

Chapter 8: Administrative, Regulatory, and Legislative Recommendations

(The recommendations presented herein are preliminary and are subject to review and approval by the Region 8 RFPG.)

According to 31 Texas Administrative Code 362.3, the RFPG shall include legislative recommendations that are considered necessary and desirable to facilitate flood management planning and implementation to protect life and property. The RFPG discussed administrative, regulatory, and legislative issues during the Flood Planning effort. The RFPG considered regional input provided through a region wide survey shortly after the Region 8 planning efforts began.

As part of the Flood Planning efforts, recommendations can include alterations to the legislation associated with flood planning throughout the state, as well as regulatory or administrative features associated with flood-related activities. Recommendations may also be proposed to further the Flood Planning effort itself, such as desired support or data from the Texas Water Development Board or from other entities of the State.

Section 8.1 – Legislative Recommendations

Being a part of the State Flood Planning effort has allowed the RFPGs, Sponsors, and Technical Consultants to interact with a wide variety of entities. There are trends and occurrences throughout a large portion of the state. Some of these trends and occurrences are positive and should be encouraged while others may need to be reconsidered or updated to benefit the entity, region, and/or state. During this Regional Flood Planning Process, RFPGs have the opportunity to see the effects of current state legislation and the need of further action. Therefore, the Lower Brazos RFPG proposes the following changes for consideration.

Table 1. Legislative Recommendations for the Lower Brazos Region

ID	Recommendation Statements	Reason for Recommendation
8.1.1	Direct State funding to counties to maintain drainage and stormwater infrastructure in unincorporated areas.	Counties have floodplain and drainage related responsibilities in the State of Texas without a consistent way to fund projects.
8.1.2	Develop State strategies to aid in acquiring federal funds.	Projects for entities in Texas do not compete well for some federal funding programs. For example, FEMA’s Building Resilient Infrastructure and Communities (BRIC) Grant requires statewide building codes to improve the application score.
8.1.3	Develop State funding to assist owners of privately-owned dams with the costs associated in repairing, maintaining, and upgrading dam structures.	Privately-owned dams that were originally constructed in rural areas are now surrounded by urban areas. The potential impact of flood damages resulting from dam failure has increased significantly with age and increased development. Often, private and/or local entities do not have the funding to maintain or repair these dams.
8.1.4	Provide funding and/or technical assistance to develop regulatory floodplain maps.	Several entities who have outdated maps or no mapping at all are not able to fund the projects necessary to update or create accurate depictions of flood risk.
8.1.5	Provide funding and/or technical assistance to update drainage criteria and development standards.	Up-to-date drainage criteria and development standards at the county level improve resiliency and prevent additional flood risk. However, many entities do not have the funding to update criteria and standards.
8.1.6	Provide funding and/or technical assistance to perform or update flood planning and/or master drainage planning studies.	Many communities and entities do not have up-to-date studies or plans that are reflective of growth or updated rainfall data. Up-to-date master drainage plans can help communities identify drainage needs and develop conceptual level solutions to reduce flood risk. These studies can be used to update future regional flood planning cycles and respond to disaster funding opportunities.

Table 1. Legislative Recommendations for the Lower Brazos Region

ID	Recommendation Statements	Reason for Recommendation
8.1.7	Expand eligibility and use of funding for stormwater and flood mitigation solutions (Local, State, Federal, Public/Private Partnerships, etc.)	Flood mitigation studies/projects do not generate revenue, which makes them more challenging to fund at the local level. Funding sources could utilize different financial/economic benefit metrics for projects that do not generate revenue.
8.1.8	Provide additional grant funding to enable the continued function of RFPGs during the interim timeframe between planning cycles.	In the interim of the planning cycles, not only could RFPGs continue adding FMEs, FMSs, and FMPs to the Regional Flood Plan, but they could also implement RFPG-sponsored flood management activities, outreach, and stay informed on regional flood-related occurrences.
8.1.9	Extend Local Government Code, Title 13, Subtitle A, Chapter 552 to allow counties the opportunity to establish and collect drainage utilities/fees in the unincorporated areas.	Counties have floodplain- and drainage-related responsibilities in the State of Texas. Currently, counties do not have the ability to establish and collect stormwater utility fees, thus limiting their ability to fund stormwater or drainage projects, despite having the responsibility to do so.
8.1.10	Grant counties additional authority to regulate land use especially in unincorporated flood prone areas downstream of dams.	Regulation of development in flood prone unincorporated areas by counties will aid in prevention of additional flood risk.
8.1.11	Establish a levee safety program similar to the dam safety program.	Levees are often constructed to protect a specific commodity; however, they do not have a safety program like dams do, despite being an equal flood risk.

