



Flood Infrastructure Fund (FIF) Program Guidance Manual

Forms and Guidance

The Texas Water Development Board (TWDB) forms and guidance documents noted in this instruction document may be accessed through the [TWDB Financial Assistance website](#). Search by either the document number or name.

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Acronyms

BCA	Benefit Cost Analysis
BCR	Benefit Cost Ratio
BFE	Base Flood Elevation
CFR	Code of Federal Regulations
COA	Certificate of Approval
CE	Categorical Exclusion
DNE	Determination of No Effect
EA	Environmental Assessment
ED	Environmental Determination
EFR	Engineering Feasibility Report
EID	Environmental Information Document
EIS	Environmental Impact Statement
FDL	Funding Determination Letter
FEMA	Federal Emergency Management Agency
FEWS	Flood Early Warning System
FIF	Flood Infrastructure Fund
FIRM	Flood Insurance Rate Maps
FME	Flood Management Evaluation
FMP	Flood Mitigation Project
FMS	Flood Management Strategy
FONSI	Finding of No Significant Impact
HUC	Hydrologic Unit Code
IUP	Intended Use Plan
MOU	Memorandum of Understanding
MTF	Memorandum to File
NFIP	National Flood Insurance Program
O&M	Operation & Maintenance
PDF	Portable Digital Format
ROD	Record of Decision
RWPD	Regional Water Project Development
SFP	State Flood Plan
SFY	State Fiscal Year
SOF	Statement of Findings
STRM	System for Tracking, Recording, and Monitoring
TAC	Texas Administrative Code
TWDB	Texas Water Development Board
TxGMS	Texas Grant Management Standards
USIS	United States Iron and Steel

Program Overview

The 86th Texas Legislature passed several bills entrusting the Texas Water Development Board (TWDB) with responsibilities related to funding flood mitigation projects and planning for future flood events. On November 5, 2019, Texas voters approved Proposition 8, a constitutional amendment providing for the creation of the Flood Infrastructure Fund (FIF).

The FIF program supports the financing of drainage, flood mitigation, and flood control projects, including:

- planning and design activities,
- obtaining necessary regulatory approvals, and
- the construction and/or implementation of flood projects.

Administrative rules governing flood mitigation project funding are found in 31 Texas Administrative Code (TAC) Part 10, Chapter 363. This Intended Use Plan (IUP) outlines the eligibility criteria, the structure of financial assistance (including any subsidies), and the criteria used by the Executive Administrator to prioritize applications and make recommendations to the Board.

Eligible Applicants

Political subdivisions such as cities, counties, and districts or authorities created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution are eligible entities to apply for financial assistance for flood projects under the FIF program.

However, other political subdivisions and nonprofit water supply corporations operating under Chapter 67 of the Texas Water Code are limited to applying only for financial assistance specifically for the Flood Management Evaluation (FME) Category.

Eligible Projects

The FIF program supports a wide range of flood-related projects. However, financial assistance is only available for Flood Management Evaluations (FME), Flood Mitigation Projects (FMP), and Flood Management Strategies (FMS) recommended in the Board-adopted state flood plan (SFP). Examples of eligible projects include, but are not limited to, the following:

Planning Phase Activities

- Preliminary engineering
- Project design
- Feasibility assessments
- Coordination and development of regional projects
- Obtaining regulatory approvals
- Hydraulic and hydrologic studies
- Environmental impact assessments and coordination with regulatory agencies

Construction/Rehabilitation Phase Activities

- Drainage infrastructure (e.g., channels, ditches, ponds, pipes, etc.)
- Flood control infrastructure
- Flood mitigation infrastructure

- Retention basins
- Detention ponds
- Sustainable infrastructure
- Nonstructural flood mitigation
- Development or amendments to flood related codes
- Permeable pavement
- Erosion control
- Levees
- Pump stations
- Rehabilitation of existing infrastructure to enhance resiliency (excluding costs associated with current or future operations and maintenance activities)
- Property acquisitions determined to be the best solution for highest-risk properties
- Restoration of riparian corridors, floodplains, coastal areas, and wetlands
- Reasonable number of improvements to ancillary systems directly related to the project as determined by TWDB.

Nature-Based Solution Activities

- Green stormwater infrastructure
- Stormwater parks
- Living shorelines
- Protection and restoration of riparian corridors, floodplains, coastal areas, and wetlands

Other Eligible Activities

The assistance is also able to support activities that may not traditionally be thought of as flood projects. These include:

- Warning systems
- Stream gages
- Educational campaigns
- Crossing barriers

Applicants are encouraged to discuss the eligibility of prospective requests with the TWDB. To be considered for financial assistance, projects must be included in the SFP. Abridged applications that include only partial projects from the SFP will be deemed ineligible for the FIF program. This requirement ensures that project scores align with the benefits generated by each project.

If a project is divided into multiple phases, it may be submitted as a phased project. However, when evaluating a phased project for FIF funding, the benefits of the selected phase and project area will be considered to determine the project's ranking score. The benefits of the project must be equivalent to the phase of the project that will be implemented during the funding phase. This means the data used for the ranking may need to be updated to reflect any reduced benefits resulting from phasing the project. Project scopes and claimed project benefits will be verified against the actual projects in the SFP during the application process. Any projects that are subsequently found to diverge from the information presented in the abridged application may be subject to reprioritization and/or removal from the prioritization list, regardless of their initial

prioritization on the SFP. Therefore, it is important that all project information be presented accurately in the abridged application.

Financial Assistance Categories

Flood Management Evaluation Category

Proposed activities under the FME category must be recommended in the SFP. Eligible applicants use this category to conduct studies to identify, assess, and quantify flood risk, as well as identify, evaluate, and recommend solutions to reduce flood risk. These studies typically involve planning across entire watersheds or sub-watersheds, as required by the TWDB regional flood planning program, to inform the development of strategies using both structural and nonstructural measures before a flood event. This process includes identifying and describing flood-related problems, planning solutions to flooding problems, and estimating the benefits and costs of these solutions. When determining solution alternatives for areas at flood risk, it is essential to consider the entire upstream contributing watershed or sub-watershed to the discharge point of interest. Additionally, a determination of 'no negative impact' both upstream and downstream of the project area is required.

All activities under the FME category must be classified as "flood control planning" as defined in Texas Water Code Section 15.405; however, not all activities listed in this section are eligible under the FME Category. For instance, design activities beyond 30% design, such as preparing engineering plans and specifications, are funded under the Flood Mitigation Projects (FMP) Category. Furthermore, the FME Category does not cover the actual preparation of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM).

Flood Mitigation Project Category

Proposed activities under the FMP category must be a recommended FMP in the SFP. Eligible applicants may use this category to construct or rehabilitate structural flood mitigation improvements or implement non-structural improvements. FMP are defined in the SFP as a "proposed structural or non-structural flood project that has a non-zero capital cost or other non-recurring cost and that, when implemented, will reduce flood risk or mitigate flood hazards to life or property".

Planning for FMP involves activities such as feasibility analyses, detailed hydraulic and hydrological studies, efforts to obtain regulatory approvals, and coordination of other related work. This phase also encompasses land acquisition and design activities necessary for the project.

Construction, rehabilitation, and implementation for FMP involves activities such as constructing and rehabilitating structural flood mitigation improvements, as well as implementing non-structural improvements. This phase also includes demolition, decommissioning, and other related activities that support the overall project implementation.

Flood Management Strategy Category

Proposed activities under the FMS category must be recommended in the state flood plan. An FMS is a flood risk reduction solution idea or strategy that does not fit into the FME or FMP categories. Examples of FMS projects include regulatory enhancements, development of entity-wide buyout

plans, public flood risk outreach or campaign, flood education initiatives, emergency action plans for evacuations, flood, dams, and levees, and planning and design for flood early warning systems. This category also includes projects that can be implemented quickly and are known to be immediately effective in protecting life and property, such as warning systems, crossing barriers, gages, and flood warning communication notices or signage.

Federal Award Matching Funds

FIF funds may be used to cover a portion of the Applicant's required federal match amount. To be eligible, the Applicant must have been selected or received a federal award for flood-related activities that is contingent on the availability of local matching funds. Proposed activities must be recommended in the SFP under the FME, FMP, or FMS categories. Additionally, a federal application must be submitted by the abridged application submission date, and federal funds must be awarded by the TWDB's commitment date.

In-Kind Services

The TWDB will review each proposal during the application phase that requests the use of in-kind services. Use of in-kind services needs to be explicitly requested by the Applicant during the application phase. The TWDB's approval is required prior to any use of in-kind services proposed for the project.

