Office of Water

This office works to ensure clean and available water and is responsible for planning, permitting, and monitoring to protect the state's water resources.

Water Availability Division

The Water Availability Division includes the Water Rights Permitting, Watermaster, and Groundwater Programs and the River Compact Commissions. This division:

- Processes water rights applications;
- Monitors, enforces, and manages water rights in the Watermaster program areas;
- Administers the activities of the Texas Groundwater Committee and supports TCEQ's groundwater management activities; and
- Ensures Texas receives its equitable share of interstate waters as allocated by Texas' interstate compacts.

Water Quality Division

The Water Quality Division is responsible for implementing the Wastewater Permitting Program which protects the quality of surface and groundwater in Texas by regulating the types and amounts of pollutants introduced into water through the issuance of written authorizations. Other activities within the division that contribute to the protection of water quality and support the wastewater permitting function, but are not involved in issuing authorizations, are the engineering review program, the pretreatment program, the Water Quality Management Plan (WQMP), receiving water assessments, and the 401 certification program. This division:

- Processes permit applications to authorize the discharge or land application of wastewater, stormwater, biosolids, and water treatment residuals;
- Updates the Water Quality Management Plan which provides planning and technical data for water quality management activities;
- Conducts individual Clean Water Act (CWA) Section 401 state water quality certifications of CWA Section 404 permit applications for federally regulated dredging and filling activities administered by the U.S. Army Corps of Engineers;
- Administers the pretreatment program, which regulates industrial discharges into publicly owned treatment works;
- Conducts receiving water assessments to assess the habitat, biology, and physicochemical attributes of streams in order to assign aquatic life uses which are used to establish effluent limits in discharge permits; and
- Reviews wastewater system plans and specifications to ensure the system will be capable of treating the wastewater sufficiently to comply with the effluent limits in the permit.

Water Quality Planning Division

The Water Quality Planning Division preserves and improves the quality of the state's surface waters by establishing quality standards; monitoring, assessing, and reporting conditions; and implementing plans to reduce pollution and improve water quality. The division uses an adaptive, iterative cycle of management activities to ensure actions taken achieve desired goals for achieving water quality

standards. The Sugar Land Lab is housed within the division, and provides analytical support for monitoring, compliance, assessment, and permitting programs of the agency. The division:

- Develops and implements plans to protect, maintain, or restore the quality of Texas surface waters;
- Collects, evaluates, and manages surface water quality data to allow TCEQ and stakeholders to make informed decisions about the status, protection, and restoration of water resources;
- Operates an environmental laboratory which analyzes samples of surface water, wastewater, soils, and sediments; develops analytical procedures and supports special investigations, projects, and monitoring activities through cooperative agreements with other agencies; and meets national standards developed by the National Environmental Laboratory Accreditation Program;
- Assesses surface waters of the state and provides information on the condition of inland and coastal surface waters and their ability to support healthy biological communities as well as attainment of designated uses; and
- Manages grants and develops contracts in support of division programs which address aspects of the Clean Water Act and Texas Water Code including Total Maximum Daily Load, Nonpoint Source, Galveston Bay Estuary, and Clean Rivers programs.

Water Supply Division

The Water Supply Division ensures the efficient administration of the production, treatment, and protection of safe and adequate drinking water for the public and is responsible for the general supervision and oversight of water districts. The division:

- Oversees the production, treatment, and quality of drinking water for the public by implementation of the Safe Drinking Water Act;
- Assesses and protects sources of public drinking water;
- Offers technical assistance on the design and operation of public water systems;
- Guides public water systems on resiliency and homeland security preparation, response, and recovery;
- Reviews applications for district creation and district bond issues;
- Reviews engineering plans for new or significantly modified public water systems or exceptions to TCEQ rules;
- Assists public water systems in developing and maintaining financial, managerial, and technical capacity;
- Manages the Water Districts Database and the Safe Drinking Water Information System/Texas Drinking Water Watch; and
- Provides technical assistance to public water systems impacted by natural disasters or other emergency conditions threatening a safe water supply.

Water Rights Permitting Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Water Rights Permitting

Location/Division: Austin Headquarters / Water Availability Division

Contact Name: Kim Nygren, Deputy Director, Water Availability Division

Statutory Citation for Program: Texas Water Code (TWC) Chapters 11 and 18.

B. What is the objective of this program or function? Describe the major activities performed under this program.

State water is defined in TWC Section 11.021 and includes the water of every river, stream, and lake, and of every bay or arm of the Gulf of Mexico. State water also includes the underflow of a river. If a person wants to divert, use, or store state water or use the bed and banks of a watercourse to convey water, a state water right permit is required, unless the water is being used for one of several specific exempt uses. The most common exemption is for domestic and livestock (D&L) purposes.

TWC Chapters 11 and 18 set out the water rights permitting process, with Chapter 18 specifically limited to an expedited process for water right applications in the Gulf of Mexico and coastal areas. Water rights are subject to the prior appropriation doctrine, first in time is first in right, and much of the state water in Texas' river basins has already been permitted to existing users.

The Water Rights Permitting Program (WRP) manages the water rights permitting process, which includes issuing new water rights, changing existing water rights, and processing water supply contracts. There are 6,240 water rights in the state, all, or portions of which are owned by 11,363 persons. The following map shows water right locations.

Water Right Locations in Texas

A water right can have multiple owners and water right owners can sell their water rights or portions of their water right to other users. The WRP collects water use data for non-Watermaster areas and processes changes in ownership of water rights to ensure water rights records are updated and complete. For each of the past five years, an average of 860 water rights applications, ownership changes, and contracts were processed.

Water rights permit applications and changes of ownership are reviewed to ensure all administrative requirements are met. Water rights permit applications also undergo a technical review and analysis to ensure other water rights and the environment are not affected by the application and water is available for new permit applications, as required by TWC Chapter 11. WRP also coordinates with other agency programs during the application review process.

