

## XII. Agency Comments

Provide any additional information needed to gain a preliminary understanding of your agency.

The TWDB administers several federal- and state-funded loan and grant programs that provide financial assistance to communities for constructing water- and wastewater-related projects. Annually, these programs collectively fund several hundred million dollars of infrastructure throughout the state. With few exceptions, political subdivisions are the only entities eligible for funding under these programs. The Project Finance group is responsible for administering these programs and currently has nine water and wastewater financial assistance programs; two are federally funded and seven are funded by the state. These programs are listed below.

### Federally Funded Programs

- Clean Water State Revolving Fund
- Drinking Water State Revolving Fund

### State Funded Programs

- Development Fund
- Colonia Self Help Program
- Economically Distressed Areas Program
- Rural Water Assistance Fund State Participation
- Agricultural Water Conservation Program
- State water plan
  - Water Infrastructure Fund

The Clean Water State Revolving Fund (CWSRF) and the Drinking Water State Revolving Fund (DWSRF) are capitalized with federal funds from the EPA. The CWSRF is also funded with state revenue bonds. Entities receiving federal assistance are required to comply with federal environmental and procurement requirements. The state funded programs are funded from revenue and general obligation bonds and funds appropriated by the legislature.

## Federal Financial Assistance Programs

### Clean Water State Revolving Fund (CWSRF)

#### Objective

The TWDB's CWSRF program is funded in part by federal grant money, with the state providing matching funds. The CWSRF provides loans at interest rates lower than the market to political subdivisions with the authority to own and operate a wastewater system. Although nonprofit water supply corporations are considered political subdivisions for various other TWDB programs, they are not eligible to receive assistance from the CWSRF.

CWSRF loans can be used for planning, designing, and constructing wastewater treatment facilities, wastewater recycling and reuse facilities, collection systems, stormwater pollution control, nonpoint source pollution control, and estuary management projects.

The CWSRF offers fixed and variable rate loans at subsidized interest rates. The maximum repayment period for a CWSRF loan is 30 years from the completion of project construction. A cost-recovery loan origination fee of 1.85 percent is imposed to cover administrative costs of managing a loan throughout its term. Applicants have the option to finance the origination fee in their loan or to pay it at closing. An additional interest rate subsidy is offered to those financing the origination fee.

#### Effectiveness

From June 16, 1988, through August 31, 2008, the TWDB had awarded \$5.2 billion in total commitments through the CWSRF, with closed loans accounting for approximately \$4.6 billion of this amount. In addition, the program had approximately \$443.3 million in outstanding loans as of August 31, 2008. Through FY 2008, the program had provided financial assistance to 319 entities that provided sewer service to a total of 12,058,583 individuals.

In 2006, The U.S. Environmental Protection Agency (EPA) selected the High Island Independent School District in Galveston County as the winner of the CWSRF Performance and Innovation in the SRF Creating Environmental Success (PISCES) Award. The 2006 PISCES Award recognizes CWSRF borrowers that achieved significant environmental and economic benefits with innovative and effective projects

The school district replaced inadequate septic systems with a low pressure septic tank pump system and a constructed wetlands treatment system, reducing point and nonpoint source pollution. The project used a \$250,000 CWSRF loan and federal and state grants. In addition, the land was donated by the Audubon Society and has been restored as a wildlife/bird watching area. The CWSRF loan helped the district capitalize on its only revenue source, school property taxes.

In 2007, the EPA selected the TWDB to receive its PISCES award for its remarkable support of water efficiency through water reuse for its long-term regional water planning process. In particular, the EPA praised an El Paso County reuse project and a City of Austin wastewater reclamation project, both of which were funded through the CWSRF program. The TWDB was also lauded for requiring all loan

recipients to have water conservation and drought contingency plans prior to funding.

In 2009, The EPA selected the City of Eagle Pass to receive two awards—the fourth annual PISCES award and the Drinking Water State Revolving Fund (DWSRF) Award for Sustainable Public Health Protection. Nominated by the TWDB, the City received the awards in recognition of projects that increase the sustainability of water and wastewater.

The Eagle Pass projects demonstrated 1) innovation in financing, 2) creative use of partnerships, and, 3) efficient use of water resources. The City has been able to establish financial integrity and affordability by coordinating state and federal grant and loan programs. With the help of these programs, Eagle Pass has achieved regional utility system improvements that meet the water quality and health standards of the Clean Water Act and the Safe Drinking Water Act. Using the CWSRF, the City replaced two aging interceptor lines and several high-maintenance lift stations with two gravity-flow interceptors sized to extend service to colonia areas located in the county as well as accommodate the City's population. A water reuse system was also constructed to save water to be used in municipal irrigation. In addition, the project used the CWSRF to construct sewage collection systems in under-served colonia communities, which are outlying residential areas often built without adequate water and sewage facilities.

The City used the DWSRF to construct a new 19 million-gallon-per-day water treatment plant, three new major water transmission lines, and three new elevated storage tanks. Eagle Pass also used the funds to purchase a failing water supply corporation. This project allowed the City to become a regional water provider serving about 97 percent of the residents of Maverick County. The purchase of the El Indio Water Supply Corporation enabled Eagle Pass to upgrade the quality and quantity of safe drinking water to minimum state standards for many of the colonia residents living in areas near the City. All City residents benefit from the new water treatment plant that incorporated ultra-filtration membrane technology, which allows the treatment of poor quality raw water from the Rio Grande to current drinking water standards.

## History

In 1987, the TWDB added the CWSRF to its portfolio of financial assistance programs. Low-interest loans from the CWSRF were designed to finance costs associated with planning, designing, constructing, expanding, or improving wastewater treatment facilities, wastewater recycling and reuse facilities, collection systems, stormwater pollution control projects, and nonpoint source pollution control projects.

In FY 1998, the TWDB revised the CWSRF program by establishing an Intended Use Plan (IUP), which included a priority rating system and EPA compliance requirements. The priority system for allocating CWSRF funds involved rating and ranking projects into eight different categories. The categories include six population categories, a category for Rural Hardship Community Grant Fund Program projects, and one for nonpoint source/bays and estuaries projects. Prior to these changes, the IUP included all eligible entities across the state. Projects on the list were funded on a ready-to-proceed or first-come, first-served basis.

