

STATE OF TEXAS



# Intended Use Plan

Economically Distressed Areas Program

[www.twdb.texas.gov/financial/programs/edap](http://www.twdb.texas.gov/financial/programs/edap)

**DATED: 3/14/2022**

Texas Water Development Board  
PO Box 13231  
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## Program Overview

The Economically Distressed Areas Program (EDAP) provides financial assistance to political subdivisions and non-profit water supply corporations for projects intended to serve economically distressed areas where water supply or wastewater services are inadequate to meet minimal needs of residential users, financial resources are inadequate to provide water supply or wastewater services that will satisfy those needs; and an established residential subdivision was located on June 1, 2005. The purpose of this Intended Use Plan is to outline the intended method for allocating EDAP funds.

### Eligible Applicants

Eligible EDAP applicants include cities, counties, water districts, nonprofit water supply corporations, and all other political subdivisions (Texas Water Code Section 16.341(3)). **The city or county where the project is located must adopt and enforce [Model Subdivision Rules](#) for the regulation of subdivisions in the project area before submitting an EDAP abridged application.** Model rules must be consistent with the rules adopted by the Texas Water Development Board (TWDB) ([31 Texas Administrative Code Chapter 364](#)).

To qualify as economically distressed, an area must meet three criteria:

1. **Water supply or wastewater services are inadequate to meet minimal needs of residential users.**

**For water supply projects**, program rules allow for this standard to be met if water supply service:

- A. does not exist or is not provided;
- B. is provided by a community water system that does not meet drinking water standards established by the Texas Commission on Environmental Quality (TCEQ);
- C. is provided by individual wells that, after treatment, do not meet drinking water standards established by the TCEQ; or
- D. does not meet applicable drinking water standards of any other governmental unit with jurisdiction over the area.

**For wastewater projects**, this standard is met if wastewater service:

- A. does not exist or is not provided;
- B. is provided by an organized wastewater collection and treatment facility that does not comply with the standards and requirements established by the TCEQ;
- C. is provided by on-site wastewater facilities that do not comply with the standards and requirements established by the TCEQ; or
- D. does not meet applicable wastewater standards of any other governmental unit with jurisdiction over such area.

2. **Financial resources are inadequate to provide water supply or wastewater services that will satisfy those needs.** This standard is met if the weighted average Annual Median Household Income (AMHI) for Census geographic areas to be served by the proposed project is not greater than 75 percent of the statewide AMHI.

Projects providing first-time residential service connections must meet the threshold above, but only households that meet the income eligibility requirements set by the US Department of Housing and Urban Development are eligible to have their connection costs paid with EDAP funds. This threshold is set at 80 percent of the median family income and is compared against the county median for each family size, rather than the statewide household median. See Appendix B for details on the Census and survey methods used to establish income eligibility.

3. **An established residential subdivision was located on June 1, 2005.** This standard may be met if:
  - A. either a plat of the area is recorded in the county plat or deed records; or a pattern of subdivision, without a recorded plat, is evidenced by the existence of multiple residential lots with roads, streets, utility easements, or other such incidents of common usage or origin; and
  - B. at least one occupied residential dwelling existed within the platted or subdivided area on June 1, 2005.

## Eligible Projects

An **eligible project** is one that addresses one or more of the inadequacies described in the first criteria above and is in an area that satisfies criteria 2 and 3. Example projects include the planning, land acquisition, design, and construction of the following:

- First-time water and wastewater service, including:
  - residential connections to a new public water supply system constructed with financial assistance;
  - individual, on-site, or cluster treatment systems such as septic tanks
  - yard line service connections;
  - indoor plumbing facilities and fixtures;
  - residential connections to a sanitary sewer system constructed with financial assistance; and
  - necessary connection and permit fees.
- Water supply and/or treatment system improvements, including:
  - treatment plant improvements;
  - water transmission and distribution lines;
  - wells;
  - pump stations;
  - water system asset management planning; and
  - regionalization projects.
- Wastewater collection system and/or treatment works improvements, including:
  - treatment plant improvements;
  - wastewater collection and transmission lines;
  - lift stations;
  - septic tank decommissioning;
  - wastewater system asset management planning; and
  - regionalization projects.

