Texas Water Development Board

Response to Comments on the Draft Flood Intended Use Plan (IUP)

The Texas Water Development Board (TWDB) greatly appreciates the comments received on the draft Flood Intended Use Plan (IUP). The main issues that were raised are summarized in this section along with TWDB’s responses. However, all comments were reviewed and considered in preparing the final version of the Flood IUP. (Some comments below focused mainly on the program rules but are included here as well.)

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<td>The Honorable Dade Phelan</td>
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<td>The Honorable Charles Perry</td>
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<td>The Honorable Donna Campbell, M.D.</td>
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<td>The Honorable Judith Zaffirini, Ph.D.</td>
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<td>The Honorable Mark Keough, County Judge, Montgomery County, The Honorable Jimmy Sylvia, County Judge, Chambers County, The Honorable Mark Henry, County Judge, Galveston County The Honorable Jeff Branick, County Judge, Jefferson County Gordy Bunch, Chairman, The Woodlands Township, Bruce Rieser, Vice Chairman, The Woodlands Township</td>
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<td>The Honorable Roy McDonald</td>
<td>Mayor, City of West Orange</td>
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<td>The Honorable Sylvester Turner</td>
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<td>- The Honorable Mark W. Allen, County Judge, Jasper County</td>
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<td>- The Honorable John Gothia, County Judge, Orange County</td>
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<td>The Honorable Phyllis Santleben, Ed.D,</td>
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<td>Dr. Matthew Berg</td>
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<tr>
<td>Sarah P. Bernhardt, Ph.D., President &amp;</td>
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<td>Janice Bezanson, Executive Director</td>
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<td>Mary Anne Piacentini, President &amp; CEO</td>
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<td>Christopher Duncan, City Attorney</td>
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<td>Fowler, Executive Director</td>
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<td>Rene Franks, P.E.</td>
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<td>Bob Harvey, President &amp; CEO</td>
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<td>Lindsay McClune, MPH, CHES, Grant Writer</td>
<td>Hays County Grants Department</td>
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<td>Dr. Ken Kramer</td>
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<td>James Stinson, PE, General Manager</td>
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<td>Edith Marvin, Director, Environment and</td>
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<td>Vickey and Mike McBride</td>
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<td>William Moriarty, P.E.</td>
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<td>Richard H. Nicely, Member</td>
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<td>Lindsay O’Leary, P.E., Executive Director</td>
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<td>Russell A Poppe, P.E., Executive Director</td>
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<td>Justin Pruitt, City Attorney</td>
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<td>Sherri Russell, City Attorney</td>
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<td>Raul Sesin, P.E., CFM, District General</td>
<td>Hidalgo County Drainage District No. 1</td>
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<td>Manager, Commissioner David Fuentes,</td>
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<td>Board Member &amp; Commissioner Ellie Torres,</td>
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<td>Board Member</td>
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<td>Augusto Sanchez Gonzalez, Engineer</td>
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<td>Suzanne B. Scott, General Manager/San</td>
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<td>Razi Hosseini, Interim Director of</td>
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<td>Lissa Shepard, Senior Bridge Engineer and</td>
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<td>Floodplain Manager</td>
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<td>Kevin Shunk, Floodplain Administrator</td>
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<td>Walter Simms, Board Vice President</td>
<td>Montgomery County MUD 84</td>
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<td>Tushar Solanki, Assistant Director</td>
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<td>Kevin Patteson, General Manager/CEO</td>
<td>Guadalupe-Blanco River Authority (GBRA)</td>
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<td>Dr. Kateryna Wowk, Director</td>
<td>Harte Research Institute (HRI) for Gulf of Mexico Studies, Texas A&amp;M University</td>
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<td>Steve Bresnen</td>
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<td>Christopher Steubing, P.E., CFM, Assistant</td>
<td>City of Sugar Land</td>
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<td>City Manager</td>
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<td>Jesus Reyes, Chairman</td>
<td>Far West Texas Water Planning Group</td>
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3/16/2020
General Comments on Program Structure

Comments and Clarifications About Program Structure and Requirements

Hidalgo County Drainage District No.1 commented that small, low-income cities will have difficulty requesting funding due to the expense associated with preparing an application and recommended establishment of a fund to assist small, low-income cities with such expenses.

Response:

The TWDB appreciates this comment and would like to remind all applicants that the costs of preparing an application are an eligible expense for Flood Infrastructure Fund (FIF) program financing. The TWDB will also hold financial assistance workshops to help communities in navigating the application process.

The Texas Land Trust Council requested further explanation of the process for application deadlines and review, since the Flood IUP states that applications may be received year-round but does not explain when or how often reviews will occur. Clarification of specific application deadlines was also requested by the City of Sugar Land and Bayou Land Conservancy.

Response:

The TWDB appreciates this comment and will be providing a more detailed timeline of abridged and complete application deadlines on the agency’s website.
The American Society of Civil Engineers inquired whether a project with activities across multiple categories would require multiple applications and funding contracts and suggests an option for a combined application and that a project be considered only one category. This clarification was also requested by Hidalgo County Drainage District No. 1.

Response:

The TWDB appreciates this comment. Due to the structure of the prioritization system and the different types of funding available for different categories, an entity applying for funds under more than one category will need to submit a separate abridged application for each. If an entity has multiple abridged applications that result in invitations to submit full applications, a single full application may be submitted.

Three comments advocated allowing third parties, such as non-profit conservation organizations, to participate as eligible entities to apply for funding for projects identified as priorities in the state flood plan, with public entities as partners.

(Commenters: Bayou Land Conservancy, Texas Land Trust Council, Katy Prairie Conservancy)

Response:

The TWDB appreciates this comment. No changes were made to the IUP as the eligible applicants are explicitly defined in statute.

The City of Sugar Land requested clarification on whether an entity applying for a regional project would be limited in the amount of funding available to apply for an individual project. They also asked how many public meetings need to be conducted and whether they can be conducted after project selection.

Response:

The TWDB appreciates this comment. Since this is the inception of the program, the TWDB has not yet determined any specific funding limits but anticipates doing so at a later date. It does not anticipate allocating a large proportion of the total available grant and/or loan funds under this program to a single project or applicant. The required meetings will be included in the IUP as well as TWDB program guidance documents.

Hidalgo County Drainage District No. 1 commented that there should be a reimbursement mechanism for applicants whose applications are approved and who have the ability to build as to not delay construction.

