

SUNSET ADVISORY COMMISSION

STAFF REPORT

Angelina and Neches River Authority Lower Neches Valley Authority

2024-25
89TH LEGISLATURE



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Cover photo: The Texas State Capitol was completed in 1888. With the Goddess of Liberty atop the dome, the Texas State Capitol Building is 19 feet taller than the U.S. Capitol Building in Washington, D.C. The photo shows the south facade of the Capitol. Photo Credit: Janet Wood

**ANGELINA AND NECHES
RIVER AUTHORITY**

**LOWER NECHES VALLEY
AUTHORITY**

SUNSET STAFF REPORT

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HOW TO READ SUNSET REPORTS

For each agency that undergoes a Sunset review, the Sunset Advisory Commission publishes three versions of its staff report on the agency. These three versions of the staff report result from the three stages of the Sunset process, explained in more detail at sunset.texas.gov/how-sunset-works. The current version of the Sunset staff report on this agency is noted below and can be found on the Sunset website at sunset.texas.gov.

CURRENT VERSION: Sunset Staff Report

The first version of the report, the Sunset Staff Report, contains Sunset staff's recommendations to the Sunset Commission on the need for, performance of, and improvements to the agency under review.

Sunset Staff Report with Commission Decisions

The second version of the report, the Sunset Staff Report with Commission Decisions, contains the original staff report as well as the commission's decisions on which statutory recommendations to propose to the Legislature and which management recommendations the agency should implement.

Sunset Staff Report with Final Results

The third and final version of the report, the Sunset Staff Report with Final Results, contains the original staff report, the Sunset Commission's decisions, and the Legislature's final actions on the proposed statutory recommendations.

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SUMMARY OF SUNSET STAFF REPORT

While sharing management of a river basin, the Angelina and Neches River Authority (ANRA) and the Lower Neches Valley Authority (LNVA) are very different organizations. ANRA is a small rural river authority that primarily provides water and wastewater services to rural communities. ANRA acquires, rehabilitates, and operates these systems at the wholesale and retail level. LNVA is a larger, more urban river authority that primarily provides bulk raw water supply to municipalities, industries, and agriculture through two canal systems spanning approximately 600 miles with a myriad of pumping stations, holding reservoirs, and control gates. Through its canal systems, LNVA meets needs as disparate as providing industrial water for major refineries to providing drinking water for the Bolivar Peninsula.

ANRA and LNVA are very different organizations meeting very different local needs.

As a small water authority with a limited budget, ANRA must make every penny count. ANRA's mission, while critical, is not lucrative. Rehabilitating water and wastewater systems requires a heavy upfront capital injection with a long recoupment period before producing revenue — revenue that is ultimately limited. Success in the long term requires careful planning, an area in which ANRA has struggled. The Sunset review found several areas relating to long-term planning in need of improvement. First, better strategic planning would allow the authority to more clearly plot its future and identify its capabilities, opportunities, and resource gaps. Next, improved budget planning would give ANRA a better understanding of its financial position and could identify potential risks and challenges. Finally, a clearly defined process for acquiring failing utilities would better facilitate planning and operations by clearly identifying factors for consideration when planning acquisitions, including hard costs measured in dollars and cents and soft costs such as increased workload on staff. Additionally, following procurement and contracting best practices could help ANRA avoid costly pitfalls and ensure the authority is making best use of its limited resources.

While LNVA has a different mission and operates in a different environment from that of ANRA, strategic planning is just as critical to LNVA's success. Moving substantial amounts of water requires large, expensive infrastructure. Designing and building this infrastructure takes a long time so LNVA currently analyzes the needs of its region as much as thirty years out, identifies changes in future needs, and plans how best to meet those needs, which is no small task. The review found LNVA needs a more robust and documented strategic planning process that relies less on authority staff's institutional knowledge and instead establishes mission-aligned goals and action plans, considers potential impediments and staffing needs, and incorporates customer and stakeholder feedback. Similarly to ANRA, following contracting best practices could help LNVA avoid costly pitfalls and ensure the authority is making best use of its resources. Finally, this report includes several findings and recommendations relating to good government policies applied across the board during Sunset

reviews and, in the case of LNVA, other best practices for areas of public administration such as grant making, compliance with the Texas Commission on Environmental Quality's (TCEQ) audit requirements, and records management.

The following material highlights Sunset staff's key recommendations for the Angelina and Neches River Authority and the Lower Neches Valley Authority.

Sunset Staff Issues and Recommendations

ISSUE 1

ANRA Must Improve and Expand Its Planning Efforts to Fully Support Its Organizational Goals.

ANRA sees its future as a regional utility provider and pursues this goal by acquiring failing rural water and wastewater systems and rehabilitating them — a significant, emerging need within ANRA's jurisdiction that will continue to grow as utility infrastructure ages. However, ANRA lacks a comprehensive strategic planning process, imperiling the authority's ability to achieve this goal. Additionally, the authority lacks a formal utility acquisition planning process and has experienced budgetary shortfalls due to ineffective budget planning. Though ANRA believes it is now on more stable financial footing, the authority must improve its strategic, acquisition, and budgetary planning processes to meet the basin's developing challenges.

Key Recommendations

- Direct ANRA to develop and institute a strategic planning process that supports achieving the authority's long-term objectives.
- Direct ANRA to develop and institute a formal, documented planning process for facility acquisitions.
- 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.

ANRA contracts for various goods and services, which totaled about \$1.4 million in fiscal year 2023. While ANRA generally performs well in procurement and contracting, the authority does not ensure it receives the lowest price when outsourcing certain services, document and evaluate vendor performance, or follow some other contracting best practices. Implementing these best practices would better position the authority to continue to succeed and avoid risks.

Key Recommendations

- Direct ANRA to periodically conduct formal solicitations for utility repairs to ensure the authority receives fair and competitive pricing.
- Direct ANRA to formally document and evaluate vendor performance.
- 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.

Since its founding in 1933, LNVA has played a critical role in the East Texas economy, monitoring water quality of the Neches River and supplying raw water to major refineries and petrochemical plants — the bedrock of the region’s economy. Fortunately, LNVA has successfully navigated challenges for nearly a century, providing water through hurricanes, flooding, and a changing regulatory landscape. However, LNVA could do more to plan for the future. Currently, LNVA’s planning efforts are focused on capital projects, and goal setting is siloed in different divisions. By creating a more unified vision and planning process, the authority could better anticipate threats, ensure employees work toward common goals, and continue its success into the future.

Key Recommendation

- 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.

LNVA contracts for various goods and services, which totaled about \$11 million in fiscal year 2023. While LNVA generally performs well in procurement and contracting, the authority does not ensure key procurement and contract management staff receive training, document and evaluate vendor performance, or follow some other contracting best practices. Implementing these best practices would better position the authority to continue to succeed and avoid risks.

Key Recommendations

- Direct LNVA to ensure key procurement and contract management staff receives appropriate training.
- Direct LNVA to adopt a formal escalation policy to prevent contract compliance issues.
- Direct LNVA to formally document and evaluate vendor performance.
- 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.

Over the past 40 years, Sunset has observed, documented, and applied good government standards that reflect best practices designed to ensure open, responsive, and effective government. River authorities have not applied several best practices that would improve openness and transparency. The river authorities' governing laws do not reflect good government standards, such as those that address board member training or conflicts of interest, typically applied during Sunset reviews. Additionally, LNVA has not fully complied with statutory records management requirements or TCEQ rules requiring audits.

LNVA has established a grant program under its Economic Development Program (EDP) that lacks some of the best practices found in the Texas Comptroller of Public Accounts' *Texas Grant Management Standards*. As a river authority, LNVA is not required to follow these standards. However, the standards provide a solid foundation to ensure LNVA complies with all legal requirements. Additionally, as LNVA's EDP contemplates expanding into a loan program, the authority should develop policies and processes to support any financing activity, such as establishing requirements for creditworthiness and collateral, before embarking on a loan project.

Key Recommendations

- Apply to ANRA and LNVA the standard across-the-board recommendations regarding the governor's appointment of the presiding officer, grounds for removal of a board member, board member training, separation of staff and board duties, public testimony, and a system for receiving and acting on complaints.
- Direct LNVA to conduct TCEQ-required management audits.
- Direct LNVA to review and, as necessary, adopt grant administration best practices and develop loan-making policies and processes before issuing loans.

Fiscal Implication Summary

Most of these recommendations would have no fiscal impact on the state or the river authorities. The recommendations in Issues 1, 2, 4, and 5 relate to basic administrative responsibilities and could be implemented with existing resources. While the recommendations in Issue 3 are largely designed to enhance LNVA's existing strategic planning process, any impact on the authority would depend on the implementation of the recommendation. For example, the authority could decide to hire a subject matter or industry expert to help facilitate the strategic planning process, resulting in a cost that cannot be estimated at this time.

ANRA AT A GLANCE

The Legislature created the Sabine-Neches Conservation District in 1935. In 1949, the Legislature divided the Sabine-Neches Conservation District into the Sabine River Authority of Texas and the Neches River Conservation District (NRCD). In 1977, the Legislature changed NRCD's name to the Angelina and Neches River Authority (ANRA) and tasked it to control, store, preserve, and distribute the waters of the Neches River basin, which includes the Angelina River.¹ Like other river authorities in Texas, the Legislature has authorized ANRA to conduct a broad range of activities, including building and operating reservoirs, monitoring water quality, selling raw water, treating wastewater, acquiring property by eminent domain when needed, and building and managing parkland. However, ANRA was the final river authority created in the East Texas region. As a result, unlike the Trinity River Authority of Texas and Sabine River Authority of Texas, which ANRA borders, and the Lower Neches Valley Authority, which it partially surrounds, ANRA has no fixed diversion rights to use or sell any of the water in the basin.² The authority instead has impoundment water rights to store roughly 85,500 acre-feet of water in its basin if it builds a reservoir. Accordingly, ANRA primarily acts as a regional wholesale and retail utilities provider focusing on activities such as:

- Operating wholesale and retail water and wastewater utilities.
- Monitoring water quality in the Neches River basin.
- Issuing permits for on-site sewage facilities.
- Operating a composting facility.

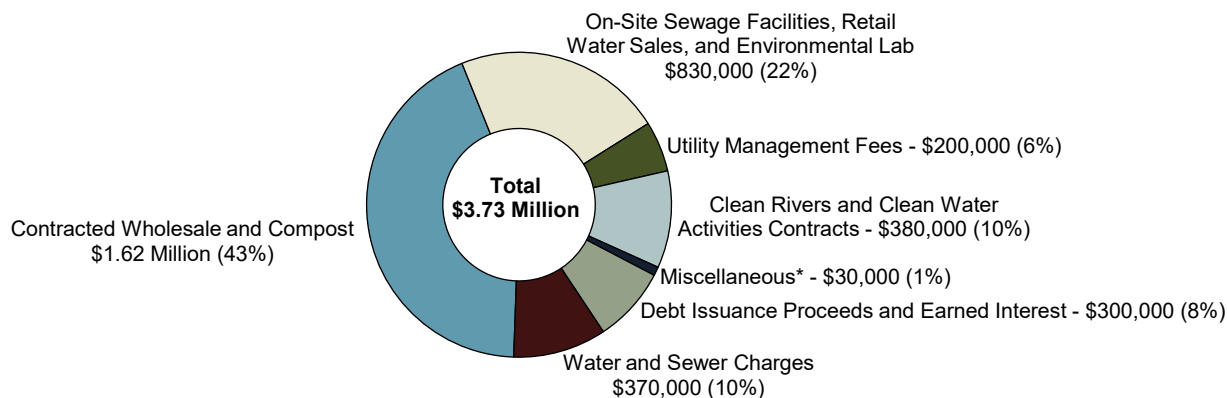
The map on Page 8 shows ANRA's jurisdiction, which includes all or part of 17 counties in East Texas.

Key Facts

- **Governance.** ANRA is governed by a nine-member board of directors appointed by the governor with the advice and consent of the Senate.³ Directors serve staggered six-year terms, and the board elects a president and other officers from its members.⁴ The board meets quarterly and as needed to provide oversight of the authority's operations and approve ANRA's budget.
- **Funding.** As the charts on the following page show, ANRA collected \$3.7 million in revenue and spent just over \$4 million in fiscal year 2023. Like many public entities, ANRA maintains fund balances in its accounts year over year, allowing the authority to cover the difference between its revenue and expenditures. However, due to financial difficulties in fiscal year 2023, the authority furloughed staff and elected not to backfill certain positions.

Revenue. ANRA receives no state appropriations and does not have authority to assess taxes but does have authority to issue bonds. ANRA generates funds primarily from its service contracts, including wholesale water and wastewater utility services as well as biosolid and wood waste disposal through its Neches Compost Facility. ANRA also collects revenue from selling the resulting compost to residents. Additional revenue sources include earnings from ANRA's retail water and wastewater utilities as well as a contract with the Texas Commission on Environmental Quality (TCEQ) to operate part of the Texas Clean Rivers Program.

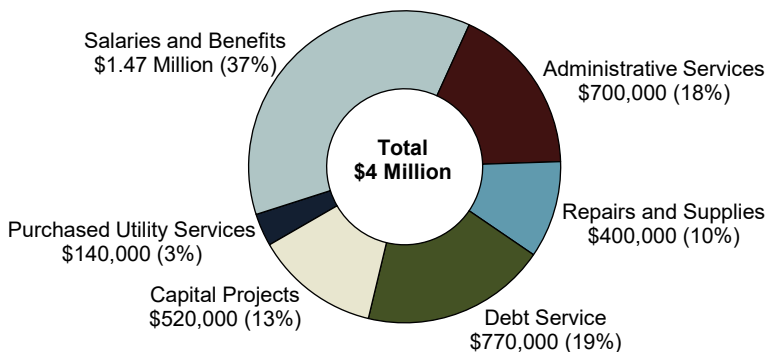
ANRA Revenue - FY 2023



* Miscellaneous includes refunds and rebates.

Expenditures. In fiscal year 2023, ANRA spent most of its budget on personnel and debt service related to the water and wastewater utilities it operates. Other expenses include repairs and maintenance of these utilities.

ANRA Expenditures - FY 2023



- **Staffing.** In fiscal year 2023, ANRA employed 21 staff at its headquarters in Lufkin and four at its Neches Compost Facility in Jacksonville. Appendix A compares the percentage of women and minorities in ANRA's workforce to the statewide civilian labor force for the past three fiscal years.
- **Wholesale utilities.** ANRA operates two wholesale utilities: Redland Wholesale Utilities and the North Angelina County Regional Wastewater Facility.

Redland Wholesale Utilities. ANRA provides wholesale water service to the Angelina County Fresh Water Supply District No. 1 and manages, operates, and maintains its water distribution system and wastewater collection system. The freshwater supply district serves approximately 350 customers.

North Angelina County Regional Wastewater Facility. ANRA provides wholesale wastewater service for four customers: Central Independent School District, Idlewood Water Control & Improvement District, Lufkin State Supported Living Center, and the Angelina County Fresh Water Supply District No. 1. Across the four customers, the regional wastewater facility serves over 5,000 users.

- **Retail utilities.** ANRA owns and operates three retail water systems: Holmwood Utilities (HMU), Prairie Grove Utilities (PGU), and Central Heights Utilities (CHU). The authority acquired HMU

in 1996 and serves approximately 175 customers. In 2022, ANRA acquired PGU, which serves approximately 230 customers. In 2023, ANRA acquired CHU, which serves approximately 350 customers. ANRA also provides retail wastewater services to HMU's customers.

- **Water Quality.** ANRA protects water quality by permitting septic systems, collaborating with the state to assess and monitor water quality, and operating a nationally accredited environmental laboratory.