This list is not comprehensive, and applicants are encouraged to discuss eligibility of prospective projects with their [Regional Project Development Team](#).

EDAP funds may not be used to upgrade or replace facilities paid for with prior TWDB assistance, regardless of the funding program. However, projects adding additional eligible EDAP connections to previously funded projects are allowed. For example, projects to increase treatment capacity, distribution/collection lines, and hook-ups to accommodate additional connections in EDAP eligible areas would be eligible.

## Reimbursement for Incurred Project Costs

Eligible costs incurred on or after December 31, 2021, in compliance with all program requirements and law on the approved project activities may be eligible for reimbursement.

# Project Solicitation

## Application Process

Proposed EDAP projects will be prioritized based on information provided in the EDAP Abridged Application (Appendix A), which only requests the preliminary information necessary to complete this step. Projects that rank within the available funding capacity will be invited to submit a full application that confirms the information previously submitted and requests additional details needed for the project to receive a funding commitment.

## Available Financing and Grant Calculation Methodology

This IUP cycle may fund projects using up to an estimated \$100 million of bonds from one or more bond transactions.

The maximum amount of grant available will be 70 percent per project. However, the grant percentage for a project cannot exceed 50 percent unless a public health nuisance exists, as determined by either the TWDB or the Texas Department of State Health Services (DSHS). Public health nuisance determinations made by local sanitarians or public health officials *may* be submitted with an Abridged Application for potential consideration of prioritization and scoring; however **only Nuisance Determinations issued by TWDB or DSHS are accepted as documentation for grant allocation purposes.**

If you believe a public health nuisance may exist but a Nuisance Determination has not been issued by TWDB or DSHS, please contact the TWDB at [Financial\\_Assistance@twdb.texas.gov](mailto:Financial_Assistance@twdb.texas.gov). You may also submit a request for review and possible issuance of a Nuisance Determination with your Abridged Application. See Appendix C for details on public health nuisance determinations.

For all eligible projects, the portion not paid for by a grant must be provided as an EDAP loan.

Article III of the Texas Constitution was amended in 2019 to provide that “the Texas Water Development Board may issue general obligation bonds, at its determination and on a continuing basis, for the economically distressed areas program account of the Texas Water Development Fund II in amounts such that the aggregate principal amount of the bonds issued by the board under this section that are outstanding at any time does not exceed \$200 million.” The TWDB is required by statute (Texas Water Code Section 17.933) to maintain a certain grant-to-loan ratio. The total amount of grants may not exceed at any time 70 percent of EDAP’s total amount of financial assistance provided from this new authorization. The TWDB reserves the right to adjust eligible grant percentages as necessary to maintain the overall grant-to-loan ratio required by statute.

TWDB may limit the amount of EDAP funds, including the amount of grant funds, provided to an entity or project.

## Prioritization and Selection of Projects

1. **First-time service: 15 points.** Applies to projects providing first-time service for residential customers.
2. **Project resolves public health nuisances and/or violations related to contaminants: 10 points.** Applies to projects that:
  - will resolve the circumstances leading to a public health nuisance determination; or
  - will resolve a TCEQ or EPA violation related to contaminants that were not caused or allowed by the applicant (applicant must certify).
3. **Previous TWDB investment in the project: 8 points.** Applies to projects that received TWDB financial assistance for earlier phases of the same project for which funds are being requested (for example a project that received planning and design funds).
4. **Projects addressing violations related to TCEQ minimum requirements for storage capacity or service pressure (non-contaminants): 3 points.**
5. **Tiebreaker: AMHI of Proposed Project Service Area.** Ties will be decided in favor of the project proposed by the project service area with the lowest service area AMHI.

