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TO: Board Members

FROM: Bill Mullican, Deputy Executive Administrator, Office of Planning
Carolyn L. Brittin, Director, Water Resources Planning Division

DATE: June 6, 2006

SUBJECT: Briefing, discussion, and consideration of a Request for Proposals for the next round of regional water planning (2006-2011)

ACTION REQUESTED

Authorize staff to publish in the *Texas Register* a Request for Proposals for the first two years of the next round of regional water planning.

This memorandum outlines staff's proposed plan for future regional water planning that is designed to maintain the soundness and integrity of regional water planning while at the same time, allowing the process to mature and evolve to better ensure future water supplies are provided for the State of Texas. Staff proposes to modify the process for the next round of regional water planning based on feedback from numerous stakeholders both in writing and from various meetings held since October 2005. The general consensus of these stakeholders is that regional water planning should be modified for the next round (2006-2011) to primarily focus on special studies that advance water management strategies toward implementation, update information due to changed conditions, address problems realized in the previous planning cycle, make refinements for small communities and rural county populations, or provide interregional coordination. This agenda item proposes publication of a Request for Proposals to fund specific activities with Fiscal Year 2006-2007 biennial appropriations for a two year period. This staff recommendation does not require statutory or rule revisions prior to execution. Additional funding for the remainder of the planning cycle would be provided in the fall of 2007 from appropriations received for the Fiscal Year 2008-2009 biennium.

In addition, this item includes general information on rule changes that will be proposed for your consideration in the future to amend guidance for regional and state water planning.

Our Mission

To provide leadership, planning, financial assistance, information and education for the conservation and responsible development of water for Texas.

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BACKGROUND

1. Discussion of statute and rule requirements for the next round of regional Discussion of statute and rule requirements for the next round of regional water planning from 2006-2011

Texas Water Code §16.053 defines the regional water planning process and obligates planning groups to perform certain tasks, following specific guidelines including the preparation of regional water plans to “provide for the orderly development, management and conservation of water resources” while protecting public health, the environment and other factors (§16.053(a)). This will clearly remain the primary goal for regional water plan development in the future.

Regional water plans are to be produced in five-year cycles (§16.053(i)). This memo outlines a process to continue to produce regional water plans in the five years following a census (2001-2006 and 2011-2016), with the second five year cycle or off-census cycle (2006-2011 and 2016-2021) allowing for specific studies to further water management strategies toward the goal of implementation and better refine the plans or develop necessary amendments. Regional and state water plans still would be developed every five years, with the state water plan incorporating all approved regional water plans.

As part of the process to simplify amendment of regional water plans, the TWDB agreed to amend the TWDB rules to allow regional water plan amendments to replace recommended water management strategies with alternative water management strategies because of changed conditions or other factors (March 21, 2006 TWDB Meeting). These rule revisions will require that alternative water management strategies must be evaluated according to TWDB rules, including opportunity for public hearing and comment.

2. The Stakeholder Process

A. Sources of Stakeholder Feedback

In developing recommendations to the TWDB for the next round of regional water planning, a number of sources for stakeholder feedback were utilized. These sources include:

- TWDB Strategic Planning Workshop – October 19, 2005 (San Antonio)
- Comments from the Regional Water Planning Group Chairs and the public at the February 13, 2006 Stakeholder Meeting (Austin)
- Written comments

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- Regional Water Planning Technical Stakeholder Meeting – March 9, 2006 (Austin)
- Various conference presentations including water law conferences and Texas Water Conference Association meetings

Attachment A includes a summary of stakeholder feedback received by TWDB staff on the regional water planning process. Feedback on technical issues will primarily be addressed through regional water planning contract provisions.

The 2005 Strategic Planning Workshop was focused on all aspects of the agency in general, but a number of comments were relevant to a review of the planning process. Conversely, the Technical Stakeholder Meeting included very specific discussions of planning data and analytical models with planning group consultants, but also resulted in a number of comments relevant to the planning process.

The February 13, 2006 Stakeholder Meeting produced verbal and written feedback. Six planning groups (A, C, G, J, M, and N) provided surveys they conducted with their members and received a total of 57 responses. Fifteen regions were represented at the meeting and provided verbal comments. Other oral comments and 22 written comments were received from interested individuals and groups.

B. Related Stakeholder Comments

Duration of Planning Process

Regional water plans are required in statute to be updated every 5 years. Early feedback from the 2005 Strategic Planning Workshop suggested moving to a 10-year cycle. The planning groups' chairs who commented on the issue were evenly split between 5- and 10-year cycles. The surveyed planning group members and the applicable written comments, however, were heavily in favor of retaining a 5-year planning cycle (21 of 24 respondents and 6 of 8 written comments). However, even the supporters of the 5-year planning cycle generally pointed out that this should not necessitate a complete revision of the plan in the next planning cycle due to the lack of new population figures and associated demands (a condition inherent with the off-census cycle).

