

STATE OF TEXAS

Intended Use Plan

Clean Water State Revolving Fund

www.twdb.texas.gov/financial/programs/cwsrf



SFY 2018

TEXAS WATER DEVELOPMENT BOARD
PO BOX 13231 ■ AUSTIN, TX 78711

Clean Water State Revolving Fund

Draft SFY 2018 Intended Use Plan

Amendment Dated: February 5, 2018

Cover Photo: Nassau Bay WW – Modifications of the Sequencing Batch Reactor

XI. Financial Status

The base amount of funding available for SFY 2018 is set at \$525,000,000. The amount of the FFY 2017 capitalization grant allotment for the CWSRF is \$60,598,000, with a match of \$12,119,600 to be provided by the state. The TWDB will comply with the requirements associated with the FFY 2017 allotment in SFY 2018.

A. Administration

The maximum annual amount of CWSRF money (not including any origination fees) that may be used to cover the reasonable costs of administering the fund is the greatest of the following:

1. an amount equal to four percent of all grant awards received by a State CWSRF less any amounts that have been used in previous years to cover administrative expenses;
2. \$400,000; or
3. one-fifth of one percent of the current valuation of the fund.

For SFY 2018, the TWDB has allocated funds \$4,529,947 in accordance with the third option listed above. The calculated equity in the CWSRF that represents the current valuation is \$5,024,870. The annual and cumulative amounts used for administrative costs are reported in the CWSRF Annual Report.

B. Sources of State Match

The deposit of required state match will occur in advance or at the time of the scheduled grant payment and the source of funding for the match, which may include the proceeds from bond sales, varies based upon availability.

C. Binding Commitment Requirement

The TWDB will enter into binding commitments with entities during SFY 2018 that total 120 percent of the amount of a FFY 2017 grant payment allocated to projects within one year after receipt of the grant payment. A binding commitment occurs when the TWDB's Board adopts a resolution to commit funds to a project.

D. Leveraging

The CWSRF is leveraged to provide funds over and above the capitalization grant and state match for a wide range of projects that address the state's water quality needs.

E. Cross-collateralization

The TWDB will cross-collateralize the CWSRF and the DWSRF as a source of revenue and security for the payment of the principal and interest on bonds for the DWSRF and CWSRF

programs. State authority is provided under Section 15.6042 of the Texas Water Code. The TWDB has received a certification from the state Attorney General that state law permits the TWDB to cross-collateralize the assets of the CWSRF and the DWSRF.

1. Summary of the cross-collateralization structure:

a. The type of moneys which will be used as security – Pledged Political Subdivision Bonds and certain other funds included in the Master Resolution (program account, portfolio account, and revenue account) will secure the bonds.

b. How moneys will be used in the event of a default - In the cross-collateralized scenario, Political Subdivision Bonds from the non-defaulting program will be used to cover the debt service delinquency on the defaulting program. If, for any reason, insufficient Political Subdivision Bonds exist in both programs, then program equity will be utilized.

c. Whether or not moneys used for a default in the other program will be repaid; and, if it will not be repaid, what will be the cumulative impact on the funds - While a decision to repay or not repay would be made at the time of default, the TWDB would either require repayment when funds are available or transfer repayment funds.

2. Proportionality – The proceeds generated by the issuance of bonds will be allocated to the purposes of the CWSRF and the DWSRF in the same proportion as the assets from the two funds that are used as security for the bonds.

3. State Match – In accordance with Texas Water Code §§ 17.853(c)(1) and 17.859, the TWDB intends to provide state match through the issuance of one or more revenue bonds in a program series that will fund the two SRF programs. Supplemental bond resolutions for the issuance of each series will provide detail on what specific money is pledged as security for each program (CWSRF or DWSRF) within the series. As required, the CWSRF and DWSRF will continue to be operated separately. The cash flows for the DWSRF program and the CWSRF program will be accounted for separately. Repayments on loans in the CWSRF program will be paid to the CWSRF and repayments on loans made in the DWSRF program will be paid to the DWSRF.

Similar to other states' financing methods where state match is not provided by appropriation and is instead generated through debt issuance, the TWDB cross-collateralization structure allows the TWDB to retire bonds for the State Match with interest earnings payments only, not principal, earned from each SRF in accordance with 40 CFR § 35.3135(b)(2).

