

AGENDA ITEM MEMO

BOARD MEETING DATE: November 17, 2022

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
John T. Dupnik, P.G., Deputy Executive Administrator, Water Science & Conservation
Ashley Harden, General Counsel
Rebecca Trevino, Chief Financial Officer

FROM: Antonio Delgado, Team Lead, Agricultural Water Conservation
John Sutton, Manager, Conservation

SUBJECT: Fiscal Year 2023 Agricultural Water Conservation Grant Projects

ACTION REQUESTED

Consider authorizing: (a) allocating funds for Fiscal Year 2023 Agricultural Water Conservation Grants in an amount not to exceed \$1,200,000 from the Agricultural Water Conservation Fund; and (b) authorizing the Executive Administrator to publish a request for applications in the *Texas Register*.

BACKGROUND

In 1985, the 69th Texas Legislature created the Agricultural Water Conservation Program to promote agricultural water conservation across the state by providing financial assistance in the form of grants and loans to state agencies and political subdivisions, predominantly in rural areas of Texas where agriculture is an important sector of the local economy. From 2011 through 2020, the Agriculture Water Conservation Fund has supported 82 projects (72 grants and 10 loans), committed \$26.5 million in funding (\$13.4 million in grants and \$13.1 million in loans), and saved an estimated 621,952 acre-feet of water (537,218 acre-feet from grants and 84,734 acre-feet from loans). Previously funded projects include demonstrations of conservation practices, educational outreach, purchase and installation of water use monitoring equipment, and irrigation efficiency improvements.

Our Mission

Leading the state's efforts in
ensuring a secure water future
for Texas and its citizens

Board Members

Brooke T. Paup, Chairwoman | George B. Peyton V, Board Member
Jeff Walker, Executive Administrator

KEY ISSUES

In 2019, the 86th Texas Legislature authorized an increase of dispersals through the Agricultural Water Conservation Grant Program from \$600,000 to \$1,200,000 each fiscal year. There is adequate funding available to provide up to \$1,200,000 in grant funding and up to \$1,000,000 in loans in Fiscal Year 2023. However, the Agricultural Water Conservation Fund is steadily being depleted, with estimated funds to be inadequate for both the grant and loan programs by Fiscal Year 2025 (Attachment 1). Appropriations to replenish the fund have been included as an exceptional item request with the agency's Legislature Appropriations Request for the FY24-25 biennium.

Projects awarded funding through the Agricultural Water Conservation Grant Program must further water conservation in the state and support the implementation of water conservation water management strategies in the state water plan. All applicants must achieve the following goals:

- Improve irrigation efficiency through irrigation system improvements, such as the adoption of irrigation scheduling practices and irrigation district interconnections
- Enhance resilience to weather extremes and climate variability
- Promote innovation in agriculture by incorporating the latest water conservation technological advancements

To achieve these goals, the projects should include the following actions and objectives:

- Quantify actualized water savings with proven methodology and provide baseline water usage prior to project implementation
- Engage agricultural producers and water managers through educational outreach in the form of field days, workshops, seminars, or demonstrations in classroom settings and on farms involved in the projects
- Promote the adoption of innovative water conservation practices and technologies that result in improvements to irrigation efficiency and soil health
- Identify methods to measure and report water conservation performance metrics such as water savings, soil water holding capacity, and infiltration
- Determine the long-term sustainability, feasibility, and profitability of the conservation practice(s) by quantifying the return on investment
- Build upon the success of existing agricultural water conservation efforts
- Leverage funding support from local, state, federal, and private industry partners

Upon Board approval, the Executive Administrator intends to publish a request for applications in the *Texas Register* for Fiscal Year 2023 Agricultural Water Conservation Grants not to exceed \$1,200,000 from the Agricultural Water Conservation Fund.

Final grant funding allocations for recommended projects are subject to future determination upon Board approval or delegation. Staff will review and rank applications received by the deadline of February 8, 2023, according to rules contained in 31 Texas Administrative Code Chapter 367, criteria and prioritization set forth in the request for applications (Attachment 2), and the application instructions (Attachment 3).

RECOMMENDATION

The Executive Administrator recommends approval of (a) allocating \$1,200,000 from the Agricultural Water Conservation Fund to support the Agricultural Water Conservation Grants Program in accordance with Texas Administrative Code §367.4 and (b) publishing a request for applications in the *Texas Register*.