In FY 2004, the program was amended to offer up to \$30 million in loans for wastewater projects at an interest rate of 0 percent or 1 percent, for eligible entities that qualify as disadvantaged. Disadvantaged communities funding was limited to political subdivisions with a population equal to or less than 25,000, as listed in Categories A, B, and C of the Intended Use Plan.

The CWSRF program was amended again in FY 2007 to extend the maximum repayment period

for a CWSRF loan from 20 to 30 years from the completion of construction.

#### Entities Affected

Political subdivisions with the authority to own and operate a wastewater treatment facility are the entities eligible for financial assistance under the CWSRF. Interest rates vary according to the type of financing selected and are locked in at closing. Applicants have the following interest rate options available.

#### **Tier III**

This funding option offers an interest rate subsidy up to 1.95 percent below market interest rates, excluding the loan origination fee. These funds are available on a first-come, first-served basis. Applicants for these funds must comply with federal procurement and environmental review requirements.

#### **Tier II**

This funding option offers an interest rate subsidy of up to 0.95 percent below market interest rates, excluding the loan origination fee. These funds are made available to entities after the Tier III funds have been committed.

#### **Short-term, Variable Rates (federal, state)**

Variable rates are available during the construction period but must convert to a long-term, fixed rate loan within 90 days of the completion of project construction. The variable interest rates are generally about 2 percent below the above-described fixed rates or up to 2.95 percent below the market rate. Borrowers have the option to convert to long-term, fixed rate financing at any time prior to project completion.

#### **Disadvantaged Communities**

This funding option provides eligible entities with an interest rate of 0 percent or 1 percent. The TWDB can provide this funding option to:

- A political subdivision that meets the criteria for a disadvantaged community and has a population less than or equal to 25,000, or
- An area located outside the boundaries of a political subdivision that meets the criteria for a disadvantaged community and has a population less than or equal to 25,000. In these cases, the political subdivision must apply on behalf of the area located outside its boundaries. A disadvantaged community is defined as an area (where the project will provide service) that has an *adjusted* annual median household income that is no more than 75 percent of the state annual median household income; and
- If the service area is not charged for sewer services, has a household cost factor for water rates greater than or equal to 1 percent; or
- If the service area is charged for water and sewer services, has a combined household cost factor or water and sewer rates greater than or equal to 2 percent.

Coordination

**Coordination efforts between the TWDB and the Texas Commission on Environmental Quality**

- The Texas Commission on Environmental Quality administers the nonpoint source program and regulates and enforces water quality standards within the state. The TWDB provides funding for nonpoint source projects. The TWDB coordinates with the Texas Commission on Environmental Quality to ensure that best management practices are followed and that funding will be awarded to projects in a priority segment based on the Texas Commission on Environmental Quality's 303(d) Clean Water Act list of threatened and impaired water bodies (319 of the Clean Water Act).
- The TWDB obtains the latest water quality information and self-reporting data from the Texas Commission on Environmental Quality for use in assigning priority rankings for wastewater projects applying for CWSRF financing.
- The Texas Commission on Environmental Quality prepares an area-wide wastewater management plan identifying designated management agencies responsible for providing specified services within their assigned boundaries.
- The TWDB coordinates with the Texas Commission on Environmental Quality to verify consistency with area-wide wastewater management plans to ensure that funding is awarded to appropriate applicants.
- The Texas Commission on Environmental Quality establishes design criteria for wastewater systems, and develops procedures concerning the submission and review of proposed designs; the TWDB may offer proposed variances to design criteria for sewage systems to ensure consistency between agencies.
- To avoid duplication of workload and expedite review time, projects receiving funding from the TWDB are exempt from the Texas Commission on Environmental Quality review when the TWDB approves the plans and specification of the project. (Water Code 17.276(d))

**Coordination efforts between the TWDB and the Texas Historical Commission**

- The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.
- Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

## Drinking Water State Revolving Fund (DWSRF)

### Objective

The TWDB's Drinking Water State Revolving Fund (DWSRF) is funded in part by federal grant money, with the state providing matching funds. The DWSRF provides loans at interest rates lower than the market offers to finance projects for public drinking water systems that facilitate compliance with primary drinking water regulations or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act. Projects must also be consistent with the current state water plan. Applicants may be political subdivisions of the state, nonprofit water supply corporations, privately-owned water systems, and state agencies.

Loans can be used for planning, designing, and constructing projects to upgrade or replace water supply infrastructure; correct exceedances of the Safe Drinking Water Act drinking water standards; consolidate water supplies; and purchase capacity in water systems. DWSRF loan proceeds can also be used to purchase land integral to the project. Under the Source Water Protection Program, an applicant may apply for a loan to purchase land or conservation easements if the purpose of the purchase is to protect the source water of a public water system from contamination and to ensure compliance with national primary drinking water regulations.

### Effectiveness

As of August 31, 2008, the TWDB had awarded \$971 million in total commitments through the DWSRF, with closed loans accounting for approximately \$405.6 million of this amount. In addition, the program had approximately \$448 million in outstanding loans as of August 31, 2008. Through FY 2008, the program had provided financial assistance to 93 entities that provided drinking water service to 2,795,439 individuals.

In 2006, the Possum Kingdom Water Supply Corporation (Corporation), located in Palo Pinto and Stephens counties, was the recipient of the DWSRF Award for Sustainable Public Health Protection. The award recognizes borrowers and their supporters who achieve results that go beyond the typical project, showing exceptional creativity and dedication to public health protection. The Possum Kingdom area residents received their water from 60 small, non-compliant independent water systems. In 1992, the Corporation was created to consolidate the small systems into a single regional water distribution system. The Corporation received a \$4.7 million DWSRF loan in 1998, along with \$6.5 million in U.S. Department of Agriculture—Rural Development funds. A new water intake plant was constructed, and other improvements were made. Today, area residents receive safe, healthy drinking water. The Corporation has received a second DWSRF loan to expand the system further.

In 2009, The EPA selected the City of Eagle Pass to receive two awards—the fourth annual Performance and Innovation in the SRF Creating Environmental Success (PISCES) award and the DWSRF Award for Sustainable Public Health Protection. Nominated by the TWDB, the City received the awards in recognition of projects that increase the sustainability of water and wastewater.

