

Sunset Commission Meeting January 15, 2025

Decision Material

Angelina and Neches River Authority

Lower Neches Valley Authority

Trinity River Authority of Texas

Texas Ethics Commission

Texas Criminal Justice Entities

ANGELINA AND NECHES RIVER AUTHORITY

LOWER NECHES VALLEY AUTHORITY

Issue 1

ANRA Must Improve and Expand Its Planning Efforts to Fully Support Its Organizational Goals. (Page 9)

Management Action

Rec. 1.1 (Page 15)

Direct ANRA to develop and institute a strategic planning process that supports achieving the authority's long-term objectives.

Rec. 1.2 (Page 15)

Direct ANRA to develop and institute a formal, documented planning process for facility acquisitions.

Rec. 1.3 (Page 15)

Direct ANRA to develop and institute a formal, documented budget planning process that ensures its annual budget is structurally balanced.

Issue 2

An Improved Procurement and Contracting Process Would Better Protect ANRA from Unnecessary Risks. (Page 17)

Management Action

Rec. 2.1 (Page 21)

Direct ANRA to periodically conduct formal solicitations for utility repairs to ensure the authority receives fair and competitive pricing.

Rec. 2.2 (Page 21)

Direct ANRA to consider developing and using umbrella agreements to procure utility repairs services.

Rec. 2.3 (Page 22)

Direct ANRA to formally document and evaluate vendor performance.

Rec. 2.4 (Page 22)

Direct ANRA to adopt contracting best practices to ensure consistency.

Issue 3

A More Robust and Comprehensive Strategic Planning Process Would Better Position LNVA for Continued Long-Term Success. (Page 31)

Management Action

Rec. 3.1 (Page 36)

Direct LNVA to develop an authority-wide strategic planning process that more thoroughly contemplates all aspects of its operations.

Issue 4

LNVA's Procurement and Contracting Process Would Benefit from Additional Best Practices. (Page 39)

Management Action

Rec. 4.1 (Page 43)

Direct LNVA to ensure key procurement and contract management staff receives appropriate training.

Rec. 4.2 (Page 44)

Direct LNVA to adopt a formal contract management policy.

Rec. 4.3 (Page 44)

Direct LNVA to adopt a formal escalation policy to prevent contract compliance issues.

Rec. 4.4 (Page 44)

Direct LNVA to formally document and evaluate vendor performance.

Rec. 4.5 (Page 44)

Direct LNVA to improve certain contracting activities to ensure consistency and enhance monitoring.

Issue 5

ANRA's and LNVA's Statutes and LNVA's Grant Process Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 47)

Change in Statute

Rec. 5.1 (Page 51)

Apply the standard across-the-board requirement regarding the governor's appointment of the presiding officer to the boards of ANRA and LNVA.

Rec. 5.2 (Page 51)

Apply the standard across-the-board requirement regarding grounds for removal of a board member to ANRA and LNVA.

Rec. 5.3 (Page 51)

Apply the standard across-the-board requirement regarding board member training to ANRA and LNVA.

Rec. 5.4 (Page 52)

Apply the standard across-the-board requirement regarding the separation of duties of board members from those of staff to ANRA and LNVA.

Rec. 5.5 (Page 52)

Apply the standard across-the-board requirement regarding public testimony to ANRA and LNVA.

Rec. 5.6 (Page 52)

Apply the standard across-the-board requirement related to developing and maintaining an authority complaints system and making information on complaint procedures available to the public.

Rec. 5.7 (Page 52)

Update ANRA's statute to reflect the requirements of the person-first respectful language initiative.

Rec. 5.8 (Page 52)

Amend the Sunset review dates of ANRA and LNVA to 2037.

Management Action

Rec. 5.9 (Page 52)

Direct LNVA to review and, as necessary, adopt grant administration best practices and develop loan-making policies and processes before issuing loans.

Rec. 5.10 (Page 53)

Direct LNVA to conduct TCEQ-required management audits.

Rec. 5.11 (Page 53)

Direct LNVA to file with TSLAC information regarding the authority's compliance with records control schedules.

Proposed New Recommendations

None received.

TRINITY RIVER AUTHORITY OF TEXAS

Issue 1

TRA's Procurement and Contracting Processes Would Benefit from Enhanced Oversight, Formal Policies, and Best Practices to Mitigate Potential Risk. (Page 11)

Management Action

Rec. 1.1 (Page 18)

Direct TRA to expand internal oversight of construction and engineering contracting and take additional steps to centralize procurement and contracting functions.

Rec. 1.2 (Page 18)

Direct TRA to adopt detailed internal contract management and monitoring policies.

Rec. 1.3 (Page 18)

Direct TRA to adopt intermediate remedies in standard contract language.

Rec. 1.4 (Page 18)

Direct TRA to adopt a policy with clear criteria for contract remedies.