Response:
The TWDB appreciates this comment. Reimbursement is eligible in cases where the work was conducted according to the program requirements.

Hidalgo County Drainage District No. 1 commented that TWDB should allow for waiver of environmental clearance, self-environmental clearance, or create a system for expedited environmental approval through TWDB.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Harris County Flood Control District inquired about TWDB expectations for environmental permitting/clearances and procurement requirements for professional services and construction.

Response:
The TWDB appreciates this comment. The requirements associated with environmental review and procurement will be consistent with other state-funded programs administered by the TWDB. TWDB project teams will be assigned to each project and may provide technical assistance and guidance on these topics.

Minimum/Maximum Funding Levels

The Texas Water Conservation Association and Trinity River Authority recommended that TWDB include a requirement that at least 10 percent of funds distributed under Categories 3, 4, and 5 be distributed to applicants in “rural areas” as defined in Texas Water Code Section 15.992.

Response:
The TWDB appreciates this comment. No requirement to allocate funds to rural areas or other specific areas or needs was incorporated into the IUP. However, the definition of rural area was revised to incorporate more areas of the state, rural area is used to establish the amount of grant funding in certain categories, and the prioritization points for a rural project were increased.

The American Society of Civil Engineers suggested placing a limit on the amount of funds available for individual projects based on a specific dollar amount of a percentage of the total funds available each year.

Response:
The TWDB appreciates this comment. Since this is the inception of the program, the TWDB has not yet determined any specific funding limits but anticipates doing so at a later date. It does not anticipate allocating a large proportion of the total available grant and/or loan funds under this program to a single project or applicant.

Eligible Projects

The American Society of Civil Engineers suggest editing the “Eligible Projects” section to add projects similar to the activities listed in Section 363.402 and aligning with Categories 1-5. They suggested listing additional Planning phase activities including preliminary engineering and project design; Construction/Rehabilitation/Implementation phase activities such as drainage infrastructure, flood control infrastructure, flood mitigation infrastructure, and sustainable infrastructure; and other activities such as nonstructural flood mitigation and development or amendments to flood related codes and criteria. They also suggest adding a list of ineligible projects or activities such as operations & maintenance.

Response:

The TWDB appreciates this comment. The “Eligible Projects” section has been updated and expanded to include many additional items suggested in this comment.

The Texas Infrastructure Network commented that TWDB should only provide funding for “Property acquisitions determined to be the best solution for highest-risk properties” that are also eligible for federal funds, or as a means to assist in providing local matching funds to incorporate said properties into large scale flood mitigation projects. Their comment states that greenfield property acquisitions should not be eligible for funding, and that TWDB should also specify what types of brownfield, residential and non-residential properties are eligible for acquisitions.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The North Central Texas Council of Governments commented that “replace in kind” projects should not be permitted even when the facility being replaced is considered an emergency due to recent or imminent failure, since the failure would be likely to recur in the next comparable flood event.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.
Senator Judith Zaffirini, Senator Donna Campbell, and Representative John Kuempel commented expressing optimism that financial assistance will be available through FIF to improve the Guadalupe Valley Lakes’ aging dams and supporting GBRA’s comments on the proposed rules.

Response:
The TWDB appreciates this comment. The responses to GBRA’s comments are included throughout this document.

The City of Sugar Land recommends updating the list of “Eligible Projects” to include rivers, erosion control, levees, and pump stations.

Response:
The TWDB appreciates this comment. The “Eligible Projects” section has been updated and expanded to include many additional items suggested in this comment.

The Harris County Flood Control District recommends only allowing rehabilitation of existing infrastructure to the extent that by doing so, system capacity is restored, at a minimum, or improved.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Augusto Sanchez Gonzalez, Engineer with the Cameron County Department of Transportation, commented that Low Impact Development and Green infrastructure should be included in the “Eligible Projects” list. He also commented that the eligible activity list appears to be focused on inland settings, and explicit eligible activities that reflect coastal flood risk strategies should be included (living shorelines, BUDM, building code updates for coastal communities, etc.)

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Texas Living Waters Project suggested that example of natural erosion control be expanded slightly to include “natural erosion and runoff control.”
Response:

The TWDB appreciates this comment. The “Eligible Projects” section has been updated to include this language.

The Texas Living Waters Project urged TWDB to keep in mind that equitable implementation of some eligible activities such as “property acquisitions” of existing structures in high-risk flood areas requires consideration of the challenges of relocation for socially vulnerable populations and include measures to meet those challenges. Specifically suggests that “property acquisitions” be refined as “property acquisitions, including, where appropriate, strategies for relocation of socially vulnerable populations displaced.”

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Bayou Land Conservancy commented that in the section describing “Construction/Rehabilitation/Implementation Phase Activities,” the second to last bullet should be amended to read: “Restoration of riparian corridors, floodplains, coastal areas and wetlands, etc.”

(This comment was also received from the Texas Land Trust Council and the Katy Prairie Conservancy)

Response:

The TWDB appreciates this comment. The “Eligible Projects” section has been updated to include this language.

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**Minimum Standards**

**General Comments on Minimum Standards**

Maria Susana Dias commented that the requirement “for construction projects (to) have been compared against other potential projects in the area” appears in the draft rules but is not mentioned in the IUP.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable. The program rules and TWDB program guidance documents will contain the requirements for a complete application.

3/16/2020
The Texas Concrete Pipe Association commented that Texas should adopt a resiliency standard used by Federal Emergency Management Agency (FEMA) when providing financial assistance involved with building storm water drainage infrastructure.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Three (3) comments suggested requiring applicants to document that they have considered possible nature-based mitigation techniques that could be associated with the proposed project and a requirement that all projects be evaluated as to whether the project provides benefits additional to that of flood control or mitigation, including but not limited to water quality protection, fish and wildlife habitat maintenance or enhancement, public recreational opportunities, aquifer recharge, or some combination thereof.

(Commenters: Texas Land Trust Council, Texas Conservation Alliance, Bayou Land Conservancy)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable. The IUP was revised to consider nature-based solutions in determining the maximum allowable grant percentage for certain categories and the prioritization was revised to award points if non-structural flood mitigation elements constitute at least 20 percent of the total project costs.

The Texas Conservation Alliance urged the TWDB to require that non-structural options be analyzed as part of planning any flood reduction project applying to TWDB.