Attachments

1. Agricultural Water Conservation Fund projected balance
2. Draft Request for Applications
3. Draft Application Instructions

Attachment 1

Agricultural Water Conservation Fund projected balance¹

Fiscal Year	Beginning balance	Loan receipts	Projected loan receipts	Projected investment income	Grant outflows	Loan closings	Ending balance
2022	\$7,645,161	\$91,703	-	\$6,870	\$4,660,955	-	\$3,082,780
2023	\$3,082,780	\$697,723	-	\$34,219	\$1,200,000	\$1,000,000	\$1,614,722
2024	\$1,614,722	\$694,398	\$117,111	\$17,923	\$1,200,000	-	\$1,244,154
2025	\$1,244,154	\$438,299	\$117,111	\$13,810	\$1,200,000	\$600,000	\$13,373
2026	\$13,373	\$247,000	\$187,377	\$148	\$447,899	-	-
2027	-	\$100,480	\$187,377	-	\$287,857	-	-
2028	-	\$100,400	\$187,377	-	\$287,777	-	-
2029	-	\$100,320	\$187,377	-	\$287,697	-	-
2030	-	\$100,240	\$187,377	-	\$287,617	-	-
2031	-	\$100,160	\$187,377	-	\$287,537	-	-
2032	-	\$100,080	\$187,377	-	\$287,457	-	-
2033	-	-	\$187,377	-	\$187,377	-	-
2034	-	-	\$70,267	-	\$70,267	-	-
2035	-	-	\$70,267	-	\$70,267	-	-
2036	-	-	-	-	-	-	-
2037	-	-	-	-	-	-	-
2038	-	-	-	-	-	-	-
2039	-	\$2,770,803	\$1,873,774	\$72,971	-	-	-

¹ Data as of 7/31/2022; Assumptions: offer up to \$1,200,000 in annual grants; annual administrative costs associated with the program continue to be covered by general revenue; outstanding balance of \$4,660,955 committed through existing grant project encumbrances; assumed demand for the agricultural loan program is \$1,000,000 in 2023 and \$600,000 in 2025 due to limited remaining balance; and 0.29 percent investment earnings rate.

Attachment 2

Draft Request for Applications Fiscal Year 2023 Agricultural Water Conservation Grants

The Texas Water Development Board (TWDB) requests applications for Fiscal Year 2023 Agricultural Water Conservation Grants. The TWDB plans to award up to \$1.2 million in grants from the Agricultural Water Conservation Fund. The rules governing the Agricultural Water Conservation Program may be found in 31 Texas Administrative Code Chapter 367.

Summary of the Request for Applications

Solicitation Date (Opening): date published in the *Texas Register*

Due Date (Closing): 2:00 p.m., Wednesday, February 8, 2023

Anticipated Award Date: May 2023

Estimated Total Funding: up to \$1,200,000

Eligible Grant Amount: up to \$1,200,000; local match is encouraged

Eligible applicants: state agencies and political subdivisions (as defined by 31 Texas Administrative Code § 367.2)

Contact: Antonio Delgado, Agricultural Water Conservation Program, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, Phone: (512) 463-7984, E-mail: antonio.delgado@twdb.texas.gov.

Agricultural Water Conservation Grant Goals

Projects awarded funding must further water conservation in the state and support the implementation of water conservation and water management strategies in the state water plan (Texas Water Code §§17.900–17.902; 31 Texas Administrative Code §§367.5). To receive consideration, projects must meet the eligibility criteria and achieve the following goals:

- (A) Improve irrigation efficiency through irrigation system improvements, such as the adoption of irrigation metering, irrigation scheduling practices, and irrigation district interconnections
- (B) Enhance resilience to weather extremes and climate variability
- (C) Promote innovation in agriculture by incorporating the latest water conservation technological advancements

Agricultural Water Conservation Grant Actions and Objectives

The project description, scope of work, and deliverables should incorporate as many of the following actions and objectives as possible to illustrate how the project will achieve the aforementioned goals:

- (1) Quantify actualized water savings with proven methodology and provide baseline water usage prior to project implementation
- (2) Engage agricultural producers and water managers through educational outreach in the form of field days, workshops, seminars, or demonstrations in classroom settings and on farms involved in the projects
- (3) Promote the adoption of innovative water conservation practices and technologies that result in improvements to irrigation efficiency and soil health
- (4) Identify methods to measure and report water conservation performance metrics such as water usage, soil water holding capacity, and infiltration
- (5) Determine the long-term sustainability, feasibility, and profitability of the conservation practice(s) by quantifying the return on investment
- (6) Build upon the success of existing agricultural water conservation efforts
- (7) Leverage funding support from local, state, federal, and private industry partners

Funding recipients must submit annual reports, irrigation water use data, and an estimate of actual water savings realized through the implementation of the project for a period of three to five years. Additional details and the exact scope of work will be negotiated with selected applicant(s) and may include a comprehensive final report upon project completion.

