Code, the following requirements apply:

(1) at a minimum, notice must be provided at least seven days prior to the meeting, and meeting materials must be made available on the RWPG website at least three days prior to and seven days following the meeting when the planning group will take the following actions:

(A) regular RWPG meetings and any RWPG committee or subcommittee meetings;

(B) approval of requests for funds from the Board;

(C) amendments to the scope of work or budget included in the regional water planning grant contract between the political subdivision and TWDB;

(D) approval of revision requests for draft population projections and Water Demand projections;

(E) adoption of the IPP;

(F) approval to submit a request to EA for approval of an Alternative WMS substitution or to request an EA determination of a minor amendment;

(G) declaration of implementation of simplified planning following public hearing on intent to pursue simplified planning;

(H) initiation of major amendments to RWPs and adoption of major amendments following a public hearing on the amendment;

(I) approval of replacement RWPG members to fill voting and non-voting position vacancies; and

(J) any other RWPG approvals required by the regional water planning grant contract between TWDB and the political subdivision.

(2) at a minimum, notice must be provided at least 14 days prior to the meeting, written comment must be accepted for 14 days prior to the meeting and considered by the RWPG members prior to taking the associated action, and meeting materials must be made available on the RWPG website for a minimum of seven days prior to and 14 days following the meeting, when the planning group will take the following actions:

(A) approval to submit revision requests to officially adopted Board population and Water Demand projections;

(B) approval of process of identifying potentially feasible WMSs and presentation of analysis of infeasible WMSs or WMSPs;

(C) approval to submit the Technical Memorandum;

(D) adoption of the final RWP;

(E) approval to substitute an Alternative WMSs; and

(F) adoption of minor amendments to RWPs.

(3) at a minimum, notice must be provided at least 30 days prior to the hearing, written comment must be accepted for 30 days prior to and following the date of the hearing and considered by the RWPG members prior to taking the associated action, and meeting materials must be made available on the RWPG website for a minimum of seven days prior to and 30 days following the hearing, when the planning group will receive input from the public on the following items:

(A) declarations to pursue simplified planning; and

(B) major amendments to RWPs.

(h) when holding pre-planning public meetings to obtain public input on development of the next RWP, holding hearings on the IPP, or making revisions to RWPs based on interregional conflict resolutions, in addition to the requirements of subsection (e), the following additional public notice and document provisions must be met per TWC 16.053(h):

(1) notice shall be published in a newspaper of general circulation in each county located in whole or in part in the RWPA before the 30th day preceding the date of the public meeting or hearing.

(2) at a minimum, notice must be provided at least 30 days prior to the meeting or hearing.

(3) written comments to be accepted as follows:

(A) written comments submitted immediately following 30-day public notice posting and prior to and during meeting or hearing; and

(B) at least 60 days following the date of the public hearing on an IPP.

(4) if more than one hearing on the IPP is held, the notice and comment periods applies to the date of the first hearing.

(5) additional entities to be notified by mail under this subsection include:

(A) each adjacent RWPG;

(B) 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;

(C) each county judge of a county located in whole or in part in the RWPA;

(D) each special or general law district or river authority with responsibility to manage or supply water in the RWPA based upon lists of such water districts and river authorities obtained from the Commission; and

(E) each Retail Public Utility, defined as a community water system, that serves any part of the RWPA or receives water from the RWPA based upon lists of such entities obtained from the Commission; and

(F) each holder of record of a water right for the use of surface water the diversion of which occurs in the RWPA based upon lists of such water rights holders obtained from the Commission.

(6) the public hearings shall be conducted at a central location readily accessible to the public within the regional water planning area.

(7) RWPGs shall make copies of the IPP available for public inspection at least 30 days before the required public hearing by providing a copy of the IPP in at least one public library in each county and 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. The locations of such copies shall be included in the public hearing notice. For distribution of the IPP, the RWPG may consult and coordinate with county and local officials in determining the most appropriate public library and location in the county courthouse to ensure maximum accessibility to the public during business hours. According to the capabilities of the facility, the RWPG may provide the copy electronically, on electronic media, through an internet web link, or in hard copy. The RWPG shall make an effort to ensure ease of access to the public, including where feasible, posting the IPP on websites and providing notice of such posting. The public inspection requirement in this subsection applies only to IPPs; adopted RWPs are only required to be submitted to the Board pursuant to Texas Water Code, §16.053(i).