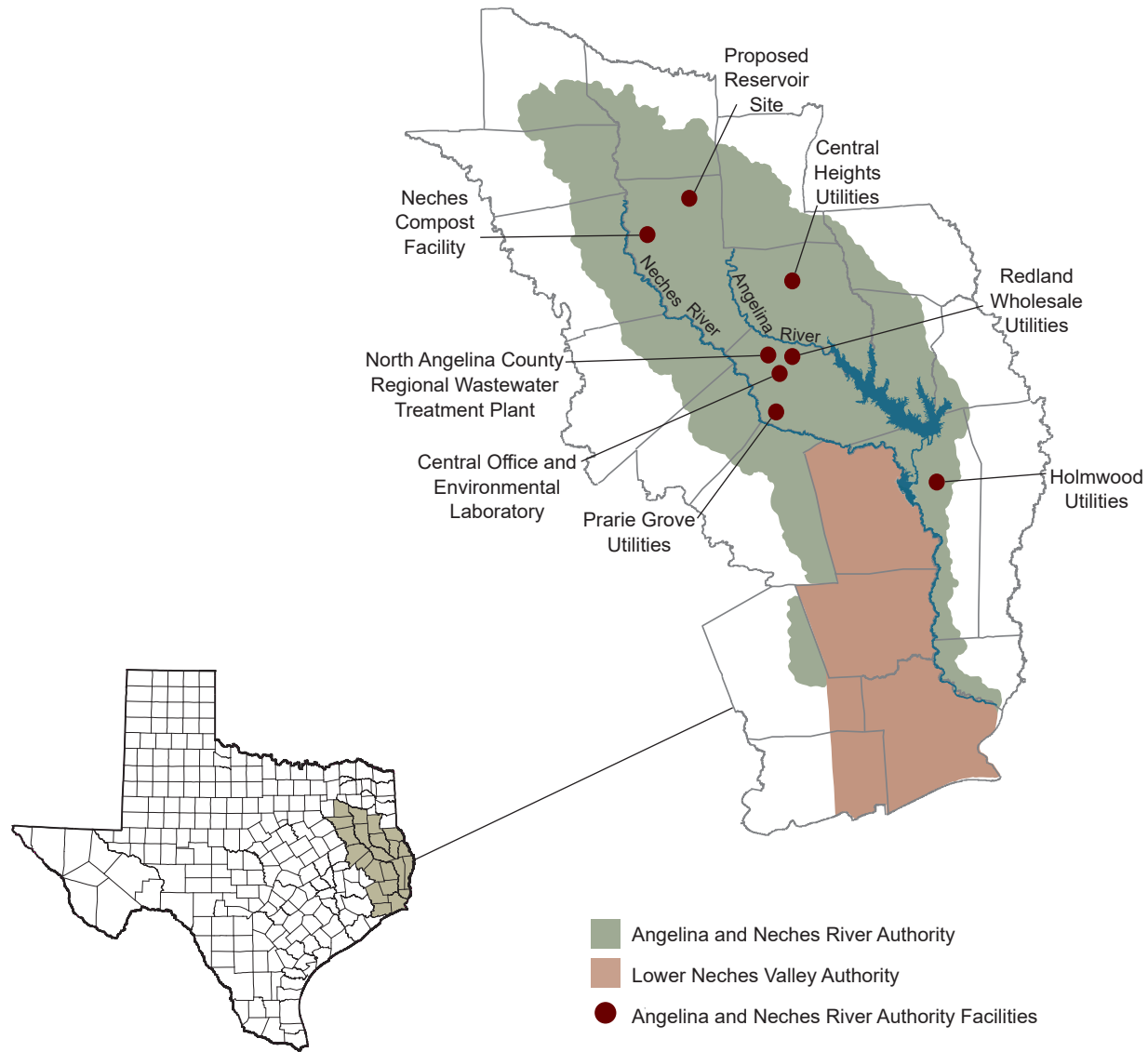
On-site sewage facilities. As an authorized agent of TCEQ, ANRA issues permits and licenses for on-site sewage facilities or septic systems in Angelina County, San Augustine County, and a 2,000-foot area surrounding Sam Rayburn Reservoir. Once ANRA permits a septic system for installation, the authority issues a license to operate to the system owner. ANRA also inspects these septic systems to ensure correct installation and adherence to design and code requirements and responds to related complaints. In fiscal year 2023, ANRA issued 894 on-site sewage facility permits. In total, the authority manages approximately 20,500 licenses to operate on-site sewage facilities.

Clean Rivers Program. As one of TCEQ's contracted partners for the Texas Clean Rivers Program, ANRA collects and analyzes water samples from 37 sites in the Neches River basin and reports this information to TCEQ. Program staff also conducts public education and outreach, such as hosting local educational events or career days and working with the Texas Stream Team, a group of citizens trained to perform water quality monitoring on a volunteer basis.

Environmental Lab. ANRA operates a laboratory accredited through the National Environmental Laboratory Accreditation Program to conduct chemical and biological testing. In addition to supporting the authority's operations and water quality functions, the lab conducts testing for cities, industries, and private citizens in the basin. The lab tests over a thousand samples per month for different water parameters, keeping over 150 routine customers informed about potential water quality issues.

- **Neches Compost Facility.** ANRA built this facility to preserve landfill capacity, preserve water quality, and reuse wastewater treatment plant biosolids through composting. It receives biosolids and wood waste materials and produces Soil Therapy Compost for sale to the public. The facility is one of less than a dozen biosolid composting facilities in Texas and the only facility of its kind within a 150-mile radius.
- **Industrial Development Corporation.** ANRA uses its Industrial Development Corporation, a nonprofit corporation ANRA established under state statute, to issue tax-exempt conduit bonds for eligible entities financing commercial, industrial, and manufacturing activities that promote economic development.⁵ The eligible entities guarantee the bonds and pay ANRA a fee to use its tax-exempt status. Since its creation in 1979, ANRA has issued 22 conduit bonds.
- **Proposed reservoir.** The proposed reservoir known as Lake Columbia has been in planning since the 1970s as a water supply reservoir with a firm annual yield of over 85,500 acre-feet of water.⁶ The creation of the reservoir is a recommended water supply strategy in the 2021 Region I Water Plan and the 2022 State Water Plan. In 2003, the Legislature statutorily designated the intended site for the proposed reservoir as a "site of unique value."⁷ No demand currently exists for the water the proposed reservoir would hold, and ANRA invests minimal resources in this potential project beyond a small share of the general manager's time.

Neches River Basin



¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 8501.151, Special District Local Laws Code.

² Texas Commission on Environmental Quality, "Water Rights and Water Use Data," webpage last modified January 23, 2024, accessed online October 29, 2024, https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wrwud.

³ Section 8501.101, Special District Local Laws Code.

⁴ Sections 8501.102 and 8501.107(a), Special District Local Laws Code.

⁵ Chapter 501, Local Government Code.

⁶ Angelina and Neches River Authority, "Lake Columbia Water Supply Project," accessed online August 22, 2024, <https://www.anra.org/services-projects/lake-columbia/>.

⁷ Chapter 1230 (SB 1362), Acts of the 78th Texas Legislature, Regular Session, 2003.

ISSUE 1

ANRA Must Improve and Expand Its Planning Efforts to Fully Support Its Organizational Goals.

Background

The state defines strategic planning as “a long-term and future-oriented process of assessment, goal setting, and decision making.”¹ While different organizations have different processes and needs, most strategic planning involves developing a vision, assessing organizational strengths and weaknesses, identifying goals and strategies, and evaluating progress. To this end, statute requires state agencies to submit strategic plans every biennium with the components described in the accompanying textbox.² While statute does not require river authorities to create strategic plans, doing so is a best practice, and many river authorities already have strategic processes in place to determine how to best meet their region’s unique needs.

State Agency Strategic Plan Components*

- **Mission:** Succinctly identifies what the agency does, why, and for whom; grounded in enabling statutes or constitutional provisions.
- **Goals and action plan:** Identifies core operational goals and key action items necessary to ensure the goal is accomplished within a certain time frame.
- **Redundancies and impediments:** Identifies state statutes, rules, or regulations that pose barriers to the agency’s effectiveness and efficiency in achieving its core mission.
- **Agency workforce plan:** Addresses the agency’s critical staffing and training needs.
- **Report on customer service:** Describes the agency’s customers and performance on customer satisfaction assessments.

**State agency strategic plans require additional components related to the state budget process and other agency requirements. The components listed above are those most applicable to river authorities.*

The Angelina and Neches River Authority (ANRA) sees its future as a regional utility provider and pursues this goal by acquiring failing rural water and wastewater systems and rehabilitating them — a significant, emerging need within ANRA’s jurisdiction that will continue to grow as utility infrastructure ages. ANRA initiates system acquisitions in response to outreach from failing utilities or their customers. The authority then requests data from the utility and, considering these data and the cost of operating ANRA’s other utilities, the general manager estimates the rate increases needed to operate and maintain the system. Next, the general manager makes an informal estimate of the upgrades the system needs to comply with Texas Commission on Environmental Quality (TCEQ) standards based on information from TCEQ’s Drinking Water Watch as well as the Public Utility Commission of Texas’ (PUC) Water and Sewer Certificate of Convenience and Necessity Viewer. Based on this estimate, staff designs the necessary capital improvement project and presents the total cost of acquiring the system to the ANRA board.

While pursuing two recent costly acquisitions, ANRA’s budgetary planning relied on one-time revenue streams, such as raw water sales to fracking operations, to fill funding gaps. When these revenue streams failed to materialize in 2023, ANRA had a budget shortfall that the general manager addressed through a

series of cost-saving measures, including furloughing staff and leaving certain positions vacant, including the authority's only engineering position. After implementing these cost containment efforts, ANRA now projects fiscal stability, but the authority must navigate additional operational responsibilities with a smaller workforce.

Findings

ANRA lacks a comprehensive strategic planning process, imperiling the authority's ability to achieve its strategic goals.

ANRA's goals and objectives represented immediate concerns and neglected to include costs, risks, and financing for acquisitions.

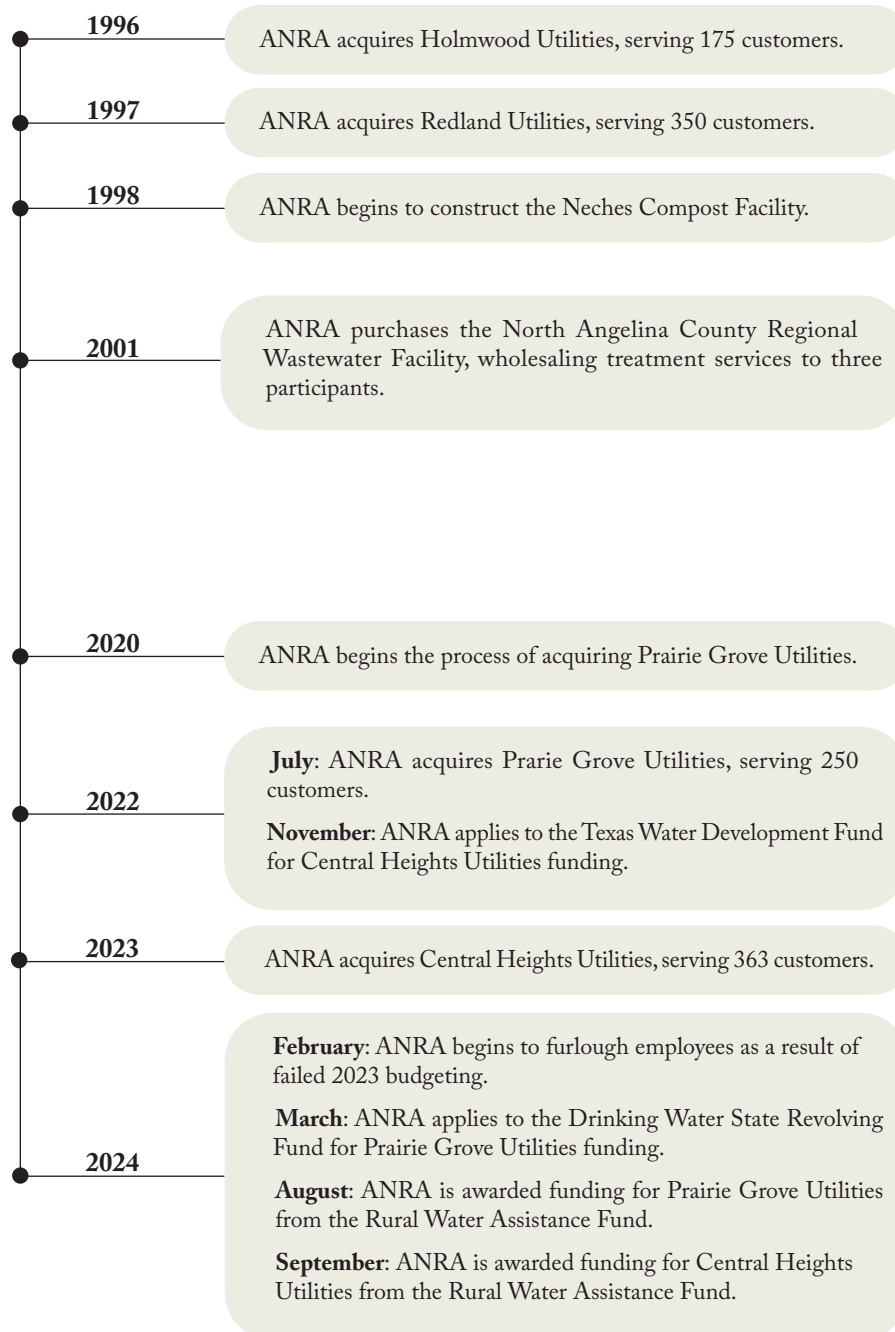
Historically, ANRA's planning process relied upon annual goals and objectives that staff discussed and presented to the board. These goals and objectives represented immediate concerns rather than long-term objectives and did not include pressing operational and financial considerations. For example, ANRA staff presented goals and objectives for fiscal year 2022 to the board on August 3, 2021, in the midst of acquiring Prairie Grove Utilities (PGU) and planning to acquire Central Heights Utilities (CHU). The goals and objectives were "related to Sunset Review preparation," and staff commented, "ANRA's standard Goals and Objectives are secondary during this process." This short-sighted approach neglected to include updates for the board regarding the costs, risks, or financing required to complete either the PGU or CHU acquisition, did not discuss future acquisitions, and did not identify upcoming challenges or vulnerabilities facing the authority.

During the course of the Sunset review, ANRA developed its fiscal year 2025 strategic plan. The authority adopted a new policy to reevaluate this plan annually and prepare a new strategic plan every five years to identify and update long-term goals and objectives. This change represents ANRA's very recent effort to engage in more comprehensive strategic planning.

ANRA more than doubled its retail utility operations while its field operations staff decreased by 20%.

While ANRA is a small authority with limited resources, its lack of strategic planning has resulted in a mismatch between the authority's desire to be a regional utility provider and its available resources. For example, as indicated in the timeline on the following page, the authority has more than doubled its retail utility operations over the past two years, acquiring PGU in 2022 and CHU in 2023. At the same time, the authority's field operations staff, who is responsible for operating and maintaining these systems, decreased by 20 percent. ANRA has not filled all of these vacant positions or created any additional roles to fulfill the authority's growing responsibilities. A more comprehensive strategic planning process would have accounted for increased personnel requirements as a result of new acquisitions. Moreover, increased workload for staff has already damaged morale and staff confidence. Sunset survey results indicate that ANRA employees feel overworked and question leadership's ability to plan system acquisitions successfully.

Growth in ANRA Operations



From 2022 to 2024, ANRA more than doubled its retail utility operations, adding 613 new retail customers to the 525 retail customers they were already serving. During this same period, ANRA's number of full-time equivalent positions fell from 23 to 21.

ANRA acquired
CHU without
an alternative
funding source
and before
securing
funding for PGU
upgrades.

ANRA's lack of a formal strategic plan in pursuing these acquisitions also placed the authority at great financial risk. In addition to requiring regular maintenance and administration, PGU and CHU need extensive upgrades to comply with TCEQ standards. However, ANRA's unstructured approach to planning resulted in the authority seeking funding for the PGU upgrades during the acquisition process for CHU, all while being entirely reliant on one funding source — the Texas Water Development Board (TWDB). TWDB's process does not allow applicants to submit funding requests for such utility acquisitions until the applicant owns the utilities. As a result, because ANRA did not evaluate the impact of not receiving TWDB funding or identify alternative funding sources before acquiring these utilities, the authority closed on the CHU acquisition without an alternative funding source and before securing funding for the PGU upgrades. ANRA only subsequently received TWDB grants to complete both upgrades in 2024, two years after submitting its initial request for a loan. Singularly relying on and assuming receipt of TWDB funding presents great risk as TWDB routinely rejects applicants, and rural entities have fared poorly in the application process.³ For example, only 0.24 percent of State Water Implementation Fund for Texas funds closed in 2021 and 2022 went toward rural projects.⁴ In 2023, Texas voters approved the establishment of the Texas Water Fund and the Legislature appropriated the fund \$1 billion that same year.⁵ However, as Texas' rural water and wastewater needs abound, competition for this funding will also be fierce. Accordingly, ANRA's planning efforts need to fully identify and account for risks inherent in the financing and execution of multimillion-dollar infrastructure upgrades.

A formal
strategic
planning process
would help
ANRA's board
make informed
strategic
decisions by
identifying
challenges and
risks.

Water utility industry best practices call for strategic plans that set specific goals and describe action steps and the resources needed to accomplish them.⁶ These specific goals and steps would give ANRA staff much-needed clarity on how to prepare options for board decision making, including identifying risk factors and gathering data and metrics needed to evaluate potential options. While ANRA's fiscal year 2025 strategic plan does address many of these considerations, the authority would benefit from formally adopting a documented strategic planning process that would ensure future strategic plans fully evaluate ANRA's financial and operational posture, set specific goals, identify performance measures, involve stakeholder feedback, and include all of the authority's divisions. A formal strategic planning process would help the board make informed strategic decisions by identifying challenges and risks before problems arise. Moreover, formal planning reduces the need for reactive decision making and ensures the authority is making the right decisions at the right time.

ANRA lacks formal acquisition planning processes, causing the authority to unnecessarily assume significant financial and reputational risk.

ANRA has no real acquisition plan to support the authority's long-term strategic goals. Instead, ANRA's process for identifying, evaluating, and ultimately acquiring failing utility systems is reactive, informal, and largely undocumented.

These system acquisitions, by far the primary driver behind ANRA's capital needs and largest expenses, are not identified via standard processes or procedures. Instead, ANRA acts in response to outreach from utilities and customers. Once ANRA identifies a failing system, the authority does not have any documented, standard criteria by which to evaluate the costs and benefits of acquiring it. Instead, ANRA relies on the experience of its general manager to develop informal cost estimates. While ANRA's board has a long-range planning committee, the committee does not have a defined or documented role in acquisitions decision making. The general manager's independent knowledge and his conversations with supporting staff are the only sources of information that inform the cost estimates presented to the full board.