Rec. 1.5 (Page 19)

Direct TRA to adopt a formal escalation policy to prevent contract compliance issues.

Rec. 1.6 (Page 19)

Direct TRA to improve certain contracting activities to ensure consistency and enhance monitoring.

Issue 2

TRA Would Benefit from Restructuring and Prioritizing Its Internal Auditing Efforts to Improve Operational Efficiency and Reduce Risk. (Page 21)

Management Action

Rec. 2.1 (Page 25)

Direct TRA to have its internal audit function report directly to the board's Administration and Audit Committee.

Rec. 2.2 (Page 25)

Direct TRA's full board of directors to receive regular internal audit status updates and vote on internal audit-related decisions prior to their enactment.

Rec. 2.3 (Page 26)

Direct TRA's Administration and Audit Committee to exercise additional oversight of the internal audit function.

Issue 3

Additional Formalized Planning Would Better Position TRA for Continued Success.
(Page 29)

Management Action

Rec. 3.1 (Page 33)

Direct TRA to develop more specific work plans with action items and performance measures to evaluate progress and operationalize its current and future strategic plans.

Rec. 3.2 (Page 34)

Direct TRA to further plan for future communications.

Rec. 3.3 (Page 34)

Direct TRA to develop a formal, strategic decision-making process to identify and address potential risks and better inform its decisions.

Issue 4

TRA's Governing Law and Processes Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 37)

Change in Statute

Rec. 4.1 (Page 40)

Apply the standard across-the-board requirement regarding the governor's appointment of the presiding officer to TRA's board.

Rec. 4.2 (Page 40)

Apply the standard across-the-board requirement regarding grounds for removal of a board member to TRA's board.

Rec. 4.3 (Page 40)

Apply the standard across-the-board requirement regarding board member training to TRA.

Rec. 4.4 (Page 40)

Apply the standard across-the-board requirement regarding the separation of duties of board members from those of staff to TRA.

Rec. 4.5 (Page 40)

Apply the standard across-the-board requirement regarding public testimony to TRA.

Rec. 4.6 (Page 41)

Apply the standard across-the-board requirement related to developing and maintaining a complaint system and making information on complaint procedures available to the public.

Rec. 4.7 (Page 41)

Amend TRA's Sunset review date to 2037.

Rec. 4.8 (Page 41)

Amend TRA's governing law to reflect a board size of 25 directors.

Management Action

Rec. 4.9 (Page 41)

Direct the Texas Legislative Council to update TRA's governing law.

Rec. 4.10 (Page 41)

Direct TRA to publish minutes for board and committee meetings to improve transparency.

Proposed New Recommendations

None received.

TEXAS ETHICS COMMISSION

Issue 1

Cumbersome Laws and Informal Management Practices Result in a Disclosure System that Limits TEC's Efficiency and Burdens the Regulated Community. (Page 9)

Change in Appropriation

Rec. 1.1 (Page 18)

The House Appropriations and Senate Finance committees should consider providing TEC additional guidance regarding the use of unexpended funds for IT improvements.

Change in Statute

Rec. 1.2 (Page 18)

Require TEC to adjust reporting and registration thresholds every 10 years instead of annually.

Senator Blanco Proposed Modification

Instead of adjusting the lobby compensation thresholds every 10 years to account for inflation, exempt lobby compensation categories from that adjustment.

Representative Hull Proposed Modification

Specify that the inflationary adjustment should be rounded to the nearest \$10 if under \$100, \$100 if under \$1,000, and nearest \$1,000 for all above \$10,000 to make the limits more practical to remember and report.

Rec. 1.3 (Page 18)

Align monthly reporting periods and deadlines.

Rec. 1.4 (Page 19)

Align the itemization thresholds for electronic and non-electronic contributions.

Rec. 1.5 (Page 19)

Eliminate double counting of political expenditures made using credit cards.

Rec. 1.6 (Page 19)

Remove prescriptive mailing requirements from statute.

Rec. 1.7 (Page 19)

Remove the electronic filing exemption for campaign finance reports.

Management Action

Rec. 1.8 (Page 19)

Direct TEC to develop a comprehensive plan for short- and long-term improvements to the agency's IT resources.

Rec. 1.9 (Page 20)

Direct TEC to improve its EFS contract monitoring practices.

Rec. 1.10 (Page 21)

Direct TEC to ensure key contract management staff receive appropriate training.

Rec. 1.11 (Page 21)

Direct TEC to offer trainings to help filers navigate their disclosure requirements.

Rec. 1.12 (Page 21)

Direct TEC to coordinate helpline guidance among its divisions.

Issue 2

TEC's Regulatory Tools and Practices Hinder Its Compliance Efforts and Prevent the Agency from Prioritizing Serious Violations of State Ethics Laws. (Page 23)

Change in Statute

Rec. 2.1 (Page 29)

Require TEC to categorize violations of law within its jurisdiction according to seriousness.