The authority for water rights permitting is different from most other permitting programs at TCEQ. A water right is a property right and most water rights are perpetual rights. In general, most water right permits do not expire nor is there broad authority for future review and consideration of changes to the water right unless the water right itself contains such provisions or a water right holder requests a change to the water right.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by processing water rights applications in accordance with relevant statutes and rules. Program efficiency is determined by processing water rights permit applications within established time frames. As discussed below, WRP has initiated a number of improvements which have resulted in increased program efficiency. The following performance measures are reported in Section II, Exhibit 2.

- Number of Water Rights Permits Issued or Denied;
- Number of Applications to Address Water Rights Impacts Reviewed; and
- Percent of Water Rights Permit Applications Reviewed within Established Time Frames.

The specific performance for FY 2020 under each of these performance measures is detailed in Exhibit 12.

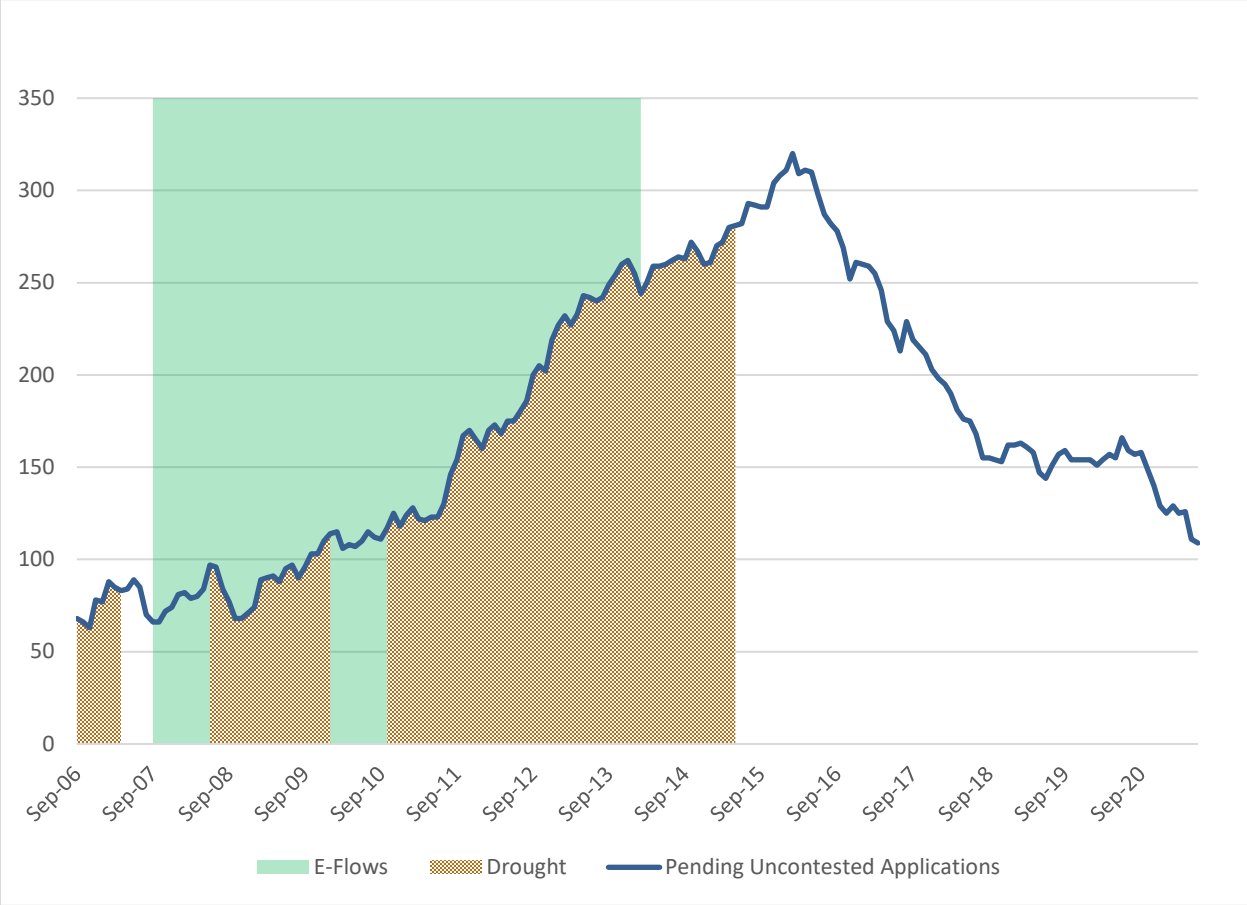
Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	Calculation	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
Percent of water rights permit applications reviewed within established time frames	SUM (total reviews completed Sept. – Aug. within established timeframes)/SUM (total number of reviews completed Sept. – Aug.)	75%	56%	74.67%
Number of applications to address water rights impacts reviewed (TOTAL)*	SUM (applications, ownership changes, and contracts as reviewed Sept. – Aug.)	595	1,122	188.57%
Number of applications to address water rights impacts reviewed (WAD only)	N/A	355	867	244.23%
Number of applications to address water rights impacts reviewed (OCE only)	N/A	240	255	106.25%
Number of water rights permits issued or denied	SUM (water rights issued or denied Sept. – Aug.)	75	83	110.67%

*Water rights applications include new perpetual water rights and amendments to existing water rights, water supply contracts and changes of ownership processed by WRP. WRP also issues larger temporary permits. Temporary permits (less than 10 acre-feet and for less than one year) can be issued by both TCEQ regional offices and Watermasters. The total number of applications reported for this measure includes all water rights applications, contracts, and change of ownerships issued by WRP and Watermasters, as well as temporary permits issued by OCE.

Major changes to state water policy (for example, adopting rules for environmental flow standards, drought, and other projects) can shift WRP staff from permitting activities. Beginning in 2007, several of these factors affected water rights processing as shown in the following chart.