Without documented methods and preestablished criteria for acquisitions, these estimates may be wildly inaccurate or inconsistent. As a result, ANRA cannot effectively evaluate the impact of system acquisition on its budget and operations. The authority is also unable to assess the impact of past acquisitions, justify those decisions, or learn from the challenges it has experienced. Given the authority's operational challenges, ANRA cannot afford to make mistakes. ANRA currently operates on a budget with thin margins for error, and any unexpected or unplanned issues during acquisition, such as not receiving expected funding, could quickly jeopardize the entire authority.

Furthermore, as mentioned above, ANRA does not have a standard, documented process for identifying and evaluating potential funding sources as the authority plans its acquisitions. Instead, the authority has moved first to acquire failed systems needing significant capital expenditure and then begin planning to secure funding afterwards. ANRA has also continued to pursue growth in spite of funding gaps; for example, despite lacking the \$7.7 million in funding required to upgrade PGU, ANRA proceeded to acquire CHU the following year. ANRA's acquisition planning process had not identified funding sources beyond TWDB to support this expansion. Without funding from a state or federal entity, ANRA was forced to solicit a smaller, initial private loan of \$3.1 million before eventually withdrawing the solicitation when TWDB awarded grant funds. Private borrowing would have significantly increased ANRA's debt service costs, an expenditure already costing \$770,000 in fiscal year 2023, almost 20 percent of the authority's budget.

As the authority consistently operates on an extremely tight budget, ANRA cannot afford any increase in debt service costs. Additionally, these increased costs would be passed onto customers who have already experienced rate hikes after ANRA's initial acquisition, and further delays in the pace of upgrades would result as ANRA secured a series of smaller, private loans. This sequence of events would have damaged ANRA's relationship with customers. Furthermore, delays in securing funding increase the authority's exposure to potential regulatory action because these failing systems are not in compliance with TCEQ standards. Utility systems that do not comply with TCEQ standards can be subject to fines of up to \$5,000 per violation for each day the violation continues.⁷

Despite lacking \$7.7 million to upgrade PGU, ANRA proceeded to acquire CHU the following year.

ANRA has continued to pursue growth in spite of funding gaps.

ANRA's irregular budgetary planning process puts the authority's operations at risk.

ANRA staff often cannot answer budgetary questions without assistance from the general manager.

ANRA lacks an effective annual budgetary planning process that fully accounts for all financial risks. ANRA's budgetary planning process is currently centered around the general manager, who receives input on departmental needs from staff and creates a proposed budget. The general manager then presents this proposed budget to the ANRA Finance Committee for review and to the entire board for them to consider and approve. However, the authority does not have a standard, documented process for creating the proposed budget or for outlining the procedures used in forming cost estimates. As a result, ANRA staff often cannot answer budgetary questions without assistance from the general manager.

Furthermore, ANRA has consistently relied on intermittent funding to plug budgetary gaps. ANRA anticipated receiving at least \$100,000 in so-called "unbudgeted revenue" from various one-time earnings, including raw water sales, in fiscal years 2020, 2021, and 2022. With changing market conditions, ANRA did not sell the raw water they expected to for fracking operations in the region, leaving the authority with a budgetary shortfall. The authority does not maintain a designated reserve fund that could have covered the deficit. As a result, ANRA furloughed employees for four months in fiscal year 2024 and temporarily left several positions vacant, including the Executive Manager of Utilities who is the authority's only professional engineer. With these reduced expenses, ANRA anticipates balanced budgets moving forward.

In Sunset's survey of ANRA employees, 64% of respondents characterize current staffing levels as somewhat or significantly insufficient.

However, the ineffective budgetary planning process remains, as does the damage it caused. The furloughs and subsequent downsizing have damaged morale and increased staff workloads. Former employees have cited poor planning and overwork as contributing to their departures. Sunset's survey of ANRA employees indicated that only 36 percent of respondents describe their responsibilities as very or somewhat manageable, and 64 percent of respondents characterize current staffing levels as somewhat or significantly insufficient. In their responses, employees cited low pay, growing workloads, and poor planning as obstacles to retention. As a small, rural river authority, ANRA will likely never be able to offer salaries that are competitive with urban private sector employers. However, ANRA's poor budgetary planning has damaged its reputation as a credible long-term employer.

Other authorities use an annual budgetary planning schedule, including documented projections and meetings, to obtain customer input. Additionally, cost and revenue estimates follow a standard, documented procedure that provides year-over-year consistency. These methods ensure the organization accurately evaluates its financial position and can identify potential risks and challenges before they require remedial action.

Sunset Staff Recommendations

Management Action

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

This recommendation would direct ANRA to develop a strategic planning process that analyzes the authority's current position, defines a vision for the future, and outlines measurable goals to achieve this vision. While developing this process, ANRA should consider including:

- A timeline for the strategic planning cycle, including when planning, assessment of progress, and strategic plan updates and adjustments are conducted.
- A method to assess the authority's strategic position, including its strengths, weaknesses, and organizational risks.
- A plan to solicit feedback from relevant stakeholders such as customers and the public.
- A list of necessary components for the final strategic plan document such as authority-wide goals, action steps to achieve them, and measures of success. The final plan should also contemplate all ANRA divisions and areas of operation, including utilities, human resources, finance, and IT.
- A policy that outlines how staff should document all steps of the strategic planning process.

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

Under this recommendation, ANRA should establish, document, and execute a planning process that includes standardized evaluation criteria and cost-estimate procedures when determining whether to acquire a new facility. These criteria and procedures should relate to the authority's overall strategic planning efforts and include assessments of staff capabilities and potential funding sources. ANRA should involve the ANRA board's long-range planning committee from the outset of this process. In addition, for each of these major projects, ANRA should consistently document discussions and resulting decisions to enable a retrospective analysis, and, if needed, an adjustment of ANRA's chosen criteria and methodology.

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

This recommendation would direct ANRA to establish an annual budget planning process in which recurring revenue equals or exceeds recurring expenditures. The process should identify how recurring revenue aligns with recurring expenditures. The authority should consider establishing a designated reserve fund and using reserves and one-time revenue to balance the budget but only in the context of a plan to return to structural balance, replenish the fund balance, and ultimately remediate the negative impacts of any other short-term balancing actions taken. Furthermore, the resulting plan should be clear about the time period over which returning to structural balance, replenishing reserves, and remediating the negative impacts of balancing actions are to occur.

Fiscal Implication

These management recommendations can be implemented with existing ANRA resources and would not result in a significant fiscal impact to the state or ANRA.

¹ Legislative Budget Board, *Instructions for Preparing and Submitting Agency Strategic Plans: Fiscal Years 2025 to 2029*, p.1, accessed online September 18, 2024, https://www.lbb.texas.gov/Documents/Instructions/Strategic_Plan/8125_Strategic_Plan_Instructions_89R.pdf.

² *Ibid.*, pp. 6-7, 11-12.

³ Texas Sunset Advisory Commission, *Staff Report with Final Results: Texas Water Development Board, State Water Implementation Fund for Texas Advisory Committee*, June 2023, p. 22, accessed online October 31, 2023, https://www.sunset.texas.gov/public/uploads/2023-08/Texas%20Water%20Development%20Board%20Staff%20Report%20with%20Final%20Results_6-26-23.pdf.

⁴ Texas Water Development Board, *2022 Biennial Report on the Use of the State Water Implementation Fund for Texas*, updated March 14, 2023, p. 18, accessed online November 4, 2024, https://www.twdb.texas.gov/publications/reports/special_legislative_reports/doc/2022_SWIFT.pdf.

⁵ SB 28, 88th Texas Legislature, Regular Session, 2023.

⁶ American Water Works Association, "Strategic Planning for Water Sector Utilities," *Manual of Water Supply Practices: Water Utility Management*, 3rd ed., 2017, p. 13.

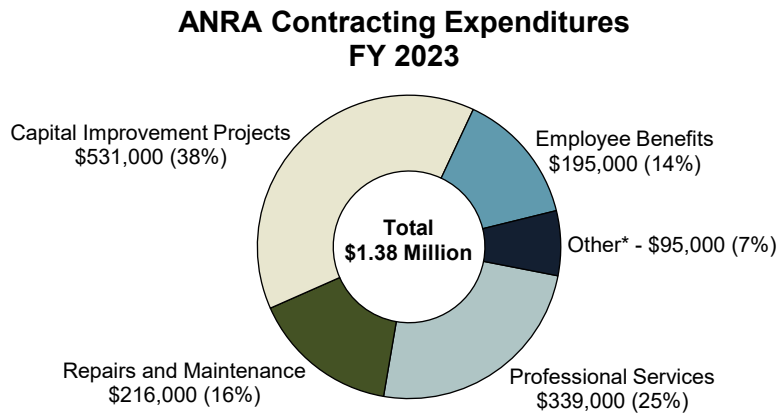
⁷ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 13.414, Texas Water Code; 30 Texas Administrative Code, Part 1, Chapter 291, Subchapter J, Section 291.144 (2009) (Texas Commission on Environmental Quality, *Fines and Penalties*).

ISSUE 2

An Improved Procurement and Contracting Process Would Better Protect ANRA from Unnecessary Risks.

Background

The Angelina and Neches River Authority (ANRA) contracts for a variety of services, including engineering, accounting support, and information technology (IT) support as well as a range of equipment and supplies for operation and maintenance. ANRA’s contracting expenditures in fiscal year 2023 totaled about \$1.4 million, making up about 34 percent of ANRA’s total expenditures. The accompanying chart gives a breakdown of ANRA’s contracting expenditures. These figures do not include one-time purchases for utilities, which are discussed in more detail below. ANRA’s general manager oversees contracting functions, but individual departments, such as field operations, conduct the contracting process by identifying specific departmental or utility needs and selecting a vendor for smaller purchases. The ANRA fiscal policy outlines standard procedures for contracting such as the maximum costs of purchases and term length of contracts that can be approved at various staff levels. The accompanying table shows a breakdown of ANRA’s contract types and purchasing authorities.



* Other includes communication, facility services, and electric generation.

ANRA Contract Types

Approval Authority	Contract Type
Department Director	<ul style="list-style-type: none"> Single budgeted purchases up to \$10,000.
General Manager	<ul style="list-style-type: none"> Single budgeted purchases between \$10,000.01 and \$150,000. Contracts for goods or services up to \$50,000 or up to a two-year term.
Board of Directors	<ul style="list-style-type: none"> Single purchases greater than \$150,000. Contracts for goods or services greater than \$50,000 or greater than a two-year term. All construction contracts.

Purchases or contracts greater than \$150,000 require a competitive sealed bid process and board approval. ANRA selects competitive bids based primarily on lowest cost. Most of ANRA’s purchases above \$150,000 are funded through Texas Water Development Board (TWDB) grants or loans. However, the authority anticipates potential for large procurements in the future, such as large equipment purchases for its Neches Compost Facility, outside the TWDB funding process. When contracting with TWDB funds, ANRA uses TWDB contract templates and follows TWDB guidelines.

The Field Operations Department, which is responsible for maintenance and repairs to ANRA’s utility systems, conducts a significant amount of ANRA’s contracting. This department is composed of four

licensed operators, three of whom are full time and one part time. Given the department's limited capacity and equipment, field operations frequently works with contractors to fix water leaks and other issues. Field operations staff typically makes an assessment on-site whether a repair or maintenance item requires a contracted vendor. For example, for any repair that requires an excavation, ANRA will hire a contractor. The department also conducts one-time purchases for equipment, tools, and preventative maintenance needs. In fiscal year 2023, field operations made 573 one-time purchases for repairs, equipment, tools, and maintenance for the authority's utility systems, costing about \$220,000.

When evaluating an entity's contracting process, Sunset uses the general framework established in the *State of Texas Procurement and Contract Management Guide* as well as documented standards and best practices compiled by Sunset staff.¹ As a political subdivision, ANRA is not subject to many of the procurement laws on which the guide is based, as the laws were designed for state agencies. However, as a quasi-state agency that spends public funds, ANRA would benefit from adopting several best practices state agencies use in their contracting processes. Because the guide establishes the most comprehensive set of standards for government contracting, purchasing, and procurement in the state, it serves as a good starting point for evaluating a river authority's contracting processes. While ANRA generally performs well in procurement and contracting, implementing best practices to address some key areas would better position the authority to continue to succeed and avoid risks.

Findings

ANRA's lack of an effective selection process for utility repair contractors prevents the authority from knowing if it receives the lowest price.

ANRA lacks a comprehensive process to ensure it receives the lowest price for repairs to the authority's utility systems performed by outside companies. ANRA's Field Operations Department hires companies on a case-by-case basis for such repairs without conducting a solicitation before selecting a vendor, requiring fixed pricing, or retrospectively evaluating these purchases to determine whether the authority overpaid or could have received a better price elsewhere. Instead, field operations staff contacts the first available repair service company that has the capacity and availability to do the job, including during emergencies, without considering the cost.

In addition, ANRA limits its use of outside utility repair work to Lufkin-based utilities contractors the authority knows, which has resulted in ANRA relying on just three companies. This limited selection methodology has largely met ANRA's need for vendors to respond on an emergency basis in the Lufkin area; however, as ANRA's service area grows, this approach may provide insufficient coverage in the future. In the past five years, ANRA's operations have expanded. For example, the authority acquired Central Heights Utilities, located just outside Nacogdoches, in 2023. As ANRA continues to make acquisitions, its potential contractor pool could expand into nearby markets. Only using utilities contractors in Lufkin results in great distances to and from certain facilities and potentially higher costs, and ANRA has no documented process for taking stock of contractors across its region to identify who is potentially capable of repair services and at what rate.

Only using utilities contractors in Lufkin results in great distances to and from certain facilities and potentially higher costs.

A procurement solicitation, such as a Request for Proposal (RFP), is a formal invitation to potential vendors to compete for government business. State agencies in Texas generally use an RFP when they need to consider factors other than price or seek to negotiate price.² ANRA's vendor performance priorities of capability and speed do not preclude a formal solicitation process. The authority could draft and advertise a solicitation that specifies ANRA's needs and requirements for contractors, evaluate all solicitation responses, and negotiate a fixed price for services such as preventative maintenance. Another alternative to the contract-when-needed approach is an umbrella agreement that establishes an arrangement for work in anticipation of future need and can span multiple fiscal years. Under an umbrella agreement, the contract is already in place to use whenever the service is needed, and contractors are paid when they do the work, not when they sign the contract.

ANRA's vendor performance priorities of capability and speed do not preclude a formal solicitation process.

By proactively considering vendor qualifications and pricing through a formal solicitation process, such as an RFP, ANRA would be more equipped to procure the lowest price for contracted utility repairs, mitigate the risk of overpaying, and prevent unmet repairs due to vendor non-responsiveness or unavailability. Such a process would allow ANRA to maintain a list of contractors the authority could use for different utilities or different portions of the basin, potentially expanding the authority's pool of vendors and cutting travel costs.

Lack of formal documentation and evaluation of vendor performance creates future risk of uninformed vendor selections.

- **Informal vendor performance documentation and evaluation.** Entities should formally assess and document the overall success of contracts, including contractor performance, upon contract completion. Currently, ANRA relies only on staff's first-hand knowledge and personal experience to evaluate vendor performance. A formal vendor performance evaluation process would improve ANRA's future contracting efforts by better informing the authority's vendor selection.
- **Contractor research.** Entities should conduct research on potential contractors before awarding a major contract. Third-party resources can enhance the evaluation of potential vendors beyond internal documentation and research, particularly for vendors with which a contracting entity has no prior history. ANRA does not formally assess a vendor's prior performance when evaluating responses to requests for qualifications and requests for proposals. Checking additional resources, like the Texas Comptroller of Public Accounts' Vendor Performance Tracking System (VPTS), before awarding major contracts could help the authority obtain the most comprehensive information available on potential vendors and thereby reduce further risk. The VPTS provides detailed information on past vendor performance, helping entities confirm the reputability of vendors and make a best-value determination when selecting a vendor to award a contract. While river authorities are not required to use the

ANRA relies only on staff's first-hand knowledge and personal experience to evaluate vendor performance.

VPTS, ANRA could benefit from reviewing the comprehensive historical information it provides.

Additional best practices would improve the transparency and fairness of ANRA’s contract solicitation and award process for large contracts.

ANRA has no formal documentation process for contracts not funded by TWDB. Standard best practices for contracting procedures have been established because of their proven value to organizations. Addressing the following concerns would further strengthen ANRA’s ability to deliver projects, uphold transparency and fairness in its solicitation process, and engage a more diverse pool of potential vendors.

No ANRA employees have contract development or contract monitoring certifications.

- **Training and contract management certifications.** Contract managers should receive standard contract management training. ANRA does not provide staff training on the evaluation of solicitation responses or detailed project management information. Additionally, no ANRA employees have contract development or contract monitoring certifications such as those offered by the comptroller’s office. ANRA does not require staff managing professional services or construction contracts to receive any form of regular training to ensure they understand how to properly monitor contracts for expected deliverables as well as when and how to address contractor performance problems. While ANRA is not required to have contracting personnel certified by the comptroller’s office, this training is a best practice that helps ensure vendor proposals are evaluated uniformly and fairly and that contracts are managed properly.