(8) Any additional meeting materials associated with meetings in this subsection must be made available on the RWPG website for a minimum of seven days prior to and 30 days following the meeting or hearing.

(i) All notice periods given are based on calendar days.

(j) Each RWPG shall include a statement in their draft and final adopted RWPs regarding the RWPG's conformance with this section.

## Agenda Item 13

Agency communications and general information.



## Region H TWDB Update 7-7-21

### 1. Mining Water Use Study

- TWDB has contracted with UT Bureau of Economic Geology to assess mining water use and update demand projections for 2026 regional water plans
- Includes sand and gravel operations
- <https://www.twdb.texas.gov/waterplanning/data/projections/MiningStudy/index.asp>

### 2. TWDB Member Survey. Aiming for July

**3. Rulemaking:** 355 and 357.21 revisions completed 5/6 effective 5/31. (legislative)  
This will occur again later this year and will include a public comment period. (stakeholder)

**4. 2022 SWP** is being considered today by the TWDB. 2022 Interactive site is live.

<https://2022.texasstatewaterplan.org/statewide>

**5. Contract:** being prepared for execution by Pol Sub (mid July). Must be executed by August 31.

**6. Guidance principles & Water Supply Planning Rules review:** comments received  
comment period closed 7/5. Revisions to guidance document and rules to follow.

## Region H TWDB Update

### 4. Legislative Update: bills that affect RWP & were tracked by TWDB

- HB 1905-relieved Regional Water Planning Groups of certain duties;
- SB 669-related to certain reports created by the TWDB;
- HB-2225- powers and duties of Parks and Wildlife regarding the Tx Water Trust.

### 5. Round 6 website: Link to Sixth Cycle of RWP landing page:

<http://www.twdb.texas.gov/waterplanning/rwp/planningdocu/2026/index.asp>

**6. Pre-Planning Meeting:** planning groups will identify water management strategies that would develop or use a water resource in another region or may otherwise impact the region of origin; from the identified strategies, the RWPG should determine which may create opportunities for further collaboration and cooperation or may create potential for interregional conflicts; the RWPG should begin discussing a course of action for coordinating with the other RWPG(s) in the supplying or receiving region(s) to discuss potential opportunities for collaboration or potential conflicts. Take appropriate action.





**From:** [RegionalWaterPlanning](#)  
**To:** [RegionalWaterPlanning](#)  
**Cc:** [WSI-WSP-RWP](#); [Temple McKinnon](#); [Matt Nelson](#); [Jessica Pena](#)  
**Subject:** TWDB Preliminary Input Request on State Water Planning Guidance Principles and Water Planning Rules  
**Date:** Thursday, May 20, 2021 4:28:48 PM  
**Attachments:** [RWPG Stakeholder SWP Guidance Principles Letter.pdf](#)

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Dear RWPG Stakeholders,

The Texas Water Development Board is soliciting preliminary stakeholder input on potential revisions to the [State Water Planning Guidance Principles](#) (31 Texas Administrative Code (TAC) §358.3) and [Regional Water Planning rules](#) (31 TAC §357). The attached letter provides additional information on topics that may be addressed in the rulemaking and how to submit comments.

Any preliminary input comments must be submitted to [RegionalWaterPlanning@twdb.texas.gov](mailto:RegionalWaterPlanning@twdb.texas.gov) by **July 5, 2021** with the subject line “2021 Regional Water Planning Rulemaking”. Please note that there will also be a public comment period on any proposed rules during a formal rulemaking process later this year.