F. Inter-fund Loan / Investment

During SFY 2018, the TWDB may invest CWSRF funds in the DWSRF in an amount not to exceed \$150 million. If the TWDB elects this option, it will execute an inter-fund loan agreement between the CWSRF and the DWSRF with a term that will not exceed three

years. Any CWSRF recycled funds deposited in accordance with the inter-fund loan agreement would be used exclusively for DWSRF eligible purposes. The TWDB would also issue a reimbursement resolution providing for repayment of funds to the CWSRF using the proceeds of a DWSRF bond issuance once the DWSRF program is leveraged. The TWDB received EPA approval for this option on March 8, 2017.

G. Method of Cash Draw

The method of cash draw for the FFY 2017 capitalization grant is to expend the required state match first, and then federal funds will be drawn at a rate of 100 percent.

H. Long-Term Financial Health of the Fund

The long-term financial health of the CWSRF is monitored through ongoing cash flow and capacity modeling. The TWDB lending rate policy has been established to preserve the corpus of the capitalization grants and state match funds, excluding the amount of principal forgiveness and administration from each grant. The TWDB will continue to manage the CWSRF to ensure funds will be available in perpetuity for activities under the CWA.

I. Interest Rate Policy

The TWDB has established an interest rate policy that provides for fixed rates. The program is designed to provide borrowers with a reduction from the market based on a level debt service payment schedule. For SFY 2018, Equivalency financial assistance will be offered at 165 basis points below the market rate and Non-Equivalency financial assistance will be offered at 130 basis points below the market rate. Fixed rates are set five business days prior to the adoption of the political subdivision's bond ordinance or resolution or the execution of the financial assistance agreement and are in effect for forty-five days.

J. Fees

The only fee is an origination fee of 1.75 percent that is assessed at closing. Fees are not deposited into the CWSRF. The fees may be used for administrative costs, including, but not limited to, project oversight, long-term financial monitoring, and to assist smaller wastewater systems create a sustainable plan for system replacements and to prepare these entities for applying for and implementing financial assistance under the CWSRF program.

K. EPA Program Evaluation Report and Audit

EPA conducted an annual program review of the CWSRF for SFY 2016 through an onsite review occurring from March 27, 2017 to March 30, 2017. EPA sent the final report to TWDB on August 23, 2017.

The Texas State Auditor's Office published the results of the SFY 2016 Federal Portion Single Audit of the CWSRF on February 21, 2017 (Report 17-314). There were no findings as a result of the review.

Appendix A. Public Review and Comment

Public Participation in the Development of the Intended Use Plan

Public participation is an important and required component of the IUP development process. The TWDB takes seriously its responsibility in administering these funds and considers public input necessary and beneficial.

A. Notice

To seek public comment on the proposed amendments to Section XI of the narrative portion of the IUP, the draft will be made available for a 14-day public comment period. This amendment does not alter any other portion of the narrative, the current Project Priority List, or any other project list in the IUP. Proposed amendments to Section XI of the draft narrative portion of the SFY 2018 CWSRF IUP, dated February 5, 2018, will be announced as follows:

- Public notification of the draft amendments to the IUP, the public comment period, and public hearing notice will be posted on the TWDB website at www.twdb.texas.gov.
- A notice of the public hearing will be published in the *Texas Register*.
- A copy of the draft amended IUP will be sent to EPA.

B. Comment

Comments will be accepted via the following four options from February 5, 2018, until 5:00 P.M. on February 19, 2018.

1. Attend a public hearing that will be held on February 8, 2018, at 10:00 A.M. in Room 172 of the Stephen F. Austin Building located at 1700 N. Congress Avenue in Austin, Texas
2. Submit comments via the following online comment page:
<https://www2.twdb.texas.gov/apps/iup/>
3. Email comments to the following electronic mail address and specifying in the subject line "CWSRF comments".
iupcomments@twdb.texas.gov.
4. Mail comments to the following postal mail address:
Mr. Mark Wyatt
Director, Program Administration and Reporting
Texas Water Development Board
P.O. Box 13231
Austin, TX 78711-3231

In accordance with federal requirements, all comments on the proposed amendments will be responded to on an individual basis.

C. Approval

The amended SFY 2018 CWSRF IUP will be finalized once it is considered and approved by the TWDB.

D. Documentation

After TWDB approval, the final approved amended IUP will be formally submitted to the EPA and posted on the TWDB website.