The TWDB will determine if there are adequate activities available in the proposal for a project of a certain size and scope to realistically permit a certain level of in-kind services. For larger planning projects requiring higher levels of in-kind services, the applicants may need to provide additional justification and documentation. Consideration should account for the scope and nature of the planning activities, the availability and expertise of those providing in-kind services, and any proposals that involve multiple jurisdictions.

After considering these factors and any other relevant information on the proposal, the TWDB will make a determination on the level of in-kind services as part of the FIF commitment.

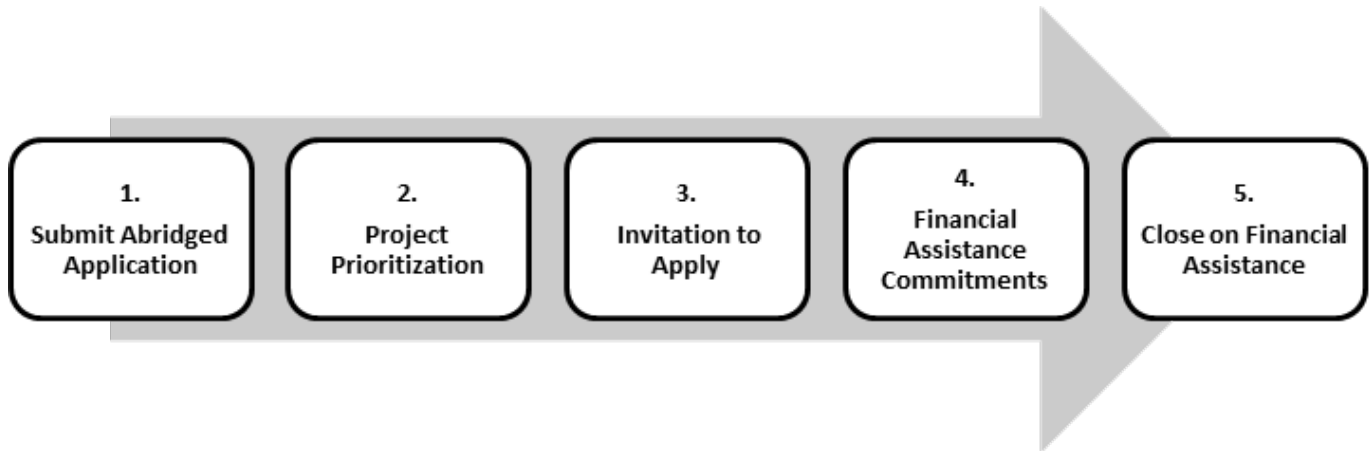
Allocation of Funds

The TWDB may limit the amount of grant funding and loan financing available in each category and overall. This includes setting specific limits on the total amount of grant or loan funding that can be provided to a project or applicant. The TWDB may allocate funds to specific categories and rank projects as stated in the IUP. The TWDB may bypass a higher scoring project, if necessary, to fulfill allocation goals. For details on the allocation of funds for a particular fiscal year cycle, please refer to the latest IUP.

If a project on the prioritization list does not proceed to commitment within the prescribed timeframes, the TWDB may reallocate funds to other eligible projects on the prioritization list.

Project Solicitation

Projects are funded through a bi-annual cycle utilizing a two-stage application process. The first step involves entities submitting abridged applications, which serve as the basis for project prioritization. Following this evaluation, selected entities are invited to submit complete financial assistance applications based on the prioritization and the availability of funding. The process for the funding cycle is as follows:



Step 1: Submit Abridged Application

The abridged application is a form that allows the TWDB to collect necessary information for project prioritization and funding determination, eliminating the need for entities to complete a full financial assistance application at this stage.

Step 2: Project Prioritization

The TWDB will prioritize projects into three project lists – FME, FMP, and FMS - in accordance with the IUP. These prioritized lists will then be submitted to the Board for review and consideration.

Step 3: Invitation to Apply

Once the Board approves the project prioritization lists, the TWDB will invite selected applicants to submit complete financial assistance applications. Before applying, entities must attend a pre-application meeting with the TWDB to review the application process and project requirements.

Invited applicants must submit a complete application, including current financial audits and all required information, by the TWDB deadlines to remain eligible for funding. The application must include detailed engineering, legal, fiscal, and other information needed for a funding recommendation. Compliance with the Minimum Standards stated in the IUP must be confirmed before the Board considers a financial assistance commitment.

Step 4: Financial Assistance Commitments

After staff review of each complete application, the Executive Administrator will recommend financial assistance for Board consideration in a public meeting.

Step 5: Close on Financial Assistance

Entities receiving financial assistance commitments are required to close on their financing within a specific timeframe, determined by the type of financial assistance provided.

United States Iron and Steel Requirements

United States Iron and Steel (USIS) requirements, as outlined in Texas Government Code, Chapter 2252, Subchapter G, apply to projects funded through the FIF program. Construction of projects funded through the FIF program are required to use iron and steel products made in the United States. However, if the Applicant can justify a claim made under one of the following categories, a waiver may be granted. Until a waiver is granted by the TWDB, the Applicant must adhere to the USIS requirements.

A waiver may be granted if the TWDB determines that certain conditions are met. These conditions include:

- Iron and steel products produced in the United States are not produced in sufficient quantities, are not reasonably available, or are not of satisfactory quality;
- Use of iron and steel products produced in the United States will increase the cost of the overall project by more than 20 percent; or
- Complying with the USIS requirements are inconsistent with the public interest.

Please view the [United States Iron and Steel \(USIS\) Guidance for Projects Funded through State Programs \(TWDB-1105\)](#) for the requirements.

Water Use Survey Requirements

According to 31 TAC § 358.5, applicants must have Water Use Survey responses on file for the previous three years. However, wholesaler-only applicants are exempt from this requirement.

To check your survey response status, visit the [Water Use Survey Submittal Status, Prior 3 Years dashboard](#).

To complete missing water use surveys visit the [Water Use Survey webpage](#).

Minimum Standards

The following items on this list constitute minimum eligibility criteria that must be met by all projects seeking funding consideration:

Benefit Cost Ratio (BCR)

A BCR is the result of a Benefit Cost Analysis (BCA). For all construction-oriented projects (e.g., structural flood improvements, elevations, and buyouts) to be eligible:

- Both the costs and the benefits of proposed projects **must** be quantified and reported.
- Benefits may include, but not limited to:
 - Property losses avoided
 - Risk of injuries or fatalities prevented
 - Economic disruption or environmental losses avoided
- BCR must be reported as a number with at least one decimal place (e.g., “1.1”). A BCR greater than or equal to 1.0 is generally preferred to justify investments in the construction of flood projects.

If an abridged application is submitted with a BCR of less than 1.0:

- The Applicant will need to submit the complete application with an updated BCR of greater than or equal to 1.0 and supporting documentation.

If the reported BCR of the complete application for the proposed project is less than 1.0:

- The Applicant must provide a detailed explanation justifying the project, including a discussion of the primary benefits that could not be quantified and were therefore not included in the BCR calculation.

Projects with a BCR of less than 1.0 are not prohibited from receiving financial assistance through the FIF.

There are no specific BCA methods that must be used in determining the BCR. Examples include:

- [FEMA BCA](#)
- [USACE BCA](#)
- [TWDB's BCA Input Tool that works with FEMA BCA](#)

BCRs are not required to be provided for the following projects:

- Flood Management Evaluations (FME) Category
- Flood Management Strategies (FMS) Category
- Federal Award Matching Funds, provided that both of the following conditions are met:

The project has an associated BCA developed and reviewed for a federal award. Verification of the prior BCA approval is required.

The federal grant program generally requires a BCR to be completed using a BCA Tool, but specifically exempts it for certain projects, such as FEMA Flood Mitigation Assistance projects with costs less than \$1,000,000, project scoping, hazard mitigation plans, and other Capability and Capacity Building projects.

[Required Memorandum of Understanding \(MOU\)](#)

The MOU requirement, mandated by Texas Water Code § 15.005, applies to flood control projects as defined in 31 TAC § 363.402. A flood control project includes construction or rehabilitation of structural mitigation or anything that retains, diverts, redirects, impedes, or otherwise modifies the flow of water. This requirement applies only if the project watershed — defined in 31 TAC § 363.402 as the area upstream and downstream substantially affected by the proposed flood project, as documented in the project application and sealed by a Professional Engineer or Professional Geoscientist — extends partially outside the Applicant's boundaries. If the project watershed lies wholly within the Applicant's boundaries, no MOU is required. Additionally, MOUs are required only with "eligible political subdivisions," which are defined in Texas Water Code § 15.531 as a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a municipality, or a county.