*Note: This email has been sent to all RWPG members, administrators, and 5th/6th cycle consultants with emails on file with TWDB’s regional water planning program.*

Best,

Sarah Backhouse  
Manager, Regional Water Planning  
Water Supply Planning Division  
Texas Water Development Board  
P.O. Box 13231, Austin, TX 78711  
512-936-2387 | [sarah.backhouse@twdb.texas.gov](mailto:sarah.backhouse@twdb.texas.gov)  
[www.twdb.texas.gov](http://www.twdb.texas.gov)



## AGENDA ITEM MEMO

**BOARD MEETING DATE:** June 3, 2021

**TO:** Board Members

**THROUGH:** Jeff Walker, Executive Administrator  
Ashley Harden, General Counsel  
Rebecca Trevino, Chief Financial Officer  
Jessica N. Peña, Deputy Executive Administrator, Water Supply & Infrastructure

**FROM:** Sarah Backhouse, Manager, Regional Water Planning

**SUBJECT:** Regional water planning contracts

### **ACTION REQUESTED**

Consider authorizing the Executive Administrator to (a) negotiate and execute contracts for the 2026 regional water plans in an amount not to exceed \$2,844,856 including permission to allow the TWDB to reimburse planning group administrators for eligible direct costs incurred prior to grant contract execution beginning on February 1, 2021; and (b) transfer associated funds from the Water Assistance Fund to the Research and Planning Fund.

### **BACKGROUND**

Section 16.051 of the Texas Water Code (TWC) requires the Texas Water Development Board (TWDB) to develop and adopt a comprehensive state water plan every five years that incorporates the regional water plans developed under TWC Section 16.053. The state water plans are prepared by TWDB based on the regional water plans that are developed every five years by the 16 regional water planning groups (RWPGs).

### ***Sixth Cycle of Regional Water Planning***

The 2026 regional water plans will be prepared as the basis for the 2027 State Water Plan and will address a projection period out to the year 2080.

#### **Our Mission**

Leading the state's efforts in ensuring a secure water future for Texas and its citizens

#### **Board Members**

Brooke T. Paup, Chairwoman | Kathleen Jackson, Board Member

Jeff Walker, Executive Administrator

### ***Current Available Funding***

Funding to commence planning activities is proposed in an amount not to exceed \$2,844,856. This funding is comprised entirely of the remaining reserved funds from Fiscal Year 2021 for regional water planning activities.

### ***Anticipated Additional Funding***

If additional future appropriations continue at the same level as the Fiscal Year 2020-2021 levels, the total anticipated amount of funding that would eventually become available for the sixth cycle of regional water planning is estimated to be approximately \$15.6 million.

At this time, staff has not included any anticipated future appropriations in the formula-based allocation. The TWDB included additional funding requests in the agency's Exceptional Items Request and has also requested removal of certain planning tasks in its Legislative Priorities Report to the 87<sup>th</sup> Legislature. Once there is more certainty about the future appropriations and any additional, relevant legislative actions, staff anticipates allocating and adding known and anticipated future appropriations to the "total study costs" of the regional water planning contracts under a separate Board action in 2022.

### ***Request for Applications***

In March 2021, the Executive Administrator authorized publishing a Request for Applications (RFA) in the Texas Register for funding approximately \$2.8 million to initiate the sixth cycle of regional water planning. The TWDB published an RFA in the March 12, 2021 issue of the Texas Register with an application deadline of April 12, 2021.

### ***Scoping***

The initially available funds are considered sufficient for work to be performed under the initial grant contract standard scope of work developed by the TWDB that supports RWPG efforts to

- describe the regional water planning area (Task 1);
- evaluate and provide input on non-population water demand projections including irrigation, livestock, mining, steam electric, and manufacturing through 2080 (Task 2A);
- evaluate and provide input on population and municipal-related water demand projections through 2080 (Task 2B);
- develop policy and other recommendations (Task 8); and,
- conduct a portion of the associated Task 10 public participation and administration activities required by the regional water planning process necessary to complete Tasks 1, 2A, 2B, and 8.

### **KEY ISSUES**

In accordance with TWDB's solicitation, all 16 RWPGs submitted grant applications by the April 12, 2021 deadline. The total funds requested in the applications aligned with their allocations and therefore did not exceed the available funds of \$2,844,856. The predetermined formula funding approach used to allocate funding is based on the same

approach that was used to successfully allocate funding for the fifth cycle of regional water planning. Funding recommendations recognize that not all RWPGs will require an equal amount of effort to complete the fundamental planning tasks as defined in statute and rule.