ANRA is potentially missing opportunities to reach out to HUB vendors.

- **Use of historically underutilized businesses (HUBs).** ANRA lacks a comprehensive and formal approach to HUB contracting, potentially missing opportunities to reach out to HUB vendors. Although ANRA is not subject to the same HUB requirements as state agencies, the Texas Commission on Environmental Quality requires river authorities to adopt administrative policies that comply with the provisions and intent of the statutory requirements for contracting with HUB vendors.³ Furthermore, Sunset staff is required to evaluate the HUB programs of entities under review.⁴ ANRA’s 2024 Purchasing and Procurement policy encourages but does not explicitly require contracting with HUBs, and ANRA does not have a HUB subcontracting plan for vendors competing for awards over \$100,000.
- **Conflict-of-interest statements and nondisclosure agreements.** Entities can protect the integrity of the vendor evaluation process by ensuring personnel involved in soliciting and evaluating competitive contract proposals sign a statement affirming they have no conflicts of interest with any respondents and agree that they will not engage in the premature or unauthorized disclosure of information about solicitations. ANRA does not require staff involved in solicitation response evaluation to sign conflict-of-interest statements or nondisclosure agreements prior to bid selection. In

contrast, best practice for state agencies is for agency personnel to receive the names of vendors before they participate in reviewing responses so that personnel may disclose conflicts of interest, particularly if contracts exceed \$1 million.⁵ Ensuring staff who evaluates contract proposals has signed updated nondisclosure and conflict-of-interest statements before accessing documents or evaluating submissions would prevent bias in ANRA's contract selection process, safeguard sensitive vendor information and protect ANRA from actual or perceived conflicts of interest.

Signed conflict-of-interest statements help prevent bias in vendor selection.

- **Award dispute policy.** Entities should have clear policies and procedures for protesting contract awards. ANRA does not outline a clear, formal procedure by which a vendor may dispute an award or learn why they were not selected. While ANRA staff is unaware of ANRA receiving any formal award disputes, a formalized contract award dispute process would promote greater transparency and fairness in ANRA's contract award decisions.
- **Professional services procurement process.** ANRA treats professional services procurement, specifically for engineering services, informally. Rather than issuing a request for qualifications (RFQ) to select a vendor, ANRA reaches out to a firm with which the authority has a previously established relationship. The comptroller's *Procurement and Contract Management Guide* states that professional services procurement should ensure demonstrated competence and qualifications to perform the services at a fair and reasonable price.⁶ Although not subject to state contracting requirements, soliciting through a formal RFQ process would better ensure ANRA contracts for professional services with the most qualified vendors and receives a fair price.

Sunset Staff Recommendations

Management Action

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

Under this recommendation, ANRA would periodically issue a formal solicitation, such as an RFP, across its service area as part of a competitive procurement process and analyze the price and qualifications of potential vendors for utility repairs. This process would allow ANRA to quantify and compare the costs and benefits of one-time purchases to longer-term contracts for field operations. The board could use this information to evaluate the potential impact of purchasing for repairs and services as part of ANRA's field operations and identify which approach is most cost effective.

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

This recommendation would direct ANRA to consider hiring utility repairs contractors through umbrella agreements, which establish a contractual relationship and set the price for work well before the work is needed. ANRA could identify multiple vendors that would essentially be available on standby to make repairs or provide maintenance to the authority's utility systems when needed. ANRA would enter contracts setting the price for providing this type of service at a future date. Once a contract is in place, ANRA would only need to issue payment when a vendor renders service, at the time when the work

is needed. Establishing umbrella agreements up front would make ANRA better able to access needed services that promote the operations and longevity of its utility systems.

2.3 Direct ANRA to formally document and evaluate vendor performance.

This recommendation would direct the authority to document vendor experiences and refer to that documentation and other available information to evaluate vendors for future contracts. As part of this process, ANRA should:

- **Develop a standard vendor evaluation process.** The authority should evaluate vendor performance at contract completion and document “lessons learned” to improve future contract awards and contracting functions.
- **Consider other sources of data to improve its vendor evaluation.** For example, reviewing the VPTS database could provide ANRA with valuable insight into past vendor performance and help ensure contractors do not have a concerning history.

2.4 Direct ANRA to adopt contracting best practices to ensure consistency.

This recommendation would direct ANRA to take additional steps to improve certain contracting activities to better protect the integrity of its contract solicitations and increase the participation of historically disadvantaged vendors. ANRA should adopt the following best practices:

- **Ensure key procurement and contract management staff receives appropriate training.** This recommendation directs the authority to ensure all staff members involved in evaluating vendor responses to solicitations and project management receive training appropriate to their role in contracting processes. Training should include best practices for evaluating vendor responses to solicitations, skills necessary for managing contracts and vendors, and other information ANRA deems necessary. This recommendation also directs ANRA to certify appropriate staff members involved in contract development and contract management through the comptroller’s office.
- **Proactively plan and monitor HUB policies.** This recommendation directs ANRA to develop and implement a formal HUB policy that identifies performance targets, create HUB subcontracting plans where feasible for contracts over \$100,000, and report HUB data to the board. Consolidated under a formal HUB plan, these measures would match ANRA’s efforts with specified goals, actions, and measurable results.
- **Require signed conflict-of-interest statements and nondisclosure agreements.** Employees involved with vendor responses to solicitations should sign a statement affirming they have no conflicts of interest prior to reading or discussing vendor responses as well as an agreement to maintain confidentiality of information about vendor responses to solicitations. These signed statements would help prevent bias in contract selection and protect vendor information.
- **Formalize vendor award dispute policy.** ANRA should develop and adopt formal procedures for resolving vendor disputes and clearly outline these procedures in solicitation instructions. When the authority receives a dispute, ANRA should assess the merits of the dispute and provide an explanation and documented justification for how staff evaluated vendor responses to solicitations and made their decisions. Having a formal dispute policy would promote fairness and transparency in ANRA’s vendor selections, ensuring ANRA staff follows appropriate procurement processes. ANRA should then make improvements to its procurement practices based on the dispute findings.

- **Professional services procurement.** This recommendation directs the authority to use an RFQ process for procuring professional services, including but not limited to engineering services. ANRA must develop an RFQ policy requiring the authority to select the most highly qualified provider based on demonstrated competence and qualifications and negotiate a fair and reasonable price for services. If a satisfactory contract cannot be negotiated with the most highly qualified respondent, the authority should formally end negotiations with the respondent and attempt to negotiate a fair and reasonable price with the next most highly qualified respondent. Implementing this process would ensure the authority receives the lowest price and highest quality of service.

Fiscal Implication

These recommendations would not have a fiscal impact to the state or ANRA. The recommendations relate to basic administrative responsibilities ANRA could implement with existing resources.

¹ Texas Comptroller of Public Accounts (CPA), *State of Texas Procurement and Contract Management Guide*, accessed online October 4, 2024, <https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>.

² Ibid, pp. 33-34.

³ 30 Texas Administrative Code, Part 1, Chapter 292, Subchapter B, Section 292.13(5)(B) (2023) (Texas Commission on Environmental Quality, *Minimum Provisions*); all citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Chapter 2161, Texas Government Code.

⁴ Chapter 325.011(9)(B), Texas Government Code.

⁵ Sections 2262.001 and 2262.004, Texas Government Code.

⁶ CPA, *State of Texas Procurement and Contract Management Guide*, p. 40-41, accessed online October 4, 2024, <https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>.

LNVA AT A GLANCE

The Legislature created the Lower Neches Valley Authority (LNVA) in 1933 to store, conserve, control, and distribute the storm and flood waters of the Neches River.¹ Following the discovery of oil at Spindletop in the early twentieth century, the Legislature tasked LNVA with managing the growing water needs of the Beaumont-Port Arthur area. As it has done for other river authorities in Texas, the Legislature authorized LNVA to conduct a broad range of activities, including building and operating water infrastructure, storing water to generate hydroelectric power, acquiring property by eminent domain when needed, maintaining and extending canal systems, and encouraging economic development through community assistance programs. LNVA engages in a number of these activities, including:

- Serving as the local sponsor for two U.S. Army Corps of Engineers reservoirs.
- Maintaining two canal systems to supply raw water to municipal, industrial, and agricultural customers.
- Operating a wastewater treatment plant for industrial customers.
- Operating a water treatment plant that provides drinking water to the Bolivar Peninsula.
- Issuing industrial development bonds and providing economic development grants to eligible entities.
- Monitoring water quality in the Neches River.
- Participating in Regions H and I Regional Water Planning Groups; Region 5 Neches Regional Flood Planning Group as the local sponsor; and water conservation and drought contingency planning.
- Maintaining and operating the Neches River Saltwater Barrier and public recreation facility.

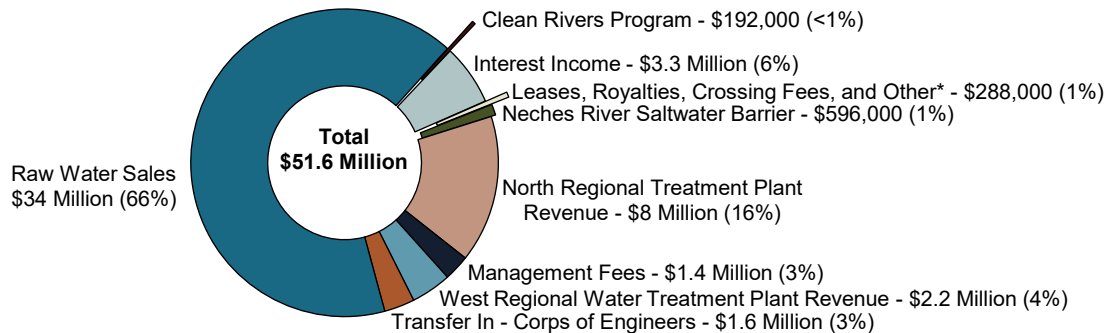
The map on Page 29 shows LNVA's jurisdiction, which includes all of Hardin, Jefferson, and Tyler counties as well as eastern sections of Chambers and Liberty counties.² LNVA's jurisdiction is partially surrounded by that of the Angelina and Neches River Authority, which has jurisdiction over the upper part of the Neches River basin, including the Angelina River.

Key Facts

- **Governance.** LNVA is governed by a nine-member board of directors appointed by the governor with the advice and consent of the Senate.³ The board has five directors representing Jefferson County, two directors representing Hardin County, and two directors representing Tyler County.⁴ Directors serve staggered six-year terms, and the board elects a president and other officers from its members.⁵ The board meets every month to provide oversight of the authority's operations and approve LNVA's budget.⁶
- **Funding.** As the charts on the following page show, LNVA collected \$51.6 million in revenue and spent \$41.7 million in fiscal year 2023.

Revenue. LNVA receives no state appropriation and does not have authority to assess taxes, but the authority may issue bonds.⁷ LNVA primarily generates revenue by selling raw water to industrial, municipal, and agricultural customers. Other sources of revenue include West Regional Water Treatment Plant potable water sales, North Regional Treatment Plant (NRTP) income, and local and federal funding for the Saltwater Barrier.

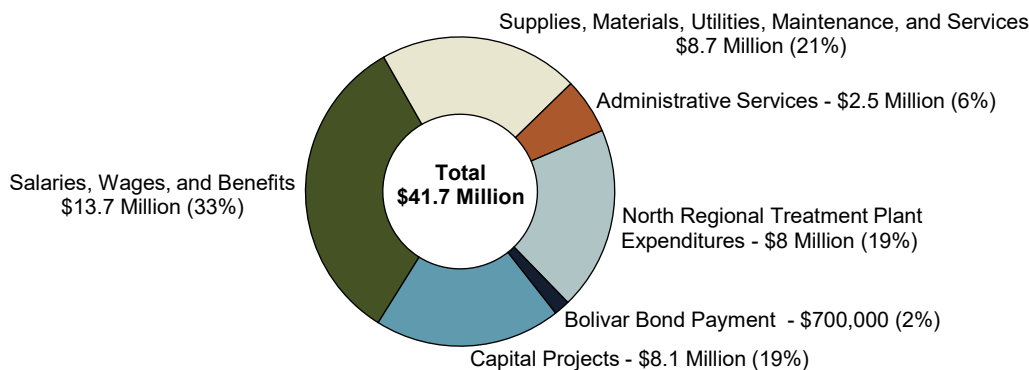
LNVA Sources of Revenue - FY 2023



* Other includes miscellaneous revenue such as scrap metal sales.

Expenditures. In fiscal year 2023, LNVA spent roughly a third of its budget on salaries, wages, and benefits for staff. LNVA’s remaining expenditures were for capital projects, NRTP expenditures, bond payments, administrative services, and various supplies, materials, maintenance, and services.

LNVA Expenditures - FY 2023



Reserve Funds. LNVA maintains separate reserve funds for capital improvement projects, economic development grants, and a general reserve. According to LNVA policy, the general reserve fund must have sufficient funds to cover three months of the authority’s operating budget as well as four to six percent of total building and equipment costs and provide for any unfunded liabilities. LNVA ended fiscal year 2023 with a general reserve balance of roughly \$70 million, a capital improvement fund balance of \$18 million set aside for 31 projects, and an economic development grant fund of \$5.6 million.

- **Staffing.** In fiscal year 2023, LNVA employed 125 full-time employees. Of these 125, 118 employees work out of LNVA’s service center and other division offices in Beaumont, while the remaining staff works at the West Regional Water Treatment Plant in Winnie and a field office in Devers.

Appendix B compares the percentages of minorities and women in LNVA’s workforce to the statewide civilian labor force for the past three fiscal years.

- **Reservoirs and water supply.** LNVA’s largest division, Fresh Water Supply, manages approximately 600 miles of canal that provide raw water to 10 cities and water districts, 30 industrial customers, and over 80 agricultural customers.⁸ The authority holds nearly 1.2 million acre-feet in water rights,

as reflected in the accompanying table.⁹ LNVA stores water in two federal reservoirs — the Sam Rayburn Reservoir and Lake B.A. Steinhagen. Additionally, LNVA owns and manages three small backup water supply reservoirs along its canal systems. To provide raw water, LNVA requests the U.S. Army Corps of Engineers release water as necessary, which flows through the Big Thicket National Preserve, down the bed and banks of the Neches River to the points where the authority pumps the water from the river into the Neches Canal System for distribution to customers.¹⁰ In 2008, LNVA acquired the Devers Canal System from the Devers Canal Rice Producers Association.¹¹ Built roughly a century ago, this canal system lifts water from the Trinity River and distributes it to over 15,000 acres of farmland.¹² While still in the early planning stages, the authority intends to build the West Beaumont Reservoir, which it would own, operate, and use as a backup water supply during emergencies.

LNVA Water Rights Permits

Water Right Type	Issue Date	Diversion Amount (acre-feet per year)	Storage Amount (acre-feet per year)	Basin
Adjudicated Water Right	1986	792,000		Neches
Adjudicated Water Right	1986	381,876		Neches
Adjudicated Water Right	1986	2.1		Trinity
Water Right Permit	1990	2,500	1,195	Trinity
Water Right Permit	2002	—	4,721	Neches
Water Supply Contract	2023	34		Trinity

- **Wastewater treatment plant.** LNVA manages and operates the NRTP, which is owned by the Neches River Treatment Corporation, a subsidiary of ExxonMobil. Under LNVA's and the treatment corporation's contract terms, LNVA operates the NRTP to treat industrial wastewater for four users — ExxonMobil Beaumont Refinery, ExxonMobil Beaumont Chemical Plant, Chemtrade Logistics, Inc., and Arkema, Inc. LNVA staff performs all of the day-to-day management of the plant and ensures all treatment processes meet regulatory standards.¹³ In return, the treatment corporation reimburses LNVA for all management and operation costs. By regionalizing industrial wastewater treatment services, LNVA creates efficiencies for industrial users and ensures water meets environmental and safety standards before going back into the Neches River.
- **Water treatment plant.** LNVA owns and operates the West Regional Water Treatment Plant and acts as a water wholesaler to provide drinking water to the Bolivar Peninsula Special Utility District. Constructed to address Bolivar Peninsula's poor water quality, the water treatment plant has a capacity of 5 million gallons per day and 33 miles of pipeline that connect it to the utility district. Once water is transferred to the peninsula, the utility district takes custody of treated water and is responsible for distributing water to Bolivar Peninsula customers and collecting payment.¹⁴
- **Economic development.** LNVA promotes the economic growth of communities along the Neches River through its Economic Development Program grants and Industrial Development Corporation bond issuances. The Economic Development Program provides grants or loans of up to \$100,000 to people or entities located in the Neches River basin or Neches-Trinity Coastal basin with projects that meet at least one of the following criteria: encourages economic diversification, maintains or expands employment, provides training, improves the attractiveness of the community, or improves the quality or quantity of community services.¹⁵ For larger industrial projects, the Industrial Development Corporation issues tax-exempt bonds to eligible entities with plans to further the region's economic growth.