When applicable, the Applicant **must** submit an MOU relating to the management of the project watershed. The MOU **must** be approved and signed by all governing bodies of eligible political subdivisions located within the project watershed. The Applicant **must** submit either a single MOU that includes all required governing bodies, or multiple individual MOUs with each political subdivision or groups of political subdivisions within the watershed. All MOUs **must** relate to the watershed management and, if submitted individually, **must** be consistent and not conflict regarding the watershed management.

This MOU requirement does not apply to FME Category projects. While it generally applies to FMS Category projects, most FMS projects will not meet the definition of a flood control project and are therefore exempt from this requirement.

Affidavit

For all project categories, applicants must submit an affidavit attesting that:

- (1) The Applicant has cooperated with other political subdivisions to address flood control needs in the area.
- (2) All eligible political subdivisions substantially affected by the proposed flood project have participated in its development process.

If an eligible political subdivision chooses not to participate further, providing adequate notice and ample opportunity to participate fulfills this requirement. Evidence of notification must be included in the application.

Note: The terms “adequate” and “ample” may require case-by-case discussion between the Applicant and the TWDB. By signing the affidavit, the Applicant’s representative attests that reasonable notice and opportunity were provided. Template affidavits are available for the [FME Affidavit \(TWDB-0171\)](#) and [FMP and FMS Affidavit \(TWDB-0172\)](#).

Redundant Funding

For all categories, the funding request must not include redundant funding for activities already performed and/or funded through another funding source.

National Floodplain Insurance Program (NFIP)

For all categories, the following NFIP requirements must be included in the abridged application:

- The project area **must** have floodplain ordinances or orders in place.
- The appropriate entity **must** certify enforcement of floodplain management standards at least equivalent to NFIP minimum standards.
- The only exception to the certification is an entity that is requesting FIF funding to fulfill additional requirements for participation in the NFIP.
- For the FME and FMS Categories, including projects such as flood early warning systems (FEWS), communities without floodplain management standards may be part of a larger study or benefited area. In such cases, the Applicant is not required to show/certify that these communities have floodplain ordinances or orders in place. However, the Applicant

should work with the TWDB to encourage these communities to adopt floodplain ordinances or orders. Additionally, projects where the Applicant itself lacks floodplain management standards are ineligible, unless those communities are requesting FIF funds to develop floodplain management standards.

The TWDB can assist communities in developing floodplain management standards by providing direct technical assistance. More information on direct technical assistance can be found on [Flood Community Assistance Program webpage](#).

Best/Most Recent Available Data

For all categories, the proposed project **must** be developed using the best/most recent available data. For example, FME Category projects **must** use the latest freely available topographic data to perform studies.

Request for Construction Funds

For the FMP and FMS Categories, applicants for construction funds **must** document:

- Planning for operations and maintenance (O&M) costs associated with the proposed facilities. Note: O&M are not eligible costs under this program.
- An analysis determining whether floodwater capture techniques could be used for water supply purposes, in accordance with Texas Water Code § 15.535(b). The analysis should demonstrate through engineering, regulatory, or economic approaches, by means of a feasibility assessment, whether the flood project could include water supply and explain the decision to include or exclude water supply from the flood project.

Additional Requirements and Exceptions for Flood Management Evaluation Category

For FME Category projects only, in accordance with 31 TAC § 355.8: prior to the complete application, applicants **must** notify certain entities in the planning area by certified mail that an application for planning assistance is being filed with the TWDB. These entities include all cities, counties, non-profit water supply corporations, regional planning agencies, regional water planning groups, and districts and authorities created under Texas Constitution, Article III, Chapter 52, or Article XVI, Chapter 59. The notice shall include:

- Applicant's name and address.
- Name of the Applicant's manager or official representative.
- Brief description of the planning area.
- Purposes of the planning project.
- The TWDB's name, address, and contact person.
- Statement that comments must be filed with the TWDB Executive Administrator and Applicant within 30 days of mailing date.

As part of the complete application, and prior to the TWDB action, the Applicant **must** provide:

- A copy of the notice sent to affected political subdivisions.
- A list of political subdivisions notified.

- The date the notice was sent.

The Applicant may request to submit a copy of the notice after the application due date. If approved, the TWDB cannot act on an application before the 30-day notice period ends, unless all notified political subdivisions agree in writing to waive this period.

Additional Requirements and Exceptions for Flood Management Strategy Category

For FMS Category non-study funding applications (including construction-oriented and implementation projects such as regulatory changes, flood warning improvements, gages, emergency action plans, and education campaigns), the abridged application must include:

- Details of the current flood risk in the project area.
- Detail of the revised flood risk if the project is constructed/implemented.
- The level of protection provided by the proposed project (i.e., 4%, 2%, 1% annual chance storm events), when possible.

Note: Some implementation projects may have defined levels of protection (e.g., regulatory changes), while others may not (e.g., education campaigns).

For roadway construction-oriented projects, include:

- Roadway classification
- Traffic count
- Detour distances
- Accident data
- Inundation risk, including depths and velocities during 50%, 10%, 4%, 2%, 1%, and 0.2% annual chance storm events.

For FEWS construction-oriented projects, include:

- Quantitative information on the population impacted.

Financing Terms

The TWDB shall establish funding terms appropriate for the activities being financed for each bi-annual cycle through the FIF IUP. Applicants may use their own funds in lieu of borrowing FIF funds at zero percent interest for any portion of the project not covered by FIF grant funds. For current and specific financing terms, refer to the most recently approved FIF IUP.

Project Useful Life Determination for Financing

A Professional Engineer must submit to the TWDB a sealed letter detailing the calculation of projected useful life of assets to be financed with FIF loan funds. This letter should categorize project assets or components, specifying their respective costs and projected useful lives.

Additionally, it must include a calculation of the weighted average useful life of all project assets and components.

Abridged Application Phase

Abridged Applications

Applicants must submit separate abridged applications for each project category: FME, FMP, and FMS. Multiple abridged applications may be submitted if an Applicant proposes projects from multiple categories in a single prioritization cycle. Each abridged application should describe proposed projects from a single category and include a single associated 9-digit, SFP unique ID (identification) number reference. This unique ID starts with the 2-digit regional flood planning area number. The application must also include the project name that corresponds to the specific, recommended FME, FMP, or FMS in the SFP.

Only complete projects from the SFP are eligible for financial assistance through the FIF. Abridged applications containing partial projects will be considered ineligible. It is important to note that these requirements apply to both abridged and full applications.

A list of project names and their corresponding unique IDs can be found in the SFP and is also available on the TWDB website, for convenience. Applicants should ensure that all required information is accurately included to facilitate proper project identification and evaluation.

Prioritization and Selection Process

Following the deadline to submit abridged applications, the TWDB will review submissions and match them with the corresponding FME, FMP, or FMS from the SFP. The TWDB will score these abridged applications using the criteria and methodology outlined in the IUP. Abridged applications will be listed separately on one of three lists based on the FIF categories, ranked from the highest to lowest scores.

The Board will approve prioritization scoring and then send invitations to apply to entities to submit complete financial assistance applications.

The Board retains the discretion to consider and allocate funding for any proposed project, including cases where a lower-scoring project may be prioritized over a higher-scoring project.

All initial determinations regarding overall eligibility, eligible category, compliance with minimum standards, grant percentage, and priority order for all projects are subject to change upon further review of the projects.

Full Application Phase

General

The requirements for submitting a full application for FIF are outlined in Texas Administrative Code § 363.408, the current FIF IUP, and the FIF application specific to the relevant FIF category. Applicants must provide all requested information in the FIF application to be considered administratively complete. Only administratively complete applications will be eligible for FIF commitments. The full application is located on the TWDB website on the [FIF Applications webpage](#).

Environmental

During the application phase, the TWDB Environmental Reviewer will determine the level of environmental review required based on the project's scope and the potential environmental impacts. This assessment relies on the information provided in the application and additional information requested if necessary. Environmental reviews are required for FMP projects and most FMS projects, but not for FME projects. For detailed information about environmental review requirements, refer to the "Environmental Review Process, Documents, and Findings" sections of this guidance document.

When submitting a full FMP and FMS application, provide a single, combined map and associated shapefiles for each project. The map must include the following based on the best available information at the time:

- The approximate project location.
- The approximate project watershed for the new infrastructure. This refers to the drainage basin or catchment area where the collected precipitation drains through the outfall of the new infrastructure. It *should not* be the HUC 10 watershed unless the new infrastructure is designed to manage the flow of the entire HUC 10. For study projects, provide the approximate study area boundaries instead.
- The jurisdictional limits of the Applicant, and—if the project watershed falls within the limits of another jurisdiction—indicators on the map of what other jurisdictions are within the proposed project watershed.

