



November 3, 2016

[VIA EMAIL TO PUBLIC-COMMENT@twdb.texas.gov](mailto:PUBLIC-COMMENT@twdb.texas.gov)

Mr. Les Trobman, General Counsel
Texas Water Development Board
1700 North Congress Avenue
P.O. Box 13231
Austin, Texas 78711-3231

Re: Comments on Structural and Operational Aspects of Regional Water Planning Groups

Dear Mr. Trobman:

In response to the Agency's email invitation of October 26, 2016, please include and consider the attached Comments of the Central Texas Water Coalition in the Agency's review and briefing of the Board Members for the TWDB Work Session on November 17, 2016. Thank you for the opportunity to provide these suggestions, and we are happy to answer any questions and to assist in any way that may be helpful as the Agency continues its important work.

Sincerely,

Jo Karr Tedder

Jo Karr Tedder
President
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Attachment: Comments of CTWC on RWPG Structure and Operations

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Central Texas Water Coalition is a 501(c)(4) non-profit, non-tax deductible organization.

Comments of Central Texas Water Coalition in Response to Texas Water Development Board Notice of October 26, 2016

Regional Water Planning Groups – Structure and Operations

The Central Texas Water Coalition (CTWC), a non-profit stakeholder organization advocating for responsible water management policies and practices, appreciates the opportunity to offer these comments on the structural and operational aspects of the State's Regional Water Planning Groups (RWPGs). The CTWC applauds the Texas Water Development Board's (TWDB's) decision to solicit comments and conduct a discussion on this subject at its upcoming work session in November. This is an excellent time to re-visit the structure and governance of the Regional Planning Groups to assure that they are operating as envisioned, and that they can continue to operate in a manner that is receptive to changes over time, including the introduction of creative or innovative ideas from their membership and the public. These comments are intended to offer suggestions to improve the overall process of regional water planning, on a state-wide basis, and to assure that the important work of the RWPGs continues to occur in an open, accessible, and transparent manner.

The TWDB rules on Regional Water Planning state that RWPGs must have bylaws that, at a minimum, address six specific elements, including membership, records, and decision-making.¹ When Planning Groups were initially formed, the TWDB provided a set of model bylaws for the Groups to consider. We suggest that: 1) the TWDB rules be expanded to include additional criteria for bylaws; and 2) the TWDB issue an updated and expanded version of model bylaws for RWPGs.

Additional criteria would address concerns related to transparency and public participation in the State's water planning process and would also facilitate a more consistent, uniform manner of governance in the regional planning process.

¹ See 31 Texas Admin. Code Section 357.11(c).

More specifically, the TWDB's rules and an RWPG's bylaws should include provisions that:

1. Assure open meetings and exchanges of information to promote transparency.
 - A. Include provisions focusing on a Regional Planning Group's use of its website to post notices of upcoming meetings and the agendas for those meetings, including background materials for the agenda items, and assure that the meeting notices and agendas are posted in advance of all meetings. In addition, provide online public access to background materials for the agenda items, so that RWPG members, alternates, and the public can access and review the documents that are being discussed in the open meeting.
 - B. Include requirements for publishing notices of RWPG Committee meetings, so that Planning Group members, alternates, and the public can attend, participate, and monitor the deliberations that occur within a Planning Group's Committees and Subcommittees. Require the RWPG's Committees to prepare minutes of their meetings and post them on the RWPG website.
2. Clarify the authority of RWPG alternates. Planning Group alternates should be regarded as valuable participants in a Planning Group's activities, and RWPGs should institute practices to facilitate their participation and their ability to "step in" for a member as needed. For example, alternates should receive copies of notices and documents at the same time that they are distributed to Planning Group members. In addition, alternates should be authorized and encouraged to attend and fully participate in all activities of a RWPG, including Committee and Subcommittee meetings, except for voting (unless the alternate is substituting for the Planning Group member on a matter requiring a vote).
3. Publish notice for open slots on Planning Groups. To encourage the input of new ideas, require Planning Groups to publish notices of openings for new members on the RWPG's website, in addition to other existing notice or publication requirements. Establish a process for nominating and identifying potential candidates to fill the membership slot that is open.