Response:

The TWDB appreciates this comment. While no changes were made to the IUP to require an analysis of non-structural options, the prioritization was revised to award points if non-structural flood mitigation elements constitute at least 20 percent of the total project costs. In addition, nature-based solutions are considered in determining the maximum allowable grant percentage for certain categories.

The Texas Land Trust Council, Bayou Land Conservancy, and Katy Prairie Conservancy suggested that TWDB require conservation easements on open lands purchased and set aside for floodplain benefits, and that nature-based flood mitigation projects that include land acquisition or open space designation should include a perpetual retiring of development rights on flood-prone lands using conservation easements.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Texas Living Waters Project, in comments echoed by the Katy Prairie Conservancy, suggested additional Minimum Standards:

- Applicants for a structural flood mitigation project which does not incorporate any nonstructural flood mitigation features into the project or as a complement to the project must provide an analysis that shows that reasonable nonstructural alternatives were explored and evaluated, including an explanation of why nonstructural features or components were not selected for the project.
- Applicants must provide an analysis of the extent to which the proposed project will benefit those census tracts within the jurisdiction of the political subdivision that have an Annual Median Household Income (AMHI) less than or equal to 75% of the statewide AMHI.
- An application must include the Social Vulnerability Index (SVI) for each of the census tracts within the area of the political subdivision that will be affected by the implementation of the proposed flood project.
- Applicants for construction funds must provide an analysis of whether the project provides benefits additional to that of flood control or mitigation, including but not limited to water quality protection, fish and wildlife habitat maintenance or enhancement, public recreational opportunities, aquifer recharge, or some combination thereof.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable. However, the prioritization was revised to award points if non-structural flood mitigation elements constitute at least 20 percent of the total project costs. In addition, nature-based solutions are considered in determining the maximum allowable grant percentage for certain categories.

The Texas Living Waters Project also recommended additional Minimum Standards for Category 3 specifically, requiring that applicants have:

- evaluated nonstructural alternatives to the project, if the proposed project does not incorporate reasonable nonstructural features into the project or as a complement to the project;
- evaluated the extent to which the proposed project will benefit those census tracts within the jurisdiction of the political subdivision that have an AMHI less than or equal to 75% of the statewide AMHI;
- provided information on the SVI for each of the census tracts within the area of the political subdivision that will be affected by the implementation of the proposed flood project;
evaluated whether the project provides benefits additional to that of flood control or mitigation, including but not limited to water quality protection, fish and wildlife habitat maintenance or enhancement, public recreational opportunities, aquifer recharge, or some combination thereof.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable. However, the prioritization was revised to award points if non-structural flood mitigation elements constitute at least 20 percent of the total project costs. In addition, nature-based solutions are considered in determining the maximum allowable grant percentage for certain categories.

Three comments suggested that the minimum standard for Category 3 projects should specify floodwater capture techniques for water supply.

(Commenters: Cities of Lake Jackson, Brookshire, and Clute)

Response:

The TWDB appreciates this comment. The IUP language has been updated to specify floodwater capture techniques must be considered specifically for water supply purposes.

**Benefit/Cost Ratio >1**

The Guadalupe-Blanco River Authority requested TWDB to develop a BCR methodology or eliminate the requirement. The American Society of Civil Engineers, William Moriarty, and the City of Austin also suggested that the methodology should be determined by TWDB. El Paso County Public Works asked for clarification on whether applicants should be accounting for all the details utilized by FEMA.

Response:

The TWDB appreciates this comment. The IUP has been updated to provide substantial details regarding the required benefit/cost ratio analysis.

The Texas Water Conservation Association suggested that a simple BCR>1 threshold should be rejected, stating that if a mathematical BCR standard is adopted, it should be flexible enough to permit equitable distribution and non-disqualifying in the context of other criteria. They suggest using 31 TAC Section 361.38(g)(8) as a model. The Trinity River Authority also commented that a simple BCR threshold should be rejected.

Response:
The TWDB appreciates this comment. The IUP has been updated with substantial additional details regarding the required benefit/cost ratio analysis, including language allowing applicants to justify BCR results not greater than 1.

The Harris County Flood Control District commented suggesting that additional consideration be given for flooding vulnerability across all home values as those associated with lower property values in the project Service Area will likely not score well on traditional BCR analysis.

Response:
The TWDB appreciates this comment. The IUP has been updated with language allowing applicants to justify BCR results not greater than 1.

Bexar Regional Watershed Management stated that along with scoring for water supply benefit and floodplain impacts, the BCR requirement makes it difficult for low water crossing upgrades to compete.

Response:
The TWDB appreciates this comment. The IUP has been updated with language exempting certain projects from the BCR requirement and allowing applicants to justify BCR results not greater than 1.

**Redundant Funding**

Guadalupe-Blanco River Authority asked for clarification of the term “redundant funding.”

Response:
The TWDB appreciates this comment. The IUP has been revised to define redundant funding.

The City of Sugar Land requested clarification about whether an applicant can apply for matching funds for a project that has been applied for as part of the General Land Office (GLO) Community Development Block Grant (CDBG) funding, and whether this would be considered “redundant.”

Response:
The TWDB appreciates this comment. The TWDB will work with GLO to determine if CDBG funding would fit the criteria under renumbered Category 3. This type of funding would only be redundant if the applicant requested funds for the same activities funded under a CDBG grant.
The City of Corpus Christi commented that the lack of redundant funding is part of the reason the State has failing flood control infrastructure and suggested that if a project can show that redundant funding is necessary to prolong the life of the flood control structure it should not be deemed ineligible.

Response:

The TWDB appreciates this comment. Given the limited funds available, no changes were made to the IUP to allow redundant funding. The IUP would allow rehabilitation or enhancement to an existing flood control structure.

**National Flood Insurance Program (NFIP) Participation**

The City of Corpus Christi commented that the NFIP requirement will make many watershed projects ineligible because many jurisdictions are not participants, and many are not even mapped. Their comments state that other jurisdictions in the watershed that are participating should not be disqualified if there are non-participating jurisdictions in the watershed.

Response:

The TWDB appreciates this comment. The IUP was revised to include an option for an entity that is requesting TWDB funding to fulfill additional requirements for participation in the NFIP.