The Eagle Pass projects demonstrated 1) innovation in financing, 2) creative use of partnerships, and, 3) efficient use of water resources. The City has been able to establish financial integrity and affordability by coordinating state and federal grant and loan programs. With the help of these programs, Eagle Pass has

achieved regional utility system improvements that meet the water quality and health standards of the Clean Water Act and the Safe Drinking Water Act.

The City used the DWSRF to construct a new 19 million-gallon-per-day water treatment plant, three new major water transmission lines, and three new elevated storage tanks. Eagle Pass also used the funds to purchase a failing water supply corporation. This project allowed the City to become a regional water provider serving about 97 percent of the residents of Maverick County. The purchase of the El Indio Water Supply Corporation enabled the City to upgrade the quality and quantity of safe drinking water to minimum state standards for many of the colonia residents living in areas near the City. All of the City residents benefit from the new water treatment plant that incorporated ultra-filtration membrane technology, which allows the treatment of poor quality raw water from the Rio Grande to current drinking water standards.

### History

In 1997, DWSRF was established by state law, in accordance with the Safe Drinking Water Act amendments of 1996. The TWDB was given the authority to manage the loan fund and to make low-interest loans to water systems to bring them into compliance with the federal Safe Drinking Water Act rules. The Texas Commission on Environmental Quality was designated as the state primacy agency with the authority to enforce provisions of the Act.

At the program's inception, the TWDB was authorized to only fund projects proposed by political subdivisions of the state. Texas Senate Bill 1, effective September 1, 1997, allowed the TWDB to extend financial assistance to disadvantaged communities, eligible private applicants, and eligible nonprofit/non-community applicants.

### Entities Affected

Applicants may be political subdivisions of the state, nonprofit water supply corporations, privately owned water systems, and state agencies. The DWSRF offers a net long-term fixed interest rate loans at subsidized interest rates.

A limited amount of funding is available each year to applicants that qualify as disadvantaged communities.

### Coordination

#### **Coordination efforts between the TWDB and the Texas Historical Commission**

- The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.
- Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

#### **Coordination efforts between the TWDB and the Texas Commission on Environmental Quality**

- The TWDB has a contractual agreement with the Texas Commission on Environmental Quality under the DWSRF Set-Aside Agreement. The Texas Commission on Environmental Quality is the state primacy agency for providing activities such as rating and ranking projects for priority, state program management, small systems technical assistance, source water protection, and capacity development.

## State Financial Assistance Programs

### Development Fund

#### Objective

The Development Fund provides financing for acquiring, improving or constructing such water-related projects as water wells, retail distribution and wholesale transmission lines, pumping facilities, storage reservoirs and tanks, and water treatment plants. It also finances the purchase of water rights. The Development Fund also provides financing for wastewater collection and treatment projects and flood control projects.

Loan applicants under the program must be a political subdivision of the state or a nonprofit water supply corporation. Political subdivisions include cities, counties, districts, and river authorities. Water supply projects must be consistent with the current state water plan.

The interest rate on a Development Fund loan varies depending on market conditions. The lending rate scales are set at the higher of either the Delphis Hanover Scale or at 0.35 percent above the TWDB's borrowing cost. The lending rates are intended to provide reasonable rates for customers while covering the TWDB's cost of funds and risk exposures.

Using the TWDB's pre-design funding option, an eligible applicant may receive a loan commitment based on preliminary engineering, environmental, economic, and social information. Funds for completing detailed planning, including environmental studies, are provided at closing. Funds for design, preparation of final plans and specifications, and construction are placed in escrow until needed. The interest rate is locked in at closing. The pre-design funding option is available for most water supply and treatment projects and wastewater projects. As with other TWDB loan programs, the applicant's ability to repay the loan is the major determining factor in the approval for using the pre-design funding option. If the pre-design funding option is not used, the applicant must develop plans and specifications and have them approved, obtain all necessary permits and open bids prior to closing the loan.

#### Effectiveness

As of August 31, 2008, the TWDB had committed \$1.9 billion, and closed loans accounted for \$1.4 billion. The program had approximately \$300 million in outstanding commitments as of August 31, 2008. Through FY 2008, the program provided financial assistance to 595 entities that provided service to a total of 7,152,251 individuals.

#### History

The Development Fund was created in 1957 to provide loans for water supply, water quality enhancement, and flood control. In November 1997, the Texas Constitution was amended to create the Texas Water Development Fund II to modernize the flow of funds and maximize the use of the remaining bond authorizations.

#### Entities Affected

Loan applicants under the program must be a political subdivision of the state or a nonprofit water supply corporation. Political subdivisions include cities, counties, water districts, and river authorities. Water supply projects must be consistent with the current state water plan.

## Coordination

### **Coordination efforts between the TWDB and the Texas Historical Commission**

The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.

Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

## Colonia Self-Help Program

### Objective

The Colonia Self-Help Program provides financial assistance to grass roots initiatives in economically distressed areas. Through the program, the TWDB provides grant assistance for the cost of getting adequate water and wastewater service to colonias where the local residents provide volunteer labor (sweat equity) to construct the facilities and/or donate equipment, materials, and supplies.

A colonia is an economically distressed area located within 50 miles of an international border in which the water supply or sewer services are inadequate to meet minimal needs of residential users because they do not meet minimum state standards; the financial resources are inadequate to provide services to meet those needs; there is an established residential subdivision within the area consisting of 11 or more dwellings located in close proximity to each other on June 1, 2005.

The Colonia Self-Help Program offers grants for 100 percent of the eligible expenses by reimbursing incurred expenses in a self-help project that results in providing adequate water or wastewater services to a colonia. Eligible expenses include those related to construction, facility planning, platting, surveying, engineering, equipment, and other costs specifically approved by the TWDB.

### Effectiveness

As of August 31, 2009, the TWDB had awarded \$492 thousand in total commitments to twelve projects through the Colonia Self-Help Program. Eight of the projects have been completed and four are still under construction. The savings created through residential cash contributions and labor and local in-kind services (i.e., equipment, materials, engineering, and inspection) totaled more than \$605 thousand.