Pending Uncontested Water Right Applications



As part of its efforts to reduce the number of pending applications, WRP began strongly encouraging pre-application meetings. That initiative resulted in more complete applications, better processing times, and created a more transparent process. These meetings have resulted in more complete submittals and supported other WRP efforts to decrease processing times. Other WRP efforts include:

- The "Fast Track" Program was implemented in June 2016 and continues to be in place today. It was designed to provide a more streamlined process for less complex water rights applications that do not require a water availability review or analysis.
- In May 2020 TCEQ adopted rules to implement HB 1964 (86R), which streamlined the water rights permitting process for certain simple amendments to a water right.
- WRP implemented enhanced application tracking measures for all stages of the water rights permitting process to ensure applications continue to move through the process.

Because of these process initiatives, WRP has significantly reduced the backlog of pending water right permit applications, and applications received since FY 2016 have improved processing timeframes. In early 2016, WRP had 355 pending uncontested applications and by August 1, 2021, there were 103 pending uncontested applications. With the backlog reduced, WRP has turned its focus to further improving processing timeframes – starting first with TWC Section 11.122 (b-3) amendment applications and Fast Track applications.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affected the Water Rights Permitting Program.

2001

- Senate Bill 2 (77R) establishes the Texas Instream Flow Program and directs TCEQ, Texas Parks and Wildlife Department (TPWD), and the Texas Water Development Board (TWDB) to establish and maintain an instream flow data collection program and conduct studies on rivers in the state.

2007

- Senate Bill 3 (80R) sets out a process for TCEQ to adopt environmental flow standards through rulemaking that would apply to new appropriations of surface water. The Act creates a basin stakeholder-driven process to develop recommendations for environmental flow standards to TCEQ and an ongoing adaptive management process for the local basin stakeholders to recommend future changes to the adopted rules as new scientific information becomes available. The Act also establishes the Water Conservation Advisory Council (WCAC).

2015

- House Bill 2031 (84R) creates new TWC Chapter 18 and sets up an expedited process for water rights applications for the diversion and use of marine seawater.

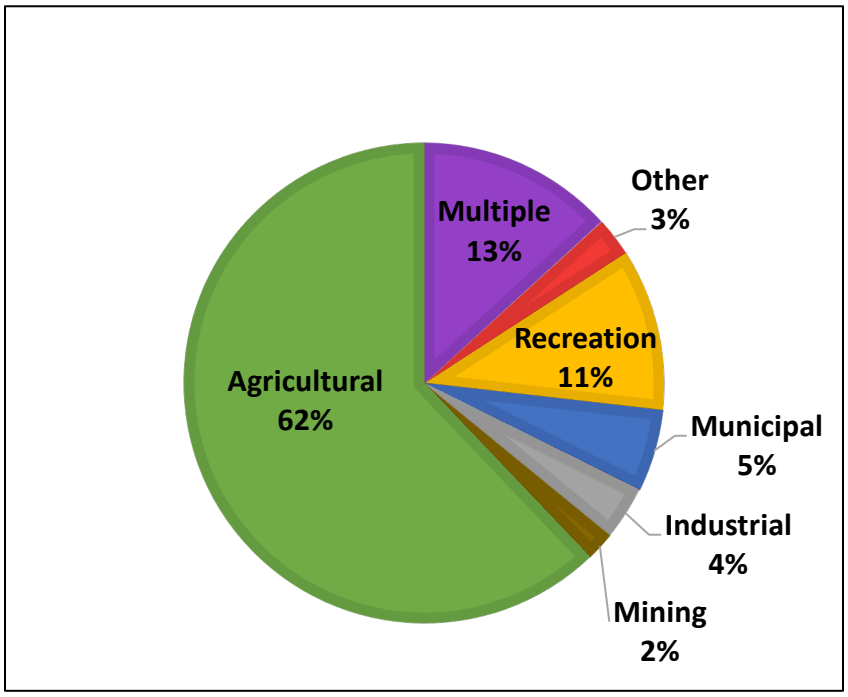
2019

- House Bill 723 (86R) requires TCEQ to obtain or develop updated water availability models for the Brazos, Neches, Red, and Rio Grande Basins. The 86R appropriates $2,162,000 to fund the updates.
- House Bill 1964 (86R) creates new TWC 1.122 (b-3) and streamlines the water rights permitting process for certain simple amendments to a water right that do not affect other water rights or the environment.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

Applicants for new water rights may be individuals, businesses, or governmental bodies. Permitted water right holders include municipalities, industries, mining operations, farmers and ranchers, and river authorities. Some of these entities, such as river authorities, may also sell wholesale water to other users. Water rights are permitted for a variety of beneficial uses; for example, agriculture, municipal, and industrial. Water rights can also be permitted for multiple purposes of use and include multiple authorizations. The following chart shows the percentage of water right authorizations for different types of uses.

Water Rights by Use Type



F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

For water rights applications, the specific process is as follows:

- Applicants for a water right permit or amendment to an existing water right schedule a pre-application meeting with WRP staff prior to submitting an application. Any issues are discussed and resolved, ensuring the application is substantially complete when submitted.
- When an application is received, it is assigned to a project manager, who distributes the application to technical teams – conservation, instream uses, surface water availability, and dam safety – for Administrative Review.
- If there is missing, incomplete, inconsistent, or incorrect information in the application, a formal Request for Information (RFI) is sent to the applicant.
- If the applicant does not respond, or cannot supply the requested information, the application is returned.
- If the applicant supplies the information requested in the RFI, the application is declared administratively complete and technical review begins. The date an application for a new appropriation is administratively complete establishes the priority date for the appropriation.
- The application is then reviewed by WRP technical staff. Technical review includes:
  - An evaluation of whether any required Water Conservation Plans and/or Drought Contingency Plans comply with Title 30 Texas Administrative Code (30 TAC) Chapter 288 rules and whether the application is consistent with the State and Regional Water Plans;
  - An evaluation of whether the application, if granted, would affect instream uses or water quality;