Maria Susana Dias requested clarification on the NFIP requirement, asking whether areas that were affected by Harvey but fell outside FEMA-defined floodplains would be eligible.

Response:

The TWDB appreciates this comment. The areas described should be eligible if they have floodplain ordinances in place and are enforcing floodplain management standards at least equivalent to NFIP minimum standards.

El Paso County Public Works suggested that TWDB revise the NFIP minimum standard to ensure jurisdictions with standards that exceed NFIP are eligible, and require compliance at the time of application to incentivize adoption of standards under consideration at the time.

Response:

The TWDB appreciates this comment. The IUP has been updated to specify that entities with standards exceeding NFIP minimums are eligible.
Dr. Matthew Berg commented that for future cycles, a linkage between loan interest rates and rigor of local NFIP regulation would be of value with more favorable interest rates awarded to the applicants with more rigorous locally adopted rules.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Guadalupe-Blanco River Authority suggested that TWDB change the NFIP requirement so that it only applies to entities with the authority to enforce floodplain management standards equivalent to NFIP.

Response:

The TWDB appreciates this comment. The IUP has been updated to clarify this requirement.

The Texas Land Trust Council was concerned with the requirement that the flood funds can only be used in areas that meet NFIP standards, suggesting that delaying that requirement until after the first approved flood plan would give more rural entities time to come under NFIP and be able to benefit from the funds.

The comment also stated that if a community does not have floodplain management standards equivalent to the NFIP they should be able to receive FIF funding to come into compliance. This was also expressed in comments from Texas Living Waters Project, the City of Corpus Christi, and Texas A&M Corpus Christi.

Response:

The TWDB appreciates this comment. The IUP has been updated to allow an option for an entity that is requesting funds to fulfill the requirements for participation in the National Flood Insurance Program.

**Best/Most Recent Data**

Dr. Matthew Berg commented that the requirement to incorporate “the best/most recent available data” is very much appreciated but states that the vagueness of this term is problematic. He asks how this is defined, what will be sufficient, and what will be required to demonstrate such sufficiency.

Response:

The TWDB appreciates this comment. Additional details on the specific data were included in the IUP.

Augusto Sanchez Gonzalez, Engineer with the Cameron County Department of Transportation commented that the amount or age of the existing data should not play a major role in the decision-
making process to select projects because there are highly populated watersheds which currently have archaic or lacking data sets.

Response:
The TWDB appreciates this comment. Additional details on the specific data were included in the IUP.

**Memorandum of Understanding (MOU)**

Several comments stated that the requirement for a MOU to be signed with all entities affected is likely to be too burdensome, and that a better requirement would be to require a letter of notice including all project details be sent to all of those entities before or at the time that the initial application is submitted to TWDB. This was expressed in comments from the Texas Land Trust Council, Katy Prairie Conservancy, Winnie-Stowell Coalition for Drainage Mitigation, Bexar Regional Watershed Management, Woodlands Water, and Bayou Land Conservancy.

Response:
The TWDB appreciates this comment. The IUP has been updated to clarify the timing of the MOU requirement. The IUP has been updated to reflect changes to the rule text only requiring the MOU from eligible political subdivisions if the project watershed is located outside the boundaries of the applicant political subdivision.

The City of Sugar Land asked whether MOU is required as part of the abridged application or the full application, and what specifically must be included.

Response:
The TWDB appreciates this comment. The IUP has been updated to clarify the requirements for the abridged and complete applications.

Hays County commented that the MOU is typically a document that comes after funding is awarded and recommended requiring a letter of support or commitment with the abridged application and executed MOU as a condition of funding.

Response:
The TWDB appreciates this comment. The IUP has been updated to clarify that the executed MOU is not required at the abridged application stage.
Kevin Shunk (City of Austin) suggested that TWDB develop a standard Memorandum of Understanding for communities to use to represent cooperative projects. This was supported in comments by William Moriarty.

Response:

The TWDB appreciates this comment. A TWDB-approved MOU template has been added as an attachment to the IUP.

Analysis of Possible Floodwater Capture Techniques

The City of Sugar Land requested clarification of what is meant by “consider possible flood capture techniques associated with the project.”

Response:

The TWDB appreciates this comment. The IUP was revised to clarify that it is for water supply purposes. Projects that impound or collect water as a flood mitigation method may have opportunities to make that water available to water user groups with identified water supply needs.

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Project Categories

General Comments and Clarifications

Hidalgo County Drainage District No. 1 requested clarification of the term “acquisition” as used in Category 1.

Response:

The TWDB appreciates this comment. In the context of Planning, Acquisition, and Design, “acquisition” refers to the acquisition of land necessary to complete the project, including easements and sites where facilities will be constructed.

Representative Mayes Middleton commented that the eligibility criteria for Category 5 are not consistent with Senate Bill (SB) 7 and suggested eliminating all eligibility criteria and evaluating projects on their merit.

(This comment was also received from members of the Winnie-Stowell Coalition for Drainage Mitigation, Hon. Roy McDonald, and Orange County Drainage District.)

Response:

The TWDB appreciates this comment. While renumbered Category 4 was retained, the methodology of allocating the grant percentage is the same as in other categories.

3/16/2020
Hidalgo County Drainage District No. 1 suggested increasing the percentage of grants available for entities located in low-income areas, entities that are not able to borrow, and entities that have legal difficulties entering into debt agreements.

Response:

The TWDB appreciates this comment. In response to public comments, new methods of allocating grant funds were incorporated into the IUP.

The City of Corpus Christi commented that the match requirement for Planning, Acquisition, and Design could deter a jurisdiction from acquiring property, and that match should be lowered to 25% or less across the board, with AMHI not used as a threshold.

Response:

The TWDB appreciates this comment. In response to public comments, new methods of allocating grant funds were incorporated into the IUP. Planning, Acquisition, and Design are now part of the category containing construction.

Harris County Flood Control District requested consideration under watershed planning of a provision allowing “after the fact” eligibility for planning activities undertaken after Hurricane Harvey but prior to adoption of the new FIF rules.

Response:

The TWDB appreciates this comment. Reimbursement is eligible in cases where the work was conducted according to the program requirements.

The American Society of Civil Engineers commented that the eligibility column is inconsistent between the categories, and that it should be used to clarify the eligibility requirements rather than eligible projects.

Response

The TWDB appreciates this comment. In response to public comments, new methods of allocating grant funds were incorporated into the IUP. Revisions were made to the eligibility requirements.