Grant Amount

The TWDB has up to \$1,200,000 available from the Agricultural Water Conservation Fund for Fiscal Year 2023 Agricultural Water Conservation Grants. The TWDB awards these funds through a statewide competitive grants process. The TWDB evaluates all proposals based upon the specific criteria set forth in this solicitation and application instructions. Eligible costs are those directly attributed to the project including planning, design, purchase, acquisition, installation, construction, monitoring, reporting, administration, management, educational outreach, and dissemination of project findings. Indirect expenses such as the applicant's overhead are not eligible for reimbursement and will not count towards the local match when being evaluated by the technical review team. Eligible travel expenses of the contractor and their subcontractors are limited to the maximum amounts authorized for state employees by the General Appropriations Act. Additionally, any out-of-state travel expenses must be directly related to the approved scope of work in the contract and should be pre-approved by the Executive Administrator, or designated staff, prior to reimbursement.

Application Instructions

Applications must be consistent with the format provided in the Agricultural Water Conservation Grant Application instructions, which are located on the TWDB website at: www.twdb.texas.gov/about/contract_admin/request/.

Application instructions are also available upon request from Antonio Delgado, Team Lead, Agricultural Water Conservation, at (512) 463-7984 or email at antonio.delgado@twdb.texas.gov.

Grant applicants must submit one digital copy to Bid-room@twdb.texas.gov by the Closing Due Date, 2:00 p.m., February 8th, 2023, with a copy to: antonio.delgado@twdb.texas.gov

Please include the subject line of **“FY 23 Ag Grant App, [Entity Name], [Amount].”** Contact the TWDB if you have any questions regarding qualifications or grant contract specifics.

Application Selection Process and Criteria

Prior to technical review, each application will be screened for completeness and compliance with the provisions of this notice. Incomplete applications and those that do not meet the provisions of this notice and the requirements of 31 Texas Administrative Code §§ 367.5–367.7, as identified in the application instructions, may be eliminated from competition.

Applications meeting the provisions of this notice will be scored by a technical review panel according to the criteria outlined in 31 Texas Administrative Code §§ 367.8 and 367.9, including (1) degree to which the applicant has used other available resources to finance the use for which the application is being made; (2) willingness and ability of the applicant to raise revenue; (3) commitment of the applicant to agricultural water conservation; and, (4) the water conservation benefits that will be gained by making the grant. Priority consideration may be given in the scoring and ranking of applications to projects that focus on quantifying water savings.

Prior to approving a grant, the TWDB must find that the grant funds will (1) supplement rather than replace money of the applicant (to aid in making this determination, the applicant must provide an operating budget illustrating the financial need for the grant funds); (2) serve the public interest (in evaluating this factor, the TWDB must include a finding that the grant will assist in the implementation of a water conservation water management strategy identified in the most recent applicable approved regional water plan or state water plan); and, (3) further water conservation in the state (Texas Water Code §§17.900–17.902).

In addition to the required considerations and findings, the technical review panel will further evaluate the applications using the following criteria: (1) sound and practical approach for implementing project as per the Request for Applications guidelines, by

achieving the Agricultural Water Conservation Program Goals; (2) clearly identified tasks that incorporate the Agricultural Water Conservation Project Actions and Objectives, deliverables, products, and reporting timelines; (3) staff with the technical expertise needed to carry out the project; and, (4) proposed cost estimates (budget) that are reasonable, adequately justified, and include supplemental funding sources. Priority consideration may be given to projects focused on realized water savings.

Funding and Partial Funding Provisions

The TWDB reserves the right to reject all proposals and make no awards under this announcement. In addition, the TWDB reserves the right to partially fund proposals by funding discrete activities, portions, or phases of a proposed project. The TWDB also reserves the right to award funding in an amount greater than any stated limits per project, if applicable. If the TWDB decides to partially fund a proposal, it will do so in a manner that does not prejudice any applicants or affect the basis upon which the proposal, or portion thereof, was evaluated or selected for award, and that maintains the integrity of the competition and the evaluation/selection process. The TWDB reserves the right to reject parts of any or all applications if staff determines that the application(s) does not adequately meet the required criteria or if the funding available is less than the requested funding.