## Timeline

### Abridged Application Due Date

- May 13, 2022  
*TWDB staff will review Abridged Applications for eligibility and perform initial grant calculations.*

### Detailed Applications Invited for Projects that Rank Within Available Capacity

- Summer 2022  
*Board will adopt final EDAP IUP and approve the project priority list (to be included as Appendix D), with preliminary grant calculation results.*  
*Applicants will be **required to attend a pre-application meeting** with its assigned TWDB Regional Project Development Team.*

### Applications Due

- Summer 2022  
*Applications will undergo a full technical review by TWDB staff before funding recommendations are considered.*  
*Note: If an applicant submits an abridged application for prioritization purposes but fails to submit a complete full application in a timely manner, the project will lose its priority ranking and the board may commit to other projects consistent with the prioritization.*

### Project Funding Commitments

- Begin Late 2022  
*Entities in receipt of financial assistance commitments will have up to six months to close on their financing unless an exception for cause is specifically recommended by the Executive Administrator and approved by the Board.*

# Appendix A: EDAP Abridged Application

By submitting this Abridged Application, you understand and confirm that the information provided is true and correct to the best of your knowledge and further understand that the failure to submit a complete Abridged Application by the stated deadlines, or to respond in a timely manner to additional requests for information, may result in the withdrawal of the Abridged Application without review.

## GENERAL INFORMATION

<b>Entity Name</b>	
<b>Entity Type (City, County, District, etc.)</b>	
<b>Contact</b> Who should TWDB contact with questions during the review of this submission?	<b>Name</b>
	<b>Title</b>
	<b>Phone</b>
	<b>Email</b>

## PROJECT INFORMATION

<b>Project Name</b>			
<b>EDAP Request</b>	\$		
<b>Applicant has adopted and is enforcing Model Subdivision Rules (per Texas Water Code Section 16.343 and 31 TAC Chapter 364)</b>	<input type="checkbox"/> Yes ; Year adopted _____		
<b>Project Phase(s) for which Assistance is Requested</b>			
<input type="checkbox"/> <u>Planning</u>	<input type="checkbox"/> <u>Acquisition</u>	<input type="checkbox"/> <u>Design</u>	<input type="checkbox"/> <u>Construction</u>

## DESCRIPTION OF PROPOSED PROJECT

Please be sure this description includes all major project components and clearly states what the project seeks to accomplish. A high level of detail is not necessary at this stage—such information is collected later in the application process.

# PRIORITIZATION CRITERIA

<p><b>First-Time Service</b></p> <p>Project will provide first-time service for residential users.</p>	<p style="text-align: center;"> <input type="checkbox"/> Yes             <span style="margin-left: 200px;"><input type="checkbox"/> No</span> </p>
<p><b>Public Health Nuisance</b> Please see attachments checklist for documentation requirements</p> <p>A public health nuisance exists in the project area, including those determined by a local sanitarian or public health official but not surveyed by DSHS, and the proposed project will resolve the issue leading to the determination.</p> <p><b><i>NOTE: Local sanitarian and public health official determinations are accepted for prioritization; however, only Nuisance Determinations issued by TWDB or DSHS will be accepted for grant allocation purposes.</i></b></p> <p><b><i>A request for review and possible issuance of a Nuisance Determination by TWDB or DSHS may be submitted with this Abridged Application.</i></b></p>	<p style="text-align: center;"> <input type="checkbox"/> Yes             <span style="margin-left: 200px;"><input type="checkbox"/> No</span> </p> <p><u>If would like to request review for possible issuance of a Nuisance Determination by TWDB or DSHS, <b>please state which of the drinking water or wastewater public health nuisance condition(s) listed in Appendix C applies</b> (ex: <i>Drinking Water #1: Absence of potable water for human consumption</i>):</u></p>
<p><b>Contaminant Violations</b> Please see attachments checklist for documentation requirements</p> <p>The area to be served by this project is in violation of requirements set by TCEQ or EPA regarding contaminant levels or other potential threats to public health, and the proposed project will resolve the issue causing the violation.</p>	<p style="text-align: center;"> <input type="checkbox"/> Yes             <span style="margin-left: 200px;"><input type="checkbox"/> No</span> </p>



<p><b>Previous TWDB Investment</b></p> <p>Were any previous portions of the project completed with TWDB financial assistance?</p>	<p style="text-align: center;"><input type="checkbox"/> Yes <span style="margin-left: 200px;"><input type="checkbox"/> No</span></p> <p>If you responded "Yes" above, please provide the TWDB project number(s) and/or name(s) associated with previously funded work:</p>
<p><b>Non-Contaminant Violations</b></p> <p>Please see attachments checklist for documentation requirements</p> <p>Project will resolve TCEQ or EPA violations not related to contaminants or other potential threats to public health (ex: storage capacity or service pressure).</p>	<p style="text-align: center;"><input type="checkbox"/> Yes <span style="margin-left: 200px;"><input type="checkbox"/> No</span></p>