El Paso County Public Works requested clarification on what is included in “detailed engineering.”

Response:
The TWDB appreciates this comment. “Detailed engineering” in this context refers to the production of detailed plans & specifications necessary for regulatory approval. The TWDB will provide extensive guidance on the engineering requirements for this program.

William Moriarty commented in support of the 100% Grants for Regional Planning and Flood Plain mapping.

Response:

The TWDB appreciates this comment. In response to public comments, new methods of allocating grant funds were incorporated into the IUP.

Three (3) comments expressed concern that the description of the categories reflects only the types of authorized uses described in FIF statute but not TIRF and suggested revisions to descriptions of Categories 2 and 3.

(Commenters: Cities of Lake Jackson, Brookshire, and Clute)

Response:

The TWDB appreciates this comment. The IUP applies only to projects funded through the FIF, with TIRF-funded projects following a separate process.

The Texas Infrastructure Network commented that under the “Eligible Projects” criteria TWDB should clarify that “permeable pavement” that is incorporated as an element of a flood control project is an eligible use of funds.

Response:

The TWDB appreciates this comment. The IUP indicates that permeable pavement is an eligible use of funds.

Tushar Solanki and Lissa Shepard of Dallas County Public Works commented to express interest in Category 2.

Response

The TWDB appreciates this comment and interest in the program.

The Texas Living Waters Project suggested edits to clarify Category 4 eligibility because last sentence of the description seems inconsistent.
Bayou Land Conservancy commented that local match/federal match should not be “required” for a project application, in general, and should be used instead in the prioritization process as a desired priority criterion. Their comments state the most important thing will be to evaluate the projects based on their ability to mitigate future flood damages, not on matching funds availability and point out that under certain circumstances, the state may wish to have the flexibility to fund an extreme priority or time sensitive project, despite a lack of match.

(This was also expressed in comments from the Texas Land Trust Council.)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Use of Annual Median Household Income (AMHI) and Metropolitan Statistical Areas (MSA) to Determine Eligibility for Grants

Three comments expressed concerns that areas inside an MSA have zero grant opportunity, and requested consideration for opportunities for entities in MSAs to receive grants in certain circumstances where high priority flood risk projects are proposed and federal grant match is available, such as using the FEMA Flood Hazard Mitigation Program to purchase lands in floodplains and floodways.

(Commenters: Texas Land Trust Council, Katy Prairie Conservancy, Bayou Land Conservancy)

Response:

The TWDB appreciates this comment. The IUP has been updated to allow entities within an MSA to obtain grant funds under this program.

Representative Mayes Middleton commented requesting that all MSA restrictions be removed to the limit of the legislation.

(This comment was also received from Hon. Roy McDonald, Mayor of West Orange, members of the Winnie-Stowell Coalition for Drainage Mitigation, and Don Carona, et al.)

Response:

The TWDB appreciates this comment. The IUP has been updated to allow certain entities within an MSA to obtain grant funds under this program.
The City of Castroville commented that there are numerous municipalities and counties that have population with AMHI at or near the statewide AMHI but have significant financial challenges and limited abilities to add more funding sources from taxes. The comment states that an income threshold greater than 75% would allow more of those communities to improve project scoring for consideration of funding.

Response:

The TWDB appreciates this comment. The IUP has been revised to allow areas with AMHI above the 75% level to receive grant funds based on specific characteristics.

Senator Brandon Creighton and Senator Lois Kolkhorst recommended more grants for all communities, and removal of AMHI and MSA requirements from all categories.

(This was also expressed in comments received from Woodlands Water.)

Response:

The TWDB appreciates this comment. The IUP has been updated to allow certain entities within an MSA to obtain grant funds and has expanded the entities and areas that may receive grant funding.

The Greater Houston Partnership encouraged revision of Categories 3, 4, and 5 to remove requirements related to AMHI and MSA.

(This was also expressed in comments received from the Trinity River Authority, Texas Water Conservation Association, Houston Stronger, Montgomery County MUD 84, and the Trinity River Authority.)

Response:

The TWDB appreciates this comment. The IUP categories have been updated with changes that include grant eligibility standards allowing certain entities within an MSA to obtain grant funds.

Representative Mayes Middleton requested the IUP be modified to allow entities within an MSA or which are determined to not have the ability to repay a loan be eligible for grants under Category 1.

(This was also expressed in comments from members of the Winnie-Stowell Coalition for Drainage Mitigation, Hon. Roy McDonald, Mayor of West Orange, and Orange County Drainage District)

Response:

The TWDB appreciates this comment. The IUP has been updated to allow entities within an MSA to obtain grant funds.

3/16/2020
The Texas Water Conservation Association commented that AMHI requirement should only apply to Category 1 projects, and eligible applicants should include applicants in rural areas. Their comments also state that the MSA limitation should apply only to Category 3 projects.

(This was also expressed in comments from the Trinity River Authority)

Response:

The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

The City of Corpus Christi commented that Category 3 should have AMHI requirement reconsidered and reduced.

Response:

The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

The Harris County Flood Control District commented that it disagrees with the use of the AMHI standard for determining grant eligibility and pointed out that Harris County entities would only be eligible for loans due to the MSA requirement.

Response:

The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

The Texas Living Waters Project expressed support for using AMHI but suggested clarification that a project applicant in its application for financial assistance may use the most locally available AMHI unit (census tract or census block scale) that reflects the scope of the project, rather than the AMHI of the entire county or city.

(This was also expressed in comments from the American Society of Civil Engineers, Hays County, El Paso Public Works, Texas Land Trust Council, and Katy Prairie Conservancy,)

Response:

The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised and, in many instances, it would be based on the project area.
Bexar Regional Watershed Management commented that cities in an MSA that are considered Disadvantaged should be eligible for grants.

Response:
The TWDB appreciates this comment. Disadvantaged entities, whether in or outside an MSA are eligible to receive grants. In addition, the IUP has been updated to allow certain entities within an MSA to obtain grant funds.

The North Central Texas Council of Governments commented that MSA is too broad a designation to be used for grant eligibility, stating that some of the highest benefit-to-cost ratios per project and planning efforts related to health, welfare, and property will occur in the most populated MSA areas. Their comments also state that non-structural regional planning projects should be eligible for grants regardless of location.