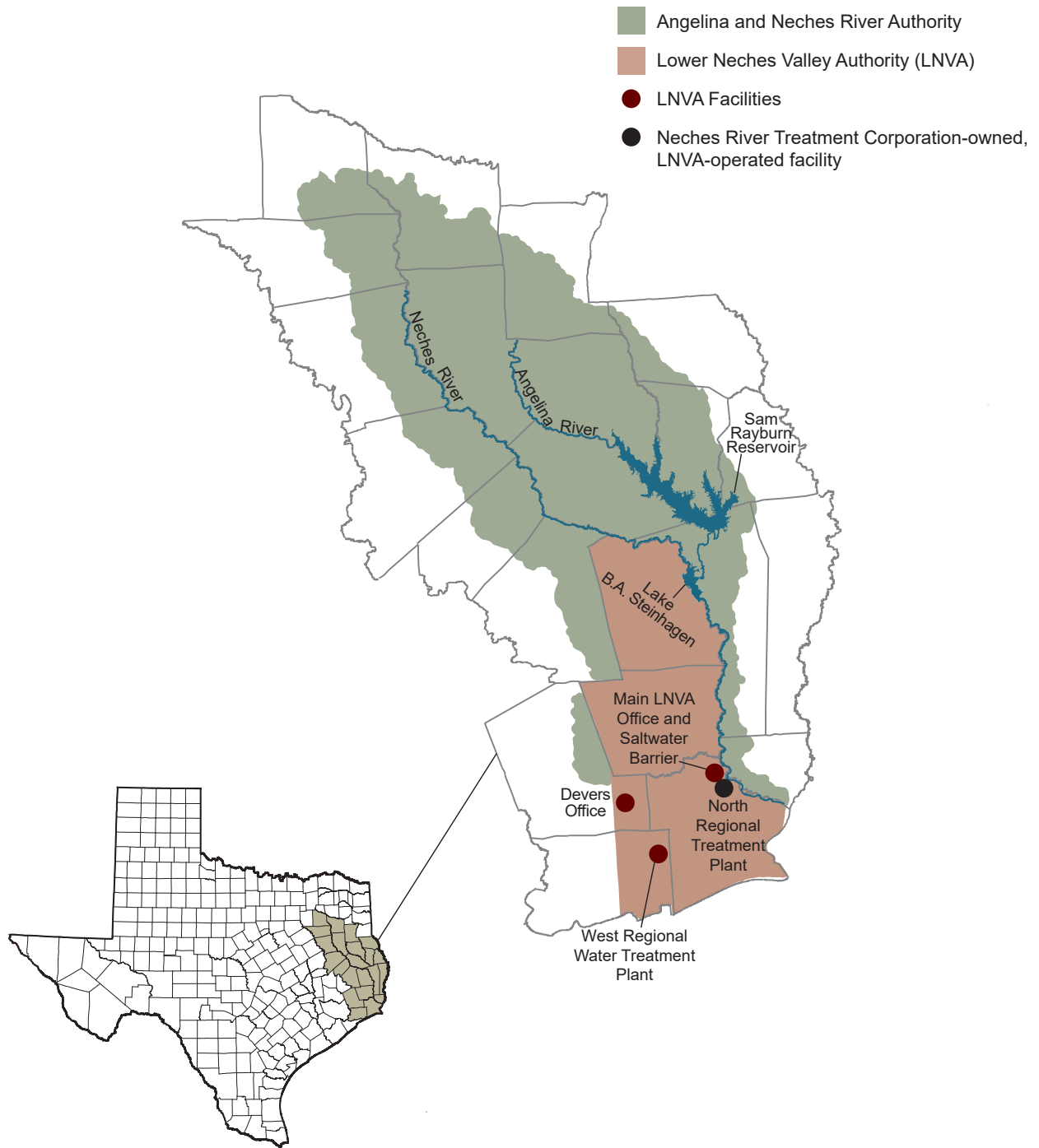
- **Water quality.** LNVA is involved in several water quality initiatives along the Neches River, including the Texas Clean Rivers Program, and manages an environmental lab.

Clean Rivers Program. As one of the Texas Commission on Environmental Quality's (TCEQ) contracted partners for the Texas Clean Rivers Program, LNVA collects and analyzes water samples from 23 sites in the lower Neches basin and reports this information to TCEQ.¹⁶ Clean Rivers Program staff also conducts public outreach such as hosting local fundraisers or career days and working with the Texas Stream Team, a group of citizens trained to perform water quality monitoring on a volunteer basis.

Environmental Lab. LNVA also conducts various routine water quality analyses for industrial and municipal customers at its environmental lab. While the lab does not perform testing for members of the public, water supply customers can bring samples in for testing. The lab tests for 18 different water parameters and informs customers about potential water quality issues.

- **Saltwater Barrier.** A federal project designed in coordination with the U.S. Army Corps of Engineers, the Neches River Saltwater Barrier prevents upstream intrusion of saltwater into the Neches River. The barrier is made up of a navigational pass and five tainter gates that can be raised or lowered to control the discharge of freshwater without allowing the upstream migration of saltwater, protecting the freshwater habitat upstream, and ensuring better water quality for LNVA customers. The barrier facility is also home to LNVA's environmental lab, Clean Rivers Program offices, and a public recreation space with boat ramps, restrooms, walking trails, and a picnic area.¹⁷

Neches River Basin



¹ Ch. 63 (SB 38), Acts of the 43rd Legislature, 1st Called Session, 1933.

² All citations to Texas statutes are as they appear on <http://www.statutes.legis.gov/>. Section 8504.003, Texas Special District Local Laws Code.

³ Section 8504.051(a), Texas Special District Local Laws Code.

⁴ Section 8504.051(c), Texas Special District Local Laws Code.

⁵ Section 8504.052, Texas Special District Local Laws Code; Lower Neches Valley Authority (LNVA), *Self-Evaluation Report*, p. 17, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

⁶ LNVA, *Self-Evaluation Report*, p. 16, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

⁷ Sections 8504.252 and 8504.301, Texas Special District Local Laws Code.

⁸ LNVA, *Self-Evaluation Report*, pp. 4 and 36, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

⁹ Texas Commission on Environmental Quality, “Water Rights and Water Use Data,” webpage last modified January 23, 2024, accessed online September 11, 2024, https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wrwud.

¹⁰ LNVA, *Self-Evaluation Report*, p. 4, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

¹¹ *Ibid.*, p. 44.

¹² *Ibid.*, pp. 14 and 36; Ch. 17 (HB 2666), Acts of the 81st Legislature, Regular Session, 2009. h

¹³ LNVA, *Self-Evaluation Report*, pp. 67–68, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

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¹⁵ LNVA, “About,” accessed online September 11, 2024, <https://lnva.dst.tx.us/about>.

¹⁶ LNVA, *Self-Evaluation Report*, p. 54, accessed online June 13, 2024, <https://www.sunset.texas.gov/public/uploads/2023-09/LNVA%20SER.pdf>.

¹⁷ *Ibid.*, p. 59.

ISSUE 3

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

Background

The state defines strategic planning as “a long-term and future-oriented process of assessment, goal setting, and decision making.”¹ While different organizations have different processes and needs, most strategic planning involves developing a vision, assessing organizational strengths and weaknesses, identifying goals and strategies, and evaluating progress. To this end, statute requires state agencies to submit strategic plans every biennium with the components described in the accompanying textbox.² While statute does not require river authorities to create strategic plans, doing so is a best practice, and many river authorities already have strategic processes in place to determine how to best meet their region’s unique needs.

State Agency Strategic Plan Components*

- **Mission:** Succinctly identifies what the agency does, why, and for whom; grounded in enabling statutes or constitutional provisions.
- **Goals and action plan:** Identifies core operational goals and key action items necessary to ensure the goal is accomplished within a certain time frame.
- **Redundancies and impediments:** Identifies state statutes, rules, or regulations that pose barriers to the agency’s effectiveness and efficiency in achieving its core mission.
- **Agency workforce plan:** Addresses the agency’s critical staffing and training needs.
- **Report on customer service:** Describes the agency’s customers and performance on customer satisfaction assessments.

**State agency strategic plans require additional components related to the state budget process and other agency requirements. The components listed above are those most applicable to river authorities.*

Established in 1933, the Lower Neches Valley Authority (LNVA) manages two large canal systems, an industrial wastewater utility, a potable water treatment plant, and the Neches River Saltwater Barrier.³ Given its expansive and aging infrastructure, LNVA has a dedicated Planning and Projects division, made up of Engineering, Real Estate, and Information Technology (IT) staff, which manages its Capital Improvement Program. Planning and Projects staff inventories all of the authority’s capital needs and develops Capital Improvement Program documents, including the One-Year and Five-Year plans that outline and prioritize future capital projects and major purchases.⁴ With upper management and board approval, Planning and Projects staff executes these projects as funds are available. This division also produces the *30-Year Long-Term Strategic Plan*.

The *30-Year Strategic Plan* is the authority’s main strategic planning document and outlines major capital projects that require significant resources and time. The current *30-Year Strategic Plan* consists of five major projects with estimated costs between \$29 million and \$250 million, and LNVA expects it will take decades to complete them. In contrast, the Capital Improvement Program Five-Year Plan lists smaller and more urgent projects like pipe replacements, levee leak repairs, and large equipment purchases. Other divisions at LNVA, including Administration and Fresh Water Supply, also develop planning

documents that set high-priority goals and corresponding metrics to track progress, which division staff internally monitors.⁵ The *30-Year Strategic Plan*, Capital Improvement Program plans, and division goals represent different planning efforts currently spread across LNVA's four divisions — Administration, Planning and Projects, Treated Water Operations, and Fresh Water Supply. Staff presents all planning efforts to the LNVA Board of Directors and the Long-Term/Strategic Planning Committee, either as stand-alone documents or as part of the annual report.

Findings

LNVA successfully serves customers along the Neches River, but due to its critical role in the East Texas and national economy, it cannot afford to fail.

LNVA's water supply customers provide 50% of the nation's commercial jet fuel and 78% of military jet fuel.

Historically, LNVA has consistently and reliably provided water to its customers, even after hurricanes, floods, and other events have threatened operations, as detailed in the accompanying textbox.⁶ Headquartered in Beaumont, LNVA provides raw water to ten municipalities, over 80 irrigated farms, and roughly 30 industrial facilities, including four major refineries.⁷ LNVA's water supply customers are crucial players in the regional and national economy, including petrochemical plants that provide 50 percent of the nation's commercial jet fuel and 78 percent of military jet fuel and refine 13 percent of the gasoline used by Americans.⁸ In addition to supplying raw water, LNVA processes industrial wastewater for four significant petrochemical facilities such as ExxonMobil's refinery and chemical plant.⁹ Given the critical nature of East Texas' petrochemical industry, a sustained water supply interruption could devastate the state and national economy, potentially costing billions of dollars and thousands of jobs across the United States. LNVA, in its own words, "cannot afford to fail" — and broadly speaking, it never has.

LNVA Challenges and Incidents

- **Hurricane Ike:** In 2008, Hurricane Ike destroyed large portions of the Bolivar Peninsula and resulted in mandatory evacuations in East Texas. LNVA's West Regional Water Treatment Plant, which serves the Bolivar Peninsula, experienced a significant drop in demand following the hurricane, putting its future in jeopardy and necessitating a change in loan terms with the Texas Water Development Board.
- **Devers Canal System acquisition:** In 2008, LNVA acquired the Devers Canal System, which was experiencing financial difficulties and in need of major improvements. Since acquiring the system, LNVA has replaced every flume, overhauled the pump stations, and installed meters at customer turnouts.
- **Hurricane Harvey:** In 2017, Hurricane Harvey flooded the Neches 1st Pump Station, threatening LNVA's ability to deliver water to its customers, particularly major industrial plants. LNVA built a bypass structure and did not fail its customers, but the response was expensive and challenging.
- **Levee breach:** In 2022, a canal levee breach flooded a Beaumont neighborhood, damaging over 20 homes. LNVA's insurance carrier covered this incident, but the authority anticipates it will not receive insurance coverage for similar events in the future.

As the *LNVA Challenges and Incidents* textbox on the previous shows, LNVA has navigated major challenges and incidents, but it will undoubtedly face more in the future. Current threats to LNVA's operations create consistent challenges for the authority, including:

- **Expansive and aging infrastructure.** LNVA has approximately 600 miles of canal to manage, with some canals over 100 years old.¹⁰ Inspecting and performing upkeep on this expansive and aging system presents unique problems and requires significant time and resources.
- **Extreme weather events.** East Texas is vulnerable to extreme weather events such as hurricanes, flooding, droughts, and tornados that endanger both people and property. Since 2023, East Texas has experienced several significant weather events, including Hurricane Beryl, Tropical Storm Alberto, Tropical Storm Francine, and extensive flooding in the spring of 2024.¹¹
- **Regulatory changes.** In 2023, the U.S. Fish and Wildlife Service proposed a rule adding the Texas Heelsplitter freshwater mussel to the Endangered Species list and granting Threatened status to the Louisiana Pigtoe freshwater mussel.¹² Both mussels are found in East Texas, and LNVA's canals have a substantial population of Louisiana Pigtoe.¹³ If enacted, this rule could significantly impact LNVA's operations, potentially requiring the authority to stop raw water delivery until environmental protection plans are in place.¹⁴

Despite these challenges, the authority also has potential opportunities for growth. LNVA is water-rich in a state that is water-poor and currently only uses roughly a third of its 1.2 million acre-feet of water rights. The Beaumont region is a petrochemical hub, and population and industry are expected to keep growing in LNVA's jurisdiction. The authority must have adequate water supply and infrastructure in place to meet the region's needs.¹⁵ LNVA must therefore engage in robust and comprehensive strategic planning to take advantage of these opportunities.

The authority is already doing so in some regards. An example of LNVA's forward-thinking approach is the plan for the West Beaumont Reservoir, a backup water supply reservoir for extreme weather events or other emergencies. While LNVA currently partners with the U.S. Army Corps of Engineers to store water in two federal reservoirs, the planned West Beaumont Reservoir will be the largest reservoir wholly constructed and managed by LNVA. Though it will be small compared to the nearby federal reservoirs and only used as backup water supply, it is a significant and new undertaking for the authority. With new initiatives and challenges on the horizon, LNVA must make deliberative and careful plans because the authority, and the state, cannot afford failure.

LNVA consistently faces challenges such as extreme weather and aging infrastructure.

LNVA is water-rich in a state that is water-poor, which presents potential opportunities.

LNVA’s long-term planning efforts are siloed, overly focused on capital projects, and missing other strategic planning components.

LNVA could use its current practices as a base to create a well-documented and more comprehensive strategic plan.

LNVA performs many aspects of strategic planning such as developing detailed capital improvement plans and creating division goals. While a step in the right direction, these efforts do not tie into a larger strategic plan and are loosely coordinated by authority leadership. An authority-wide effort to establish strategic priorities and plans to achieve them ensures staff is working towards a common purpose instead of operating in isolation. With additional direction, LNVA could use its current practices as a base to create a well-documented and more comprehensive strategic plan that, like many state agency strategic plans, includes mission-aligned goals and action plans, considers potential impediments and staffing needs, and incorporates customer and stakeholder feedback.¹⁶

- **Capital projects-focused planning.** In its current form, LNVA’s *30-Year Strategic Plan* is not a comprehensive, authority-wide plan. Instead, it focuses almost exclusively on engineering and construction, specifically five major capital projects — West Beaumont Reservoir, Neches Pumping Plant Rehabilitation, Neches-Trinity Basin Interconnect, Big Thicket Detention System, and Rockland Green Tree Reservoir. For each project, the plan includes a rough cost estimate with potential financing options, a project description and justification, and operational impact.

These brief descriptions, however, do not connect the projects to LNVA’s mission or contemplate all aspects of its operations in a meaningful way. For example, the plan for the West Beaumont Reservoir project describes the operational impact of the project as reducing response time for water delivery during an emergency. The plan does not, however, include how the project would impact other authority resources such as its IT equipment, including the Supervisory Control and Data Acquisition (SCADA) system, or staff, like Fresh Water Supply division employees. LNVA’s other major planning documents, including the Capital Improvement Program One-Year and Five-Year plans, are also exclusively focused on capital projects. Given LNVA’s large footprint and significant infrastructure, proactively managing capital needs is critical. However, LNVA would benefit from expanding its current practices to create a more comprehensive strategic plan that analyzes the authority’s current position, outlines goals and action plans for all divisions, and considers stakeholder perspectives. By doing so, LNVA will have a clearer authority-wide vision to guide staff activities, prioritize resource allocation, and manage future challenges.

LNVA divisions outline and monitor their goals but not as part of a unified, authority-wide strategic vision or plan.

- **Siloed goal setting.** In 2020, LNVA divisions began developing priority goals and setting lead measures to monitor their success.¹⁷ While these goals are outlined and monitored, they are not part of a unified, authority-wide strategic vision or plan. Instead, goals are siloed and tracked by individual divisions, and lead measure results are included in the annual report for the board. With little authority-wide coordination or direction, the goal-setting

process yields mixed results across divisions. For example, when Sunset requested LNVA's goal documentation, some divisions provided department goals in one division-wide document, others provided separate department documents, and others did not provide any goal documents. Furthermore, some division goals are not measurable and simply describe aspects of the day-to-day job, meaning staff is missing opportunities to identify areas for strategic improvement or growth. A clear, comprehensive strategic plan would enable LNVA divisions to generate high-quality, measurable goals that support LNVA's overall mission and success.