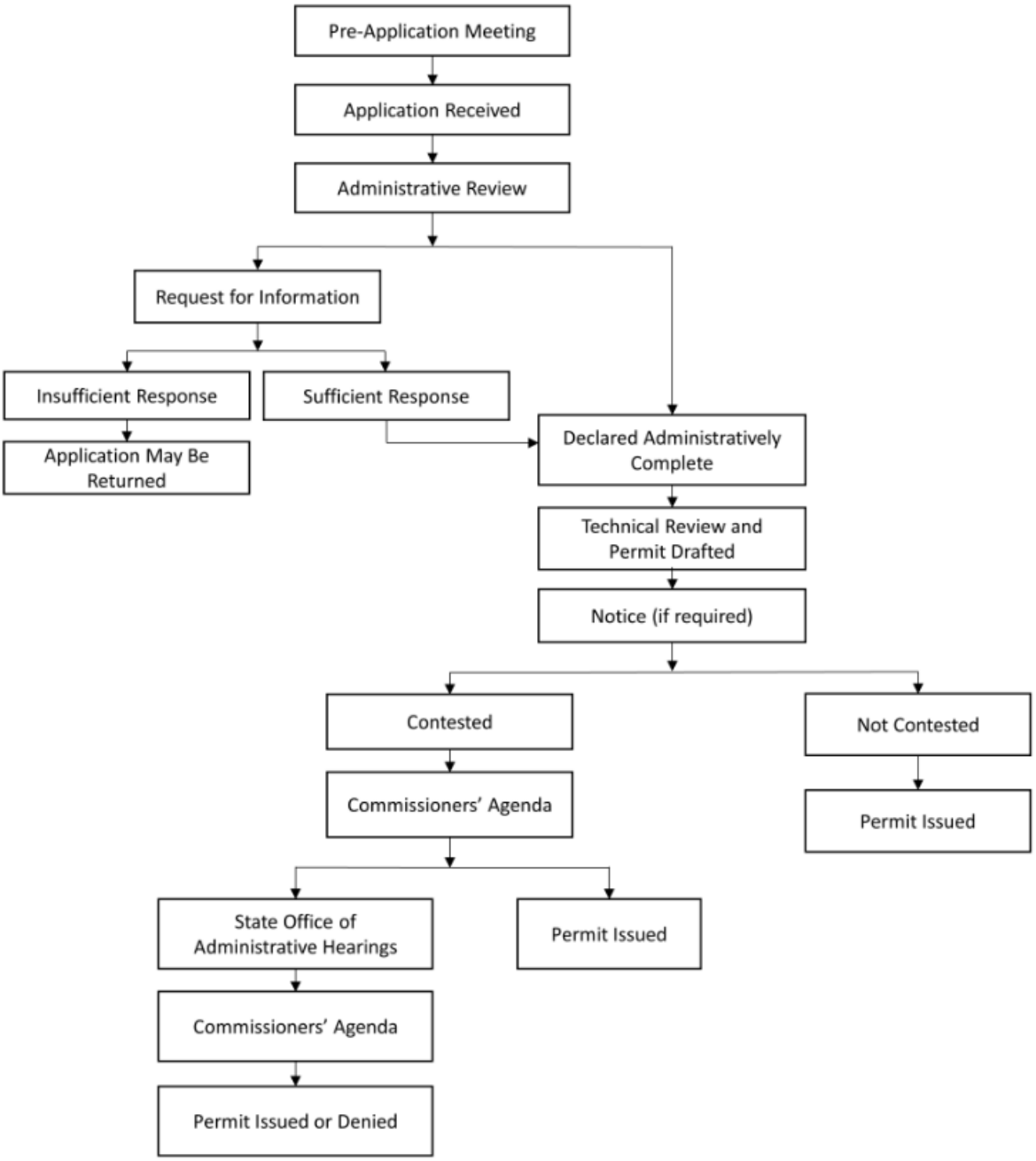
  - An evaluation of whether water is available for appropriation for new permits or whether an amendment to an existing permit would affect other water rights in the basin. WRP uses water availability models to evaluate applications and amendments; and
  - For new impoundments, TCEQ's Dam Safety section provides a review and recommendations for the structure.
- The technical teams develop recommendations on whether the application should be granted based on TCEQ's rules and state law and may recommend special conditions to protect water right holders and the environment.
- After technical review is complete, a draft permit is prepared and reviewed by the applicant and either TCEQ Watermasters or TCEQ's regional office staff.
- Notice is provided, if applicable, in accordance with 30 TAC Chapter 295 rules and the complete application is posted on WRP's Pending Water Rights Applications webpage so the public can review the file. If the application is not protested, the permit is issued by the executive director.
- If there is sufficient public interest or a legislative request, WRP will hold a public meeting. If hearing requests are received and are not withdrawn, the application is set for commission agenda, where the commissioners decide whether to issue the permit or refer the application to the State Office of Administrative Hearings (SOAH).
- If the application is referred to SOAH, SOAH conducts a hearing and issues a recommendation. SOAH's recommendation is then reviewed by the commissioners at a commission agenda and the commissioners decide whether to grant or deny the application.

Applications for amendments that do not impact other water rights or the environment (referred to as TWC Section 11.122 (b-3) amendments) follow the same administrative process as other water rights applications. However, because these applications do not affect other water rights or the environment, they do not require technical review. Once the application is declared administratively complete, WRP staff prepare a draft amendment, which is reviewed by the applicant and either TCEQ Watermasters or regional office staff, and the amendment is issued.