**INFORMATION FOR INCOME ELIGIBILITY CALCULATION**

<p>AMHI for proposed project service area</p> <p>Census geographical area(s) used for calculation of AMHI must be attached</p> <p>Note: If weighted average method was used, must attach calculation</p>	<p>\$ _____</p>
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**ESTIMATED COSTS**

TWDB Funds	\$
Local Contribution	\$
Other	\$
Total Estimated Project Costs Including issuance and escrow costs	\$

## ATTACHMENTS CHECKLIST

- List of Census Geographic areas (Cities, Counties, Census Tracts, and/or Block Groups) served by the Proposed Project and any weighted average calculations
- Documentation that an established residential subdivision was located in the Project Area on or before June 1, 2005
- Public Health Nuisance Determination (if applicable)
  - Local sanitarian and public health official determinations may be submitted for project prioritization
  - TWDB or DSHS Nuisance Determination required for grant eligibility above 50 percent
  - To request a review for possible issuance of a Nuisance Determination by TWDB or DSHS,** please submit the following:
    - a clear statement of the problem (e.g., potable water supply, malfunctioning sewage disposal, or lack of sewage disposal or treatment)
    - current**, detailed, map(s) delineating the project area and including sufficient information to clearly identify parcels and addresses, appropriate property lines, water or wastewater lines, water well (private and public), water storage tanks, septic tanks, disposal areas, and other treatment or disposal facilities
    - any additional supporting documentation, including photographs, records of violations, enforcement orders, or water/wastewater quality reports
- Contaminant Violations Supporting Documentation (if applicable)
  - Documentation showing current violation of requirements and resulting enforcement action by TWDB, EPA, or the state, including final orders, judgements, or consent decrees
  - Applicant must also include a signed statement, self-certifying that the entity did not cause or allow the violations
- Non-Contaminant Violations Supporting Documentation (if applicable)
  - Documentation showing current violation of requirements and resulting enforcement action by TCEQ, EPA, or the state, including final orders, judgements, or consent decrees
  - Applicant must also include a signed statement, self-certifying that the entity did not cause or allow the violations
- Previous TWDB Investment Supporting Documentation (if applicable)

## SUBMITTAL

Instructions	Please submit your Abridged Application via email: <a href="mailto:Financial_Assistance@twdb.texas.gov">Financial_Assistance@twdb.texas.gov</a>
TWDB Contact Information	To schedule your pre-application meeting, please contact the Regional Project Development Team for your region: <a href="https://www.twdb.texas.gov/contact/office/wsi.asp#rwpd">https://www.twdb.texas.gov/contact/office/wsi.asp#rwpd</a>
	For general program inquiries, please email: <a href="mailto:Financial_Assistance@twdb.texas.gov">Financial_Assistance@twdb.texas.gov</a> .

# Appendix B: Guidelines for Documenting Income Eligibility

## Establishing EDAP Eligibility

Projects are eligible for EDAP assistance only if the weighted average AMHI for Census geographic areas to be served by the proposed project is not greater than 75 percent of the statewide AMHI. Applicants are asked to document their eligibility by providing Census data appropriate to the project area. For projects with borders that do not coincide neatly with county or city boundaries, this may mean using several Census Tracts or Block Groups to document the area.

## Census Data Resources

The following resources may be helpful in identifying Census geography:

- [Directory of Census Tract maps for Texas Counties](#). The folder for each county includes several maps. The first map shows the entire county with a numbered grid, and each subsequent numbered map shows one of the grid squares.
- [Texas Block Group Map](#). Find Census block groups using an ArcGIS map that labels each block group with a numeric code: a 4-digit prefix followed by the 4-digit Census Tract number and the 3-digit Block Group.
- [Census Bureau Interactive Map](#). Use the Geography filter to identify Census Tracts within a specific county, or Block Groups within a specific Census Tract.