Negotiations with Selected Applicants

The applicable scope of work, deliverables, timelines, budgets, and contract terms will be negotiated after the TWDB awards the selected applicants. Failure to arrive at mutually agreeable terms of a contract with the selected applicant will constitute a rejection of the Board's offer and may result in subsequent negotiations with other applicants.

Limitations on Grant Funding

Based on laws enacted by the 87th Texas Legislature, certain successful applicants will be asked to certify to the following in a contract for grant funding:

Required for Grants to Political Subdivisions:

Enforcement of Certain Federal Laws Regulating Firearms, Firearm Accessories, and Firearm Ammunition. The grant recipient must certify that it is not prohibited from receiving state funds under Texas Penal Code § 1.10(d) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition). The grant recipient must also certify that, during the term of the contract, it will immediately notify the TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f).

Required for Grants to Cities or Counties:

Enforcement of Public Camping Bans. The grant recipient must certify that it is not prohibited from receiving state grant funds under Texas Local Government Code § 364.004 (related to public camping bans). The grant recipient must also agree that, during the term

of the contract, it will immediately notify the TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Local Government Code § 363.003.

Required for grants to state agencies, including university systems or systems of higher education, cities, counties and special districts and authorities:

Firearm Suppressor Regulation. The grant recipient must certify that it is not prohibited from receiving state grant funds under Texas Government Code § 2.103 (related to the regulation of firearm suppressors). The grant recipient must also agree that, during the term of the contract, it will immediately notify the TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Government Code § 2.104.

Attachment 3

Draft Application Instructions Fiscal Year 2023 Agricultural Water Conservation Grants

The Texas Water Development Board's (TWDB) Agricultural Water Conservation Fund offers grants to state agencies and political subdivisions of the State of Texas for agricultural water conservation projects or programs that address the topics published in the recent Request for Applications in the *Texas Register*.

When to apply: The TWDB publishes a Request for Applications in the *Texas Register* at least once each fiscal year. Any state agency(s) or political subdivision(s) interested in applying for an Agricultural Water Conservation Grant may contact the Contract Administration Division to be included on a mailing list that provides notification that a request has been published. Unsolicited applications can be filed at any time but will only be considered for funding if there is urgency for the activity to be done and contingent upon the availability of funds.

Who may apply: Eligible applicants include state agencies and political subdivisions, as defined by 31 Texas Administrative Code § 367.2.

Application deadline: Applicants must submit one digital copy of a complete application to Bid-Room@twdb.texas.gov on or before 2:00 p.m., Wednesday, February 8, 2023, with a copy to: antonio.delgado@twdb.texas.gov

All applications must be complete and include general information, proposed project information, and written assurances, as outlined below. Refer to the Request for Applications for eligible activities, ranking criteria, and selection process, www.sos.state.tx.us/texreg/index.shtml. A list of required items has been provided in the following pages to assist in completing an application.

For more information about the Agricultural Water Conservation Grants Program, contact Antonio Delgado, Team Lead, Agricultural Water Conservation, at (512) 463-7984 or e-mail at antonio.delgado@twdb.texas.gov.

Questions about the Request for Applications must be submitted by Wednesday, January 25, 2023, two-weeks prior to the application deadline, to Bid-room@twdb.texas.gov with a copy to: antonio.delgado@twdb.texas.gov

Application Requirements

Pursuant to 31 Texas Administrative Code § 367.5, applications must address each of the following requirements, in this order:

Section I. Administrative Requirements

1. Applicant information including:
 - a. The official name of the applicant (political subdivision or state agency);
 - b. Mailing and physical address of the applicant;
 - c. Constitutional and statutory authority creating the applicant, under which the applicant currently operates; and
 - d. The applicant's Vendor ID or Federal Tax ID number.
2. Names and addresses of the individual or individuals with the legal authority to perform the acts of the entity and title of position (presiding officer, chairman, general manager, or agency administrator).
3. Name, address, title, phone number, and email address of the designated representative (contract manager, project manager, district engineer, or conservation program coordinator).
4. An affidavit from the individual with the authority to act on behalf of the applicant, or a certified copy of a resolution adopted, or minutes approved by the governing body with the authority to act on behalf of the applicant, which:
 - a. Identifies the amount that the applicant is requesting, local match contributions, verification that the grant will supplement rather than replace the funding of the applicant, along with the most recent annual operating budget of the applicant;
 - b. Authorizes the submission of an application on behalf of the entity; and,
 - c. Designates an authorized representative to submit the application and perform all reasonable and necessary action in support of the application and, if approved by the TWDB, to perform the terms and conditions of the award of money from the Fund.
5. Evidence of the applicant's commitment to water conservation; include appropriate excerpts from the applicant's management plan or conservation plan and examples of the applicant's existing conservation programs or projects.