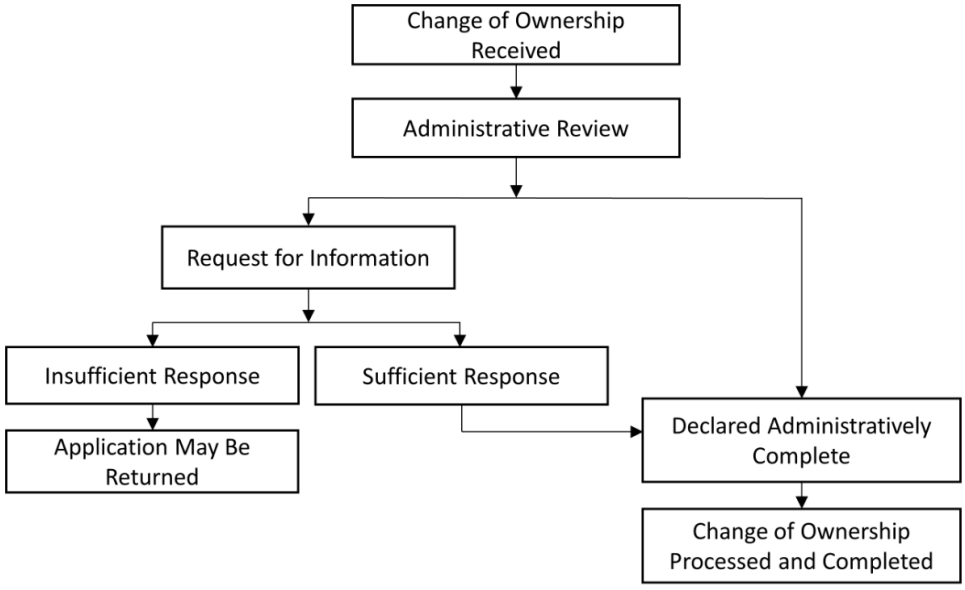
Applications to change the ownership of a water right follow a similar process to TWC Section 11.122 (b-3) amendments. Water rights for irrigation use may be appurtenant to the irrigated land. When the land is sold, the water right conveys with the land unless specifically excluded from the transaction. Processing a change of ownership requires review of a complete chain of title, which can include wills and deeds, to establish ownership. Once all supporting documentation is reviewed, WRP issues a memorandum changing the ownership of the water right.

The following flowcharts illustrate processes for water rights permitting, changes of ownership, and TWC Section 11.122(b-3) water rights permitting.

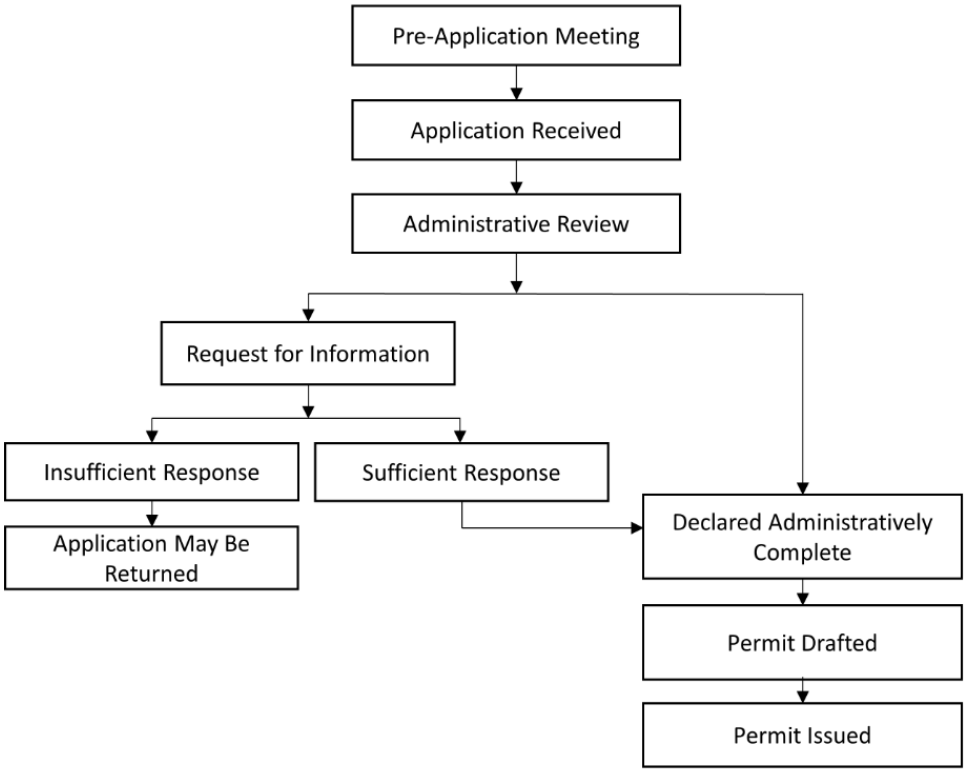
Water Rights Permitting Application Process Flowchart



Change of Ownership Process Flowchart



TWC Section 11.122 (b-3) Water Rights Permitting Application Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Water Rights Permitting Funding Sources

Account	Account Title	FY 2020 Expended
0001	General Revenue	$788,986
0153	Water Resource Management Account – Dedicated	$1,920,152
TOTAL		**$2,709,138**

The program is funded in the Water Resource Permitting Strategy and Water Assessment and Planning Strategy.

The program includes Rider 31, Contingency for House Bill 723 (86R).

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ has a Memorandum of Agreement (MOA) with TWDB and TPWD relating to an operating agreement for instream flow studies. The MOA establishes a tri-agency coordinating committee to provide overall policy direction to the instream flow program and develop a programmatic work plan identifying the priority study areas, assigning agency responsibilities for conducting the studies, and setting time frames. The studies agreed upon by the three agencies are nearing completion.

WRP established a Water Rights Advisory Work Group (WRAWG), a voluntary group of participants that meet at least annually to discuss issues related to water rights permitting. The meetings are open to the public. The WRAWG currently has representation from municipal, industrial, mining, and irrigation users; river authorities; engineering and law firms; environmental organizations; and governmental bodies. WRAWG meetings were webcast through TCEQ's site through FY 2019 but are currently being held through Microsoft Teams to provide more opportunity for stakeholder participation.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

TCEQ, TPWD, and TWDB are completing the final two priority instream flow studies and are members of WCAC.

TCEQ provides copies of water rights applications to TPWD for review and comment.

TCEQ works with TWDB as follows:

- TWDB is charged with developing the State and Regional Water Plans. Water rights applications must be consistent with the plans. TWDB also consults with TCEQ on population and water demand projections developed for the plans.