## Weighted Average Methodology

After identifying the benefiting geographic areas, find the AMHI and Households for each area using the [American Community Survey \(ACS\) 5-Year Estimates available here on the TWDB website](#), or directly sourced from the [U.S. Census Bureau's Explore Census Data website](#). Households are calculated as Population divided by Household size (e.g., 5,000 population divided by 3.34 persons per household = 1,497 households).

The weighted average AMHI is calculated by the following method:

$$\text{Weighted Average} = \frac{((AMHI\ 1 \times Households\ 1) + (AMHI\ 2 \times Households\ 2) + (AMHI\ 3 \times Households\ 3) \dots)}{\text{Total Households}}$$

## Socioeconomic Surveys

TWDB offers socioeconomic surveys as an alternative in areas where Census data is not believed to give an accurate depiction of income characteristics. Please review [WRD 285 – Socioeconomic Survey Guidelines](#) for details on the requirements associated with these surveys. Survey results must be submitted before the abridged application deadline.

## Household Eligibility for First-Time Service Projects

First-time service projects must meet the overall income eligibility threshold described above, but households in the benefit area must meet an additional threshold based on U.S. Department of Housing and Urban Development (HUD) income limits to be eligible for the cost of their connection to be paid with EDAP funds. This threshold is set at 80 percent of the median family income for a given area and is compared against the county median for each family size, rather than the statewide household median.

A list of the most current HUD income limits is available here: <http://www.huduser.org/portal/datasets/il.html>

Eligibility for first-time service households utilizing funding for connections is documented on a household-by-household basis using the survey process described in [TWDB 0401 – Survey Guidelines for EDAP Connection Assistance](#).

**Please note, a written request must be submitted to the TWDB before a survey is performed. The TWDB will notify the entity in writing whether to proceed with the survey. Surveys conducted prior to TWDB approval may be considered on a case-by-case basis.**

## Appendix C: Nuisance Determinations

### Nuisance Determinations for Grant Eligibility

The eligible grant percentage for an applicant cannot exceed 50 percent unless a public health nuisance exists, as determined by either the TWDB or DSHS. Public health nuisance determinations made by local sanitarians or public health officials *may* be submitted with an Abridged Application for potential consideration in prioritization and scoring; however **only Nuisance Determinations issued by TWDB or DSHS are accepted as documentation for grant allocation purposes.**

If you believe a public health nuisance may exist but a Nuisance Determination has not been issued by the TWDB or DSHS, please contact the TWDB at [Financial\\_Assistance@twdb.texas.gov](mailto:Financial_Assistance@twdb.texas.gov).

**Nuisance Determinations for grant allocation purposes must be issued by the TWDB or DSHS prior to project funding commitment.**

### Public Health Nuisance

Public Health nuisances are defined in [Section 341.011 of the Health and Safety Code](#). The following provisions are applicable to EDAP:

1. a condition or place that is a breeding place for flies, that is in a populous area, and that results from the presence of human wastewater or excreta;
2. sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
3. a place or condition harboring rats in a populous area; rat infestations resulting from improper disposal of kitchen or human waste as a direct result from the lack of a proper septic system or a failing septic system;
4. the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies; and
5. an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.

The above provisions may apply to drinking water and/or wastewater nuisances. Based on a review of submitted documentation and (in certain cases) an on-site survey, the TWDB or DSHS may issue a public health Nuisance Determination for the following conditions:

### Drinking Water

1. Absence of potable water for human consumption (drinking, cooking, and washing).
2. A public water system that provides drinking water that does not meet federal and state drinking water standards of [30 TAC Chapter 290](#).
3. A public water system well or a private water well which has become unusable, or has the potential to become unusable, because of conditions including private water well(s) located within 100 feet of on-site sewage facility (OSSF) disposal areas or located within 50 feet of a septic tank. If a private well is pressure cemented or grouted down to 100 feet, or to the water table if the water table is less than 100 feet, then such private well(s) located within 100 feet of an OSSF disposal area or within 50 feet of a septic tank will not be considered to be a nuisance ([30 TAC Chapter 285](#)).
4. One or more public water supply well(s) located within 150 feet of an on-site sewage facility disposal area or located within 50 feet of a septic tank (unless other adequate public water supply wells are in use and capable of meeting minimum capacity requirements and maximum daily demand).
5. Detection of fecal indicator organisms in a well.