Funding Approval and Financial Assistance Commitment Period

The TWDB will issue a Funding Determination letter (FDL) during the full application review phase, prior to the Board considering a funding commitment. This letter outlines the allocated FIF grant and/or loan funds for the project. If a project fails to move forward to commitment within the prescribed timeframes, the TWDB may reallocate FIF funds to other eligible projects in any category that are on the prioritization lists.

Sufficiency of Funds

Applicants must provide evidence satisfactory to the TWDB that they have sufficient funds to complete the project at both the commitment and closing stages. If an Applicant proposes using its own funds in lieu of a FIF loan, the Applicant must demonstrate available funds equal to or greater than the calculated FIF loan amount. The TWDB may require applicants to deposit their cash contribution of funds into a construction or project account before releasing funds for each project phase. This deposit must be based on the Board-approved grant percentage and be sufficient to complete the upcoming phase(s) or portion of the project phase, as approved by the Executive Administrator.

Special Conditions

The TWDB may establish special conditions as considered appropriate for the project.

Closing and Release of Funds

Closing

If the Executive Administrator recommends an application for approval, it will be placed on the TWDB Board meeting agenda for the Board to consider and, if approved, issue a financial assistance commitment. Recipients of financial assistance commitments must close on their financing within the specified timeframe shown in the following table unless the Executive Administrator recommends an exception for cause and the TWDB approves. To request an extension, submit a written request at least 45 days prior to the commitment expiration date. The request must explain the need for the extension and propose a specific closing date or execution date for the TWDB FIF contract.

Type of Financial Assistance	Closing Deadline
Commitments that include only grant	3 months
Commitments that include grant and loan	6 months
Commitments that include only loan	12 months

Additional legal, financial, and engineering documentation are required to close the loan and release funds. The specific requirements depend on the type of financial assistance and the Applicant's entity type, among other considerations. The TWDB will schedule a closing due diligence call with the applicant.

Please note that the application requires an estimated date to close on funds. After the commitment of funds, the TWDB's Credit Review Team will work with the Applicant to identify an actual available closing date.

There are three primary milestones in the closing process, as follows:

- 1. At least 20 business days prior to the adoption date** of the bond ordinance or resolution by the Applicant's governing body, draft documents must be submitted to the Credit Review Team for review. The list of required documents can be found on the [Closing a TWDB Commitment webpage](#) and selecting the type of commitment.

If the project is funded with 100 percent of the TWDB funds, the Applicant must submit a statement identifying the funds to be released at closing. If the project is funded with a combination of the TWDB funds and other non-TWDB funds, the Applicant must provide a statement on the status of securing the non-TWDB funds and identify the TWDB funds to be released at closing, including a current budget of costs and sources of funds.

- 2. Approximately 15 business days prior to the Applicant's closing date**, the Applicant must adopt a bond ordinance (for projects issuing bonds only) or resolution to approve the conditions of the TWDB financial commitment.
- 3. After adoption of a bond ordinance (for projects issuing bonds only) or resolution to approve the conditions of the TWDB financial commitment**, final versions of the draft documents must be submitted to the Credit Review Team.

Projects that are funded only through a FIF loan are not required to submit Outlay reports. Projects that are funded with FIF grant funds and are requesting release of funds at closing must submit the following:

- FME/FMP/FMS Categories – Submit invoices and an Outlay report at least 15 business days prior to closing to allow for the TWDB review.
- Federal Award Matching Funds (Any Category) – Provide evidence of the received federal award for flood-related activities contingent on the availability of local matching funds. Submit invoices and an Outlay report at least 15 business days prior to closing to allow for the TWDB review.

Release of Funds – Outlays, Escrow Releases, and Other Methods of Disbursements

The FIF program generally releases funds through a reimbursement request (outlay) submittal process. Advance disbursements will only be considered if the TWDB determines they are absolutely necessary.

Funds may be reimbursed only if applicable state and federal procurement laws and regulations have been followed, especially for projects involving federal matching funds. Funds dispersed prior to the date listed in the IUP are not eligible for federal matching funds. Federal matching funds are reimbursed according to the federal program's performance period.

Release of FIF grant funds requires submittal of an outlay report or reimbursement request, as applicable, with invoices to document costs for project expenditures. For projects with federal award matching funds, the amount disbursed may not exceed the required local share or match for the federal award and the proof of federal reimbursement and required local share or match must be provided before payment is made. If the FIF financial assistance consists of loan funds only, the TWDB will use an escrow release authorization process and invoices will not be required to receive the funds. A project progress report must be included with each escrow release request, except for projects with federal award matching funds.

Grant and loan funds that are not eligible for release at the time of closing will be held in an escrow account until the TWDB has approved the release of funds. The cost of the escrow accounts may be paid from either FIF grant and/or loan funds that have been disbursed to the FIF project account or construction account, as applicable. The TWDB may approve an exception to the use of an escrow account on a case-by-case basis if determined that it is necessary. Installment funding for loans will be allowed on a case-by-case basis.

Escrow and FIF project/construction accounts should be interest bearing accounts. Any interest earned on grant funds must be applied to the FIF project or returned to the TWDB, at the TWDB's discretion. Any interest earned on loan funds must be used in accordance with the bond ordinance/resolution or the loan agreement, as applicable. Funds released from escrow must be deposited into the Applicant's separate FIF project/construction bank account to issue payments for the project's expenses.

A minimum of 5 percent of the project funds for retainage will be withheld, except for federal award matching funds projects, which will not have retainage withheld. Any remaining retainage will be disbursed upon the TWDB receipt of all close-out documents. For disbursements related to construction contracts, the TWDB will reimburse 95 percent of each outlay of the TWDB's share of eligible activities considering any retainage already deducted from the invoices or other supporting documents.

Project administration/delivery fees and charges and engineering costs must be reasonable as determined by the TWDB to be considered eligible FIF activity costs. The TWDB may consider the FIF award amount, size of the FIF eligible amount or project, and/or nature of project activities in making this determination of a reasonable amount that would be considered eligible FIF activity costs.

Disbursement Scenarios and Maintaining the Grant Percentage

A FIF grant outlay percentage is applied to the release of grant funds if the project also includes local funds. This is to help the Applicant remain accountable to the amount of funds that they have claimed to put towards the project themselves in lieu of a TWDB loan.

If the financial assistance from FIF includes grant funding, the TWDB must ensure that the FIF grant percentage of the total FIF project costs is maintained upon project completion. The FIF grant percentage of the total FIF project costs must be maintained even if any FIF loan funds are prepaid or the Applicant is using its own funds for all or a portion of the remainder of the proposed project cost, as well through the use of in-kind services covering the required local share.

Please note that the TWDB will not use the percentage of completion method to disburse any FIF grant funds. In-kind funds are not included in the outlay grant percentage. The amount of FIF grant funds the TWDB disburses will be reduced for an applicable five percent retainage amount, as applicable.

Loan Funds Only

If the FIF financing is loan only, the project is not required to submit outlays; therefore, maintaining the grant percentage does not apply. The FIF loan funds will be released as requested in the outlays if the activities for reimbursement are eligible.

Grant Funds Only

If the FIF financing is grant only and no local funds are included, then the funds can be released 1:1 in dollars if the activities are eligible.

Loan and Grant Funds Only

For FIF financing, including both grant and loan funds, the loan funds will be disbursed before any grant funds.

If there are no local funds included, then the funds can be released as requested if the activities are eligible.

Grant (With and Without Loan) and Local Funds

If a project involves grant funds and local funds, then the funds requested will be released based on an outlay grant percentage. The purpose of this is to make sure that the Applicant is being held

accountable for the local funds that they claimed they would provide for the project. The grant eligible amount for each project is based on the Board-approved grant percentage.

For example, consider a project with a total cost of \$10,000,000 and is eligible for a 50% grant from FIF, which amounts to \$5,000,000. The remaining 50% (\$5,000,000) must be covered by the Applicant. The Applicant elects to receive a FIF loan of \$2,000,000, use local funds in the amount of \$2,500,000, in lieu of a FIF loan, and will provide \$500,000 worth of eligible in-kind services. The following is an example of the calculation.