### History

The Colonia Self-Help Program was created by the 77<sup>th</sup> Texas Legislature in 2001 as a provision to the TWDB's Sunset legislation, Senate Bill 312 by Senator Judith Zaffirini and Representative Warren Chisum. The program provides grant assistance to grass roots initiatives in economically distressed areas through nonprofit organizations. In exchange for grant assistance, resident volunteers provide labor (sweat equity) and/or donate equipment and materials/supplies to construct the water and/or sewer facilities at residences in colonias. Projects must be located in one of the 27 counties within 50 miles from the international border. The TWDB transferred initial seed money (approximately \$389,000 representing pending projects) for the program from the Economically Distressed Areas Program (facility planning funds). In 2001, the 77<sup>th</sup> Legislature in 2001 authorized the TWDB to award funding for self-help projects directly to nonprofit organizations. In 2006, the TWDB received documentation from the Rensselaerville Institute identifying approximately \$1.5 million in water and wastewater infrastructure needs in colonias. During the TWDB's strategic planning stakeholders' meeting in October 2005, stakeholders specifically emphasized the need for additional self-help project funding. Because of this demand, the TWDB submitted a special item appropriation request to the 80<sup>th</sup> Texas Legislature in 2005 requesting \$774,891 for FYs 2008–2009 for the Colonia Self-Help Program. During the 80<sup>th</sup> Legislative Session in 2007, Senator Judith Zaffirini secured an appropriation of \$600,000 for the program to fund grants over the FY 2008–2009 biennium.

To encourage more entities to submit applications for grants from the Colonia Self-Help Program, the

TWDB asked the 81<sup>st</sup> Texas Legislature to amend Section 15.954, Water Code, to allow a greater pool of sponsors to be eligible for the program and allow political subdivisions to act as sponsors. Senate Bill 1371 by Senator Eddie Lucio, Jr., and Representative Eddie Lucio was passed and became effective September 1, 2009. Senate Bill 1371 also removes the requirement that "colonia" consist of 11 or more dwellings and allows the TWDB to determine whether the project will be cost effective.

Entities Affected

The Colonia Self-Help Program is limited to projects in colonias in a county, any part of which is within 50 miles of the international border. Certain nonprofit organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Service Code are eligible.

Coordination

Not applicable

## Economically Distressed Areas Program (EDAP)

### Objective

EDAP provides financial assistance for supplying water and wastewater services to economically distressed areas where water and wastewater facilities either do not exist or are currently inadequate to meet minimum state standards. The 71st Texas Legislature (1989) passed comprehensive legislation that established EDAP to be administered by the TWDB. The program provides financial assistance in the form of a grant or a combination grant/loan to provide water and wastewater services to economically distressed areas to meet the minimal needs of residents. The program includes measures to prevent future substandard development, the model subdivision rules. Subsequently, the 79th Texas Legislature (2005) passed legislation that changed the definition of an economically distressed area, essentially expanding the program statewide.

EDAP can fund planning, land acquisition, design, construction for new service, or improvements to water supply and wastewater collection and treatment works, including all necessary engineering work. The program will not fund ongoing operation and maintenance expenses. EDAP applicants are responsible for operating and maintaining their systems.

### Effectiveness

As of August 31, 2008, the TWDB had awarded \$189.5 million in total commitments through EDAP, with closed loans and grants accounting for \$161.1 million of this amount. As of August 31, 2008, there remained \$14.8 million in outstanding commitments. Through FY 2008, the program provided financial assistance to 82 entities that provided drinking water and/or sewer service to a total of 443,215 individuals. The TWDB was appropriated \$43.3 million for debt service on EDAP bonds for the 2008–09 biennium. Of this amount, \$39.2 million was from General Revenue and the balance was from loan repayments in the program.

The 80<sup>th</sup> Legislature authorized the TWDB to issue up to \$37.5 million in general obligation bonds for EDAP projects identified in the 2007 State Water Plan. During the FY 2008–2009 biennium, the agency awarded \$16.9 million in total commitments for these projects.

For FY 2008, measures in the TWDB's Goal 2 Strategy were relevant to this question.

*Output Measure 02-01-02.03 - KEY*

<b>Number of completed Economically Distressed Areas projects</b>	
FY 2008 Performance	FY 2008 Target
70 (86.42%)	81

*Output Measure 02-01-02.04*

<b>Number of construction contracts in progress for Economically Distressed Areas projects</b>	
FY 2008 Performance	FY 2008 Target
37 (82.22%)	45

*Explanatory Measure 02-01-02.01*

<b>Number of economically distressed areas (colonias) residents provided with a construction commitment</b>	
FY 2008 Performance	FY 2008 Target
271,731 (102.50%)	265,107

*Explanatory Measure 02-01-02.02*

<b>Number of economically distressed areas (colonias) residents for which adequate water supplies or wastewater services are available</b>	
FY 2008 Performance	FY 2008 Target
226,435 (90.57%)	250,000

**History**

The TWDB, state leaders, legislators, and the citizens of Texas have been active in providing water and wastewater services to economically distressed areas of the state for nearly 20 years. In 1989, the 71<sup>st</sup> Legislature passed comprehensive legislation that established EDAP to be administered by the TWDB and to establish model subdivision rules for regulating future residential subdivisions. EDAP provides financial assistance in the form of a grant or a combination grant/loan to political subdivisions, including cities, counties, water districts, and nonprofit water supply corporations to provide water and wastewater to Texas residents without service or those with existing inadequate systems.

In 1989 and 1991, Texas voters supported constitutional amendments that provided a cumulative \$250 million in bonds for EDAP. Starting in 1992, the EPA became a significant partner in the efforts to assist economically distressed areas with their establishment of the Colonia Wastewater Treatment Assistance Program, a \$300 million program designed to fund wastewater, and later, water services in areas located within 100 kilometers of the Texas-Mexico border. This federal program provided much-needed additional program funds. Since that time, the success of the program and the recognition by state and local leaders of the need for increased services has created financial challenges in sustaining its viability and enabling it to expand to meet more Texans' needs. To address the challenges, in 1999 through Senate Bill 1421, 76<sup>th</sup> Legislature, Senator Eddie Lucio, Jr. introduced the first efforts to modify the program to assist more economically distressed residents by creating a comprehensive project area. This legislation facilitated projects getting underway as sponsors were previously hesitant to undertake projects that did not include all sections of the subdivision. In 2001, the 77<sup>th</sup> Legislature recognized the need to assist EDAP project owners with financial, managerial and technical assistance, and passed Senate Bill 649, authored by Senator Carlos Truan.