- TWDB requires certain entities to submit a Water Use Survey. TCEQ cannot issue a new permit or amendment if an entity has not completed the survey. TCEQ coordinates with TWDB to determine which entities have not submitted a survey and TCEQ notifies the entities of the delinquent surveys.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The purpose of WRP contracts is to provide updated water availability models for the Brazos, Red, Neches, and Rio Grande Basins, as required by House Bill 723 (86R). Revenue to fund the contracts was appropriated by the legislature.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $578,374.

- **the number of contracts accounting for those expenditures;**

Four contracts.

- **the method used to procure contracts;**

The program procured these contracts following state protocols regarding requests for qualifications and proposals.

- **top five contracts by dollar amount, including contractor and purpose;**

Water Rights Permitting Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-13328	HDR Engineering Inc.- Neches	Provide an updated water availability model for the Neches River Basin	$87,768
582-20-13329	Freese & Nichols Inc. - Brazos	Provide an updated water availability model for the Brazos River Basin	$88,704
582-20-13330	Freese & Nichols Inc. - Red	Provide an updated water availability model for the Red River Basin	$197,541
582-20-13331	Robert J Brandes Consulting - Rio Grande	Provide an updated water availability model for the Red River Basin	$155,631

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems in FY 2020.

L. Provide information on any grants awarded by the program.

The Water Rights program provides direct awards to specific universities to support TCEQ's water availability modeling and geospatial analysis tools, and assistance with maintaining water right ownership records. Direct awards include the Texas A&M Engineering Experiment Station to provide technical support for updating and maintaining the Water Rights Analysis Package, the water availability modeling engine, and developing an online training program for agency staff and new model users across the state. The University of Texas at Austin receives a direct award for development of a water rights viewer that allows the agency and the public to access water rights information, including copies of the water right and reported water use. A direct award to the University of Texas at Arlington is for supporting water right ownership change application processing.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Environmental Flow Challenges. Some uncertainty about the environmental flow adaptive management process adds complexity to water rights permitting. The adaptive management process for environmental flows in water rights permitting was established by the legislature in 2007, is guided by the state-level Environmental Flows Advisory Group and Science Advisory Committee, and is driven by local Basin and Bay Stakeholder and Expert Science Teams. TCEQ's role in the adaptive management process is to provide administrative and logistical support to the basin groups, provide technical water rights information when requested, and adopt revisions to the existing standards if requested by the local stakeholders.

Between 2011 and 2014, TCEQ adopted rules with environmental flow standards for all river basins draining to the Gulf of Mexico in Texas. The Basin and Bay Stakeholder Teams developed workplans describing the studies they determined would provide information needed to inform future recommendations for revisions to the environmental flow standards. A wide range of stakeholders are interested in the adaptive management process, which studies should be performed, and how the studies should be prioritized. As set out in the rules, revisions for each basin can begin between 2021 and 2024. Any requested revisions to the rules will result in highly complex rulemakings and may impact water right permit application processing. The impact of the 2011 to 2014 rulemaking on the program is illustrated in Question C above in the graph *Pending Uncontested Water Right Applications*.

Further, as described in Sections D and I, the legislature established the Texas Instream Flow Program (TIFP) in 2001 to collect instream flow data and conduct studies. The statute does not expressly state whether and how the TIFP should continue after the initial priority studies are completed. These studies require significant staff resources. In addition, TCEQ's rules for environmental flow standards set out the environmental requirements used in water rights permitting. TCEQ believes any further studies associated with environmental flows should occur through the ongoing adaptive management process. This would allow those studies to be considered in any revisions to TCEQ's rules for environmental flow standards and would allow TCEQ staff to focus on processing water rights applications.

Droughts and Emergency Water Shortages. Water rights are administered in accordance with the prior appropriation doctrine – senior users get water before more junior users. During times of drought, TCEQ may need to suspend junior water rights, including water rights for municipal and power generation use

in order to protect senior water rights. TCEQ does not have authority to exempt junior water rights from a priority call even to protect public health, safety, or welfare. **Refer to Section IX, Major Issues, Authority to Protect Public Health, Safety, and Welfare During Droughts and Emergency Water Shortages.**

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Pandemic Response. Transitioning to a paperless work environment has been key to WRP's success in navigating the challenges posed by the pandemic. The division built on previous initiatives to make water rights application information available to the public. Starting in FY 2018, the division began posting copies of initial applications online and providing status information about those applications. Starting in FY 2020, in response to the pandemic, the division began posting copies of the complete application file, which contained all actions and submittals during the permitting process for all water right applications requiring any type of public notice. In addition, if a public meeting was scheduled for an application, the division maintained an online posting to ensure the public had access to all available information on the application. The division's success in implementing paperless application submissions contributed to TCEQ exceeding its performance measures for the number of water rights applications processed in FY 2020 and FY 2021 and continuing to reduce overall processing times for water rights applications.

Water Availability Models (WAMs). In 1997, the legislature required TCEQ to develop water availability models (WAMs) for Texas' river basins that are used by WRP in processing water rights applications. The Water Availability Models are the backbone of TCEQ's water rights permitting program and are used to determine whether water is available for new permits or whether changing an existing permit would affect other water rights. TCEQ's WAMs, including the WAM data, are publicly available, free of charge.

House Bill 723 (86R) requires TCEQ to obtain updated water availability models for the Brazos, Red, Neches, and Rio Grande Basins and the legislature appropriated $2,162,000 to fund this work, which began in April 2020. Despite the significant amount of staff time required to administer the contracts, coupled with the challenges posed by the pandemic, WRP will complete these projects by August 31, 2021.

Several other basins have been updated or partially updated by basin interests (Colorado, Brazos, and Sulphur River Basins) in cooperation with TCEQ. The work to update basin WAMs is very detailed and time intensive and WRP would be unable to update any other basins with existing resources. Stakeholders have a high interest in updating some of the remaining basin WAMs to ensure water availability determinations consider the 2011 drought and more recent high-flow events. As of FY 2020, WRP estimates $4,957,000 would be required to complete the remaining basins.