- **Partially documented planning processes.** When making strategic plans, organizations must assess possible threats, examine potential solutions, and document why they are pursuing a specific initiative. While LNVA does consider organizational risk and multiple strategic solutions, it usually does so through informal discussions with its board and Long-Term/Strategic Planning Committee. In these discussions, board members raise concerns about a project or ask staff questions about various scenarios. Because of this informal approach, documentation of strategic planning decisions is scattered across board minutes and sometimes incomplete. For example, the West Beaumont Reservoir is the first major project on the *30-Year Strategic Plan* and was discussed extensively with the board. LNVA staff has in-depth knowledge of this project and can describe how the authority identified the need for the project, considered other solutions, and ultimately selected it. However, when Sunset requested documentation of staff activities, LNVA did not include cost-benefit analyses of multiple solutions, an explanation of possible risks, a business case, or information about other potential locations. Maintaining this kind of documentation and anticipating potential risks are critical for large projects because doing so enables the authority to show its work in case of a legal or public challenge. Complete documentation also gives the board a detailed picture of a project's potential risk and impact, positioning them to make fully informed strategic decisions.
- **Limited stakeholder involvement.** Outside of the rate-setting process, LNVA solicits stakeholder feedback by conducting a customer survey on future water needs every five years and informally talking to customers on an ad-hoc basis. While this approach has worked for most of LNVA's history, the authority is currently pursuing large capital projects and may need to change its tactics. Stakeholder and customer surveys are often part of state agency and river authority strategic plans, but LNVA does not formally contemplate stakeholder input in its *30-Year Strategic Plan*. In comparison, the Trinity River Authority of Texas conducts both employee and customer surveys and hosts stakeholder focus groups as part of its strategic planning process.¹⁸ Developing a thoughtful approach to integrating stakeholder input in strategic planning will set LNVA up for success as it continues to navigate the evolving needs of East Texas.

Division Goal Examples

- **Human Resources:** Continuously improve new hire orientation process. Implement onboarding program that will include mentor assignments to new hires.
- **Engineering:** Execute approved capital projects to support all LNVA operations.
- **Fresh Water Supply:** Deliver adequate water supply safely, on time, and economically to LNVA customers.

Documentation of strategic planning decisions is scattered and sometimes incomplete.

Sunset Staff Recommendation

Management Action

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

This recommendation would direct LNVA to develop and implement an authority-wide strategic planning process that analyzes the authority's current position, articulates the authority's mission and vision for the future, and outlines measurable goals to achieve this vision. This process can build upon the extensive capital planning LNVA already does and serve as the basis for more coordinated divisional planning. While developing this process, LNVA should consider creating:

- A timeline for the strategic planning cycle including when planning, assessment of progress, and strategic plan updates and adjustments are conducted.
- A method to assess the authority's strategic position, including its strengths, weaknesses, and organizational risks.
- A plan to solicit feedback from relevant stakeholders such as customers and the public.
- A list of necessary components for the final strategic plan document such as authority-wide goals, action steps to achieve them, and measures of success. The final plan should also contemplate all LNVA divisions and areas of operation, including human resources, finance, IT, and capital planning.
- A policy that outlines how staff should document all steps of the strategic planning process.

Fiscal Implication

The recommendation should not result in a significant fiscal impact to the state. Although the recommendation is largely designed to enhance LNVA's existing strategic planning process, any impact on the authority will depend on the implementation of the recommendation. For example, the authority could decide to hire a subject matter or industry expert to help facilitate the strategic planning process, resulting in a cost that cannot be estimated at this time.

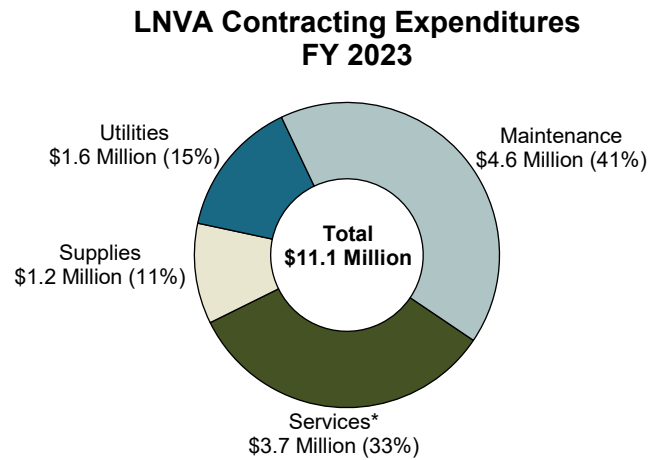
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ISSUE 4

LNVA’s Procurement and Contracting Process Would Benefit from Additional Best Practices.

Background

The Lower Neches Valley Authority (LNVA) contracts for various services, including construction, engineering, legal counsel, and Information Technology (IT) support and for a range of equipment and supplies for operation and maintenance functions. LNVA’s contract expenditures totaled about \$11 million in fiscal year 2023, making up about 34 percent of the authority’s total non-capital expenditures. The accompanying chart shows a breakdown of LNVA’s contracting activity for fiscal year 2023.



* Services include professional services, professional development costs, and managed network services.

The LNVA purchasing policy outlines standard forms and policies for contracting such as the maximum costs of purchases and contracts that various staff levels can approve. Specific employees, such as crew leaders and plant operators, have purchase authorization up to \$1,500. Department managers have purchase authorization up to \$10,000. Division managers have oversight and approval power up to \$50,000. The general manager has oversight and approval power for all contracts between \$50,000 and \$150,000. The board must approve all contracts over \$150,000. Individual divisions, such as Fresh Water Supply or Planning and Projects, begin the contracting process by identifying specific divisional needs and vendor requirements. LNVA’s Finance and Accounting department then reviews the paperwork on quotes and successful bids to ensure they are administratively correct before issuing purchase orders. Fresh Water Supply and Planning and Projects conduct the majority of the authority’s contracting, including contracting for capital improvement projects. In fiscal year 2023, LNVA spent about \$8.1 million on capital improvement projects. The table on the following page details LNVA’s contracting activities across divisions.

While Planning and Projects is the primary manager for LNVA’s solicitations, such as that for the West Regional Water Treatment Plant’s major sludge pond cleaning contract, the authority has a multifaceted solicitation process. For construction projects and other large contracts, a procurement team — which includes the general manager, Planning and Projects engineering manager, and water supply manager — collaboratively develops the project scope, issues solicitations, and scores bids. This team ensures that projects align with LNVA’s operational needs and financial guidelines. For the North Regional Treatment Plant, LNVA coordinates with the Neches River Treatment Corporation (NRTC), which manages capital projects planning and contracting, and works with ExxonMobil’s preferred vendors to maintain consistency and pricing.

LNVA Divisional Contracting

Division	Contracting and Capital Improvement Expenditures Percentage	Program Description
Planning and Projects	44%	Manages LNVA's Capital Improvement Program and construction contracts. Provides contract development and contract management support to other divisions.
Fresh Water Supply	39%	Provides goods and services to support LNVA's canal systems. Contracts for equipment, fuel, and professional services.
West Regional Water Treatment Plant	1%	Produces drinking water for the Bolivar Peninsula. This plant only has one major contract for cleaning sludge ponds and makes several smaller purchases for chemicals and equipment.
North Regional Treatment Plant	8%	LNVA operates this plant for the Neches River Treatment Corporation (NRTC), a subsidiary of ExxonMobil. LNVA handles all operations purchasing and contracts (equipment, maintenance, and personnel). Some services must use ExxonMobil's vendors. NRTC manages all capital projects. The NRTC reimburses LNVA for all operating costs.
Other	8%	Includes contracts for administrative services such as insurance, legal counsel, environmental studies, and technical consulting.

When evaluating an entity's contracting process, Sunset uses the general framework established in the State of *Texas Procurement and Contract Management Guide* as well as documented standards and best practices compiled by Sunset staff.¹ As a political subdivision, LNVA is not subject to many of the procurement laws on which the guide is based, as the laws were designed for state agencies. However, as a quasi-state agency that spends public funds, LNVA would benefit from adopting several best practices state agencies use in their contracting processes. Because the guide establishes the most comprehensive set of standards for government contracting, purchasing, and procurement in the state, it serves as a good starting point for evaluating a river authority's contracting processes. While LNVA generally performs well in procurement and contracting, implementing best practices to address some key areas would better position the authority to continue to succeed and avoid risks.

Findings

Improving contracting training and oversight would reduce risks for LNVA.

- Procurement and contract management training.** Managers should receive standard and regular contract management training in accordance with state best practices. LNVA does not provide training on the evaluation of vendor responses to solicitations or detailed project management information. LNVA also does not require staff managing contracts to receive regular training on how to properly monitor contracts for expected deliverables and when and how to address contractor performance problems. In comparison, state law requires state agency employees managing significant contracts to receive training, certification, and continuing education. LNVA's Fresh

Water Supply and Projects and Planning divisions have competent and experienced staff, including two licensed professional engineers. However, at the time of this report, LNVA had only one Fresh Water Supply staff member with contract development or contract monitoring certification. The authority has begun certifying more staff through the Texas Comptroller of Public Accounts, which is a step in the right direction. Standardized training covering all contracting processes for LNVA staff would better ensure vendor responses to solicitations are evaluated uniformly and fairly and that contracts are managed properly.

- **Contract managers.** Best practice is for a contract manager to serve as an entity's primary employee responsible for managing all aspects of the contracting process, from planning through final closeout. LNVA does not have designated contract managers who oversee contract status and serve as the main contact between contractors and the authority. To perform these functions, LNVA instead relies on division staff who has daily interaction with and often works alongside contractors. Rather than using staff who is involved in day-to-day communication with contractors and who may develop relationships that affect objective oversight, a contract manager is responsible for contract enforcement, ensuring that contract requirements are satisfied and that the authority's financial interests are protected. For example, a project inspector, who works onsite with the contractor on a regular basis, is not well positioned to be the primary employee charged with managing the contract. Instead, staff with more limited interactions with the contractors, like division managers, would be more appropriate to serve as contract managers responsible for managing the contract and contracting process. Without designated contract managers, LNVA lacks a single point of oversight to monitor contract performance, internal communication about contracts, and external communication with contractors. Both contract managers and division staff in the field could have a role in planning for a contract. However, when the contracting process shifts to the post-award administration phase, while onsite division staff interacts and works with contractors, the contract manager would coordinate internal communication, serve as the main contact between the contractor and the authority, and ensure the project is on time and on budget.
- **Formal administrative escalation policy.** LNVA could benefit from establishing an internal escalation policy to address significant contractor performance issues such as time or cost overruns. While LNVA has had minimal contractor issues and has been able to resolve them expeditiously without escalation, the authority's growth increases the chances of more significant issues occurring in the future. LNVA lacks a formal policy for reporting significant issues to senior staff and the board that could result in substantial costs or delays. Implementing a formal escalation policy — one that includes senior management, legal, and when necessary, the board — would create a structured process for promptly identifying and managing contract issues, ensuring appropriate staff members are informed and able to act decisively.

Standardized contract training better ensures vendor responses to solicitations are evaluated uniformly and fairly.

LNVA lacks a single point of oversight to monitor contract performance.

LNVA relies on staff's first-hand knowledge and personal experience to evaluate vendor performance.

Lack of formal documentation and evaluation of vendor performance creates future risk of uninformed vendor selections.

- **Informal vendor performance documentation and evaluation.** Entities should formally assess and document the overall success of contracts, including contractor performance, upon contract completion. Currently, LNVA relies on staff's first-hand knowledge and personal experience to evaluate vendor performance. A formal vendor performance evaluation process would improve LNVA's future contracting efforts by better informing the authority's vendor selection.
- **Contractor research.** Entities should conduct research on potential contractors before awarding a major contract. Third-party resources can enhance the evaluation of potential vendors beyond internal documentation and research, particularly for vendors with which a contracting entity has no prior history. LNVA does not formally assess a vendor's prior performance when evaluating responses to requests for qualifications and requests for proposals. Checking additional resources, like the comptroller's Vendor Performance Tracking System (VPTS), before awarding major contracts could help the authority obtain the most comprehensive information available on potential vendors and thereby reduce further risk. The VPTS provides detailed information on past vendor performance, helping entities confirm the reputability of vendors and make a best-value determination when selecting a vendor to award a contract. While river authorities are not required to use the VPTS, LNVA could benefit from reviewing the comprehensive historical information it provides.

LNVA lacks additional best practices for procurement and contracting.

LNVA is potentially missing opportunities to reach out to HUB vendors.

- **Use of historically underutilized businesses (HUBs).** LNVA lacks a comprehensive and formal approach to HUB contracting, potentially missing opportunities to reach out to HUB vendors. Although LNVA is not subject to the same HUB requirements as state agencies, the Texas Commission on Environmental Quality requires river authorities to adopt administrative policies that comply with the provisions and intent of the statutory requirements for contracting with HUB vendors.² Furthermore, Sunset staff is required to evaluate the HUB programs of entities under review.³ When LNVA has received state appropriations in the past, the authority has complied with HUB requirements. However, LNVA does not have an official HUB policy and has not yet adopted other best practices applicable to state agencies with similar staffing or operating budgets. As such, LNVA does not have:
 - A HUB subcontracting plan for vendors competing for awards over \$100,000
 - An appointed HUB coordinator

- An adopted HUB forum program or HUB mentor-protégé program
 - Monthly information on HUB contractors or a yearly financial report relating to HUB contracts
- **Conflict-of-interest statements and nondisclosure agreements.** Entities can protect the integrity of the vendor evaluation process by ensuring personnel involved in soliciting and evaluating competitive contract proposals sign a statement affirming they have no conflicts of interest with any respondents and agree that they will not engage in the premature or unauthorized disclosure of information about solicitations. LNVA has general conflict-of-interest guidelines in its board and personnel policies but does not require staff involved in solicitation response evaluation to sign conflict-of-interest statements or nondisclosure agreements prior to bid selection. In contrast, best practice for state agencies is for agency personnel to receive the names of vendors before they participate in reviewing responses so that the personnel may disclose conflicts of interest, particularly if contracts exceed \$1 million.⁴ Ensuring staff who evaluates contract proposals have signed updated nondisclosure and conflict-of-interest statements before accessing documents or discussing submissions would prevent bias in LNVA's contract selection process, safeguard sensitive vendor information, and protect LNVA from actual or perceived conflicts of interest.
 - **Award dispute policy.** Entities should have clear policies and procedures for protesting contract awards. LNVA does not outline a clear, formal procedure by which a vendor may dispute an award or learn why they were not selected. LNVA staff has indicated they are unaware of the authority receiving any formal award disputes. However, LNVA's increasing contracting activity for large projects raises the likelihood of vendor disputes in the future. A formalized contract award dispute process would promote greater transparency and fairness in LNVA's contract award decisions going forward.

Signed conflict-of-interest statements help prevent bias in vendor selection.

Sunset Staff Recommendations

Management Action

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

This recommendation directs the authority to ensure all staff members involved in evaluating vendor responses to solicitations and project management receive training appropriate to their role in contracting processes. Training should include best practices for evaluating vendor proposals, skills necessary for managing contracts and vendors, and other information LNVA deems necessary. This recommendation also directs LNVA to certify appropriate staff members involved in contract development and contract management through the comptroller's office.

4.2 Direct LNVA to adopt a formal contract management policy.

Under this recommendation, LNVA would adopt a policy requiring each contract to have a designated contract manager serve as the primary person responsible for managing all aspects of the contracting process, from planning through final closeout. The recommendation would allow the authority to designate existing staff as contract managers. However, the policy should stipulate that division employees who have daily interaction or communication with contractors cannot serve as contract managers. When the contracting process shifts to the post-award administration phase, the contract manager should coordinate internal communication, serve as the main contact between the contractor and the authority, and ensure the project is on time and on budget. Designating contract managers would better facilitate efficient contract execution and appropriate communication with contractors.

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

Under this recommendation, LNVA would adopt a formal escalation policy that outlines criteria indicating when contract managers and division staff need to involve legal and other management staff such as continued delay in service or a failure to meet performance expectations. This policy should also establish the process for notifying the LNVA board about contractors who continuously fail to meet deliverables and performance standards, including updates on contractors needing change orders due to underperformance. For example, the policy could require staff to report to the board whenever a contractor has eclipsed a certain dollar threshold for contract change orders or when a contractor exceeds an established number of allowable change order requests. A formal escalation policy would provide LNVA staff involved in procurement and contracting at all levels and LNVA board members clearer direction on how to resolve vendor issues that may arise during the course of a contract.

4.4 Direct LNVA to formally document and evaluate vendor performance.

This recommendation would direct the authority to document vendor experiences and refer to that documentation and other available information to evaluate vendors for future contracts. As part of this process, LNVA should:

- **Develop a standard vendor evaluation process.** The authority should evaluate vendor performance at contract completion and document “lessons learned” to improve future contract awards and contracting functions.
- **Consider other sources of data to improve its vendor evaluation.** For example, reviewing the VPTS database could provide LNVA with valuable insight into past vendor performance and help ensure contractors do not have a concerning history.