Project Component	Amount
FIF Grant (50%)	\$5,000,000
FIF Loan	\$2,000,000
Local Funds	\$2,500,000
In-Kind Services	\$500,000
Total Project Cost	\$10,000,000

$$\text{Grant Amount} / (\text{Grant Amount} + \text{Local Funds}) = \text{Grant Outlay Percentage}$$

$$\$5,000,000 / (\$5,000,000 + \$2,500,000) = 67\%$$

The disbursement process will occur in two main stages. First, the FIF loan funds of \$2,000,000 will be released. Once those funds have been fully disbursed, the FIF grant funds of \$5,000,000 will then be distributed. The grant fund disbursement will follow the outlay percentage equation.

For this example, the grant outlay percentage will be 67% of each outlay request based on invoices or other source documents, reduced as applicable for the 5% retainage. The Applicant is responsible for providing the remaining portion from their own local funds. The TWDB approval of the use of the in-kind services totaling \$500,000 is separate from the disbursement of FIF loan and FIF grant funds and is not included in the grant outlay percentage.

In-Kind Funds

If the commitment approves the use of in-kind services, the Applicant must submit acceptable documentation to the TWDB. To account for in-kind services provided at various times during the project, the TWDB allows up to 25 percent of the total grant funding to be provided before the Applicant needs to demonstrate the approved percentage of project activities incurred through in-kind services. Before disbursing additional grant funds beyond the 75 percent threshold, the TWDB requires documentation showing that the in-kind services provided to date are consistent with the original percentage in the FIF commitment.

Project Close-Out

At project close-out, for any financial assistance that included grant funding in the original TWDB commitment, the Applicant is required to provide evidence acceptable to the TWDB that the final project maintained the grant-to-loan, local funds, and/or in-kind services ratio in the FIF commitment. As part of project close-out, the Applicant may use a portion of any FIF grant funds remaining in the escrow account to repay a portion of its existing FIF project loan in order to maintain the approved FIF grant percentage of total FIF project costs, subject to the TWDB review and approval. The Applicant must use the approved portion of the remaining FIF grant funds to repay the FIF loan at project close-out within the TWDB's prescribed timeframe.

Any remaining FIF grant funds must be returned to the TWDB as part of the project close-out in accordance with the TWDB requirements.

Procurements

Applicants must comply with all applicable statutes and local procurement rules. Applicants should consult their legal counsel to determine which specific procurement laws apply to a particular project.

Compliance with the Texas Grant Management Standards

For grant agreements executed before September 1, 2021: If a project receives FIF financial assistance under the FMP category, FMS category, or as federal matching funds and any portion of that assistance is in the form of a grant, the project must comply with Texas Grant Management Standards (TxGMS) found in Texas Government Code, Title 17, Chapter 783, as modified by any rules adopted by the TWDB. The statute allows the TWDB to establish variations to the uniform assurances or standard conditions through its rule-making process; however, the TWDB has not adopted any such variation to date. TxGMS does not apply to FME Category projects.

For grant agreements executed on or after September 1, 2021: TxGMS does not apply.

For a project funded only with FIF loan funds: The requirement to comply with TxGMS does not apply. However, if the same project has another FIF commitment that includes grant funds under an agreement executed before September 1, 2021, then TxGMS requirements do apply to the project.

Buyouts

Recipients and subrecipients of FIF funding for property acquisition, structure demolition, or relocation projects for the purpose of creating open space, must comply in general with the requirements found in Title 44 of the Code of Federal Regulations Part 80 and the, which covers the Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program, as applied by the TWDB. Only property acquired from a willing, voluntary seller is eligible for FIF funding. Reimbursement for condemnation proceedings may only be approved on a case-by-case basis when the open space is a critical component necessary to complete a drainage project, as defined in 31 TAC § 363.402(1).

The recipient or subrecipient must dedicate and maintain the property permanently for uses compatible with open space, recreational, or wetlands management, and consistent with conserving natural floodplain functions. This is secured by recording deed restrictions aligned with the [FEMA Model Deed Restriction](#).

No new structures may be built on the property, except:

- Public buildings that are open on all sides and functionally related to a designated open space or recreational use;
- Public restrooms;
- Structures compatible with open space, recreational, or wetlands management use and applicable floodplain management policies and practices, with written confirmation from the TWDB before construction begins;
- Any of the above structures that are elevated or floodproofed to the Base Flood Elevation (BFE) plus one foot of freeboard and meet the applicable requirements of the National Flood Insurance Program floodplain management regulations at 44 CFR Section 60.3.

Flood Management Evaluation Category

Flood Management Evaluation Category Submittals

The following items must be submitted to and approved by the TWDB Project Manager before the Applicant submits the first request for payments, other than closing costs:

- Executed engineering contracts for development of flood protection planning of the entire watershed, including:
 - a detailed scope of work for which the funding is to be used and must correspond with the Scope of Work tasks listed in the primary Grant Agreement
 - a map of the project area being studied by the contract
 - a task and expense budget breakdown, including the total amount to be paid by the FIF under the contract. This must correspond with the Scope of Work tasks listed in the primary Grant Agreement.
 - contract hourly rate schedule for all staff involved with the project
 - a schedule estimating the time for completion
 - proposed use of any in-kind services to be provided to the project any other terms and conditions required by the TWDB or agreed to by the contracting parties

Outlays Submittal Requirements

A guideline for submitting Outlay requests under the FME program has been prepared and will be uploaded to the [FIF webpage](#). Please refer to this document when preparing each Outlay request, as it outlines all the information required for reimbursement review. These instructions apply to both the Applicant as well as all contractors and subcontractors. It is the Applicant's responsibility to ensure all parties involved in the project are aware of the TWDB's invoicing and supporting documentation requirements. This includes a review of all contracting agreements and amendments with the Applicant, as well as travel-related reimbursement documentation.

TWDB Status Reporting

The Applicant must provide the TWDB status reports/updates on a monthly basis until the project closes out. This status update may also be included with the Outlays submittal.

TWDB Closeout Submittals

The following items must be submitted to and approved by the TWDB Project Manager before project closeout and release of final retainage:

- All reports, planning documents, and any other work products resulting from watershed planning assistance.
- For any financial assistance that contained grant funding in the original TWDB commitment, the Applicant would be required to provide evidence satisfactory to the TWDB that the final project maintained the FIF grant as a percentage of total FIF project costs, used its own funds or other sources of funds as approved, and/or in-kind services as approved.
- Documented use of any TWDB-approved in-kind services.

All reports, planning documents, plans and specifications, and any other work products resulting from watershed planning assistance must be provided to the TWDB and will be deemed public information. The Applicant should submit one portable digital format (PDF) copy, with searchable text, of project work products. The Applicant and subcontractors shall be available for presentations of results, if requested by the Executive Administrator.

Flood Mitigation Project Category

For projects under the Flood Mitigation Project (FMP) category, the TWDB Regional Water Project Development (RWPD) Regional Team serves as the primary point of contact during the planning phase. RWPD is responsible for providing guidance on documentation requirements and intake procedures. Applicants should follow RWPD's current document intake process as outlined in the [RWPD Document Submittal Form \(TWDB-0101\)](#). Please note that this process is subject to change with the implementation of the System for Tracking, Recording, and Monitoring (STRM) system.

Planning Phase

Planning includes feasibility analyses, detailed hydraulic and hydrological studies, activities to obtain regulatory approvals, and coordination of other related work. The planning phase establishes the framework required to achieve the project's purpose and objectives. During this phase, specific requirements and needs are identified to prepare for the design phase of the project.

The following items must be submitted to and approved by the TWDB Project Engineer/Reviewer during the planning phase:

- Sufficiency of funds statement
- Environmental finding issued
- Engineering Feasibility Report in accordance with the [Guidance for the Preparation of Flood Mitigation Project Engineering Feasibility Reports \(TWDB-0554\)](#)
- Modeling and mapping data
- Executed engineering contract for design phase services

RWPD Regional Teams will provide applicants with specific instructions regarding documentation format, timely submissions, and any applicable updates to intake procedures.

Environmental Review Process, Documents, and Findings

All FIF-funded projects must undergo environmental review and receive approval before the Engineering Feasibility Report or release of funds for acquisition, design, or construction phases. If a project has an existing environmental finding that meets the FIF program requirements, the TWDB may adopt that finding. The Applicant must comply with all environmental findings throughout the design and construction phases. If an environmental finding is five years old or older and the project has not yet been implemented, the TWDB must reevaluate the finding to determine whether a supplemental review is needed or if the original finding can be reaffirmed.

