



STATE OF TEXAS

# Draft 2024-2025 Intended Use Plan

Economically Distressed Areas Program

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

**DATED: 03/15/2024**

Texas Water Development  
Board

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draft

# Table of Contents

Program Overview .....	4
Eligible Applicants .....	4
Eligible Projects .....	5
Project Solicitation .....	6
Application Process .....	6
Available Financing and Grant Calculation Methodology .....	6
Prioritization and Selection of Projects .....	7
Appendix A: EDAP Abridged Application .....	8
Appendix B: Guidelines for Documenting Income Eligibility.....	14
Establishing EDAP Eligibility .....	14
Household Eligibility for First-Time Service Projects.....	15
Appendix C: Nuisance Determinations .....	16
Nuisance Determinations for Grant Eligibility.....	16
Public Health Nuisance.....	16
Issuance of a Nuisance Determination .....	17
Appendix D: EDAP Nuisance Determination Request and Supporting Documentation Checklist.....	19
Appendix E: Project Priority List.....	21

# 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 residential 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 county and the municipality (applicable if the project is within a municipal boundary or its extra territorial jurisdiction) 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 treatment 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 Annual Median Household Income (AMHI) for Census geographic areas to be served by the proposed project (or weighted average AMHI if applicable) is not greater than 75 percent of the statewide AMHI. Please refer to Appendix B: Guidelines for Documenting Income Eligibility.

Projects providing first-time residential service connections must meet the threshold above, but only individual 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: Guidelines for Documenting Income Eligibility for details on the Census and survey methods that may be 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 new account 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.

**EDAP funds may only be used for residential purposes and may not be used for future growth components.** Ineligible purposes include service to multi-family, schools, commercial, industrial, governmental, non-profits. Costs associated with EDAP-ineligible components, or the percentage of project costs attributed to non-residential users must be funded from other, non-EDAP sources.

## Reimbursement for Incurred Project Costs

Eligible costs incurred on or after December 31, 2023, 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 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 scoring, prioritization, and grant allocating purposes.** As of the writing of this IUP, the DSHS is not issuing Nuisance Determinations.

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. You **must** include with the request a public health nuisance determination made by a local sanitarian or public health official for the TWDB's consideration. Projects that rank within available funding capacity can also request a nuisance review with their complete application. See Appendices [C](#) and [D](#) for details on public health nuisance determinations.

For all eligible projects, the portion not paid for by a grant must be provided as EDAP debt financing. For counties, municipalities, districts and authorities, EDAP financing will be in the form of bonds (i.e., general obligation bonds, revenue bonds, or certificates of obligation) issued by the applicant and purchased by the TWDB. For water supply corporations, EDAP financing may be through a loan agreement, depending on the allowable financing methods of the entity. The EDAP debt financing portion may not be substituted by local funding or other financing unless the TWDB Executive Administrator has determined that the issuance of debt is not feasible and the substitution does not impact the EDAP. Entities that are not current with financial audits, tax forms, and other applicable financial reporting requirements may not be eligible to receive funding through the EDAP.

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.

The 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

- Spring 2024

TWDB staff will review Abridged Applications for eligibility and perform initial grant calculations.

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

- Fall 2024

The Board will adopt a 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

- Winter 2024/2025

Applications will undergo a full technical review by TWDB staff before funding recommendations are considered. 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. **Full applications must include the submittal of audited financial statements for the preceding fiscal year.**

### Project Funding Commitments

- Summer 2025

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. To avoid delays in closing, entities should contact their existing creditors about parity agreements and identify any issues with title to real estate that will secure their loans when they are invited to submit a full application.

The TWDB must keep to a strict closing schedule to ensure certain financial obligations with its funding sources are met. Entities unable to meet their closing schedule will be at risk of not receiving any EDAP funding for their proposed project.

# 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.

To be considered for the EDAP, you must submit your Abridged Application by May 15, 2024. This completed form and required documentation should be submitted via email to [Financial\\_Assistance@twdb.texas.gov](mailto:Financial_Assistance@twdb.texas.gov).

## GENERAL INFORMATION

Entity Name
Entity Type (City, County, District, etc.)

Contact  Who should TWDB contact with questions during the review of this submission?	Name	
	Title	
	Phone	
	Email	

## PROJECT INFORMATION

Project Name			
EDAP Requested Amount (does not include local or other contributions and may not be the same as the total project cost)	\$ _____		
Applicant has adopted and is enforcing Model Subdivision Rules (per Texas Water Code Section 16.343 and 31 TAC Chapter 364)	<p>The county where the project is located must have adopted and be enforcing Model Subdivision Rules (per Texas Water Code Section 16.343 and 31 TAC Chapter 364). In addition, if the project is located or will serve an area located within a municipality or its extra territorial jurisdiction (ETJ), the municipality must have also adopted and be enforcing Model Subdivision Rules.</p> <p><input type="checkbox"/> Yes, county has adopted; Year adopted: _____</p> <p><input type="checkbox"/> Yes, municipality has adopted; Year adopted: _____</p>		
Project Phase(s) for which Assistance is Requested			
<input type="checkbox"/>  Planning	<input type="checkbox"/>  Acquisition	<input type="checkbox"/>  Design	<input type="checkbox"/>  Construction



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.