Response:
The TWDB appreciates this comment. The IUP has been updated to allow entities within an MSA to obtain grant funds. In addition, other factors are used to determine the grant percentage.

The Texas Land Trust Council, Bayou Land Conservancy, and Katy Prairie Conservancy commented that TWDB should remove “disadvantaged” from Category 4, and that all communities should be included and eligible for funding under this category. Their comments also state that funds under categories 1 and 3 should be able to serve as match for federal funds where FIF funds are no more than 50% of the total project cost.

Response:
The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

Orange County Drainage District requested TWDB revisit the eligibility criteria and provide latitude in evaluation of individual applications to determine ability to repay loans and eliminate AMHI standard. Their comments also requested MSA restrictions be removed to the limit of the legislation and allow evaluation of fiscal capacity to repay a loan to be used in all categories.

(This was supported in comments received from Hon. Roy McDonald, Mayor of West Orange, and members of the Winnie-Stowell Coalition for Drainage Mitigation)

Response:
The TWDB appreciates this comment. The IUP categories have been updated with changes that include grant eligibility standards allowing entities within an MSA to obtain grant funds. In addition, other factors are used to determine the grant percentage.

Woodlands Water commented that the proposed categories laid out in the Flood Intended Use Plan limit certain political subdivisions’ eligibility for grants, stating that SB 7 only requires greater importance to be given to areas with a median household income that is not greater than 85% of the median state household income for flood planning requests. Their comments state they would like to see more grants utilized for all communities.

Response:
The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

Orange County Drainage District commented that the AMHI and MSA requirements exclude the Orange County Drainage District and Orange County from any meaningful participation in the distribution of grant funds. Their comments urge TWDB to reconsider the standards for grant eligibility to align them more closely with SB 7.

Response:
The TWDB appreciates this comment. In response to public comment, the method of determining the amount of grant funds was revised.

The Texas Infrastructure Network commented that with the exception of some “warning systems”, they question the appropriateness of the inclusion of category 5 projects which seem to be basic public safety measures which can be undertaken locally and demonstrate a community’s commitment to protecting its citizens. The comment states that if Category 5 projects are to be considered in project awards, TWDB should insist that they are included as basic pass/fail public safety measures as part of a larger strategy, rather than a stand-alone flood control or public safety projects eligible for funding.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.
Prioritization Criteria & Process

General Comments/Clarifications on Prioritization

The Texas Land Trust Council commented that it wants to ensure that nonstructural flood measures, including nature-based solutions, are given due consideration in the administration of the FIF, and would like to see more serious consideration of and recognition in scoring mechanisms for nonstructural and nature-based flood mitigation measures, rather than relying primarily on structural flood projects that can often have the undesired effect of moving flood problems from one location to another. This was also expressed in comments from the Katy Prairie Conservancy, Bayou Preservation Association, Texas Conservation Alliance, and Bayou Land Conservancy.

Response:

The TWDB appreciates this comment. An additional criterion has been added to award points for projects involving substantial non-structural components, including nature-based solutions. In addition, nature-based solutions are considered in determining the maximum allowable grant percentage for certain categories.

The Guadalupe-Blanco River Authority recommended that TWDB list the applicable Prioritization Criteria for each Project Category to clarify how many points each can receive.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Guadalupe-Blanco River Authority commented that it does not appear to be possible for any one project to receive more than 89 points because it does not seem possible for a project to be awarded points for both “Priority Projects” listed in the Prioritization Criteria on Page 9.

Response:

The TWDB appreciates this comment. The total possible number of points were revised to reflect the prioritization criteria.

Guadalupe-Blanco River Authority: The Prioritization Criteria lists Category 5 projects as priority projects eligible for 20 points. However, in the Financial Assistance Categories, the language under Category 3 says that it includes nonstructural and nature-based solutions not specifically listed under Category 5. If this is the intent, the Prioritization Criteria should be clarified to include the additional Category 3 projects that are eligible for the 20 points.

Response:
The TWDB appreciates this comment. Only projects considered to qualify under Category 5 (now called Category 4) will be awarded points under Prioritization for Category 5 (now called Category 4) projects.

Representative Mayes Middleton commented requesting that AMHI be applied to prioritization rather than using it as an eligibility criterion for grants. This was also expressed in comments received from members of the Winnie-Stowell Coalition for Drainage Mitigation, Orange County Drainage District, and the City of West Orange.

Response:

The TWDB appreciates this comment. While AMHI is still used in determining the eligibility for grant funding, the method was considerably revised. No changes were made to incorporate AMHI into the prioritization given the changes to grant eligibility.

The City of Castroville commented that many regional watersheds already benefit from active planning activities by river authorities using current funding sources and suggested the 25-point priority scoring criterion will further weight those planning activities compared to other projects that have not been able to secure funding previously.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Bexar Regional Watershed Management commented recommending consideration for future climate conditions in the scoring process.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

El Paso County Public Works suggested using benefit/cost ratio as the tie breaker.

Response:

The TWDB appreciates this comment. The tie-breaker was revised to be the Social Vulnerability Index rather than the benefit/cost ratio.

Bexar Regional Watershed Management commented recommending points for projects that include green infrastructure or low impact development in their construction. Points for nonstructural and
nature-based flood mitigation measures were also supported in comments from the Texas Land Trust Council.

Response:

The TWDB appreciates this comment. An additional criterion has been added to award points for projects involving substantial non-structural components, including nature-based solutions.

The Texas Living Waters Project recommended an Additional Criterion for Construction Projects Only: “Multiple Benefits.” They propose that “Multiple Benefits” be described as: “Project uses nature-based features or natural flood mitigation strategies that are anticipated to have benefits for water quality, wildlife habitat, public recreation, aquifer recharge, or some combination thereof.”

(This was also supported by comments from the Texas Living Waters Project, Bayou Preservation Association, Texas Land Trust Council, City of Corpus Christi, and Katy Prairie Conservancy)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Bayou Land Conservancy encouraged that points be awarded for plans that prevent future development within and/or expansion of floodplains as a result of upstream or adjacent land development. They suggested TWDB add a criterion to better prioritize the role of prevention of flooding by keeping existing high-risk floodways and floodplain areas undeveloped, especially in areas where downstream threats to life and property are greatest.