State Funding Only - Environmental Review

If a project receives FIF funding **without a federal funding component**, it will undergo a state-level environmental review. Based on this review, the TWDB will issue one of the following findings:

- **Determination of No Effect (DNE):** Issued when a project qualifies for an exclusion from a full environmental review under the eligibility criteria in 31 TAC Section § 363.14. To obtain a DNE, the Applicant must submit a [Categorical Exclusion/Determination of No Effect Request Form \(TWDB-0803\)](#) along with any additional information requested by the TWDB in a timely manner. A DNE will be posted on the TWDB website once issued.
- **Environmental Determination (ED):** Issued when a full environmental review is required. This determination is made during the application review phase. The Applicant must submit an [Environmental Data Form \(TWDB-800\)](#) and other requested information.
- **Memorandum to File (MTF):** Issued by the TWDB to clarify, correct, modify, or adopt a previous environmental finding issued by the TWDB or another agency.

Federal Funding Component Level Environmental Review

If FIF financial assistance is used in conjunction **with a federal-level funding component**, the TWDB will preferably adopt the environmental finding issued by the federal lead agency. At the culmination of the environmental review process for such projects, the TWDB will issue one of the following environmental findings:

- **Categorical Exclusion (CE):** The TWDB will issue a CE if the project qualifies for exclusion from a full environmental review. Eligibility is determined according to 31 TAC Section § 363.14 and based on review of the application and any additional information requested by the TWDB and provided by the Applicant.

If a project is eligible for a CE, the TWDB Environmental Reviewer will request from the Applicant to submit a [Categorical Exclusion/Determination of No Effect Request Form \(TWDB-0803\)](#) along with any additional information required to make a determination. The Applicant must provide all requested information to the TWDB in a timely manner. Once issued, the CE will be posted on the TWDB website. The Environmental Reviewer will notify the Applicant and provide specific language for required public notice. The Applicant must publish notice of the CE issuance in a local newspaper with general circulation in the project area.

- **Finding of No Significant Impact (FONSI):** The TWDB will issue a FONSI if the project requires a full environmental review, as determined during the application review phase. The Applicant must submit an [Environmental Information Document \(EID\) \(TWDB-0801\)](#) and any additional information requested. A FONSI is a legal document supported by an Environmental Assessment (EA). The EA is prepared by the TWDB and is based primarily on the EID submitted by the Applicant. The Applicant must also hold a public meeting. Once a FONSI is issued, it is subject to a 30-day public comment period.
- **Record of Decision (ROD):** A ROD is an environmental finding issued for projects that are determined to have significant adverse environmental impacts. A ROD is based on the review of an Environmental Impact Statement (EIS) prepared by a third-party contractor retained by the Applicant. Projects requiring an EIS are typically elevated to this level of review by a regulatory agency during the permitting process (e.g., U.S. Army Corps of Engineers). The TWDB will evaluate the ROD issued by the lead regulatory agency. If the project described in the ROD is consistent in scope with the project proposed for the TWDB funding, the TWDB may adopt the findings of that ROD.

- **Statement of Finding (SOF):** A SOF is a formal environmental finding issued by the TWDB to correct, clarify, modify, or adopt a previous environmental finding. A SOF may be issued to update an existing record to reflect changes in project scope, to incorporate additional environmental information, or to align with new regulatory requirements. The SOF becomes part of the project's official environmental documentation.

Engineering Feasibility Report (EFR)

Refer to Guidelines for the [Preparation of Flood Mitigation Project Engineering Feasibility Reports \(TWDB-0554\)](#) for detailed information required in the EFR, including modeling and mapping expectations. The EFR submitted to the TWDB Project Engineer/Reviewer must include one searchable PDF copy. It must be signed, sealed, and dated by a professional engineer licensed in the State of Texas.

The EFR should also include the following:

- **United States Iron and Steel requirements:** Recipients of FIF assistance are required to comply with the USIS requirements outlined in Texas Government Code, Chapter 2252, Subchapter G. Construction activities funded through the FIF must utilize iron and steel products made in the United States. Entities may not use funds from other funding sources, including their own, to procure non-compliant iron or steel products for the project. The EFR should include a discussion of any known issues or special considerations that may affect project design or construction due to applicable iron and steel requirements. It should also address any potential waivers under consideration. Refer to the [USIS Guidance for Projects Funded Through State Programs \(TWDB-1105\)](#) for more details on the requirements.
- Revised **project schedule**, if applicable.
- Revised **project budget**, if applicable.
- List and status of **anticipated permits** and the permitting agency.
- Description of any **force account** work planned for design work.
- Filled out Engineering Feasibility Report Submittal Checklist (TWDB-0200)

Anticipated or Required Permits

The Applicant or Consulting Engineer must obtain all permits required for the project as early as possible. Permit acquisition should occur well before completing the plans and specifications or advertising for construction bids. The TWDB will not approve plans and specifications until all necessary permits have been secured.

Land Acquisition, Buffer Zones, Rights-of-Way, and Easements

Requirements related to land acquisition, buffer zones, rights-of-way, and easements must be addressed early in the planning phase and discussed within the EFR. Early identification of these helps prevent the need for costly redesign later in the project.

The TWDB funding cannot be used for the testing, removal, or remediation of contaminated or potentially contaminated material. Therefore, the Applicant is advised to conduct an initial site assessment to confirm that the project site is free of hazardous waste contamination.

Additional requirements for projects involving property acquisition for open space (commonly referred to as a 'buyout') are provided elsewhere in this guidance.

Design Phase

During the design phase, detailed plans and specifications will be developed. Refer to [Guidance for the Preparation of Flood Mitigation Project Design Documents \(TWDB-0511\)](#) for required content. All necessary property acquisitions, easements, and permits should be finalized by the end of this phase.

The following items must be submitted to, and approved by, the assigned TWDB Project Engineer/Reviewer during the design phase:

- Complete plans and specifications.
- Engineering design report, in accordance with the [Guidance for the Preparation of Flood Mitigation Project Engineering Feasibility Reports \(TWDB-0554\)](#) and the [Guidance for the Preparation of Flood Mitigation Project Design Documents \(TWDB-0511\)](#).
- Sufficiency of Funds statement, if applicable.
- [Site Certificate \(ED-101\)](#) signed by the Applicant's Representative.
- Geotechnical report, if available.
- Revised modeling and mapping data.
- Site map showing regulatory floodway, if applicable.
- Documentation of fulfillment of any special Board resolution or environmental finding conditions.
- The written TWDB approval prior to the use of any in-kind services for the project.

Design Report

The [Guidance for the Preparation of Flood Mitigation Project Design Documents \(TWDB-0511\)](#) must be followed for the design of all work related to flood infrastructure facilities. The Applicant's consulting engineer is required to prepare and submit a design report for the TWDB review.

Plans and Specifications

Plans and specifications must comply with all requirements outlined in the Supplemental Contract Conditions and Instructions, incorporate mitigation measures identified in the environmental finding, and reflect all conditions specified in required permits. The [Supplemental Contract Conditions and Instructions For Construction Services for Projects Funded Through State Programs \(TWDB-0552\)](#) must be incorporated in its entirety into the General and Special Conditions section of the construction contract documents.

All plans and specifications submitted for the TWDB review must be sealed by a professional engineer registered in the State of Texas. The Applicant should submit one PDF copy, with searchable text, of the plans and specifications for initial review. The Applicant should immediately notify the TWDB Project Engineer/Reviewer and Environmental Reviewer if any modifications have been made to the project scope in the final engineering report(s) and/or in the submitted plans and specifications. Amendments to the information provided in the EFR may require revisions to the environmental finding(s). Significant changes to the project scope occurring after loan commitment may require Board approval.

The [Plans and Specifications Design Submittal Checklist \(TWDB-0300\)](#) must be included with the submittal.

Bidding Phase

Competitive Bidding

Competitive bidding is a commonly used method for selecting contractors for construction projects and is often mandated by law or regulation. The Applicant and its Consulting Engineer must ensure full compliance with all applicable statutes, procurement requirements, and local rules and ordinances. Applicants should consult their legal counsel to determine which bidding laws apply to their specific project.

The bid phase generally includes the following key steps:

- Advertising
- Pre-bid conference
- Bid opening and bid evaluation
- Bid document review and the TWDB approval to award contract
- Contract award and issuance of Notice to Proceed

Advertising

Authorization from the TWDB's Project Engineer/Reviewer must be obtained prior to advertising for construction bids. This authorization is contingent upon the following documentation:

- The TWDB approval of Environmental Review, EFR, plans & specifications, and design report;
- Certification of acquisition of all necessary property, rights-of-way, and easements via the TWDB [Site Certificate Form \(ED-101\)](#);
- Compliance with applicable guidance for projects involving property acquisition for open space (commonly referred to as "buy-outs");
- Acquisition of all required federal, state, and local permits, licenses, and other legal authorizations.