**Note: EDAP funds may only be used for residential purposes and may not be used for future growth components.** Ineligible purposes include service to multi-family, schools, commercial, industrial, governmental, non-profits. For details on eligibility, please refer to the [Economically Distressed Areas Program \(EDAP\) Guidance document TWDB-0408](#). Costs associated with EDAP-ineligible components or the percentage of project costs attributed to non-residential users must be funded from other, non-EDAP sources.



PRIORITIZATION CRITERIA

<p>First-Time Service</p> <p>Project will provide first-time service for residential users.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Public Health Nuisance <i>Please see attachments checklist for documentation requirements.</i></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. <b>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.</b></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <hr/> <p>If yes and you would like to request review for possible issuance of a Nuisance Determination by TWDB, <b>please state which of the drinking water or wastewater public health nuisance condition(s) listed in Appendix C of the EDAP IUP applies</b> (ex: <i>Drinking Water #1: Absence of potable water for human consumption</i>):</p>
<p>Contaminant Violations</p> <p>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><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>Previous TWDB Investment</p> <p>Were any previous portions of the project completed with TWDB financial assistance?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</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>Non-Contaminant Violations</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><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

**INFORMATION FOR INCOME ELIGIBILITY CALCULATION**

<p>Annual Median Household Income (AMHI) for proposed project service area using the <a href="#">U.S. Census Bureau's 2022 American Community Survey dataset</a>.</p> <p>The Census geographical area(s) used for calculation of AMHI must be attached.</p> <p>Note: If weighted average method was used, you must attach the calculation.</p>	<p>\$ _____</p>
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**ESTIMATED COSTS**

<p>Requested TWDB Funds: <i>This must be equal to the total EDAP requested amount and should include financing, issuance, and escrow agent costs. There are no origination fees for EDAP funding.</i></p>	<p>\$ _____</p>
<p>Local Contribution</p>	<p>\$ _____</p>
<p>Other</p>	<p>\$ _____</p>
<p>Total Estimated Project Costs:</p>	<p>\$ _____</p>

## 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, 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
    - OSSF (On-Site Sewage Facilities) nuisance violations (if applicable) from the TCEQ's On-Site Activity Report System ([OARS online database](#)).
    - 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 Checklist and Instructions**

<p>Adoption and enforcement of Model Subdivision Rules (MSRs) (per Texas Water Code Section 16.343 and 31 TAC Chapter 364)</p>	<p><input type="checkbox"/> Yes, the County where the project is located has adopted MSRs.</p> <p>Year Adopted: Click to enter year.</p> <p>If the project is within the city limits or the Extra Territorial Jurisdiction of a municipality, the municipality must also have adopted MSRs.</p> <p><input type="checkbox"/> Yes, municipality has also adopted.</p> <p>Year adopted: Click to enter year.</p> <p>Copies of the three most-recent approved residential plats by the county and municipality (if applicable) will be required if the project is selected and invited to apply.</p>
<p>Residential Service Only</p>	<p><input type="checkbox"/> Yes, applicant understands that EDAP funds may only be used to serve existing residential areas. If the proposed project infrastructure requires additional capacity to serve non-residential customers, separate non-EDAP funding must be requested or provided. Non-residential customers include multi-family, schools, commercial, industrial, governmental, non-profits.</p>
<p>Eligible Residential Areas to Be Served</p>	<p><input type="checkbox"/> Yes, the EDAP request only includes costs associated with established residential subdivisions located in the project area that were developed before June 1, 2005. Documentation of subdivision eligibility is provided.</p>
<p>Prohibition of Transfer of Funds Texas Water Code § 16.356</p>	<p>Texas Water Code § 16.356 requires that if an entity receives EDAP funds, the revenues of the utility cannot be transferred to other funds for non-utility related expenditures. This applies to all utility revenues, not just the revenues produced from the project areas. The applicant will be required to include a statement in its annual audit that they are complying with this statute.</p> <p><input type="checkbox"/> Yes, the applicant understands and will comply with this requirement if it receives EDAP funding.</p> <p><input type="checkbox"/> If the applicant has previously received EDAP funding, the applicant is currently in compliance and will continue to comply.</p>
<p>Compliance with Tex. Health &amp; Safety Code 366.035</p>	<p><input type="checkbox"/> Yes, the applicant understands a local governmental entity that applies to the Texas Water Development Board for financial assistance under a program for economically distressed areas must take all actions necessary to receive and maintain a designation as an authorized agent of the commission.</p>
<p>Instructions</p>	<p>Please submit your completed Abridged Application via email to <a href="mailto:Financial_Assistance@twdb.texas.gov">Financial_Assistance@twdb.texas.gov</a>.</p>
<p>Enter the Submitter's Name and Title</p>	
<p>TWDB Contact Information</p>	<p>To schedule your pre-application meeting, please contact the Regional Project Development Team for your region: <a href="http://www.twdb.texas.gov/contact/office/wsi.asp#rwpd">www.twdb.texas.gov/contact/office/wsi.asp#rwpd</a></p> <p>For general program inquiries, please email <a href="mailto:Financial_Assistance@twdb.texas.gov">Financial_Assistance@twdb.texas.gov</a>.</p>