Public Outreach and Transparency. WRP has made major strides in improving transparency in the water rights permitting program by making water rights information readily available online. WRP is also continuing efforts to identify additional ways to further enhance transparency and make water rights data and information readily available. WRP keeps records of all water rights permits as well as reported water use across the state. In FY 2019, WRP launched the Texas Surface Water Rights Viewer. The viewer is an online map application that allows the public to easily access water rights data based on location in the state. Data served out through the viewer includes the copies of water rights, current ownership, how much the permitted water rights are using, as well as important historical documents. Since the initial launch, WRP has continued to work with water stakeholders to update and upgrade the functionality in the viewer.

Water Use Reporting. Additionally, in ongoing program streamlining efforts, WRP initiated paperless water use reporting in FY 2021, allowing water right holders to submit their annual water use reports online. In the first year, almost 43% of all water use reports were submitted through the new online system. This initiative reduces staff processing times for paper submittals and results in water use information becoming available to the public more quickly.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Refer to the Office of Compliance and Enforcement, Field Operations, Question P for complaint data related to this program.

Watermaster Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Watermaster Program

Location/Division: Multiple Cities / Water Availability Division

Contact Name: Kim Nygren, Deputy Director, Water Availability Division

Statutory Citation for Program: Texas Water Code (TWC) Chapter 11.

B. What is the objective of this program or function? Describe the major activities performed under this program.

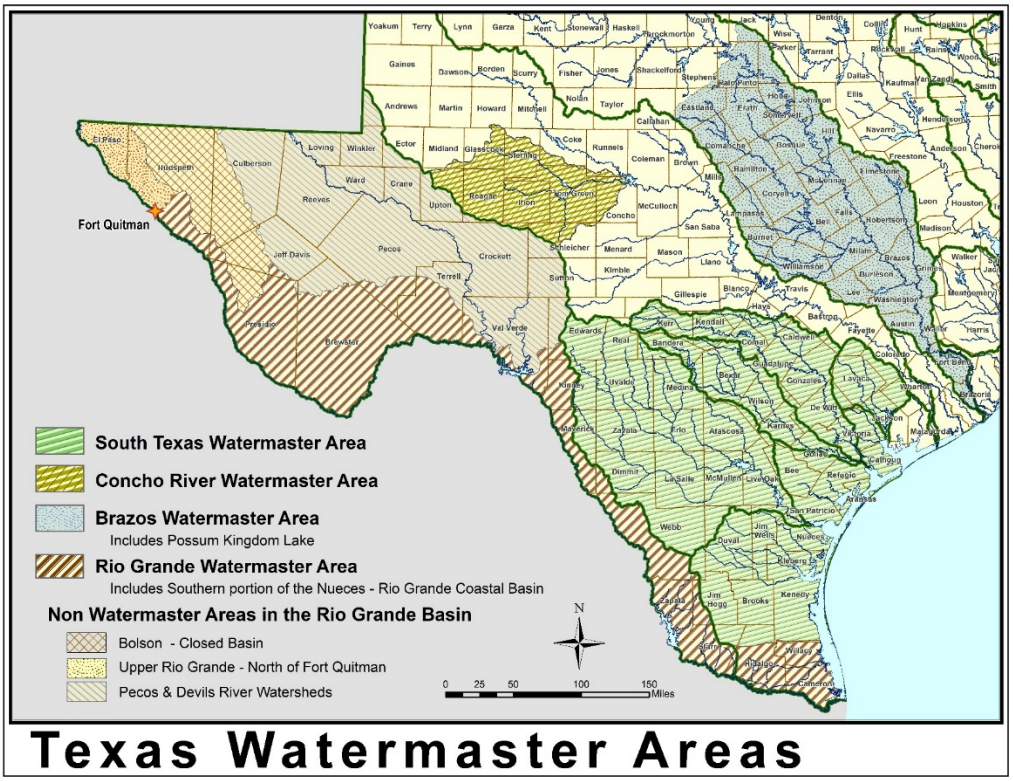
In areas of the state where water is more scarce, droughts are more frequent and/or severe, and/or where there is more competition for limited water resources, TCEQ's Watermaster programs provides more intensive monitoring, enforcement, and management of water rights.

There are four individual watermaster programs.

- Rio Grande Watermaster Program: serving the Rio Grande Basin below Fort Quitman, Texas (excluding the Pecos and Devils Rivers).
- South Texas Watermaster Program: serving the Nueces, San Antonio, Lavaca, and Guadalupe River Basins and the Lavaca-Guadalupe, Nueces-Rio Grande, and San Antonio-Nueces Coastal Basins.
- Concho River Watermaster Program: currently a division of the South Texas Watermaster, serving the Concho River segment of the Colorado River Basin.
- Brazos Watermaster Program: serving the Brazos River Basin downstream of Possum Kingdom reservoir, including said reservoir.

The following map shows the four watermaster program areas.

Texas Watermaster Areas



Watermasters proactively manage water rights in watermaster program areas by performing the following functions:

- Continuous monitoring of streamflow and reservoir levels. This includes both field monitoring and monitoring online data. With continuous monitoring, watermasters can respond to changing conditions in the basin(s).
- Review and approve or deny diversion requests. Prior to diverting water, a water right holder must submit a declaration of intent (DOI) that includes the dates of and amount of water the water right holder intends to divert at a specific rate. The watermaster reviews DOIs to determine whether a diversion will remove water that rightfully belongs to another user and either approves or denies the request. Junior or lower priority diversion requests may be adjusted based on senior or higher priority diversion requests.
- Water use monitoring and accounting. The watermasters monitor water use and track diversions using the Texas Watermaster Accounting System (TxWAS).
- Field inspections. Watermaster staff routinely inspect diversion sites and monitor the watermaster area for unauthorized diversions. Watermaster staff also investigate complaints.
- Initiate enforcement. Watermasters can issue field citations, notices of violation, and notices of enforcement to address violations or unauthorized diversions.
- Issues temporary permits for diversions of less than 10 acre-feet of water for a period of one year or less.
- Facilitates communication and cooperation among water users in the basin(s). The watermaster works regularly with water users in the program basin(s).