The advertisement for bids must clearly state the required language as provided in the [Supplemental Contract Conditions and Instructions For Construction Services for Projects Funded Through State Programs \(TWDB-0552\)](#).

Bid Documents

The Invitation to Bid and Instructions to Bidders should provide an overview of the project and clearly communicate the bidding schedule and procedures. These documents help potential bidders determine whether they wish to request the full bid package.

Specific required language for bid documents is outlined in the [Supplemental Contract Conditions and Instructions For Construction Services for Projects Funded Through State Programs \(TWDB-0552\)](#):

- Section I.6 of TWDB-0552 must be included in the Invitation to Bid;
- Section II of TWDB-0552 must be included in the Instructions to Bidders;
- Section III must be incorporated into the contract's General or Special Conditions.

Pre-Bid Conference

A pre-bid conference may be held to familiarize prospective bidders with the project site and scope of the work. The TWDB's Project Engineer/Reviewer must be notified of the date, time, and location of the conference at the same time bidders are notified.

It is strongly recommended that no oral statements be made during the conference that cannot be later documented in writing through an addendum. Any clarifications or changes must be issued as an official written addendum.

Addenda

Bidders must acknowledge receipt of all addenda with their bids to ensure uniformity in the bidding process. Addenda should be promptly issued to all document holders of record. If an addendum cannot be issued to bidders four days before the bid opening, a brief postponement may be warranted. Addenda must be submitted to the TWDB for review simultaneously with distribution to bidders.

Bid Opening and Bidder Evaluation

Bid opening should be pre-established and included in the Instructions to Bidders. The TWDB Project Engineer/Reviewer must be notified of the bid opening details (time, date, and location) concurrently with bidders. Following the bid opening, the Applicant and Consulting Engineer should evaluate the bids based on the criteria outlined in the bid documents to assess bidder responsiveness and responsibility.

Bidding Documents and the TWDB Approval to Award Contract

After bid opening, the following documents should be promptly submitted to the TWDB Project Engineer/Reviewer before executing the construction contract:

- Bid tabulation
- Bid proposal of apparent low bidder, including the Bid Bond Advertisement and affidavit
- Consulting Engineer's recommendation to Applicant, including explanation for any rejected bids or other bidding irregularities
- Construction inspection proposal
- [Site Certificate \(ED-101\)](#)
- [Vendor Compliance with Reciprocity of Non-Resident Bidder \(TWDB-0459\)](#)
- [Construction Contract Bid Phase Submittal Checklist \(TWDB-0400\)](#)

Upon reviewing these documents, the TWDB Project Engineer/Reviewer will authorize the Applicant to contingently award the construction contract.

Contract Award Document Submittals

After the contract is awarded, and before issuance of the Notice to Proceed to the contractor, the Applicant/Consulting Engineer should submit the following fully executed and bound construction contract documents:

- The TWDB-approved specifications and executed bid proposal
- Payment, Performance, and other Bonds with Power of Attorney
- Contingently executed Contract Agreement
- Proof of Insurance Certificate
- [Executed Contractor's Act of Assurance \(ED-103\)](#)
- [Executed Contractor's Resolution on Authorized Representative \(ED-104\)](#)
- Sufficiency of Funds Letter (if not previously submitted)
- [Executed Construction Contract Submittal Checklist \(TWDB-0500\)](#)

Alternative Delivery for Construction Projects

If, during the application process, the community is interested in utilizing an alternative delivery method, **it must be discussed with the TWDB at the pre-application meeting**. Design-build, construction manager at risk, and other alternative methods of project delivery are eligible approaches that can be used in accordance with programmatic requirements, as outlined in the [Use of Alternative Delivery Methods for Texas Water Development Board Funded Projects Guidance \(TWDB-0570\)](#) and is consistent with the requirements in 31 TAC Chapter 363 Subchapter D. The TWDB will provide written guidance regarding modifications of the review, approval, and release of funds processes for alternative delivery projects based on the type of financial assistance and method of alternative delivery.

Construction Phase

After approval of contingently executed contract documents, if applicable, the TWDB Project Engineer/Reviewer will issue a letter concurring with the issuance of a Notice to Proceed with construction.

Prior to issuing a Notice to Proceed and before initiating construction, the Applicant should take steps to verify that all prerequisites are in place to ensure construction is performed in accordance with the approved contract documents. The following are steps to help with this goal.

The TWDB approval is required prior to any use of in-kind services to be provided for the project.

Pre-Construction Conference

A pre-construction conference should be scheduled prior to the entity's issuance of a Notice to Proceed and be attended by the owner, project engineer, contractor, and the TWDB Project Engineer/Reviewer. The purpose of this meeting is to establish a working understanding among the parties as to the work to be accomplished and to discuss project schedules, milestones, procedures, program requirements, etc., for each construction contract.

Applicant Inspection

The Applicant should provide adequate inspection of the project under the supervision of a licensed registered professional engineer and require the Engineer's assurance that the work is being performed in a satisfactory manner in accordance with the approved plans and specifications and sound construction principles and practices. The Applicant should require that a thorough, daily log of activities be maintained. The Applicant is responsible for ensuring that all required testing is conducted, observed, and documented.

Contractor Claims

Awareness, documentation, and communication will aid in prevention and resolution of contractor claims. Loan money may not be eligible for increased costs due to claims.

The following construction phase issues are discussed in detail in Section III of the [Supplemental Contract Conditions and Instructions For Construction Services for Projects Funded Through State Programs \(TWDB-0552\)](#).

TWDB Access to Construction Site

The TWDB personnel shall have access to the project site and any project records or reports.

- The TWDB Project Engineer/Reviewer will schedule periodic project site visits. The intent of these visits is to keep the TWDB informed of construction phase activities and progress of each contract.
- The TWDB Project Engineer/Reviewer will issue site visit reports. This report will be made available to the Applicant and the Consulting Engineer.
- The site visits and the site visit report are not intended to relieve the Applicant of the responsibility to provide adequate on-site inspection and engineering review to determine acceptability of the work but is to ensure construction is in accordance with approved plans and specifications and in compliance with the contract documents.

Retainage

Generally, a minimum of five percent retainage is required by law on all public works contracts (Texas Governmental Code § 2252.032). For FIF-eligible districts, Texas Water Code § 49.276 generally applies. The amount, deposit, and investment requirements for retainage are unique to each construction project. If there is any uncertainty regarding specific situations, the Applicant's legal counsel should be consulted.

Retainage must not be released or reduced to below five percent without the consent of the TWDB. A Certificate of Approval will be issued by the TWDB after each contract is finalized and close-out materials have been provided to the TWDB Project Engineer/Reviewer. This Certificate of Approval authorizes the Applicant to release the retainage to the contractor.

Change Orders

The construction contract is between the Applicant and the Contractor, and any change orders signed by these two parties become part of that contract regardless of the TWDB funding eligibility or participation. An electronic copy in Adobe Acrobat PDF format of the change order is to be sent to the TWDB's Project Engineer/Reviewer for review and approval in order to determine funding eligibility. The TWDB staff reviews and approves change orders for the following:

- Eligibility of funding
- Compliance with design criteria as outlined in the Guidance for the Preparation of Flood Mitigation Project Design Documents (TWDB-0511)
- Consistency with the environmental finding(s) issued for the project
- A change order resulting in a change of scope of the project that may require action by the TWDB
- A change order that may require action by any other authority

Project Records

It is in the Applicant's interest to keep an organized system of documentation for the project. Refer to [Project Files & Construction Records \(WRD-017\)](#) for guidance.

Operation & Maintenance

Flood mitigation projects require indefinite operation & maintenance (O&M) costs to ensure proper functioning of the system and protection of citizenry. Each flood project must have a dedicated O&M revenue stream, identified by the Applicant. Examples of possible streams are:

- Creation of a stormwater utility with a method of collecting fees.
- Adoption of an alternate political subdivision – such as a regional stormwater authority – with taxing authority.

Additionally, preparation of an O&M manual is encouraged and is an eligible use of the TWDB

funds. We suggest that the final O&M manual should be submitted to the Applicant before construction is 85 percent complete so that the manual will be available during start-up. For guidance, see the [O&M Manual Recommendations \(ED-006\)](#).

Operations

The following are staffing guidelines for the Applicant's project:

- Hire and train operating personnel who will operate and maintain the flood mitigation facility. They should be available during the later stages of construction and start-up, and if possible, they should have some input into the O&M manual.
- Operating personnel should visit the project during construction. Caution them to give no direction to the Contractor; however, their comments and suggestions should be forwarded to the Consulting Engineer for consideration.
- Provide operator training prior to acceptance of the facility that includes review of the O&M manual and, if possible, on-site training by the supplier's representatives during start-up.
- Staffing should be in accordance with the O&M manual.

