



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 the TCEQ. If project documents are not available, a bond order may direct funds to be escrowed. Application requirements for requesting the release of escrowed funds are presented in Title 30, Texas Administrative Code (TAC), Section 293.84. Before mid-2007, certain project costs were directed to be escrowed until the TCEQ received specified project documents. After mid-2007, TCEQ staff has either directed a district's board not to expend funds or required that project funds be escrowed until the TCEQ receives the necessary documentation.

This document discusses when a district will be directed to escrow bond funds versus not to expend the funds.

Guidance

1. If there are projects for which approved plans 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 funds until all necessary documentation is available to its board of directors or the TCEQ, as indicated in the order. The kinds of projects on which a board will generally be directed 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.

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