4. Provide guidance on eligibility for RWPG membership. For example, the TWDB rules and model bylaws should state that a person serving as a representative of a geographic area or interest group must reside within that geographic area (or at least within the boundaries of the Regional Water Planning Area). In addition, all nominees should be advised of the time commitments needed during each planning cycle to effectively participate as a Planning Group member.
5. Outline procedures for the nomination and election of officers, including the Chair, Vice Chair, and Secretary. Assure that every member has the opportunity to apply for these positions. Create an atmosphere that encourages potential candidates to offer their services and allows sufficient time for Planning Group members to interact and communicate about the options that may exist to serve as officers of the Planning Group. Encourage the use of confidential written nominations and ballots for the selection of officers and governing members of the RWPGs.
6. Require the use of confidential written ballots when voting on potentially sensitive matters. To encourage the input of new leadership and new ideas, require Planning Groups to follow a process that protects the privacy of its members with respect to voting for its members and its officers. Rather than allowing an informal, casual process of announcing a list of names and asking the members to vote “aye” or “nay” on a predetermined slate of officers, require a more formal, confidential process for the selection of a Planning Group’s leadership.
7. Consider establishing term limits for officers. To assist Planning Groups in their efforts to function in a fair and open-minded manner through the years, consider limiting a Planning Group member’s consecutive years of service as an officer of the RWPG.
8. Consider the potential value of limiting the number of consecutive planning cycles that a member may serve. As envisioned in the 1997 legislation, water planning cycles continue for five years, and Planning Group members are building their knowledge and developing a Regional Water Plan during that five-year period. With a flurry of activity at the end of the five-year period, the members work hard to finalize their Plans, and then they immediately begin the work for the next five-year cycle. In just two planning cycles, 10 years have gone by. Under the

TWDB's initial model bylaws, the agency suggested that two consecutive planning cycles (10 years) would be a maximum term for a Planning Group member. In 2016, some RWPGs have members and officers that have served for more than 15 years.

As the planning process has matured, it may be time to consider whether periodic changes in membership composition would facilitate the continuing exchange of new ideas and input into this important work. New members could bring new perspectives and experience as they represent their interest groups and interact with other Planning Group members. In individual Regions with special circumstances affecting the availability of interest group representatives, the Planning Group could request variances from the general criteria on membership terms. In addition, in the case of Planning Group members who hold positions within local governments or government entities (such as employees of a city's water department or elected officials), the RWPGs may wish to allow variances for those members, for the benefit of the local government, so that they can serve for more than 10 years. Also, if a member joins the RWPG during a planning cycle, that member should be allowed to complete the planning cycle, even if the years of service exceed 10 years.

9. Provide explicit, uniform regulatory requirements for procurement by Planning Groups. For significant financial commitments, such as those involving the selection and engagement of consultants to prepare a Regional Water Plan, it is important to assure that this process occurs in a fair and open manner, with opportunities for interested consultants to offer their services and be considered for that work prior to each planning cycle. The current law seems to be overly broad, and it seems to allow each RWPG to act independently in these procurement decisions. Without more guidance on this process, Planning Groups may tend to choose the same consultants that they have used in the past, and may not offer opportunities for other experts to offer their services to the RWPG. With so much State money involved, it seems advisable to re-visit the procurement process for Planning Groups and to provide clear regulatory guidance on the TWDB's

expectations in this process. This agency guidance will help to assure that awards of the State's funds are made in a fair and uniform manner throughout the State.

10. Ask Planning Groups to confirm that they have followed the TWDB rules relating to bylaws and governance on a periodic basis. After RWPGs are provided time to incorporate these additional provisions into their bylaws, they should also be asked to report on their accomplishments. As part of the documents prepared and submitted to the TWDB at the close of a planning cycle, the Planning Groups should be required to review their bylaws and confirm that the terms of their bylaws were satisfied (and explain any variances from the bylaws, if they occurred).
11. Continue to assist the RWPGs in complying with Open Meetings Act and Public Information Act requirements. The tasks assigned to the RWPGS are formidable and time-consuming, and compliance with the wide-ranging obligations for the governance of these RWPGs is challenging. We urge the TWDB to assist the RWPGs in meeting these challenges whenever possible, through clarification of the TWDB rules at 31 Texas Administrative Code Chapter 357, by providing training and reference materials on these topics (such as the Attorney General's Open Government Handbooks), and by providing agency staffers as resources (especially during RWPG meetings).

In conclusion, the water planning work that is conducted by Regional Water Planning Groups is extremely important and absolutely critical to the production of meaningful, accurate, useful, and relevant State Water Plans. We certainly recognize the need to avoid imposing overly burdensome requirements or procedures on the RWPGs – they are composed of dedicated volunteers who are trying to accomplish an enormous task for their Regional Water Planning Areas. At the same time, we believe that the above-listed suggestions are important, and they would facilitate the open, accessible governance of the Regional Planning Groups. Thank you for considering these comments.