



Directives for Districts to Escrow or to Not Expend Funds

Background

Texas Water Code, Section 49.181(g), allows the Texas Commission on Environmental Quality (TCEQ) to approve bond issues without plans and specifications being available and to condition approval on terms considered appropriate by TCEQ. If project documents are not available, a bond order approved by TCEQ may direct the district to either escrow the funds or to not expend funds pending approval of required plans, specifications, and documents. This guidance discusses when a district will be directed to escrow or to not expend funds in a bond order.

Application requirements for requesting the release of escrowed funds are presented in Title 30, Texas Administrative Code (TAC), Section 293.84.

Guidance

If there are projects for which approved plans, specifications, or other required documents have not been provided, then the order approving the bond application will direct the district to either not expend funds or escrow the funds until all necessary documentation is available to its board of directors or TCEQ, as indicated in the order. The types of projects for which TCEQ will generally direct a board not to expend funds (as opposed to being directed to escrow funds) include, but are not limited to:

- Rehabilitation of wastewater collection systems.
- Improvements to existing water plants—including water well projects; repainting; and the installation of additional booster pumps, pressure tanks, or ground storage tanks—as long as the size of the related existing plant or facility site is adequate for the improvements and a well permit is not needed.
- Installation of emergency generators, as long as the size of the related existing plant or facility site is adequate for the generators.
- Improvements to existing wastewater treatment plants, as long as the size of the related existing plant or facility site is adequate for the improvements and a new discharge permit is not needed.
- With other types of projects, including shared facilities for which evidence of fund availability for all costs has not been provided, funds may be recommended for escrow.

If TCEQ directs funds to be escrowed, the district is required to submit an application to TCEQ to request a release from escrow (see 30 TAC Section 293.84 for application requirements). Applications for escrow release may be submitted on an expedited basis.