(This was also expressed in comments from the Texas Land Trust Council and Katy Prairie Conservancy)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Texas Living Waters Project expressed concern about language in the Draft Flood IUP that states “...Board members may consider any proposed project for funding, including in cases that involve bypassing a higher-ranking project.” They state that if TWDB is going to make such an assertion, the decision criteria for when that might apply should be defined.

(This was also expressed in comments from the Katy Prairie Conservancy, Texas land Trust Council, and Bayou Land Conservancy)
Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable. If the Board imposes a limitation on the amount of grant funds available for a particular category, it will need to bypass higher scoring projects to select lower scoring projects in another category.

The City of West Orange commented that the “Distributed Benefits” criterion may be at odds with the “Estimated Completion Date” criterion because large regional projects cannot typically be constructed in a 36-month window; however, smaller localized projects are easier and quicker to execute. Their comments recommend increasing “distributed benefits” to +20 points to promote regional, multi-jurisdictional cooperation.

Response:
The TWDB appreciates this comment. The IUP was revised to indicate the TWDB will make the determination of the estimated completion date.

“Rural” Entities
Representative Dade Phelan commented requesting that the Board revisit the project prioritization criteria and redefine Rural to match Water Code Section 15.992. This was also expressed in comments received from members of the Winnie-Stowell Coalition for Drainage Mitigation and Orange County Drainage District, the City of West Orange, and Representative Mayes Middleton.

Response:
The TWDB appreciates this comment. Under prioritization, the number of points for a “rural applicant” was increased and the definition of rural applicant was revised to contain elements of the definition found in Water Code Section 15.992.

El Paso County Public Works commented that the “rural” standard should be based on project-site Census Tract or Census Designated Place rather than the entire county or jurisdiction.

Response:
The TWDB appreciates this comment. The IUP has been updated to specify the type of data used to make "rural" determinations.

Representative Dade Phelan commented that increasing the points for Rural applicants from 10 to 25 would support the apparent intent of the Legislature. This was also expressed in comments from
Representative Mayes Middleton, Orange County Drainage District, and members of the Winnie-Stowell Coalition for Drainage Mitigation.

Response:

The TWDB appreciates this comment. The number of points for “rural applicants” has been increased from 10 to 12 points.

Social Vulnerability Index (SVI)

The Texas Water Conservation Association and Trinity River Authority commented that it does not believe the use of SVI is an appropriate tool to achieve equitable funding, stating that some scholarly analysis finds that SVI has limited predictive performance. They suggest removing it entirely from the IUP. Comments from the Guadalupe-Blanco River Authority, Orange County Drainage District, Representative Mayes Middleton, Representative Dade Phelan, City of West Orange, and members of the Winnie-Stowell Coalition for Drainage Mitigation also support elimination of the SVI.

Response:

The TWDB appreciates this comment. The SVI has been removed from consideration as a prioritization factor and will instead be used as a tiebreaker.

Kateryna Wowk of Texas A&M Corpus Christi commented that SVI should be a key measure, but the data are incomplete. Her comments suggest that applicants, upon request, should be given an opportunity to improve their SVI ranking score by demonstrating social vulnerability with additional data sets such as subsidized lunch, SNAP/DSNAP, WIC, homeless, etc.

Response:

The TWDB appreciates this comment. No changes were made to the IUP to allow adjustment to the SVI.

The Texas Living Waters Project commented in support of using the SVI and suggested the points multiplier should be increased from 10 to 20.

(This was also expressed in comments from the Bayou Land Conservancy, Texas Land Trust Council, and Katy Prairie Conservancy. Use of the SVI was supported in comments from the American Society of Civil Engineers.)

Response:

The TWDB appreciates this comment. The SVI will be used as a tiebreaker to ensure funds will be allocated to the project with the highest SVI when multiple projects receive the same score.
The Guadalupe-Blanco River Authority stated that Category 5 projects seem to be limited to nonstructural measures that are immediately effective in protecting life and property like warning systems, crossing barriers, public education and outreach, and reverse 911 systems, and asked whether TWDB intended to limit Category 5 projects to nonstructural projects.

Response:

The TWDB appreciates this comment. The intent of renumbered Category 4 relates more to identifying projects that can be implemented more quickly than large-scale construction efforts.

Floodplain Impacts

The Texas Living Waters Project expressed concern that prioritizing buyout projects based on sheer number of structures removed from the floodplain will not adequately serve communities and may lead to serious unintended consequences. Their comments state that a number of questions related to potential buyouts need to be answered within the context of rulemaking or at least within TWDB adopted guidance to assure that buyouts achieve the level of flood mitigation that will make them effective flood mitigation measures.

Questions raised in this regard that they suggest should be addressed in the proposed TWDB rules or in the IUP include but are not limited to the following:

- Will TWDB require minimum standards for the management of acquired properties, such as restricting re-development or placing a conservation easement on the property, and require on-site remediation to ensure that maximum stormwater detention occurs after acquired structures are removed?
- What guidelines or standards will TWDB set for addressing community concerns about empty lots after buyouts – concerns that include blight, pests, demolition, and landscaping and maintenance?
- Should there be required education and outreach to remaining residents about floodplain risks and/or about measures such as elevation of structures if residents do not want to be bought out?
- Should provision of information about affordable housing alternatives to buyout area residents be required by political subdivisions pursuing these projects?

(This was also expressed in comments by the City of Corpus Christi)

Response:

The TWDB appreciates this comment. TWDB will provide additional guidance on buyouts and how they demonstrate impact on flood mitigation.

Kateryna Wowk, Researcher at Texas A&M Corpus Christi, encouraged TWDB to incorporate more than the metric “number of structures no longer anticipated to be in the floodplain” in calculating points for
Floodplain Impacts and reducing the number of possible points under this criterion. For example, she suggested reducing possible points for “number of structures” to 1-4 and adding metrics such as:

- Number of people anticipated to no longer be residing in a floodplain due to the proposed project’s impact (1-4 points)
- Inclusion of a plan to prevent future expansion of the impacted floodplain as a result of upstream or adjacent land development (3 points)
- A public education and outreach component of the project to residents remaining in the floodplain (1 point).

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Orange County Drainage District commented that prioritizing projects based on the number of structures being removed from the floodplain favors high density regions to the detriment of rural areas. They requested that the Board revisit, and consider eliminating, the prioritization scoring for “floodplain impacts” and that this criterion be used as a tiebreaker instead.