Rec. 2.2 (Page 30)

Restructure TEC's audit function to better differentiate between facial compliance reviews and complete audits.

Rec. 2.3 (Page 32)

Require TEC to prioritize complaint investigations based on risk to full and accurate disclosure.

Rec. 2.4 (Page 32)

Authorize TEC to increase penalties for filers who repeatedly file reports late.

Rec. 2.5 (Page 32)

Require TEC to develop a penalty matrix.

Rec. 2.6 (Page 32)

Require filers to provide supporting records and documentation upon request by TEC.

Management Action

Rec. 2.7 (Page 33)

Direct TEC to collect and use data to improve its compliance efforts.

Issue 3

TEC's Sworn Complaint Process Fails to Promote Efficiency and Weakens the Commission's Role in Enforcing Disclosure Laws. (Page 35)

Change in Statute

Rec. 3.1 (Page 39)

Restructure the preliminary review hearing to involve only a subset of commission members.

Rec. 3.2 (Page 40)

Clearly authorize TEC to send formal hearings to SOAH.

Rec. 3.3 (Page 40)

Require judicial review of commission decisions to be based on the substantial evidence rule.

Rec. 3.4 (Page 40)

Require TEC to implement discovery control plans.

Issue 4

TEC's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 43)

Change in Statute

Rec. 4.1 (Page 45)

Amend TEC's Sunset review date to 2037.

Rec. 4.2 (Page 45)

Update the standard across-the-board requirement related to commission member training.

Management Action

Rec. 4.3 (Page 45)

Direct TEC to adopt a rule review plan.

Proposed New Recommendations

Vice Chairman Parker Proposed New Recommendation 1

The House Appropriations and Senate Finance committees should consider appropriating TEC additional funding for FTEs to support the agency's ability to provide timely customer service through its dedicated legal helpline and main phone line.

(Change in appropriation)

Chairman Bell and Representative Hull Proposed New Recommendation 2

Amend Section 254.042, Texas Election Code, to specify that if an 8-day pre-election report is determined to be late, the filer is liable to the state for a civil penalty of \$500 for the first day the report is late and \$100 for each day thereafter through election day that the report is late.

Senator Middleton Proposed New Recommendation 3

Exclude the first semiannual report due after an election from accruing daily late penalties under Section 254.042(b), Texas Election Code.

Representative Hull Proposed New Recommendation 4

Require TEC to waive late penalties if TEC cannot produce a record of the late notice sent to the filer.

Representative Hull Proposed New Recommendation 5

Direct TEC to consider revising its rules related to the definition of "substantial compliance." (Management action – nonstatutory)

Senator Sparks Proposed New Recommendation 6

Direct TEC to consider revising its rules related to the definition of "principal purpose." (Management action – nonstatutory)

Mr. Austin Proposed New Recommendation 7

Direct TEC to display the agency's list of delinquent penalties prominently on its website and include more detailed information on the amount and status of unpaid penalties. Specifically, the list should identify unpaid penalties resulting from late filed reports and from publicly available sworn complaint orders. TEC should provide (1) the filer's name; (2) the filer's status when the penalty was incurred; (3) the date and penalty amount of each violation; (4) which penalties have been referred to the Office of the Attorney General for collections; (5) whether the Office of the Attorney General accepted the referral, if known; and (6) any other information TEC deems relevant, so long as it is not confidential. (Management action – nonstatutory)

Senator Middleton Proposed New Recommendation 8

Direct TEC to provide any in-person trainings and online webinars, as well as any guides and instructions on its website, EFS help guide, and other training materials in plain language to the extent practicable. As part of this recommendation, TEC should consider tailoring some training material toward first-time and less sophisticated filers. TEC should also develop a plain-language guide for members of the public about engaging with policymakers and government officials. This guide should be published prominently on TEC's website and include information on when an individual or group would be required to register as a lobbyist or political committee; any restrictions on giving gifts to policymakers; and information relevant to first-time candidates for office and first-time or volunteer campaign treasurers. When providing guidance over TEC's helpline, TEC staff should include a clear, plain language warning about potential accruing penalties that may be applied when a filer corrects a report. (Management action – nonstatutory)

TEXAS CRIMINAL JUSTICE ENTITIES

Issue 6

BPP Does Not Ensure Its Decision-Making Processes are Fair, Consistent, Transparent, and Data-Informed. (Page 109)

Change in Statute

Rec. 6.5 (Page 123)

Require BPP and TDCJ's Parole Division to create a special conditions working group consisting of voters and Parole Division staff representatives.

Management Action

Rec. 6.6 (Page 124)

Direct BPP to develop formal and detailed internal processes to address variations from parole guidelines.