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

- **Proactively plan and monitor HUB policies.** This recommendation directs LNVA to develop and implement a formal HUB policy that identifies performance targets, create HUB subcontracting plans where feasible for contracts over \$100,000, and report HUB data to the board. Depending on the amount of contracting activity and progress made on other measures to increase HUB contracting expenditures, LNVA should consider adopting additional approaches of state agencies of comparable size and resources such as hosting forums for diverse businesses and creating a HUB mentor-protégé program. Consolidated under a formal HUB policy, these measures would match LNVA’s efforts with specified goals, actions, and measurable results.

- **Require signed conflict-of-interest statements and nondisclosure agreements.** Employees involved with vendor responses to solicitations should sign a statement affirming they have no conflicts of interest prior to reading or discussing vendor responses as well as an agreement to maintain confidentiality of information about such proposals. These signed statements would help prevent bias in contract selection and protect vendor information.
- **Formalize vendor award dispute policy.** LNVA should develop and adopt formal procedures for resolving vendor disputes and clearly outline these procedures in solicitation instructions. When the authority receives a dispute, LNVA should assess the merits of the dispute and provide an explanation and documented justification for how staff evaluated solicitation responses from vendors and made their decisions. Having a formal dispute policy would promote fairness and transparency in LNVA's vendor selections, ensuring LNVA staff follows appropriate procurement processes. LNVA should then make improvements to its procurement practices based on the dispute findings.

Fiscal Implication

These recommendations would not have a fiscal impact to the state or LNVA. The recommendations relate to basic administrative responsibilities LNVA could implement with existing resources.

¹ Texas Comptroller of Public Accounts, *State of Texas Procurement and Contract Management Guide*, accessed online October 4, 2024, <https://comptroller.texas.gov/purchasing/publications/procurement-contract.php>.

² 30 Texas Administrative Code, Part 1, Chapter 292, Subchapter B, Section 292.13(5)(B) (2023) (Texas Commission on Environmental Quality, *Minimum Provisions*); all citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Chapter 2161, Texas Government Code.

³ Chapter 325.011(9)(B), Texas Government Code.

⁴ Sections 2262.001 and 2262.004, Texas Government Code.

ISSUE 5

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

Background

In 2015, the Legislature directed Sunset staff to assess the governance, management, operating structure, and compliance with legislative requirements of each river authority.¹ Over the years, Sunset reviews have included a number of standard elements from direction traditionally provided by the Sunset Commission, from statutory requirements added by the Legislature to the criteria for review in the Sunset Act, or from general law provisions imposed on state agencies. This review identified several opportunities for the Angelina and Neches River Authority (ANRA) and the Lower Neches Valley Authority (LNVA) to adopt good government practices and statutory changes needed to update and conform both ANRA's and LNVA's statutes to standard Sunset language generally applied to all entities under Sunset review. Additionally, this review identified areas where LNVA could better conform with the Texas Commission on Environmental Quality's (TCEQ) rules and Texas Comptroller of Public Accounts' grant program best practices.

- **Sunset across-the-board provisions (ATBs).** The Sunset Commission has developed a set of standard recommendations that it applies to all state entities reviewed unless an overwhelming reason exists not to do so. These ATBs reflect an effort by the Legislature to enact policy directives to prevent problems from occurring, instead of reacting to problems after the fact. ATBs are statutory administrative policies adopted by the Sunset Commission that contain “good government” standards. The ATBs reflect review criteria contained in the Sunset Act designed to ensure open, responsive, and effective government. As quasi-state agencies created by the Legislature, ANRA and LNVA directly serve the public interest and are funded with public money.
- **Person-first respectful language.** Statute requires Sunset to consider and recommend, as appropriate, statutory revisions in accordance with the person-first respectful language outlined in general law.² The stated intent of the law is to try to affect society's attitudes toward people with disabilities by changing the way the language refers to them. Sunset only changes language that occurs in chapters of law that are opened by the Sunset Commission's recommendations.
- **Grants.** In nearly five decades, Sunset staff has reviewed numerous state entities that provide grants to individuals, units of government, and other entities, identifying and compiling standard features and best practices that contribute to an efficient, effective, and accountable grant program. Sunset also uses the general framework established in the Texas Comptroller of Public Accounts' *Texas Grant Management Standards*. These standards serve as guidelines for evaluating agencies' grant programs as part of an overall effort to improve grantmaking practices.³ While river authorities are not required to adhere to the comptroller's standards, these best practices mitigate risk, promote fairness and transparency, and apply to a wide variety of grant programs — including the one at LNVA.
- **TCEQ-required policies.** TCEQ has a continuing right of supervision over all water districts, including river authorities.⁴ TCEQ rules require river authorities to adopt and comply with a combination of requirements in state law and other good government policies, including either conducting an independent management audit every five years and reporting the results to TCEQ or establishing an internal audit office that reports to the river authority's board of directors.⁵

- **Records management.** Statute establishes records management requirements for local governments and special purpose districts, including river authorities. Specifically, a river authority is required to establish a records management program and certify compliance with this requirement with the Texas State Library and Archives Commission (TSLAC).⁶ Statute also requires a river authority to designate a records management officer; enter into the authority’s board minutes the records management officer’s name, office, or position; and file this information with TSLAC.⁷ Finally, statute requires a river authority to file a Declaration of Compliance with TSLAC verifying the authority has adopted records control schedules that comply with the minimum requirements established on TSLAC-issued records retention schedules.⁸

Findings

ANRA’s and LNVA’s statutes do not reflect standard language typically applied across the board during Sunset reviews.

- **Presiding officer designation.** Having the governor designate the presiding officer of a governing board ensures a more direct connection between the board and the state’s highest elected official, increasing the authority’s accountability to the state’s leadership. Both ANRA’s and LNVA’s boards elect their board chairs.⁹ In contrast, the governor appoints the presiding officers of the boards of two of the largest river authorities in Texas — the Lower Colorado River Authority and Brazos River Authority.
- **Grounds for removal.** Both ANRA’s and LNVA’s statutes lack the standard provision relating to grounds for removal of board members. Having a statutory basis for removing a member of a policymaking body who does not maintain the qualifications, has a conflict of interest, or has neglected duties can help ensure a functioning policymaking board.
- **Board member training.** ANRA’s and LNVA’s statutes do not establish the type of training and information board members need to properly discharge their duties. State law requires members to obtain Texas open meetings and public information training upon taking their oath of office. While the authorities provide training for new board members, ANRA’s and LNVA’s statutes require no additional training to ensure each member has the necessary knowledge about topics such as each authority’s statute, operations, budget, and the scope and limitations of its rulemaking authority or programs before making decisions regarding matters of public interest.
- **Policymaking and staff functions.** ANRA’s and LNVA’s statutes do not provide for separating the policymaking functions of the board from the day-to-day administrative functions of managing the authority. Such a provision would help avoid confusion about who is in charge of operations, which can undermine an authority’s effectiveness.
- **Public testimony.** ANRA’s and LNVA’s statutes do not require an opportunity to provide public comment at open board meetings. When people affected by an authority’s decisions have an opportunity to provide meaningful input to the board, the additional information and perspective improve the overall decision-making process. To Sunset’s knowledge,

ANRA’s and LNVA’s statutes do not provide for separating policymaking from day-to-day administration.

neither ANRA nor LNVA has ever denied a member of the public an opportunity to speak at a board meeting. Both authorities' board meeting agendas include public comment, but a statutory requirement for public comment would ensure the public can give its input on the authorities' performance and operations.

- **Complaint information.** ANRA's and LNVA's statutes do not require the authorities to maintain complete information on complaints they receive or make information on complaint procedures available to the public. Maintaining a system for acting on complaints and keeping proper documentation helps protect the public by ensuring the authorities address problems in a timely fashion. While both authorities receive few complaints, a complaint tracking system could help improve the management of authority operations, alert the authorities to damages to their infrastructure, and raise awareness of high-risk issues.

Maintaining a system for managing complaints helps ensure the authorities address problems in a timely fashion.

ANRA's statute does not use appropriate language when referring to persons with disabilities.

The governing statute for ANRA contains terms that are not consistent with the person-first respectful language initiative. The authority's Sunset bill should revise the statutes to use person-first respectful language.

LNVA's EDP grant program needs a firmer foundation in best practices to grow successfully.

Statute authorizes LNVA to administer an Economic Development Program (EDP) — in the form of grants or loans of money, services, or equipment — in its service areas and areas where the authority has an interlocal agreement with an appropriate governmental entity.¹⁰ Statute authorizes LNVA to provide grants and loans as part of this program, but the authority has only awarded grants up to this point, with all grants funded from interest from a corpus that reached \$5 million in 2023.¹¹ While LNVA has previously awarded a small number of EDP grants, with the board officially approving the EDP policy in 2024, the program in its current iteration is new for LNVA. The authority currently has four outstanding grants, all awarded in 2024, and is seeking to grow the program and award more grants in the future.

The infancy of the grant program presents LNVA the opportunity to build this program on a solid foundation to ensure its success. Currently, the program is missing several key best practices. For example, LNVA does not provide grant training to staff, grantees, or others involved in the award process to ensure everyone understands the process, standards, and roles. Applicant solicitation should be fair, transparent, and targeted to reach the most qualified applicants. However, LNVA does not actively solicit grant applications. Instead, board members and senior staff pass the word through civic organizations with which they interact. Rather than ensuring grants are targeted to qualified applicants, this approach has the potential to create questions about LNVA's transparency. Furthermore, while the application evaluation process should be fair and

The infancy of the grant program presents an opportunity to build on a solid foundation to ensure its success.

Applying common best practices to LNVA's EDP would help ensure public funds are spent effectively.

reasonably transparent, LNVA lacks a formal application evaluation process. No scoring process exists, much of the discussion of grants is informal, and LNVA has little documentation to back up its decisions.

Lastly, if LNVA elects to start using the EDP to make loans, the authority will need to develop policies and processes to support any financing activity, such as establishing requirements for creditworthiness and collateral, before embarking on a loan project. While Sunset staff identified no significant problems with the EDP, applying common best practices helps ensure these legislatively authorized investments that use public funds continue to effectively meet the intended need.

LNVA has not conducted TCEQ-required management audits.

LNVA has not complied with TCEQ audit rules for more than a decade. Since 1996, TCEQ's rules have required a river authority to conduct an independent management audit every five years and report the results to the TCEQ executive director or establish an internal audit office that reports to the river authority's board of directors.¹² LNVA has not conducted a management audit since 2012. When placing river authorities under Sunset review in 2015, the Legislature provided that a river authority reviewed by the Sunset Commission may not be required to conduct the TCEQ-mandated audit.¹³ This change established that a river authority does not have to undergo an audit at the same time the authority is undergoing a Sunset review. However, LNVA mistakenly determined it was exempt from the TCEQ audit requirement.

ANRA's and LNVA's board member terms do not comply with constitutional requirements.

Members of ANRA's and LNVA's boards serve staggered six-year terms as established by the authorities' statutes.¹⁴ However, since these authorities were created, Texas voters amended the state constitution to set terms for the members of the governing boards of constitutionally created conservation districts, such as river authorities, to not exceed four years.¹⁵

Like many river authorities, ANRA's and LNVA's board terms exceed the constitutional term limit of four years.

To date, all 18 authorities subject to the Sunset Act have undergone review, and Sunset found that unconstitutional six-year board terms are common. In fact, of the 18, all but three had six-year board terms when they underwent review. During the last biennium, the Sunset Commission recommended changes to individual river authority boards to conform to constitutional requirements. The commission also directed Sunset staff to study and make recommendations on options to create uniformity among river authorities for consideration by the 89th Legislature. Because of the incongruence between the constitution and the provisions regarding board member terms in almost all river authority statutes, the river authority uniformity study presents options for the Sunset Commission's further consideration.

LNVA has not fully complied with records management requirements.

LNVA has established a records management program, appropriately designated a records management officer, and certified compliance with both of these requirements with TSLAC. However, LNVA has not filed verification that the authority has adopted records control schedules that meet minimum state requirements. Records management mandates are designed to better ensure a special district like LNVA maintains records needed to protect the financial and legal rights of the authority and any person affected by its activities and ensure access to those records for those affected by the authority's activities.

LNVA has not filed verification that it has adopted records control schedules that meet minimum state requirements.

The state benefits from continued legislative oversight of ANRA and LNVA.

Although not subject to abolishment under the Sunset Act, ANRA and LNVA benefit from the Sunset Commission's review of the authorities' governance, management, operating structure, and compliance with legislative requirements. Through this review, Sunset staff identified a number of opportunities to enhance the effectiveness, efficiency, transparency, and accountability of ANRA and LNVA. More broadly, continued oversight by the Sunset Commission provides future legislatures a powerful tool to assess ANRA and LNVA and invite public input on improving them.

Sunset Staff Recommendations

Change in Statute

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

This recommendation would require the governor to designate a member of the board to serve as the presiding officer at the pleasure of the governor.

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

The recommendation would specify the grounds for board member removal, including failure to maintain qualifications, conflicts of interest, or neglect of duties. The recommendation would also provide a process for board member removal, including guidelines for timelines, public hearings, and action by appointing bodies.

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

This recommendation would clearly establish the type of information to be included in the board member training for ANRA and LNVA. This training would need to provide board members with information regarding the authority's statutes; its programs, functions, by-laws, and budget; the scope of and limitations of its rulemaking authority; the results from its most recent audits; the requirements and

training available related to open meetings, open records, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies.

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

This recommendation would require ANRA and LNVA to adopt policies to clearly separate board policy functions from the authority staff's day-to-day operations.

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

As one of Sunset's across-the-board good governance standards, this recommendation would require ANRA and LNVA to include public testimony as an agenda item at every regular board meeting. The authorities should clearly provide the public the opportunity to comment on each agenda item and any issue or matter under the authorities' jurisdiction at open board meetings.

5.6 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.

This recommendation would require ANRA and LNVA to each maintain a system for receiving and acting on complaints and to make information available regarding the authority's complaint procedures. ANRA and LNVA would also maintain documentation on all complaints and periodically notify complaint parties of the status of complaints if doing so would not jeopardize an ongoing investigation.

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

This recommendation would direct the Texas Legislative Council to revise ANRA's governing statutes to conform to the person-first respectful language requirements found in Chapter 392, Texas Government Code.

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

Because ANRA and LNVA are not subject to abolishment under the Sunset Act, but the Legislature and the public benefit from continued legislative oversight of the authorities, this recommendation would extend the Sunset date in their statutes to 2037, placing the authorities under Sunset review again in 12 years.

Management Action

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

This recommendation would direct LNVA to review and adopt, as necessary, grant management practices from *Texas Grant Management Standards*. While LNVA is not subject to its requirements, the comptroller's standards provide a clear guide to best practices for grant programs distributing state funds. Adopting relevant best practices would help to ensure LNVA's EDP grant program has a firm foundation for growth.

In addition, if LNVA chooses to make loans through the EDP, this recommendation would direct the authority to adopt loan-making policies and processes before engaging in such an effort. These policies and processes should cover, at a minimum, which projects would qualify for loans, an application process, interest rates, applicant creditworthiness and collateral requirements, loan terms and conditions, and a process for addressing underperforming loans or defaults.

5.10 Direct LNVA to conduct TCEQ-required management audits.

Under this recommendation, LNVA either would conduct an independent management audit every five years and report the results to the TCEQ executive director or establish an internal audit office that reports to the authority's board. This recommendation would bring LNVA into compliance with TCEQ rules and clarify the five-year audit requirement.

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

This recommendation would direct LNVA to verify with TSLAC the authority has adopted appropriate records control schedules. Under this recommendation, LNVA should file a Declaration of Compliance with TSLAC verifying the authority has adopted records control schedules that comply with the minimum requirements established on TSLAC-issued records retention schedules. This recommendation would bring LNVA into full compliance with state records management requirements, thereby better protecting the financial and legal rights of LNVA and the people the authority affects and better ensuring access to LNVA records.

Additional Consideration

5.12 Consider the decision on modifying board terms as part of the river authority uniformity study.

Sunset staff has provided options for consideration by the Sunset Commission on how to address and standardize river authority board terms as part of Sunset staff's *River Authority Uniformity Study*.

Fiscal Implication

These recommendations would not result in a significant fiscal impact to the state, ANRA, or LNVA. The recommendations relate to basic administrative responsibilities ANRA and LNVA could implement using existing resources.

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- 1 Chapter 1148 (SB 523), Acts of the 84th Texas Legislature, Regular Session, 2015.
 - 2 All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.0123, Texas Government Code.
 - 3 Texas Comptroller of Public Accounts, *State of Texas Grant Management Standards*, accessed online September 15, 2024, <https://comptroller.texas.gov/purchasing/grant-management/>.
 - 4 Section 12.081(a), Texas Water Code.
 - 5 30 Texas Administrative Code (TAC), Part 1, Chapter 292, Subchapter B, Section 13(5)(A) (2023) (Texas Commission on Environmental Quality (TCEQ), *Minimum Provisions*).
 - 6 Section 203.026, Local Government Code.
 - 7 Section 203.025(a), (b), and (c), Local Government Code.
 - 8 Section 203.041(a)(2), Local Government Code.
 - 9 Section 8501.107(a), Special District Local Laws Code.
 - 10 Section 8504.203, Special District Local Laws Code.
 - 11 Section 8504.205, Special District Local Laws Code.
 - 12 30 TAC, Part 1, Chapter 292, Subchapter B, Section 13(5)(A) (2023) (TCEQ, *Minimum Provisions*).
 - 13 Section 325.025(e), Texas Government Code.
 - 14 Sections 8501.102 and 8504.052, Special Districts Local Laws Code.
 - 15 Section 30(c), Article XVI, Texas Constitution (amended 2009).