6. Deterioration of a public water system due to factors other than operator error or neglect, such that the structural integrity of major components is compromised resulting in an inability to consistently provide an adequate supply of water for human consumption. See [30 TAC Chapter 290, Subchapter D, Rules and Regulations Regarding Public Water Supply](#).\*
7. Any other condition relating to inadequate water supply that results in a quantifiable and documented adverse effect on human health.
8. The presence of an imminent health hazard.

*\*Nuisance determinations under the provisions of paragraph 6 will be referred to the Texas Commission on Environmental Quality (TCEQ) Colonia's Coordinator.*

## Wastewater

1. Malfunctioning or failing individual sewage disposal systems that cannot be remedied under [Chapter 285 of the Health & Safety Code](#) due to lot sizes smaller than ½ acre, as evidenced by surfacing effluent.
2. OSSFs not meeting the requirements outlined in [Chapter 285 of the Health & Safety Code](#):
  - a. Cesspools;
  - b. Pit privies or outhouses;
  - c. Improperly sized systems;
  - d. Drain field and/or septic waste pipes leading to an open drainage ditch, open storm sewer, or drained directly onto the ground; or
  - e. Improper diversion of graywater from the OSSF, resulting in the presence of organic matter on the ground or ponding water.
3. Nuisance conditions propagating rodent harborage, fly breeding, and other unsanitary conditions as a result of unsanitary sewage disposal systems.
4. Deterioration – due to factors other than operator error or neglect – of a public waste treatment resulting in an inability to consistently furnish, operate and maintain collection, treatment and disposal facilities to collect, treat, and dispose of waterborne human waste and waste from domestic activities such as washing, bathing, and food preparation. See [30 Texas Administrative Code Chapter 217 with regard to Domestic Wastewater Treatment Systems](#).
5. Any other effluent violation or unauthorized discharge which results in a quantifiable and documented adverse effect on human health.
6. The presence of an imminent health hazard.

Note: A temporary condition caused by hurricane, flood, tornado, or other act of nature may not be a nuisance for EDAP purposes.

## Issuance of a Nuisance Determination

If the Applicant believes a public health nuisance may exist based on the above definitions and categories, but a Nuisance Determination has not been issued by the TWDB or DSHS, the Applicant should first contact the TWDB at [Financial\\_Assistance@twdb.texas.gov](mailto:Financial_Assistance@twdb.texas.gov).

1. The TWDB will request further information from the Applicant, including:
  - a. a clear statement of the problem (e.g., potable water supply, malfunctioning sewage disposal, or lack of sewage disposal or treatment)
  - b. project scope and executive summary of the project;
  - c. current, detailed, map(s) delineating the project area and including sufficient information to clearly identify parcels and addresses, appropriate property lines, water or wastewater lines, water well (private and public), water storage tanks, septic tanks, disposal areas, and other treatment or disposal facilities

- d. any additional supporting documentation, including photographs, enforcement orders, and water/wastewater quality reports
2. Dependent upon the scope of the potential public health nuisance, the TWDB may either:
  - a. provide a written determination of the existence or non-existence of any public health nuisance in the form of a Nuisance Determination based on submitted information,
  - b. request the DSHS conduct a survey to confirm a public health nuisance exists, or
  - c. refer all further review to the DSHS.

If the TWDB refers any portion of a public health nuisance determination review to DSHS,

1. DSHS will review all documents provided by TWDB and Applicant, complete any additional research, to include consultation with state and local agencies in order to supplement the information as appropriate prior to commencing any field survey
2. DSHS will conduct site visits to the area(s) under review and document observations in writing and by photograph when appropriate.
3. DSHS will provide a written determination of the existence or non-existence of any public health nuisance(s) to the TWDB.

Public health nuisances which, in the opinion of TWDB or DSHS can and should be correctable outside the project scope as proposed by the applicant, will be identified during review, and included in any written determination issued.

# Appendix D: Project Priority List

*Project priority list to be inserted here.*