TWDB Status Reporting

The Applicant must provide the TWDB status reports/updates on a quarterly basis until the project closes out. This status update may be part of any request for disbursement.

TWDB Closeout Submittals

The following information and documents should be submitted to the TWDB Project Engineer/Reviewer prior to the TWDB issuance of a Certificate of Approval and authorization of release of final retainage:

- A copy of the contractor's final payment request.
- Verification of dedicated O&M revenue stream and managing authority.
- Modeling and mapping data performed under the project.
- Any outstanding change orders not approved by the TWDB to date or a statement that there are no further change orders.
- [Certificate of Compliance with U.S. Iron and Steel Requirements \(TWDB-1105-A\)](#)
- Consulting Engineer's and Applicant's certification that the contract has been completed and that the work was constructed in accordance with the approved plans and specifications.
- Contractor's final pay request and affidavit that all bills have been paid minus retainage.
- Notification of the beginning date of the warranty period for the contract and confirmation that the as-built or record drawings have been received from the contractor.
- If monitoring and/or collection equipment are placed under the project, provide locations of equipment as surveyed by a Registered Professional Land Surveyor licensed in the State of Texas.
- For any financial assistance that contained grant funding in the original TWDB commitment, the Applicant is required to provide evidence satisfactory to the TWDB that the final project maintained the FIF grant as a percentage of total FIF project costs, used its own funds or other sources of funds as approved, and/or in-kind services as approved.
- Documentation of any TWDB-approved in-kind services provided to the project.
- [Construction Contract Close-Out Submittal Checklist \(TWDB-0600\)](#)

Post Construction

The TWDB has an interest in the continuing performance of the facility for the life of the loan.

- The TWDB may make a visit to the facility during the one-year warranty period to assist the Applicant in reviewing performance, operations, and maintenance.
- The TWDB's Financial Compliance Staff will monitor the Applicant for the life of the loan to ensure compliance with the bond indenture.
- The TWDB will monitor compliance with any special environmental mitigation measures, as appropriate.

Flood Management Strategy (FMS) Category

Preliminary Engineering Feasibility Report

A preliminary engineering feasibility report is not required at the application review stage. However, before beginning construction, the Applicant must submit the information outlined in 31 TAC § 363.13, signed and sealed by a professional engineer registered in the State of Texas. If choosing to defer submission until this stage, the Applicant must be prepared to cover any additional costs identified in the project engineering feasibility report.

Construction-Oriented Projects

When applicable, all construction-oriented work funded under this Category must comply with planning, acquisition, design, construction, and rehabilitation requirements outlined in the FMP Category guidance and other relevant programmatic requirements.

Non-Construction-Oriented Projects

For non-construction-oriented projects, all executed contracts related to the development of project work products must be submitted to and approved by the TWDB Project Manager/Engineer/Reviewer before the submission of the first outlay request. Executed contracts will include:

- a detailed statement of the purpose, for which the money is to be used;
- the total amount of FIF funds to be paid under the contract;
- the expected time for completion; and
- any other terms and conditions required by the TWDB or agreed upon by the contracting parties.

Throughout the life of the project, all deliverables produced using the TWDB funds must be submitted to the TWDB for review and concurrence.

Environmental Review

Refer to the *Environmental Review Process, Documents, and Findings* section under the Flood Mitigation Project Category for more information on environmental review requirements.

TWDB Status Reporting

The Applicant is required to submit quarterly status reports to the TWDB until the project is formally closed out. These updates may be included with requests for disbursement.

TWDB Closeout Submittals

The following items must be submitted to and approved by the TWDB Project Manager/Engineer/Reviewer before project close-out and release of final retainage:

- All native working files, final deliverables, and any other work products resulting from or

related to the TWDB funding assistance.

- Documentation of any TWDB-approved in-kind services provided to the project.
- For any financial assistance that contained grant funding in the original TWDB commitment, the Applicant is required to provide evidence satisfactory to the TWDB that the final project maintained the FIF grant as a percentage of total FIF project costs, used its own funds or other sources of funds as approved, and/or in-kind services as approved.
- Any additional close-out documentation required by TWDB must also be submitted at this time.

All non-engineering work products must be submitted to the TWDB and will be deemed public information. The Applicant and any subcontractors must be available to present project results as required by TWDB.

Federal Award Matching Funds

Engineering

Federal award matching fund projects may fall under any of the FME, FMP, or FMS categories. The TWDB only provides financial assistance for entities to gain access to federal funding. Therefore, the typical FIF construction requirements will not apply. The TWDB will only provide funding for the required local share or match for the federal award. The TWDB will provide funds for the Applicant's required match associated with the project activities covered in the amount of federal program funds that have been awarded to date. The TWDB will verify that the payments made under the federal award have occurred and the FIF disbursements do not exceed the applicable local share or match.

Environmental Review

The TWDB is only providing financial assistance for entities to gain access to funding under a federal award; therefore, the TWDB will not be undertaking an environmental review of the project.

TWDB Status Reporting

The Applicant must provide the TWDB status reports/updates on a quarterly basis until the TWDB project close-out. This status update may be part of any request for disbursement. Throughout the life of the project, the Applicant's submittals related to expenditures and local share made to the federal award program must also be submitted to the TWDB.

TWDB Closeout Submittals

The following information and documents should be submitted to the TWDB Project Manager/Reviewer:

- All native working files, final deliverables, and any other work products resulting from or related to the TWDB funding assistance.
- Certification from the Applicant that the FIF assisted project was completed.
- Evidence of the final local share calculation, including the amount provided to the project from the federal program, and the final FIF financial expenditure report.
- For any financial assistance that contained grant funding in the original TWDB commitment, the Applicant would be required to provide evidence satisfactory to the TWDB that the final project maintained the FIF grant as a percentage of total FIF project costs, used its own

- funds or other sources of funds as approved, and/or in-kind services as approved.
- Documentation of any TWDB-approved in-kind services provided to the project.

Monitoring

For loans under the FIF program, the TWDB's Financial Compliance Staff in the Finance Division is responsible for monitoring the Applicant's financial stability and compliance from the initial disbursement through final repayment of the debt. Compliance staff are available by phone to assist all applicants. A visit to the Applicant's location to assist in financial compliance matters can also be arranged. Financial Compliance can be reached for assistance at fmfinance@twdb.texas.com if there are questions related to compliance or requirements of any agreement with the TWDB.

Major Goal

Financial Compliance's goal is to provide the TWDB with reasonable assurance that all grant and loan recipients adhere to the terms of any debt or grant agreements and that loan recipients maintain the capacity to repay debt in a timely manner.

Loan Monitoring

Financial Compliance monitors loan activities, including the review of audited financial statements of every entity in the TWDB's portfolio. In addition, Financial Compliance can arrange on-site assistance, if appropriate.

Project Monitoring

Project monitoring activities include reviews of final accounting, which summarize the sources and uses of funds, typically completed at the end of a project.

Attachment 1 – Resources

Affidavit Templates

- [Flood Management Evaluation Affidavit \(TWDB-0171\)](#)
- [Flood Mitigation Project and Flood Management Strategy Affidavit \(TWDB-0172\)](#)

FIF Intended Use Plan

- The current [FIF IUP](#) used to administer the Flood Infrastructure Fund, in conjunction with the Texas Administrative Code (31 TAC Part 10, Chapter 363, Subchapters A and D).

FIF-Related Guidance Manuals

- [Guidance for the Preparation of Flood Mitigation Project Design Documents \(TWDB-0511\)](#)
- [Guidance for the Preparation of Flood Mitigation Project Engineering Feasibility Reports \(TWDB-0554\)](#)

Memorandum of Understanding and Affidavit Flow Chart

- The [Memorandum of Understanding and Affidavit Flow Chart](#) will assist in determining what cooperation-related documents are required.

Memorandum of Understanding - Flood Control Project

- [Flood Control Project Memorandum of Understanding Template \(TWDB-0710\)](#)

Texas Administrative Code - 31 TAC Part 10, Chapter 363, Subchapters A and D

- [31 TAC Part 10, Chapter 363, Subchapter A General Provisions](#)
- [31 TAC Part 10, Chapter 363, Subchapter D Flood Financial Assistance](#)

TWDB Webpage Links

- [FIF Applications and Pre-Application Webinars Webpage](#)
- [FIF Webpage](#)
- [Financial Assistance Webpage](#)
- [Flood Programs](#)