In January 2002, the TWDB recognized that EDAP needs far exceeded the amount of uncommitted EDAP funds. Former TWDB Chairman William Madden advised Governor Rick Perry that only \$67 million remained in the program, and would likely be exhausted within a few years. In 2003, the TWDB took action in managing the remaining funds by notifying applicants of funding limitations and placing a moratorium on new projects. The TWDB developed a strategy to manage the funds by prioritizing projects so that increases to existing projects were funded first, before allowing projects in the planning phase to move into design or construction.

During this time, both EDAP and Colonia Wastewater Treatment Assistance Program funding for program staff was declining, and TWDB staffing levels were reduced hindering the ability to administer the program. The construction industry was experiencing huge cost increases in cement, pipe, and other materials that resulted in projects stalling due to the lack of program funds. The North American Development Bank and other federal agencies were also experiencing budget reductions to their grant programs. The TWDB staff worked diligently with the applicants and other potential funding agencies to locate funds for project cost overruns and expedite their progress.

These challenges bolstered the efforts of the TWDB to support EDAP. Aging infrastructure, coupled with the drought and the state's growing population, increased the need for adequate water and wastewater services in economically distressed areas. Several TWDB Board members toured colonias and committed to action to ensure the future of EDAP, making it the TWDB's highest legislative priority.

Based on a request to the 77<sup>th</sup> Legislature in 2001, the TWDB's approved appropriation for FY 2002–2003 included debt service supporting issuance of \$65.7 million in bonds for EDAP. The TWDB issued \$23.98 million in EDAP bonds in 2002; however, Texas, like many other states in those years, encountered a budget crisis that resulted in interim reductions of the prior approval when the 78<sup>th</sup> Legislature met in January 2003. As a result, the TWDB was not allowed to issue the remaining \$41.72 million of those bonds during the FY 2002–2003 biennium.

In 2003, the TWDB's Legislative Appropriations Request for FY 2004–2005 included a request for authorization to resume issuing \$25 million in EDAP bonds per year and for \$20 million cash for EDAP funding. The 78<sup>th</sup> Legislature chose to only authorize \$25 million to be issued during FY 2004–2005.

In 2005, the TWDB requested authority to issue the final \$37 million in EDAP bonds and \$25 million in cash and administrative support to allow for completion of all projects. The 79<sup>th</sup> Legislature appropriated

debt service to support \$25 million in EDAP bonds. The final \$12 million in bonds from the original \$250 million remained unauthorized at this point. Also, during the 79<sup>th</sup> Legislative Session, House Bill 467, introduced by Representative Kevin Bailey, changed EDAP eligibility requirements and created a statewide program.

The TWDB continued the moratorium on new projects until additional funding was identified in order to ensure EDAP existing projects were completed, prioritizing those with federal Colonia Wastewater Treatment Assistance Program funds previously committed. Project delays, inflation, and staffing level reductions slowed the disbursement of both EDAP and federal funds. In 2006, the TWDB began implementing House Bill 467 by adopting new rules for the statewide program that focused on program changes meant to expedite projects. These rule changes also included a means to prioritize existing applications that had previously been in line for funding under the initial EDAP eligibility criteria. To adequately administer projects, the TWDB pursued and received an additional \$3.3 million in administrative funds from the EPA. The TWDB then lifted the moratorium on new EDAP applications.

During the 80<sup>th</sup> Legislative session in 2007, the TWDB furthered its efforts to secure future EDAP funding. The TWDB Executive Administrator Kevin Ward's testimony to the 80<sup>th</sup> Legislature at a late-session House Appropriations Committee Hearing emphasized the need for additional state funding to avoid the potential loss of millions of dollars in federal Colonia Wastewater Treatment Assistance funds. TWDB's FY 2008–09 Legislative Appropriations Request included three EDAP requests. The first two requests were for authorization to issue the remaining \$12 million in bonds from the original \$250 million and for the operating funds to administer the completion of existing projects and the anticipated new projects. The remaining EDAP request was for \$54 million in grant funding, along with operational funds, to address House Bill 467 passed by the 79<sup>th</sup> Legislature, which made EDAP a statewide program. In responding to these requests, the 80<sup>th</sup> Legislature passed Senate Joint Resolution 20, by Senator Eddie Lucio, Jr. and Representative Norma Chavez, that provided a \$250 million constitutional amendment for EDAP bonds, approved appropriation for debt service on the remaining \$12 million EDAP bonds, and funded administration related to the current EDAP program, House Bill 467, and the state water plan. Overall, the 80<sup>th</sup> Legislature provided additional EDAP funding of \$3 million in operations for the biennium with 24 FTEs and authorization for the issuance of \$99 million in EDAP bonds. Voters approved Proposition 16 in November 2007, and EDAP was now poised to move forward, with adequate staffing and program funding in place.

During the 81<sup>st</sup> Legislative session in 2009, changes were made to the Local Government Code, impacting the model subdivision rules. Prior to 2009, cities and counties had limited enforcement tools available to prevent substandard residential developments. Some critics believed many of these restrictions resulted in an undue hardship on the purchasers of the properties that the laws were meant to protect and resulted in further victimization, rather than simply preventing more victims of unscrupulous developers. Because of restrictions to providing only electricity or gas services to lots platted before 1989, individual lots were required to be re-platted before water or sewer services could be connected. The result was not only an undue financial burden to re-plate the entire tract of land, but also the limitation of the ability to systematically phase in water and sewer services to areas that need it most.<sup>4</sup>

Senate Bill 2253 by Senator Judith Zaffirini and Representative Ryan Guillen amended the Local Government Code to allow a utility or entity to connect utility services, including water and sewer services, to certain existing residences in a colonia without a certificate of compliance with plat requirements and to specify the criteria that must be met to qualify for utility service without the

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<sup>4</sup> SB 2253 Bill Analysis (Introduced) by Senate Research Center, April 21, 2009

certificate of compliance. Senate Bill 2253 specified that a person requesting service must be the owner or purchaser of the subdivided land and must provide certain documentation to the municipal authority responsible for approving plats. The bill does not prohibit a water or sewer utility from providing, in a county any part of which is within 50 miles of the Texas-Mexico border, utility connection or service to a residential dwelling that receives funding under a federal or state funding program designed to focus on the following: addresses inadequate water or wastewater facilities in colonias or residential lots located in such border counties; is an existing dwelling identified as eligible for the funding; complies with certain model subdivision rules when connected; and has been approved for improvements by the applicable local governmental body. However, the bill prohibits a utility from providing water services to homes that do not have adequate sewer services. The bill modifies a provision relating to plat approval by a county for land in a floodplain to ensure compliance with the National Flood Insurance Program and local regulations.

