A Note about this survey from Texas Living Waters:
TWDB is seeking input on implementation of various aspects of the Texas Water Fund through 3 separate surveys. Texas Living Waters has filled out the surveys and is providing our responses to entities and individuals that would like to provide their own input through these surveys.

The TWDB is also accepting written comments @ TexasWaterFund@twdb.texas.gov. Surveys and comments are due April 30, 2024.

Survey #1 - Financial Assistance for Water Infrastructure Projects – Survey #1 Link
Survey #2 – New Water Supply for Texas Fund – Survey #2 Link
Survey #3 - Statewide Water Public Awareness Program – Survey #3 Link

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

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

Your Organization Name

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

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

Are in favor of this type of solicitation?

Yes/ No?

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

- Would there be a separate ranking system for projects tapping into Texas Water Fund dollars vs the traditional state financial assistance programs?
- Each program has different timelines and deadlines. How would these separate timelines impact projects submitted under this combined solicitation format? How would the TWDB ensure that applicants are not confused about deadlines and miss out on opportunities for funding for a particular state fiscal year?
- For project and financial planning purposes, municipalities (and the TA providers that help them) need to understand what the mix of funding might be/is likely to be, which funding sources they are eligible for, and their likelihood of receiving funding – particularly their likelihood of receiving grants or principal forgiveness. will communities have a good understanding of which funding sources they'd be eligible for and be able to self-assess their likelihood of receiving a grant or principal forgiveness?

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

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

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

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

Additional funding for the SRF programs through the TWF could provide increased amounts of principal forgiveness to communities who have trouble meeting the federal cross-cutting requirements with the amount of PF currently available. Due to the success of the SRF

[1] *See* 40 CFR § 35.3575 (outlining federal cross-cutting requirements for DWSRF). *See also* 40 CFR § 35.3145 (outlining federal cross-cutting requirements for CWSRF).

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

programs and the importance of projects eligible for funding under the SRFs, we do not have concerns regarding the super cross-cutting requirements as they exist in the SRF programs.

4.Once money is transferred from the Texas Water Fund to a particular financial assistance program, upon approval of an application, all statutory and rule requirements applicable to that receiving program will apply to that project. Programs that have authorization for grants (or principal forgiveness) include the Rural Water Assistance Fund, the Clean Water and Drinking Water State Revolving Funds, and the newly created New Water Supply for Texas Fund (see Survey 2). Some programs, such as the Texas Water Development Fund and SWIFT, do not offer grants due to statutory or constitutional limitations. However, they may offer subsidies through reduced interest rates.

What factors should be considered when offering grants from the Texas Water Fund? Please select at most 3 options.

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

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

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

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

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

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

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

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

area scale. This will help ensure that projects in the areas that need it most are able to receive funding.

5.What factors should be weighted the most heavily?
Please select at most 2 options.

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

See ***Question 4***, above.

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

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

This approach is consistent with the use of state funds from states like Michigan that have infused their SRF programs with additional grants from state funding. For example, the state of Michigan has invested $35 million in FY2021 under Michigan's Clean Water Plan.[5] These funds were then awarded as grants under the Drinking Water Infrastructure Grant Program to

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

projects on the FY2022 DWSRF.[6] We believe this approach, which provides additional grants or principal forgiveness for communities most in need, is desirable for the use of TWF monies.

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

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

As is discussed in a recent blog by EPIC, historically, the bond market has been the primary source of funding for water projects. However, State Revolving Funds (SRFs) typically offer lower interest rates, providing a significant advantage to municipal entities and utilities, particularly those without a credit history or with a less favorable one. Since the establishment of the Clean Water State Revolving Fund (CWSRF) in 1987 and the Drinking Water State Revolving Fund (DWSRF) in 1997, the lower interest rates offered by SRFs compared to bonds have resulted in savings of tens of billions of dollars for municipalities, utilities, and the communities they support.