Flexibility in the Planning Tasks

The majority of planning group chairs and members (8 of 15 chairs and 36 of 45 group members) were in favor of redefining the planning process in the off-census cycle and allowing a greater degree of flexibility to the planning groups in determining their focus of planning. In general, it was suggested that the regions should be able to focus on

specific areas of water demand, supply availability, environmental studies or work to further the implementation of water management strategies recommended in the plans.

PROPOSED REQUEST FOR PROPOSALS

It is not necessary to amend rules or statute to enter into the regional water planning activities listed below that are anticipated to be components of the types of activities that would be funded under the proposed Request for Proposals (Attachment B) with Fiscal Year 2006-2007 biennial appropriations for a two year period.

1. Evaluation of new water management strategies in response to changed conditions;
2. Studies that will further implementation of recommended water management strategies;
3. Refinement of water supply information or water management strategies;
4. Activities that will help overcome problems from the last round of planning;
5. Further evaluation of water management strategies, especially regional solutions, to meet needs in small communities or rural areas;
6. Reevaluation of population and demand projections only under the presence of changed conditions;
7. Interregional coordination; and
8. Administrative and public participation activities.

Funding for administrative and public participation activities for the two years covered by this effort is proposed to be provided to all planning groups on a formula basis not to exceed \$990,000 or 15 percent of the total funds appropriated for the current biennium (\$6.6 million). The remaining \$5,610,000 would be provided on a competitive basis based on scoring criteria that will include: the level and timing of need for water supplies in the region that will be addressed by the proposed scope of work; lack of duplication of effort; soundness of scope of work; and level of local matching funds. Additional funding to complete the planning cycle will be awarded to planning groups in the fall of 2007 based on appropriations received for regional water planning during the Fiscal Year 2008-2009 biennium.

FUTURE PROPOSED RULES

Additional rule revisions will be needed in the future to clarify existing language, incorporate changes from the 79th Legislative Session, and incorporate other changes approved by the TWDB. The major revisions that will be proposed include:

1. Adjustments to submittal date of regional water plans: To increase the likelihood that plans will be adopted by the statutory deadline, rules would need amending to require submittal of adopted regional water plans by September 1 of the last year of the five year cycle (September 1, 2010 for the next cycle) with provisions for extension by TWDB Executive Administrator approval not later than the statutory deadline of January 5, 2011 for the next cycle. Requiring an earlier due date for adopted regional water plans will also require a rule revision to have initially prepared plans submitted to TWDB by December 1, 2009 for the next cycle.
2. Provisions to allow alternative water management strategies in the regional water plans: Alternative water management strategies would undergo the same level of analysis and could be substituted for recommended strategies only after consideration at a properly posted public meeting. Rule revisions to accommodate this substitution include 72 hour notice with the action included in an agenda for a planning group meeting and approval at a public meeting. Recommended water management strategies are proposed to be limited to 125 percent of the total water needs identified in the regional water plans.
3. House Bill 1763: use of managed available groundwater: Rule revisions will be necessary to require planning groups to use the managed available groundwater supply volumes developed as part of the groundwater management area process to develop desired future conditions. Planning groups will not to use managed available groundwater in the 2006-2011 planning cycle, if the desired future conditions are not provided to the TWDB by December 1, 2007.
4. Adopting only changes to a regional water plan rather than the entire plan: §357.11 provides a process for plan adoption and amendment of the plan. A rule revision to §357.11 specifically allowing the adoption of off-census revisions to be treated just like an amendment to the plan would be required. This would eliminate the need for planning groups to readopt an entire regional water plan when only certain aspects of the plan have been considered for changes.

KEY ISSUES

The regional water planning process has clearly matured over the second round of planning (2001-2006) and is in the process of evolving to a more advanced and effective effort to ensure that Texas future water supply needs are met.

The next round of regional water planning, while still ensuring that certain basic and fundamental requirements are met, should also be revised to allow for more control of priority issues at the regional level.

The next round of regional water planning should also recognize that not all regions will need an equal amount of effort in order to ensure future water supplies. Therefore, the amount of effort required, and dedication of limited state resources will not be uniform across the 16 planning regions during the next round of planning.

RECOMMENDATION

Staff recommends authorization to publish a Request for Proposals in the *Texas Register* for the first two years of work in the next round of regional water planning.

This recommendation has been reviewed by legal counsel and is in compliance with applicable statutes and Board rules.

Marisol Saenz, Attorney

ATTACHMENTS:

Attachment A: Stakeholder Comments

Attachment B: Request for Proposals for Third Round of Regional Water Planning