The Executive Administrator has reviewed the applications and recommends funding the RWPGs in an amount of \$2,844,856, as shown in summary Table 1 to initiate the sixth cycle of regional water planning. Planning groups would need additional legislative appropriations to complete the regional water plans.

**Table 1: Recommended funding allocated by region.**

<b>Region</b>	<b>Applicant</b>	<b>Allocated funds</b>
(A) Panhandle	Panhandle Regional Planning Commission	\$149,303
Region B	Red River Authority of Texas	\$115,146
Region C	Trinity River Authority	\$277,846
(D) North East Texas	Riverbend Water Resources District	\$205,691
(E) Far West Texas	Rio Grande Council of Governments	\$100,852
Region F	Colorado River Municipal Water District	\$197,987
(G) Brazos G	Brazos River Authority	\$338,173
Region H	San Jacinto River Authority	\$287,657
(I) East Texas	City of Nacogdoches	\$228,814
(J) Plateau	Upper Guadalupe River Authority	\$90,233
(K) Lower Colorado	Lower Colorado River Authority	\$161,580
(L) South Central Texas	San Antonio River Authority	\$186,453
(M) Rio Grande	Lower Rio Grande Valley Development Council	\$149,448
(N) Coastal Bend	Nueces River Authority	\$119,837
(O) Llano Estacado	South Plains Association of Governments	\$148,772
(P) Lavaca	Lavaca-Navidad River Authority	\$87,064
<b>Total</b>		<b>\$2,844,856</b>

Although funding for regional water planning grant contracts is appropriated every two years, TWDB has historically entered five-year contracts at the beginning of each regional water planning cycle. Only those funds that have already been appropriated are shown as “committed” amounts within the regional water planning grant contracts. Each five-year planning cycle necessitates amending the contracts to incorporate increased funding as additional appropriations become available.

The contracts may also include a greater “total study costs” dollar amount that can be used to indicate the full, total anticipated funding amount for the entire five-year contract period, including anticipated future appropriation amounts. For the initial contracts, the “total study cost” amounts are equal to the “committed” amounts. Once there is more certainty about additional future appropriations, the Executive Administrator will consider requesting Board authorization to include in the contracts projected “total study costs” that reflect the full, anticipated appropriation anticipated to be received over the remainder of the five-year planning cycle when amending the contracts. Although this approach poses

some risks that are acknowledged in the contract, doing so allows the planning groups to better plan their work and manage their budgets resulting in better processes and regional water plans.

RWPGs will be required to hold a preplanning public meeting to receive public input on issues that should be addressed or provisions that should be included in the regional or state water plan (31 TAC §357.12(a)(1)) prior to expending funds for technical planning activities. The required public meeting to receive preplanning input from the public does not have to occur prior to executing the contracts (regions all used a common, standard draft contract scope of work for their applications); however, TWDB will not reimburse for any activities other than administrative costs that occur prior to the date of their preplanning public meeting under the TWDB contract.

The Executive Administrator requests authorization to negotiate and execute contracts with the RWPGs' designated political subdivisions (administrators). At this time, the Executive Administrator is requesting associated permission from the Board to allow the TWDB to reimburse RWPG administrators for all eligible direct (non-labor) administrative dollar amounts expended to support the RWPGs that are incurred prior to grant contract execution beginning on February 1, 2021. Administrative costs may be incurred by some planning groups prior to the initiation of contracts as they determine their appropriate work timelines.

Once authorization to enter into the sixth cycle of regional water planning contracts is obtained, RWPGs have until March 3, 2025 to deliver their initially prepared regional water plans to TWDB with the final, adopted 2026 regional water plans due to TWDB by October 20, 2025.

**RECOMMENDATION**

Staff recommends authorizing the Executive Administrator to negotiate and execute contracts for the sixth cycle of regional water planning in an amount not to exceed \$2,844,856 including permission to allow the TWDB to reimburse planning group administrators for eligible direct costs incurred prior to grant contract execution beginning on February 1, 2021; and (b) transfer funds from the Water Assistance Fund to the Research and Planning Fund.