#### Entities Affected

Ultimately, the beneficiaries of the EDAP are the residents of subdivisions that receive water and wastewater services from the infrastructure financed through the TWDB. According to the TWDB's FY 2008 Performance Measure, more than 226,000 residents lived in economically distressed areas served with water and wastewater funded through EDAP (See Question C above, Explanatory Measure 02-01-02.02).

Political subdivisions, including cities, counties, water districts, and nonprofit water supply corporations are eligible to apply for EDAP grant and loan funds. Projects must be located in an economically distressed Area. An economically distressed area is an area in which

- the water supply or sewer services are inadequate to meet minimal needs of residential users;
- the financial resources are inadequate to provide water supply or sewer services to satisfy those needs; and
- was an established residential subdivision as of June 1, 2005.

In addition, the area to be served by the proposed project must have a median income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available.

EDAP includes measures to prevent future substandard development. The county where the project is located must adopt rules regulating subdivisions prior to applying for financial assistance. If the applicant is a city or if any part of the project is located within the extended territorial jurisdiction of a municipality, the city must also adopt model subdivision regulations.

#### Coordination

##### **Texas Department of State Health Services**

Upon request of the TWDB, the Texas Department of State Health Services investigates the severity of nuisance conditions in an economically disadvantaged area that has applied for EDAP funding. If the department has not made a finding that a nuisance condition relating to the inadequate water and wastewater services exists in the economically distressed area, the TWDB must limit the percentage of EDAP assistance available to the applicant in the form of a grant to no more than 50 percent of the project cost.

### **Texas Commission on Environmental Quality**

The Texas Commission on Environmental Quality establishes design criteria for wastewater systems and develops procedures concerning the submission and review of proposed designs; the TWDB may offer proposed variances to design criteria for sewage systems to ensure consistency between the agencies. The TWDB consults with the Texas Commission on Environmental Quality to determine whether an innovative technology is appropriate for use on EDAP projects when such technology is proposed by applicants. The applicant must apply for and maintain a designation by the Texas Commission on Environmental Quality as an authorized agent for the regulation of on-site waste disposal facilities.

The Texas Commission on Environmental Quality prepares an area-wide wastewater management plan identifying designated management agencies responsible for providing specified services with their assigned boundaries.

To expedite completion of projects and avoid duplication of work, projects receiving funding from the TWDB are exempt from the Texas Commission on Environmental Quality review when the TWDB approves the plans and specifications.

Again, as mentioned in Question I, the Texas Commission on Environmental Quality jointly reimburses the Texas Department of State Health Services for nuisance surveys for EDAP applications.

### **Texas Department of Rural Affairs**

The Texas Department of Rural Affairs provides matching grants to state and local governments, regional economic development districts, and public and private organization to construct water and wastewater facilities in economically distressed areas. The TWDB coordinates with the department on companion projects, such as partial financing for sewer lines to an industrial park or expanding a wastewater treatment plant through CWSRF assistance.

### **Texas Historical Commission**

The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources, so the TWDB employs archeologists to assist applicants with determining impacts to historical and archeological resources.

Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

### **U.S. Department of Agriculture—Rural Development Division**

The Rural Development Division provides grants and loans for construction projects in rural areas of the state. The agency has provided funding for a number of projects that did not meet the TWDB's EDAP eligibility requirements but still had low per capita income levels.

The TWDB closely coordinates with this federal program on engineering, financing, and environmental reviews of jointly funded projects and on payment processing procedures on EDAP projects.

**North American Development Bank**

The North American Development Bank may provide funding for components of projects that are not eligible for the TWDB's EDAP funding. The TWDB identifies projects that may qualify for the bank's funding and obtains input regarding financing opportunities. The North American Development Bank has become involved in joint financing of some EDAP Projects.

**Border Environment Cooperation Commission**

The Border Environment Cooperation Commission certifies projects for funding through the North American Development Bank. The Border Environment Cooperation Commission often relies on the TWDB's environmental review of prospective projects for the North American Development Bank, such as critically needed and often socially and environmentally complex water infrastructure projects.

The Border Environment Cooperation Commission evaluates the TWDB's priority list of EDAP projects to ensure that coordination commences promptly on projects that may need commission certification and funding from the North American Development Bank.

## Rural Water Assistance Fund

### Objective

The Rural Water Assistance Fund program is designed to assist small rural utilities in obtaining low-cost financing for water and wastewater projects. The TWDB offers tax exempt, attractive interest rate loans with short- and long-term finance options. Loans from the Rural Water Assistance Fund may be used to fund water-related capital construction projects including but not limited to line extensions, overhead storage, the purchase of well fields, and the purchase or lease of rights to produce groundwater. Water quality enhancement projects such as wastewater collection and treatment projects are also eligible projects, in addition to interim financing of construction projects. Costs of planning, designing, and constructing projects are all eligible for funding.

The Rural Water Assistance Fund may also be used to enable a rural utility to obtain water or wastewater service supplied by a larger utility or to finance the consolidation or regionalization of a neighboring utility. This flexible term finance program provides borrowers tax exempt loans with attractive interest rates, up to a 40-year maturity on loans (consistent with the useful life of the project), and quick turnaround time on loan applications. In addition, nonprofit water supply corporations are exempt from paying sales tax incurred on any project financed by the program. A rural utility may also enter into an agreement with a federal or state agency to submit a joint application for financial assistance.

### Effectiveness

As of August 31, 2008, the TWDB had awarded \$127.3 million in total commitments from the Rural Water Assistance Fund, with closed loans accounting for \$83.5 million of this amount. The program had approximately \$21.4 million in outstanding commitments as of August 31, 2008. Through FY 2008, the program provided financial assistance to 34 entities that provided sewer service to a total of 209,334 individuals.