# 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.

## Annual Median Household Income (AMHI)

Applicants need to provide the AMHI, average household size, and population of the proposed project area directly sourced from the [U.S. Census Bureau's Explore Census Data website](#) using the **2022 American Community Survey (ACS) 5-Year Estimates dataset**. This information can be obtained by searching the following tables on <https://data.census.gov/cedsci/map>

Table **B19013** - MEDIAN HOUSEHOLD INCOME IN THE PAST 12 MONTHS (IN 2021 INFLATION-ADJUSTED DOLLARS)

Table **B25010** - AVERAGE HOUSEHOLD SIZE OF OCCUPIED HOUSING UNITS BY TENURE

Table **B01003** - TOTAL POPULATION

To locate the proposed project area on the map view, you will need to set the appropriate geographic layer. The layer should cover the entire project area with as little overlap as possible. If the project area is the same or close to the community "Place" layer, such as a city, use that layer. The recorded AMHI will be the AMHI for the application if you are only using a Census "Place".

If the project area is smaller or larger than the community "Place" layer, it is best to use the "Census Block Group" and select each census block group that covers the specific area. Once you have identified the appropriate geographic layer and table, you should record the AMHI, average household size and population from the selected areas. If you are only using one area, the recorded AMHI will be the AMHI for the application. If you have multiple areas, you will need to enter the data into the weighted AMHI calculation to determine one value for the application.

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:

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

For general inquiries or additional guidance on AMHI calculations, please email: [Financial\\_Assistance@twdb.texas.gov](mailto:Financial_Assistance@twdb.texas.gov).

## 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 conducted. 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. **Only Nuisance Determinations issued by TWDB or DSHS are accepted as documentation for scoring, prioritization, and grant allocating purposes.** As of the writing of this guidance document, the DSHS is not issuing Nuisance Determinations.

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). The EDAP Nuisance Determination Request Form ([Appendix D](#)) is available at the end of this section. You **must** include with the request a public health nuisance determination made by local sanitarians or public health officials for TWDB to consider issuing a public health Nuisance Determination. Projects that rank within the available funding capacity may also request a nuisance review with their complete application.

Nuisance Determinations for grant allocation purposes must be issued by the TWDB concurrently with the 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 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).

## 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. if applicable, OSSF (On-Site Sewage Facilities) nuisance violations from the [TCEQ's On-Site Activity Report System \(OARS\) online database](#);
  - e. any additional supporting documentation requested on the Nuisance Determination request form, including photographs, enforcement orders, and water/wastewater quality reports.

2. Dependent upon the scope of the potential public health nuisance, the TWDB may 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,

Public health nuisances which, in the opinion of TWDB 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.

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## Appendix D: EDAP Nuisance Determination Request and Supporting Documentation Checklist

Under the Economically Distressed Areas Program (EDAP) 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, and as outlined in the [2024-2025 EDAP Intended Use Plan](#) (IUP). By submitting this Request, 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 Request may result in no change to the 50 percent preliminary grant calculation performed during eligibility phase review.

### GENERAL INFORMATION

Entity name:	
Project name:	
Abridged application number:	

### CONTACT INFORMATION

Primary contact for this request:	
Phone:	
Email:	

### NUISANCE DETERMINATION REQUEST INFORMATION

Clear statement of the problem						
A public health nuisance exists	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No		
Will the project address the issue	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No		
Drinking water or wastewater nuisance	<input type="checkbox"/>	Drinking water	<input type="checkbox"/>	Wastewater	<input type="checkbox"/>	Both

<p>Specify which of the drinking water and/or wastewater public health nuisance condition(s) listed in <a href="#">Appendix C of the EDAP Intended Use Plan</a> apply</p> <p>Examples:</p> <p>Drinking Water #1: Absence of potable water for human consumption, or</p> <p>Wastewater #2a OSSFs not meeting the requirements outlined in Chapter 285 of the Health &amp; Safety Code – cesspools</p>	
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**DOCUMENTATION**

The following supporting documentation **MUST** be included with your Nuisance Determination Request:

- a public health nuisance determination made by a local sanitarian or public health official
- statement from a county official attesting to the presence and determination of a nuisance in the proposed project area
- any previous DSHS or local sanitarian or public health official field survey results, or public concern complaints, if available
- detailed description of the nuisance area(s) including prevailing conditions, population, lots, and any designated colonias
- 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
- OSSF (On-Site Sewage Facilities) nuisance violations (if applicable) from TCEQ’s On-Site Activity Report System (OARS) online database.
- additional supporting documentation, including photographs, records of violations, enforcement orders, or water/wastewater quality reports.

**SUBMITTAL INSTRUCTIONS**

Instructions	Please submit your Nuisance Determination Request via email to: <a href="mailto:Financial_Assistance@twdb.texas.gov">Financial_Assistance@twdb.texas.gov</a>
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## Appendix E: Project Priority List

Note: After TWDB approval, this IUP will be updated incorporating the Project Priority List and Ineligible Project List.

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