Section II. Project Information

6. Project abstract, location, and personnel
 - a. Brief project title and abstract, 150-words or less, summarizing the project goals, actions, and objectives, along with a water savings estimate;
 - b. A map of the geographic area in which the applicant is authorized to conduct such actions as are necessary for the proposed conservation program or project, and a description of the geographic area in which the project will occur; and,
 - c. Identification of technical staff with the expertise needed to carry out this project, qualifications, and an estimate of what percentage of their time will be attributed to this project.
7. Budgets and supplemental funding
 - a. The amount requested, cost of each significant element of the project, and a reasonable and adequate justification of why this funding is needed;
 - b. Source of local match and an operating budget illustrating the financial need for the grant funds; and,

- c. Proposed task and expense budgets for the program or project that identifies the total project costs by category. (See example budgets, in Section III.)
8. Project description, scope of work, and deliverables
 - a. Project description explaining the Agricultural Water Conservation Program Goals to be achieved through the project;
 - b. Scope of work with clearly identified tasks and an explanation of how each task will incorporate the Agricultural Water Conservation Project Actions and Objectives identified in the solicitation, along with the estimated completion dates for each task and project reporting timelines; and,
 - c. Deliverables (data, reports, plans, or other products) that the TWDB will receive through this project.
9. Water conservation benefits
 - a. Identification of an agricultural water conservation water management strategy in the most recent applicable regional water plan or state water plan;
 - b. An explanation of how the proposed project will implement the conservation strategy through the grant, explaining why it is needed and how it will serve the public interest, such as adoption of best management conservation practices and water saving innovations; and,
 - c. An estimate of the baseline water usage prior to the program or project; estimated water savings to be realized by implementation of this program or project; and a description of monitoring procedures and methodology for calculating water savings.
10. Construction activities
 - a. If the proposed project involves TWDB funding for construction, the application shall include an engineering feasibility report signed and sealed by a professional engineer, in accordance with Texas Administrative Code §367.6; and,
 - b. If the TWDB funds would be used for construction of a conservation project that will require surface or subsurface disturbance of the soil or alter the existing vegetation, the applicant shall conduct an environmental assessment in compliance with Texas Administrative Code §367.7.

Section III. Example Task and Expense Budgets

TASK BUDGET

TASK	DESCRIPTION	TOTAL PROJECT COST
1	Purchase equipment, materials, and supplies	\$200,000.00
2	Establish field sites and install conservation practices	\$250,000.00
3	Education, outreach, workshops, and field days	\$50,000.00
4	Monitor, measure, and report results	\$50,000.00
TOTAL		\$550,000.00

EXPENSE BUDGET

CATEGORY	LOCAL MATCH AMOUNT	TWDB GRANT AMOUNT
Salaries & Wages ¹	\$100,000.00	\$100,000.00
Fringe ²	\$10,000.00	\$10,000.00
Travel ³	\$10,000.00	\$10,000.00
Other Expenses ⁴	\$25,000.00	\$25,000.00
Equipment, Materials, and Supplies ⁵	\$80,000.00	\$80,000.00
Subcontract Services	\$50,000.00	\$50,000.00
TOTAL	\$275,000.00	\$275,000.00

¹ Salaries and Wages is defined as the cost of salaries of engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc., for time directly chargeable to this CONTRACT.

² Fringe is defined as the cost of social security contributions, unemployment, excise, and payroll taxes, workers' compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.

³ Travel is limited to the maximum amounts authorized for state employees by the General Appropriations Act, Tex. Leg. Regular Session, 2021, Article IX, as amended or superseded.

⁴ Other Expenses is defined to include expendable supplies, communications, reproduction, postage, and costs of public meetings directly chargeable to this CONTRACT.

⁵ Equipment, Materials, and Supplies is defined as all hardware, software, and technology directly chargeable to this contract; those items that are incorporated into and remain part of a feature or structure; and, those items that are used during the installation and construction process, but do not remain a permanent part of the feature or structure.