(This was also expressed in comments from the City of West Orange)

Response:
The TWDB appreciates this comment. The number of points assigned to rural projects was increased to 12 points, which is the same maximum number of points possible for flood impacts.

The Harris County Flood Control District requested a provision clarifying that the reduced floodplain could be either FEMA acknowledged or calculated by an engineer for streams that FEMA has not studied or for those that are classified as urban flooding situations.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Bayou Land Conservancy commented that since flood mitigation is the primary focus of the funding and plan, it seems that direct floodplain impacts are not sufficiently represented in the scoring system. They encourage TWDB to incorporate more than the metric “number of structures no longer anticipated to be in the floodplain...” in calculating points for “Floodplain Impacts” and reducing the number of possible points assigned to that metric.

(This was also expressed in comments from the Texas Land Trust Council and Katy Prairie Conservancy)
Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

Representative Mayes Middleton commented that the Floodplain Impacts criterion favors high density regions and requested the Board consider using the criterion as a tiebreaker instead.

(This was also expressed in comments from the Winnie-Stowell Coalition for Drainage Mitigation)

Response:

The TWDB appreciates this comment. The number of points assigned to rural projects was increased to 12 points, which is the same maximum number of points possible for flood impacts.

**Emergency Need Due to Recent or Imminent Failure**

Representative Mayes Middleton requested that occurrence of recent and repetitive flood damages be considered for “Emergency Need” points where no prior protections have been constructed. Similarly, the Bayou Land Conservancy suggested that TWDB consider specifically adding points for projects that address “repetitive flood loss” areas or projects that will remove those vulnerabilities that have experienced repeat flooding events.

(This was also expressed in comments from the Orange County Drainage District, the City of West Orange, and the Winnie-Stowell Coalition for Drainage Mitigation, and the Texas Land Trust Council)

Response:

The TWDB appreciates this comment. The IUP has been updated to include points for recent flood-related disaster declarations.

Bexar Regional Watershed Management stated that in the section referring to recent or imminent failure, it is unclear if this means a structure that is hydrologically inadequate, if it is not meeting TCEQ dam safety criteria, etc. and recommended clarification.

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.
The Harris County Flood Control District requested further detail regarding what constitutes a “failure.”

Response:

The TWDB appreciates this comment. The IUP was revised to define “failure” as the inability to perform a normal function that would result in a significant threat to public health, safety, environment, or welfare.

**Water Supply Benefit**

Harris County Flood Control District asked how existing water rights will be interpreted when considering reclamation/reuse of floodwater, and whether an agency can claim water for reuse if another agency has prior rights? They also requested points for projects that utilize water for non-potable activities.

Response:

The TWDB appreciates this comment. No changes were made to the IUP. The TWDB will provide additional guidance on the applicable of water rights to this program. After further evaluation of the comments and program analysis, no additional points were provided for projects that utilize water for non-potable activities.

Bayou Land Conservancy suggested that the water supply benefit criterion should also include consideration of water quality benefit. Their comments state that flood mitigation projects that also help to slow water movement, capture and store water, enhance water quality and quantity generally, should be encouraged, and that water supply should also be further clarified to include a groundwater recharge benefit, as well.

(This was also expressed in comments from the Texas Land Trust Council and Katy Prairie Conservancy)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Orange County Drainage District commented that areas along the gulf coast (such as Orange County) have no shortage of water and are in need of protection from storm water. They state that flood projects in Orange County are not likely at all to have a water supply benefit and projects in other parts of the State that do have a water supply benefit should not have a ten (10) point advantage over a project in Orange County. Their comments request that the points allotted to this criterion be dramatically reduced to one or two points.

Response:
The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Texas Living Waters Project commented that the statement of this criterion should be clarified to include a groundwater recharge benefit where that recharge meets the test of being “anticipated to result in an integral, reliable, and quantifiable water supply benefit to a specific water user group with an identified need.”

Response

The TWDB appreciates this comment. The IUP was revised to indicate that the prioritization factor “Water Supply Benefit” may include groundwater recharge benefits.

The Guadalupe-Blanco River Authority recommended expanding this criterion to include “Economic and Recreational Benefits.”

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

**Estimated Completion Date**

Hays County commented that points should be given based on reasonable timeline specific to the project.

Response:

The TWDB appreciates this comment. The IUP was revised to indicate that TWDB will determine the estimated completion date used for prioritization.

El Paso County Public Works suggested clarifying what project completion includes and when the clock starts. For example, they ask whether loan closing for construction projects will occur after the design phase has been finalized, and what the consequences would be for projects who estimate an aggressive timeline to score higher and then do not meet that expected timeline.

Response:

The TWDB appreciates this comment. The IUP was revised to indicate that TWDB will determine the estimated completion date used for prioritization.
The Texas Infrastructure Network suggested TWDB consider completeness of design, federal and state permits applied for, and acquired rather than an estimated completion date as a better measure of whether a capital project is “ready to proceed”.

Response:

The TWDB appreciates this comment. While no changes were made to substitute a consideration of permits in place of estimated completion dates in prioritization, the IUP was revised to indicate that TWDB will determine the estimated completion date used for scoring purposes.

**Distributed Benefits**

Representative Mayes Middleton requested greater weight for projects with distributed benefits.

(This was also expressed in comments from the Winnie-Stowell Coalition for Drainage Mitigation and the City of West Orange)

Response:

The TWDB appreciates this comment. After further evaluation of the comments and program analysis, it was determined that no changes to the IUP would be applicable.

The Texas Living Waters Project observed that there appears to be an error in how points are awarded for number of structures anticipated to no longer be located in a floodplain. As presented in the chart, the top 75% of construction applicants in terms of structures removed would receive more points than those in the top 50% of construction applicants in terms of structures removed. With the framework that TWDB has created, it would be logical for the top 50% of construction applicants in terms of structures removed to receive 9 points and for the top 75% to receive 6 points – in other words, the reverse of what is proposed.

Response:

The TWDB appreciates this comment. The IUP has been corrected.

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**Abridged Application**
Guadalupe-Blanco River Authority: The application does not include a section that describes what level of funding the applicant is seeking. The application should allow the applicant to identify if it is seeking grants, zero or low interest loans, or deferrals of payment.

Response:

The TWDB appreciates this comment. The TWDB assumes the applicant will seek the maximum grant funding available. The abridged application was revised to allow for a request for loan funds only.