



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

AGENDA ITEM MEMO

BOARD DATE: December 17, 2024

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator
Ashley Harden, General Counsel
Jessica Peña, Deputy Executive Administrator, Water Supply and Infrastructure

FROM: T. Clay Schultz, Ph.D., Director, Regional Water Project Development
Dain Larsen, Assistant Director, Regional Water Project Development

SUBJECT: Financial Reporting Requirements for financial assistance applications

ACTION REQUESTED

Consider approval of a policy related to the deadlines to submit audited financial statements with an application for financial assistance to be secured by bonds or other securities.

BACKGROUND

Texas Administrative Code rules related to requests for financial assistance from the Texas Water Development Board (TWDB) require the submission of current, audited financial reports (31 TAC §§ 363.12, 371.31, and 375.41). Applicants must meet this application requirement not only at the time of submission, but also until commitment of funds to a project. In mid-March 2024, a review of the financial assistance applications being processed by the TWDB showed that approximately 80 percent of the nearly 100 applications being processed would not be current by March 31, 2024, a common deadline for municipalities with a September 30th fiscal year end. This figure dropped to approximately 40 percent by mid-May 2024 and nearly 10 percent by the end of June 2024. The TWDB is required not only to enforce this requirement by rule but also to expeditiously commit funds provided by federal and state programs for the purpose of water, wastewater, or flood infrastructure projects.

KEY ISSUES

The TWDB staff from Credit Review, Financial Compliance, Executive, and Office of General Counsel discussed and evaluated potential options to maintain the application requirements while expeditiously allocating funds to projects. The attached policy describes the staff's recommendation to enforce two deadlines, one at the time of submission of an

Our Mission

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

Board Members

Brooke T. Paup, Chairwoman | L'Oreal Stepney, P.E., Board Member | Tonya R. Miller, Board Member
Bryan McMath, Executive Administrator

application, and the other when an application has already been accepted for processing but has not been considered by the board for commitment.

RECOMMENDATION

The Executive Administrator recommends approval of the policy to adopt standard financial assistance application deadlines to meet the requirement to provide current, audited annual financial statements that have been approved by the applicant's governing body.

Attachment:

1. Financial Statements Requirements- financial assistance applications with a proposed loan commitment policy and procedures

Financial Statements Requirements

Financial assistance applications with a proposed loan commitment

Timely, audited financial reporting is required for an assessment of the risk of extending credit to an applicant for Texas Water Development Board (TWDB) funding. The relevant Texas Administrative Code requirement for the State Revolving Funds under 31 TAC Chapters 371, 375, and 363.12 (2.A.x) is:

an **audit** of the Applicant for the **preceding year** prepared in accordance with **generally accepted auditing standards** by a **certified public accountant** or licensed public accountant, unless an alternative method of establishing a reliable accounting of the financial records of the Applicant is approved by the executive administrator¹;

The financial reporting requirements are considered at two points in the processing of financial assistance applications- **application intake** and **Board agenda item preparation**. To help enforce program rules and to provide clear direction for staff, the following policies will apply to both State Revolving Fund programs and the state programs covered under the rule cited above. This policy will also help ensure credit review staff use the most reliable information, ensure consistency in the application review, provide clear expectations for the TWDB's applicants, and help manage the programs and award funds for proposed projects.

Intake and Administratively Complete Review

Applicants are given 10 business days to provide any missing information or remedy any deficiencies identified during the administratively complete review. Applicants are given an additional 20 business days if requested for an item that requires additional time and can be remedied by the deadline, e.g. next available meeting of City council to approve the application resolution or audit.

If the required information is not submitted by the deadline, an email notification will be sent to the Applicant by the Regional Water Project Development (RWPD) Administrative Support Team Manager within 10 business days of the missed deadline to withdraw the application. Program Administration and Reporting and Government Relations groups will be notified of withdrawn applications.

Board Agenda Item Preparation

An applicant with an application that is administratively complete but becomes delinquent on the most recent audited financial statements will have 270 calendar days from the end of the most recent fiscal year end to provide current audited financial statements approved by the governing body. If this deadline is missed, a withdrawal email notification will be sent to the applicant by the RWPD Assistant Director of Applications on the following business day. A list of any outstanding delinquencies will be provided to Program Administration and Reporting and Government Relations 30 days prior to the 270-day deadline, and again on

¹ TAC 371.31(Timeliness of Application and Required Application Information) (b.10) and 375.41 (b.10).

the business day following the deadline. An application may only be retained for processing beyond the 270-day deadline if directed by the Executive Administrator. Any audited financial statements provided must be in a form and substance that is acceptable to the Executive Administrator, including sufficiency for assessing the adequacy of the proposed pledged revenues.

Audit Requirement Notifications Timeline

Prior to processing an application, potential applicants are notified about the audit requirement in the bi-monthly regional workshops, Intended Use Plan for each funding program, invitation letter when an applicant is an existing customer with current compliance issues, and pre-application meeting for an invited project. Financial Compliance contact information is provided in the invitation letters for potential applicants who are existing customers with compliance issues, and individual meetings are held if requested.

Policy Adoption Timeline

To transition to a more explicit standard, applications processed in 2024 have been given additional time, but not more than a year beyond the end of the reporting period for which audited financial statements are due. In most cases, this means allowing until October 1, 2024, to submit current audited and governing body approved financial statements. If there are any applicants with a different fiscal year end that haven't reached the one-year deadline only allowed during the transition, they will be required to meet the full requirements described above by February 1, 2025, or be withdrawn.

Metrics

When audited financial statements are provided after the deadline, in any case no more than 180 days from the fiscal year end of the applicant, the number of days from the deadline until the date the audited financial statements are provided will be deducted from the processing time for an application.