Section 8.2 – Regulatory or Administrative Recommendations

The RFPG has also developed recommendations of a regulatory or administrative nature, concerning existing procedures, state entities, or state/regional regulations. These recommendations are suggested changes to existing standards, state-controlled entities, or procedures.

Table 2. Regulatory or Administrative Recommendations

ID	Recommendation Statements	Reason for Recommendation
8.2.1	Simplify all funding application processes and criteria as well as the management and reporting process required once funding is awarded.	Current funding applications require significant time and resources to prepare a project for consideration, as well as complete the application itself, especially for jurisdictions with limited resources. Thus, jurisdictions that may need the funding the most typically do not apply for current opportunities, despite having need. Once funding is awarded, the management process can be time consuming. Some communities may choose to not pursue funding due to the management and reporting requirements.
8.2.2	Review and revise as necessary all State infrastructure entities' (i.e. TxDOT) standards and practices for legislative and regulatory compliance with stormwater best practices.	State entities should be aware of the drainage and stormwater standards in the areas where they are active. State entities should be required to comply with local regulations when local regulations are higher than State minimum criteria.
8.2.3	Develop resources for and educate local and regional officials regarding the respective entities' ability/authorization to establish and enforce higher development standards.	Local and regional officials are often unaware of their authority to establish and enforce stormwater regulations. (Texas Local Government Code Title 7, Subtitle B.; Texas Water Code Chapter 16, Section 16.315) Flooding and drainage components of local and regional officials' training is often inadequate for their level of responsibility.
8.2.4	Provide measures to allow and encourage jurisdictions to work together towards regional flood mitigation solutions.	Flooding does not recognize jurisdictional boundaries. Allowing and encouraging entities to work together towards common flood mitigation goals would be beneficial to all involved. This should also include state agencies.

Table 2. Regulatory or Administrative Recommendations

ID	Recommendation Statements	Reason for Recommendation
8.2.5	Develop a publicly available, statewide database and tracking system to document flood-related fatalities and injuries.	In order to more accurately address the health, safety, and welfare of the public, high flood-risk areas should be tracked and reported. Doing so would increase awareness of the area, both so the public could be aware of the risks, and elected officials and decision-makers could institute solutions to reduce the risk in those areas.
8.2.6	Develop a publicly available, statewide database and tracking system to document dam inspection reports and conditions.	Standard inspection reports of dams are not publicly available, leaving the public unaware of the potential flood risk due to dam failure.
8.2.7	Revise the scoring criteria for funding associated with stormwater and flood-related projects that benefit agricultural and other activities.	The traditional benefit-cost analysis tools prevent agricultural projects from competing with municipal benefit-cost ratios.
8.2.8	Revise inspection criteria for dams.	When a high-hazard dam is constructed or when a previously low-hazard dam becomes a high-hazard dam due to downstream development, TCEQ and TWDB should inspect those dams more often than the standard 5 years. Due to rapid development in the region, the RFPG believes 5 years is an extensive amount of time, during which damage and wear can occur.
8.2.9	Address the concern of “takings” with regards to floodplain development regulations, comprehensive plans, land use regulations and zoning ordinances.	Jurisdictions should be allowed to regulate development in a responsible manner that reduces future flood risk exposure without the fear of legal action by property owners.

Section 8.3 – Flood Planning Recommendations

The RFPG has identified a number of issues should be considered by the TWDB to make the planning process more streamlined and effective for each individual region. The following recommendations should be considered to improve the regional flood planning process in future planning cycles.