### History

The Rural Water Assistance Fund (RWAFF) was created in 2001 by the 77th Texas Legislature to assist small rural utilities in obtaining low-cost financing for water and wastewater projects.

### Entities Affected

Eligible borrowers are defined as rural political subdivisions, which include nonprofit water supply corporations, water districts, municipalities serving a population of up to 10,000, or that otherwise qualify for federal financing, counties in which no urban area has a population exceeding 50,000.

### Coordination

#### Coordination efforts between the TWDB and the Texas Historical Commission

- The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.

- Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

## State Participation Program

### Objective

The State Participation Program enables the TWDB to assume a temporary ownership interest in a regional project when the local sponsors are unable to assume debt for the optimally sized facility. The TWDB may acquire ownership interest in the water rights or a co-ownership interest of the property and treatment works. The loan repayments that would have been required if the assistance had been from a loan are deferred. Ultimately, the cost of the funding is repaid to the TWDB based upon purchase payments, which allows the TWDB to recover its principal, interest costs, and issuance expenses but on a deferred timetable.

The legislature, recognizing the value in optimizing and “right sizing” systems, has appropriated funds to assist local governments in regional optimization projects. To offset some of the initial cost of processing these projects, the TWDB charges an administrative cost recovery fee of 0.77 percent. As the earlier projects repurchase the TWDB’s interest, there will be additional funds available for future projects.

The program is intended to allow for optimizing regional projects through limited state participation when the benefits can be documented and such development is unaffordable without state participation. The goal is to allow for the “right sizing” of projects in consideration of future growth. On new water supply projects, the TWDB can fund up to 80 percent of costs, provided the applicant will finance at least 20 percent of the total project cost from sources other than the State Participation Program and at least 20 percent of the total capacity of the proposed project will serve existing needs. On other State Participation projects the TWDB can fund up to 50 percent of costs, provided the applicant will finance at least 50 percent of the total project cost from sources other than the State Participation Program, and at least 50 percent of the total capacity of the proposed project will serve existing needs.

The benefits to the participant are threefold: 1) payments are deferred until the customer base grows into the added capacity facilitated, which will augment the applicant’s ability to make the payments to the TWDB; 2) the TWDB does not accrue interest on the deferred interest portion thereby reducing the overall carrying cost of the facility for the applicant; 3) optimizing regional projects reduces the necessity and added expense to local governments of building new structures or replacing undersized structures in the future. These funds are limited in availability both as to the total amount approved by the legislature each biennium and by limitations to participation in individual projects.

### Effectiveness

As of August 31, 2008, the TWDB had awarded \$165.1 million in total commitments from the State Participation Program, with closed loans accounting for \$150.6 million of this amount. The program had approximately \$14.5 million in outstanding commitments as of August 31, 2008. Through FY 2008, the program provided financial assistance to 8 entities that provided service to a total of 2,454,891 individuals.

The 80<sup>th</sup> Legislature authorized the TWDB to issue up to \$276.1 million in general obligation bonds for State Participation projects identified in the 2007 State Water Plan. During the FY 2008–2009 biennium, the agency awarded \$48.5 million in total commitments for State Participation projects listed in the state water plan.

## History

The 81<sup>st</sup> Texas Legislature passed House Bill 3861 which allows the TWDB to consider future, projected revenues from political subdivisions not currently under contract, or even identified, that might want to purchase a portion of the water supplied by the project when making the findings necessary to complete the project financing.

## Entities Affected

Any political subdivision of the state and water supply corporations that may sponsor construction of a regional water or wastewater project can apply to the TWDB for participation in the project.

## Coordination

### **Coordination efforts between the TWDB and the Texas Historical Commission**

- The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.
- Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site, and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established

## Agricultural Water Conservation Program

### Objective

Under the Agricultural Water Conservation Loan and Grant Program, the TWDB can provide agricultural water conservation loans to political subdivisions and state agencies for their use either for improvements on their facilities or as loans to individuals. The TWDB also provides a linked deposit loan program for individuals to access the TWDB funds through participating local state depository banks and farm credit institutions. In addition, the TWDB may provide grants to state agencies and political subdivisions for agricultural water conservation programs, including demonstration projects, technology transfers and educational programs.

Grants may also be made to political subdivisions for agricultural water conservation projects for purchasing and installing on either public or private property metering devices to measure irrigation water use in order to quantify effects of different water conservation strategies. The Conservation Division within the office of Water Science and Conservation administers the Agricultural Water Conservation Grant Program. The Agricultural Water Conservation Loan Program provides loans to political subdivisions or individuals for either a conservation program or project.

A conservation program is defined as the following:

- An agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Ch.201, Agriculture Code
- A research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation
- A precipitation enhancement program in an area of the state where the program, in the TWDB's judgment, would be most effective
- Other state agency or political subdivision-administered water conservation programs that provide loans to a person for a conservation project.
- A conservation project:
  - Improves the efficiency of water delivery to and application on existing irrigation systems
  - Prepares irrigated land for conversion to dry land conditions
  - Prepares dry land for more efficient use of natural precipitation
  - Purchases and installs on public or private property devices designed to indicate the amount of water withdrawn for irrigation
  - Prepares and maintains land to be used for brush control activities in areas of the state where those activities, in the TWDB's judgment, would be most effective, including activities conducted under Ch.203, Agriculture Code

The costs of a conservation program or project eligible for financial assistance under Section 17.899, Texas Water Code, are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the program or project.

**The Agricultural Water Conservation Grant Program** provides grants to state agencies and political subdivisions for agricultural water conservation programs. Grants may be made available for demonstrations, education, research, technical assistance, and technology transfer. Grants may also be made to political subdivisions for agricultural water conservation projects for purchasing and installing on

either public or private property metering devices to measure irrigation water use to quantify effects of different water conservation strategies.

The TWDB will consider the following when reviewing an agricultural water conservation grant application:

- The commitment of the entity to water conservation
- The benefits that will be gained by making the grant
- The degree to which the political subdivision has used other available resources to finance the use for which the application is being made
- The willingness and ability of the political subdivision to raise revenue
- A finding that the grant will supplement rather than replace money of the applicant
- A finding that the grant will serve the public interest
- A finding that the grant will assist in implementing a water conservation water management strategy identified in the most recent applicable approved regional water plan or state water plan
- The grant will further water conservation in the state

#### Effectiveness

As of August 31, 2009, the TWDB had \$66.7 million in total commitments for the Agricultural Water Conservation Loan Program.