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

This can be considered a "market percentage rate benchmark," which is a common structure across states. Two-thirds of all states fall into a market-based rate broadly, and 28% of all subcategories (the largest subgroup) are a percentage-based discount from a market rate – meaning that Texas' policies fall in with the majority broadly and the plurality for market-based rate states (would be 40% of all market-rate states who have a percentage discount policy). This structure avoids pitfalls of other structures such as fixed-variable and market-variable categories, which lack a discernable structure for assigning rates and lack transparency in rate calculations. Instead, this structure, which reflects current market conditions, makes loans

[6] *Id.*
[7] https://www.twdb.texas.gov/financial/programs/DWSRF/doc/SFY2024/SFY2024-DWSRF-IUP.pdf.
[8] https://www.twdb.texas.gov/financial/programs/CWSRF/doc/SFY2024/SFY2024-CWSRF-IUP.pdf.

more affordable for borrowers, provides transparency, ensures rates are competitive, and reflects the true cost of borrowing, while also allowing the state to better manage risk. Therefore, we support utilizing this approach when determining the loan subsidy for TWF projects across state programs. However, we also note that for applicants who demonstrate financial hardship, longer-term loans, increased rate subsidies, and waiver of fees should also be considered when determining loan financing terms.

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

What are the greatest non-flood water infrastructure-related risks or needs for rural (generally 10,000 in population or less) communities?
Please select at most 2 options.

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

These issues are all hyper-local and are hard to generalize. In order to develop a fuller picture, we strongly encourage the TWDB to develop a survey or complete a study on both risks and needs facing these communities in order to better target funding. However, we believe providing support to communities at risk of loss of service should be a top priority. TWDB (and other agencies) should use the data collected to determine systems at highest risk for health and safety issues and loss of service could be provided targeted funding. Those systems could be targeted for technical assistance and financial assistance.

9.What are the greatest non-flood water infrastructure-related risk or needs for municipalities with a population less than 150,000?
Please select at most 2 options.

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

- **Other:**

See response to ***Question 8***, above.

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

See response to ***Question 8***, above.

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

- **Asset management evaluation**
- **Preparation of a rate study**
- **Review of existing organizational operations procedures**
- **Review of existing financial statement/budgeting procedures**
- **Completion of project Information forms/financial assistance applications**
- **Development of water conservation plans**
- **Water loss audits**
- **Financial, managerial, and technical assistance related to regulatory compliance**
- **Other:_____**

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

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

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

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

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

What factors should be given the highest priority in funding these types of projects? Please select at most 2 options.

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

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

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

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

- **Total volume of water estimated to be saved** – this metric depends on how much water a community has access (for example San Antonio can save a high total volume of water compared to another community that has greater water scarcity but smaller amounts of water that can be saved) to and is not recommended for use in prioritization.
- **Volume of water saved per capita per day** – this metric is not generally recommended as we typically don't know how many people are represented by each connection. Volume of water per connection is a more appropriate metric.
- **Systems with developed water loss mitigation plans based on water loss audit data** – The development of water loss mitigation plans should be encouraged as they can lay out a strategic pathway for water loss mitigation investment and action. Not all communities have these plans in place and some may be seeking funding to develop these plans. The TWDB should encourage development of these plans and provide funding and follow up assistance to do so.
- **Previous infrastructure failures that resulted in significant water losses** – The prioritization of water loss mitigation projects should be based on current needs and not past events. If the cause of previous infrastructure failures have not been addressed and there is a plan in place the utility should apply for financial assistance.

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

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

We believe that the two greatest incentives to implement water loss mitigation projects are financial assistance and technical assistance.

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

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

We are not able to answer this question without additional details regarding what is intended by the metric "substantially completed state or federal permitting".

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

While much of the funding could flow through existing programs, we have a concern that water conservation, water loss and water reuse projects might not be considered without technical assistance and more direct outreach.

The Board should proactively identify Water Loss Mitigation projects candidates:

- We suggest that TWDB utilize recent water loss audits to identify communities that are above the TWDBs threshold set for HB 3605 compliance and proactively reach out to them through the TA program. This could include assisting utilities in developing water loss mitigation plans and assistance with identifying projects for and applying for funding.
- Another approach is to utilize the most recent Water Loss Audit data and perform a Frontier Analysis to identify low performing utilities.
- Consider creating set-aside funds, more favorable financing opportunities, and prioritization points for water loss mitigation projects in existing programs, particularly programs with limited financial capacity.

- Water Conservation:
  - The Board should consider utilizing 5-year water conservation plans to identify water utilities with high GPCD and 5-10 year goals that are not progressive. Proactively reach out to those communities and work with them on planning, program design and implementation. Help partner these utilities with high-performing peers.
  - Set aside a certain amount of funds for water conservation, including grants . As we have seen with SWIFT, utilities do not generally apply for funds to support water conservation programs. There is a concern that this particular part of the program could be undersubscribed.