Table 3. State Flood Planning Recommendations

ID	Recommendation Statements	Reason for Recommendation
8.3.1	Update the scope of work, guidance documents, rules, checklists, etc. based on the adjustments and lessons learned made to these planning documents during the first cycle of planning.	During the first cycle of the State Flood Plan, multiple amendments and additions to the TWDB documents and the TWDB’s interpretation of its documents occurred. Moving forward, the TWDB documents provided at the onset of each new planning cycle should reflect what is ultimately required of the RFPGs.
8.3.2	Develop a fact sheet and/or other publicity measures to encourage entities to participate in the Regional Flood Planning effort.	Many entities were unaware of the Regional and State Flood Plan efforts despite the RFPG outreach efforts.
8.3.3	Host “lessons learned” discussions with RFPG members, sponsors and technical consultants following the submittal of the final regional plans.	Opening dialogue among these participants to discuss proposed improvements to the regional planning process will streamline and improve future regional flood planning cycles.
8.3.4	Develop an amendment process to efficiently amend approved regional flood plans to incorporate additional recommended FMEs, FMSs, and FMPs, and to allow the RFPG to advance the recommended FMEs to FMPs.	Amending the Regional Flood Plan can be an extensive process. Amendments to move FMEs to FMPs and incorporate new flood management solutions should have a quicker turn-around time in order to efficiently include them in the Regional Flood Plan.
8.3.5	Reduce the amount of information required to escalate potentially feasible FMEs to FMPs. Align required information to be similar to what is required for design/construction funding.	Some of the data currently requested for FMPs is more detailed than traditional planning level data. Therefore, certain FMPs had to be submitted as FMEs or FMSs despite having sufficient data to produce a project. The RFPs should focus on meeting the minimum requirement to produce funding, rather than spending time and money elements of a project design.

Table 3. State Flood Planning Recommendations

ID	Recommendation Statements	Reason for Recommendation
8.3.6	Revise the criteria for the “No Adverse Impact” Certification required for FMPs.	The current criteria gives thresholds for increases in flow, water surface elevation, and inundation extents. Though useful, the current criteria does not allow for consideration of projects that exceed these thresholds but account for the impact through design or downstream accommodations.
8.3.7	Streamline the data collection requirements, specifically those identified in Task 1. Focus on collecting the data that was most useful to the regional flood plan development.	This first round of planning proved that very few entities have the data requested as part of the Flood Planning process readily available in a GIS format. Of those entities who did have GIS data, most were unable to share that information. As a result, some of this data was not used or was used minimally to develop potentially feasible and recommended FMEs, FMPs and FMSs.
8.3.8	Provide statewide data and a methodology to determine infrastructure functionality and deficiencies in the next cycle of the Flood Planning Process. Consider the lack of readily available local data when developing the methodology.	Most entities do not have information regarding the functionality and deficiency of their infrastructure. Some fields required by the TWDB-required tables in the Regional Flood Plans are based on data that is not available to entities without extensive field work. A statewide database with this information would be useful to all entities.
8.3.9	Review and revise the geodatabase submittal attributes and elements.	Normalizing the geodatabase with relationships would allow for cross-referencing of data elements and attributes. More domains for attributes need to be developed.
8.3.12	Use FEMA’s Social Vulnerability Index (SVI) when available instead of the CDC’s SVI in future planning cycles.	FEMA’s SVI is reasoned to be more relevant to flood resiliency and risk than the CDC’s SVI. SVI should not be the primary component considered when allocating funding.

Table 3. State Flood Planning Recommendations

ID	Recommendation Statements	Reason for Recommendation
8.3.13	Use consistent HUC reporting requirements throughout the TWDB-required tables.	The RFPG Guidance requires HUC-8 in some tables, HUC-10 in other tables, HUC-12 in yet other tables. Some tables require multiple HUCs to be provided. The RFPG recommends that the TWDB require HUC-8 in all TWDB-required tables for consistency and to correspond to FEMA’s base level watershed planning granularity.
8.3.14	Develop a statewide bridge inventory with bridge deck elevations.	The availability of statewide LiDAR provides the opportunity to more accurately describe the risk at riverine crossings (i.e., overtopping elevation). The creation of a statewide database outside of flood planning would further simplify this data.
8.3.15	Improve upon flood risk identification and exposure process with regards to building footprints and population at risk by including first-floor elevations of structures.	While the building footprints are helpful, it is difficult to determine the actual extent of flood risk per structure without first floor elevations. If the structure is sufficiently elevated above the BFE, for example, the footprint still shows the structure in the floodplain and the corresponding population is considered “at risk” though the structure meets NFIP standards.

Section 8.4 – Funding Opportunity Recommendations

The RFPG is responsible for providing potential funding opportunity recommendations to the Texas Water Development Board. These ideas could include “new municipal drainage utilities or regional flood authorities that could fund the development, operation, and maintenance of floodplain management or flood mitigation activities in the region.”

Responders to the data collection survey indicated the use of stormwater utility fees, bond programs, ad valorem taxes, and the general fund to sponsor projects in their regions. Non-local funding sources include the Hazard Mitigation Grant Program through FEMA and TDEM, Pre-Disaster Mitigation through FEMA, Cooperating Technical Partner funds through FEMA, Flood Protection Planning Grants through TWDB, USDA NRCS, and Flood Mitigation Assistance through FEMA.

No additional funding sources were identified in the Lower Brazos Region during this planning cycle.