#### History

The 78<sup>th</sup> Texas Legislature passed Senate Bill 1053, which expanded the Agricultural Conservation Program to provide three methods of assistance. The TWDB was allowed to provide agricultural water conservation loans to political subdivisions and state agencies for their use either for improvements on their facilities or loans to individuals. The TWDB was also allowed to provide a linked deposit loan program for individuals to access the TWDB funds through participating local state depository banks and farm institutions.

#### Entities Affected

Funds from this program provide grants to state agencies and political subdivisions for conservation programs and projects; loans to political subdivisions and individual farmers and ranchers for conservation programs or projects; and linked deposits to lending institutions for individuals to access the TWDB's financial assistance through loans for nonpoint source conservation projects.

#### Coordination

Not applicable

## State Water Plan

### Objective

In 2007, the 80<sup>th</sup> Texas Legislature appropriated more than \$762 million to implement water management strategies identified in the state water plan. These funds, which provide financial assistance for planning, designing, and constructing state water plan projects are available from the Water Infrastructure Fund, the State Participation Program and the Economically Distressed Areas Program (EDAP). The amount appropriated by the legislature is estimated to meet the water supply needs identified in the 2007 State Water Plan through 2020. Additional funds will be needed to meet the additional water supply needs through the 2060 planning horizon.

### Effectiveness

Approximately \$762 was made available for planning and constructing projects, and \$46.6 was made available for debt service. Please refer to the sections covering EDAP, the State Participation Program, and the Water Infrastructure Fund regarding state water plan funding provided under these programs.

During the FY 2008–09 biennium, the TWDB awarded \$503.7 million in total commitments for these projects.

### History

The 80<sup>th</sup> Texas Legislature appropriated more than \$762 million to implement water management strategies identified in the state water plan. The amount appropriated by the legislature is estimated to meet the water supply needs identified in the 2007 State Water Plan through 2020. Additional funds will be needed to meet the additional water supply needs through the 2060 planning horizon. During the 81<sup>st</sup> Legislative Session, the TWDB requested over \$1 billion to continue funding of the state water plan. However, total new funding secured was \$445 million for state water plan projects.

### Entities Affected

To apply for state financial assistance, the applicant must be a political subdivision of the state. Political subdivisions include municipalities, counties, river authorities, special law districts, water improvement districts, water control and improvement districts, irrigation districts, and groundwater districts. Eligible applicants for the State Participation Program and EDAP also include water supply corporations.

Projects must be recommended water management strategies in the most recent TWDB-approved regional water plan or approved state water plan. Funds may not be used to maintain a system or to develop a retail distribution system.

Coordination

**Coordination efforts between the TWDB and the Texas Historical Commission**

The Texas Historical Commission assesses and protects archeological, architectural, and historical state landmark resources. Many TWDB-funded projects have the potential to affect these resources. The TWDB archeologists assist applicants with determining impacts to historical and archeological resources.

Federal and state antiquities laws require that all funded projects be evaluated for their potential impact to archeological features present on a project site and that all projects obtain clearance from the Texas Historical Commission. To facilitate this coordination, a memorandum of understanding between the TWDB and the Texas Historical Commission has been established.

## Water Infrastructure Fund

### Objective

The Water Infrastructure Fund provides a mix of funding options, including market loans, below-market loans, zero-interest loans, and grants for the construction of state water plan projects. Also, the Water Infrastructure Fund offers low-interest loans with deferral of principal and interest payments for up to 10 years or until construction begins for planning and design, permitting, and state and federal regulatory activities. In addition, grants and low- or zero-interest loans are available for rural projects outside metropolitan areas and for projects in economically distressed areas.

### Effectiveness

As of August 31, 2008, the TWDB had awarded \$116.4 million in total commitments through the Water Infrastructure Fund, with closed loans accounting for approximately \$65 million of this amount. In addition, the program had approximately \$51.4 million in outstanding loans as of August 31, 2008. Through FY 2008, the program provided financial assistance to five entities that provided service to 2,795,439 individuals.

The 80th Legislature also authorized the TWDB to issue up to \$449.3 million in general obligation bonds for Water Infrastructure Fund state water plan projects. During the FY 2008–09 biennium, the TWDB awarded \$438.2 million in total commitments for these projects.

### History

In 2001, the 77th Legislature created the Water Infrastructure Fund as part of Senate Bill 2 by Senator J.E. “Buster” Brown/Representative Ron Lewis. The fund may be used to pay for implementing water projects recommended through the state or regional water plans and is designed to fund current project needs and pre-construction environmental and engineering studies. Up to 10 years of payment deferral for principal and interest is available to conduct the pre-construction studies. All political subdivisions of the state and non-profit water supply corporations are eligible to apply for assistance from the Water Infrastructure Fund. No General Revenue funding was appropriated to the TWDB for the Water Infrastructure Fund between its creation in 2001 until 2007. Water Code, Section 15.974 specified how the fund may be used. An original statutory provision stated no more than 10 percent of the money distributed from the Water Infrastructure Fund each year may be used for grants or loans to economically distressed areas or for loans to pay for the costs associated with planning, designing, and permitting.

In 2005, the 79<sup>th</sup> Legislature passed Senate Bill 509 by Senator Ken Armbrister and Representative Charlie Geren, which repealed Water Code, Section 15.974(b), that restricted Water Infrastructure Fund grants or loans. The provision provided the TWDB with maximum flexibility in determining which water-related financial needs to address with appropriations from this particular fund, if given funding by the legislature.

In 2007, the 80<sup>th</sup> Texas Legislature appropriated in House Bill 1 debt service payments to the TWDB to provide reduced-interest loan rates and deferral of annual principal and interest payments for state water plan projects funded through the Water Infrastructure Fund. The legislature appropriated funding to enable issuance of \$812 million in bonds for water plan projects.

Entities Affected

To apply for state financial assistance, the applicant must be a political subdivision of the state. Political subdivisions include municipalities, counties, river authorities, special law districts, water improvement districts, water control and improvement districts, irrigation districts, and groundwater districts.

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