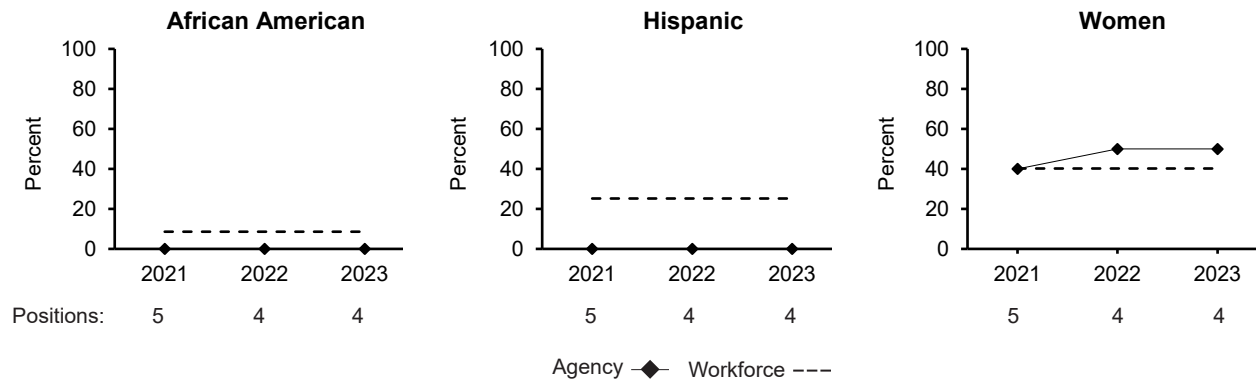
APPENDIX A

Angelina and Neches River Authority Equal Employment Opportunity Statistics, FYs 2021-23

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and women in all applicable categories by the Angelina and Neches River Authority.¹ In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.² These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the authority's actual employment percentages in each job category from fiscal years 2021-23.

The authority failed to meet statewide civilian workforce percentages in most categories over the last three fiscal years. The authority exceeded civilian workforce percentages for women in the administration category in the last two fiscal years. The professional and administrative support categories had too few employees to conduct a meaningful comparison to the overall civilian workforce. The authority had no employees in the skilled craft or protective services categories.

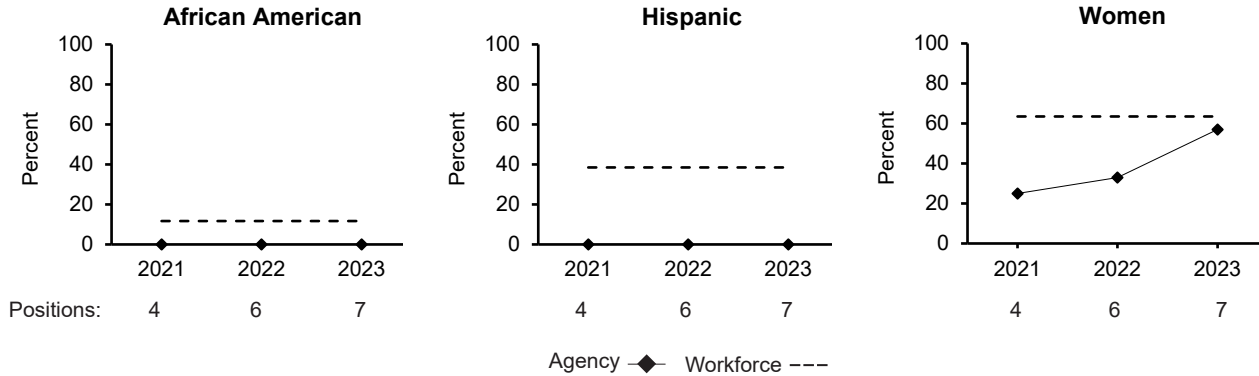
Administration



The authority fell short of statewide civilian workforce percentages for African Americans and for Hispanics in each of the last three fiscal years but exceeded percentages of women in the last two fiscal years.

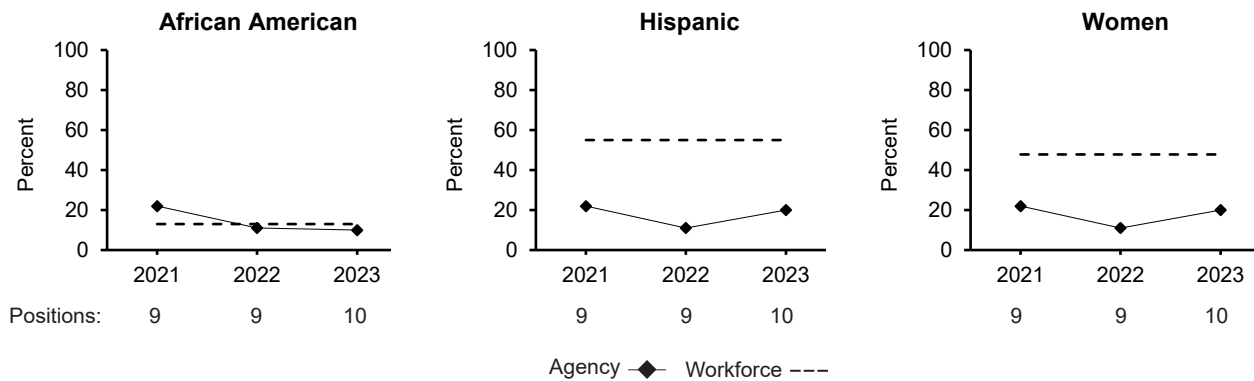
Appendix A

Technical



The authority fell short of statewide civilian workforce percentages for African Americans, Hispanics, and women in each of the last three fiscal years.

Service/Maintenance



The authority fell short of statewide civilian workforce percentages for Hispanics and women in each of the last three fiscal years. The authority fell short of statewide civilian workforce percentages for African Americans in the last two fiscal years but exceeded in the prior year.

¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(A), Texas Government Code.

² Based on the most recent statewide civilian workforce percentages published by the Texas Workforce Commission.

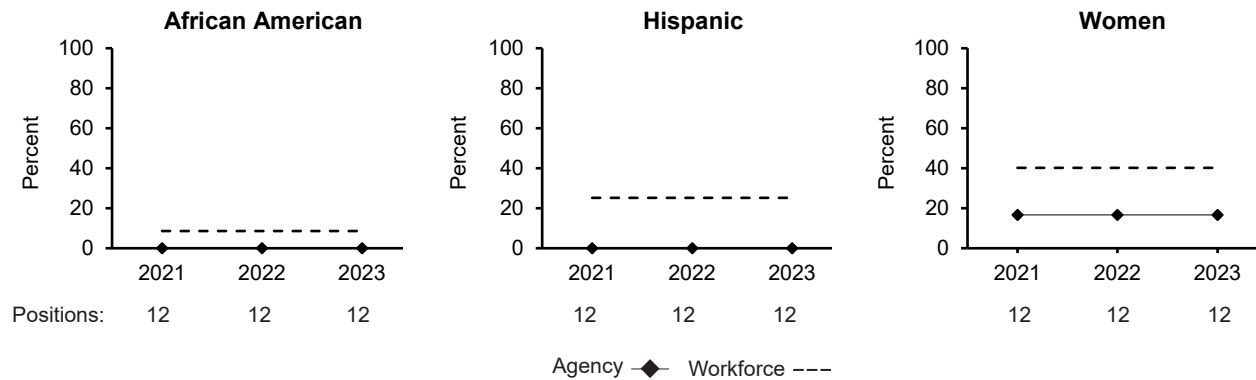
APPENDIX B

Lower Neches Valley Authority Equal Employment Opportunity Statistics, FYs 2021-23

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and women in all applicable categories by the Lower Neches Valley Authority.¹ In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.² These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the authority's actual employment percentages in each job category from fiscal years 2021-23.

The authority failed to meet statewide civilian workforce percentages in most categories over the last three fiscal years. The authority exceeded civilian workforce percentages for African Americans in the maintenance and skilled craft categories in each of the past three fiscal years. The administrative support category had too few employees to conduct a meaningful comparison to the overall workforce. The authority had no employees in the protective service category.

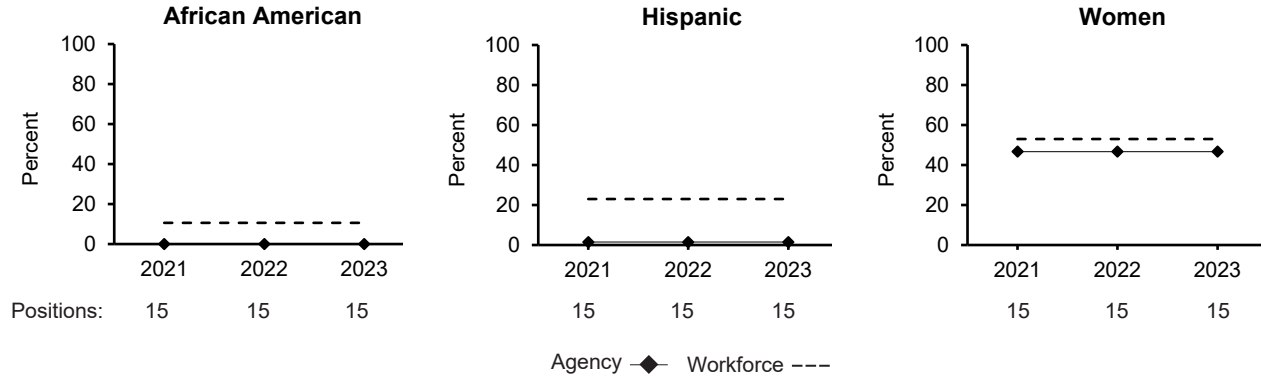
Administration



The authority fell short of statewide civilian workforce percentages for African Americans, Hispanics, and women in each of the last three fiscal years.

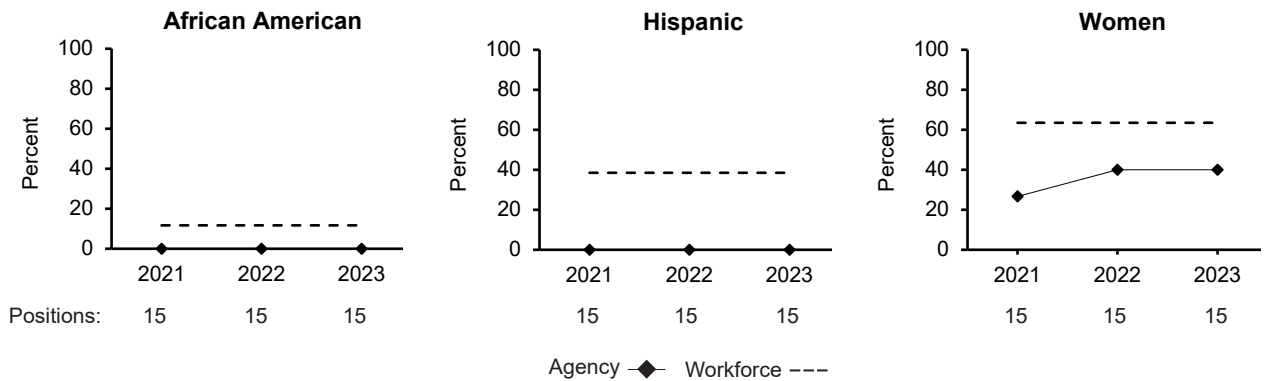
Appendix B

Professional



The authority fell short of statewide civilian workforce percentages for African Americans, Hispanics, and women in each of the last three fiscal years.

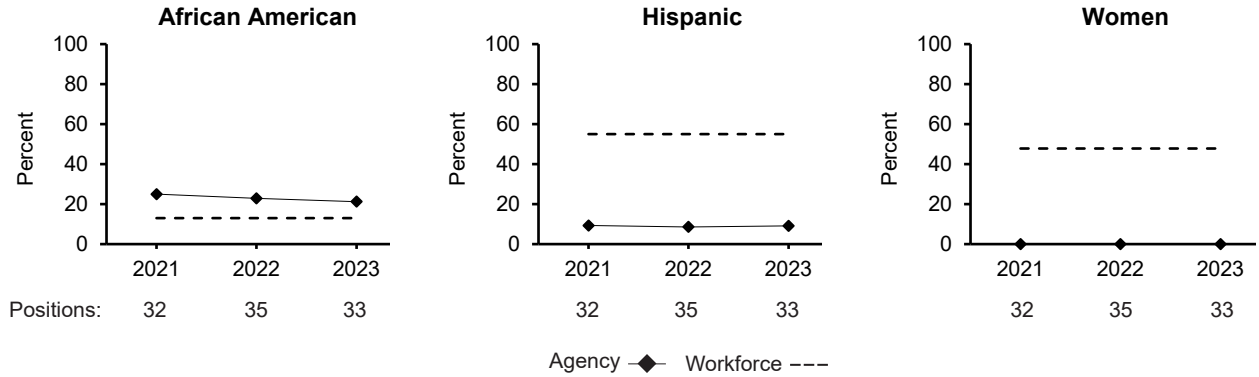
Technical



The authority fell short of statewide civilian workforce percentages for African Americans, Hispanics, and women in each of the last three fiscal years.

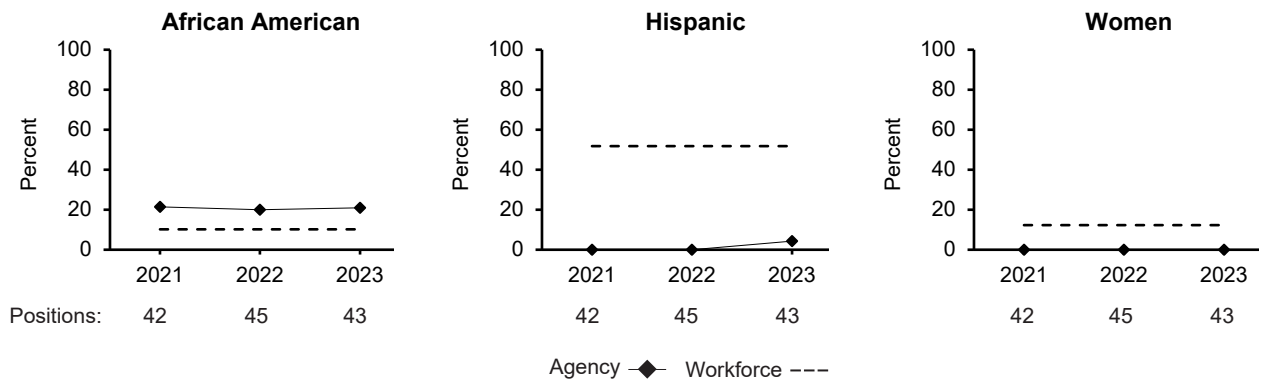
Appendix B

Service/Maintenance



The authority fell short of statewide civilian workforce percentages for women and Hispanics but exceeded percentages of African Americans in each of the last three fiscal years.

Skilled Craft



The authority fell short of statewide civilian workforce percentages for women and Hispanics but exceeded percentages of African Americans in each of the last three fiscal years.

¹ All citations to Texas statutes are as they appear on <http://www.statutes.legis.texas.gov/>. Section 325.011(9)(A), Texas Government Code.

² Based on the most recent statewide civilian workforce percentages published by the Texas Workforce Commission.

APPENDIX C | Staff Review Activities

During the reviews of the Angelina and Neches River Authority (ANRA) and the Lower Neches Valley Authority (LNVA), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with ANRA and LNVA personnel; attended board meetings; interviewed board members; corresponded with staff from key legislative offices; solicited written comments from interest groups and the public; reviewed the authorities' documents and reports, state statutes, legislative reports, previous legislation, and literature; and performed background and comparative research.

In addition, Sunset staff performed the following activities unique to LNVA and ANRA.

- Toured ANRA's Neches Compost Facility and North Angelina County Regional Wastewater Facility.
- Visited several ANRA retail utilities, including Holmwood Utilities, Central Heights Utilities, and Rivercrest Facilities.
- Toured ANRA's Environmental Laboratory at the ANRA Central Office.
- Conducted surveys of ANRA staff and LNVA customers.
- Toured the LNVA-operated North Regional Treatment Plant, an industrial wastewater treatment facility.
- Visited several sites along LNVA's canal systems, including industrial and municipal intakes, rice and crawfish fields, and canal checks.
- Toured important LNVA infrastructure, including the Neches 1st Lift Pumping Plant, Neches 2nd Lift Pumping Plant, and the Neches River Saltwater Barrier.
- Toured LNVA's Water Quality Laboratory at the Neches River Saltwater Barrier.
- Toured the LNVA West Regional Water Treatment Plant.
- Visited the future West Beaumont Reservoir site with LNVA staff.
- Took a boat tour with LNVA staff to view salinity stations and other sites along the Neches River.
- Interviewed staff from the Texas Commission on Environmental Quality, Department of Information Resources, and Texas Water Development Board.

Sunset Staff Review of the
Angelina and Neches River Authority
Lower Neches Valley Authority

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