In addition to the functions listed above, the Rio Grande Watermaster Program performs the following additional functions:

- Exchanges data with the International Boundary Water Commission (IBWC). The waters of the Rio Grande are shared between the United States and Mexico. The IBWC is responsible for the application of the *Utilization of Waters of the Colorado and Tijuana Rivers and the Rio Grande, Treaty Between the United States of America and Mexico, signed February 3, 1944* (1944 Water Treaty), which divides the waters of the Rio Grande between the United States and Mexico. The IBWC also administers the water accounting associated with the 1944 Water Treaty. The Rio Grande Watermaster exchanges accounting data with the IBWC for those purposes.
- Allocates water from the Falcon/Amistad reservoir system to water right accounts on the main stem of the Rio Grande from Amistad reservoir to the Gulf of Mexico. Based on the accounting data provided by the IBWC, the Rio Grande Watermaster allocates water to Texas' surface water right holders. The TxWAS database is used for allocations as well as accounting.
- Communicates information to IBWC to support river operations on the Rio Grande below Amistad reservoir. The Rio Grande Watermaster requests releases of water from Amistad, Falcon, and Anzalduas reservoirs to support authorized Texas water right diversions below Amistad reservoir.
- Provides support for Texas' participation in communications and negotiations on the 1944 Water Treaty.

The Watermaster program also evaluates, at least once every five years, any river basin that does not have a watermaster to determine whether a watermaster should be appointed.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness and efficiency is determined by completing field investigations, including both routine and complaint investigations. During FY 2020, the watermaster programs conducted 40,269 water right site investigations. The following performance measure is reported in Section II, Exhibit 2.

- Number of Inspections and Investigations of Water Rights Sites.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the Watermaster program.

2011

- House Bill 2694 (82R) adds new TWC Sections 11.326 (g) and (h) requiring TCEQ's executive director to evaluate, at least once every five years, any river basin not having a watermaster to determine whether a watermaster should be appointed, and requires the commission to determine the criteria or risk factors to be considered in the evaluations.

2014

- The Brazos Watermaster Program was established by petition and subsequent order on April 21, 2014, for the executive director to appoint a watermaster in the Brazos River basin downstream from and including Possum Kingdom Reservoir. This program began operating in June 2015.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

Water right holders vary by program but may include irrigators, municipalities, industries, river authorities, and/or irrigation districts. A water right may have more than one owner and/or may have an agent authorized to divert water on their behalf. Each of these individuals has an account with the respective watermaster program. The following table lists the number of water rights and accounts per program.

Number of Water Rights and Water Right Accounts by Watermaster Program

Program	Number of Water Right Permits (FY 2020)	Number of Accounts (FY 2020)
Rio Grande Watermaster	850	1416
South Texas Watermaster	1337	1501
Concho Watermaster	225	355
Brazos Watermaster	966	1577

Exempt domestic and livestock uses are not regulated, but the watermaster is authorized to protect these uses.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Watermaster programs operate from field offices within their designated basin(s). The following table lists the location and total number of Full Time Equivalent Employees (FTEs) by each watermaster program.

Location and Number of FTEs by Watermaster Program

Watermaster Program	Location	Number of Budgeted FTEs (FY 2021)	Number of Actual FTEs (as of SER submission)
Watermaster Support	Austin	2	2
Brazos Watermaster Program	Waco, Angleton, College Station, Stephenville	9	9
South Texas Watermaster Program	San Antonio, Stockdale, Bandera, Victoria, Corpus Christi	7.9	7.9
Concho Watermaster Program	San Angelo	2.1	2.1
Rio Grande Watermaster Program	Harlingen, Laredo, Eagle Pass	10	10
TOTAL		31	31

With a watermaster area, territory is divided up among watermaster deputies. A watermaster deputy establishes schedules for monitoring and inspections for that territory. The monitoring/inspection schedule will vary based on factors such as whether water right holders are diverting, streamflow in the area, and season.

TWC Section 11.329 requires water right holders in a watermaster program to pay the costs associated with a watermaster program through an annual fee. Title 30 Texas Administrative Code (30 TAC) Sections 303.71-303.73 and 30 TAC 304.61-304.63 set forth formulas and procedures for the assessment of fees for watermaster programs.

The total amount assessed per water right holder is comprised of a $50 per account base fee and an annual use fee based on the volume of water that may be diverted for each authorized use. The use fee is calculated each year and is based on the proposed operating budget for each watermaster program. The proposed operating budget for each watermaster program is presented to the respective Watermaster Advisory Committee for review and comment prior to approval by the commission.

The primary function of the watermaster programs is to conduct routine monitoring and inspections of water rights within the watermaster area. The process is as follows:

- Each fiscal year the watermaster program is assigned a defined number of inspections according to the number of water rights in the program and the division's performance standards and legislative requirements.
- Routine inspections are conducted individually by watermaster specialists (WMS) in their assigned area. The number of fiscal year inspections is allocated to each WMS according to the overall geographic conditions and functional needs of the watermaster program, and it is subdivided into four fiscal quarters to aid in tracking the desired progress.
- Routine inspection rotations are based on watermaster-defined goals of performing site visits to ensure appropriate and periodic coverage.
- WMS are expected to plan accordingly and define internal routes based on routine inspection rotations and to observe real-time conditions to ensure water rights compliance, monitor flows, and identify unauthorized diversions of state water in the WMS's area.
- WMS administrative duties while preparing for conducting routine inspections include:

  - Plan the route to include routine inspections and site visits. To assist with the planning process, active diversions can be found using TxWAS;
  - Start the daily log for the day and return any phone calls or emails;
  - Account for streamflows for the area to be covered; and
  - Perform vehicle inspection checklist before departure.

- While conducting routine inspections, the WMS updates their daily log throughout the day to include all tasks. These include:

  - water right site visits;
  - streamflow measurements;
  - doppler measurements;
  - meter verification/certification;
  - technical assistance;
  - geolocation; and
  - office check-in.

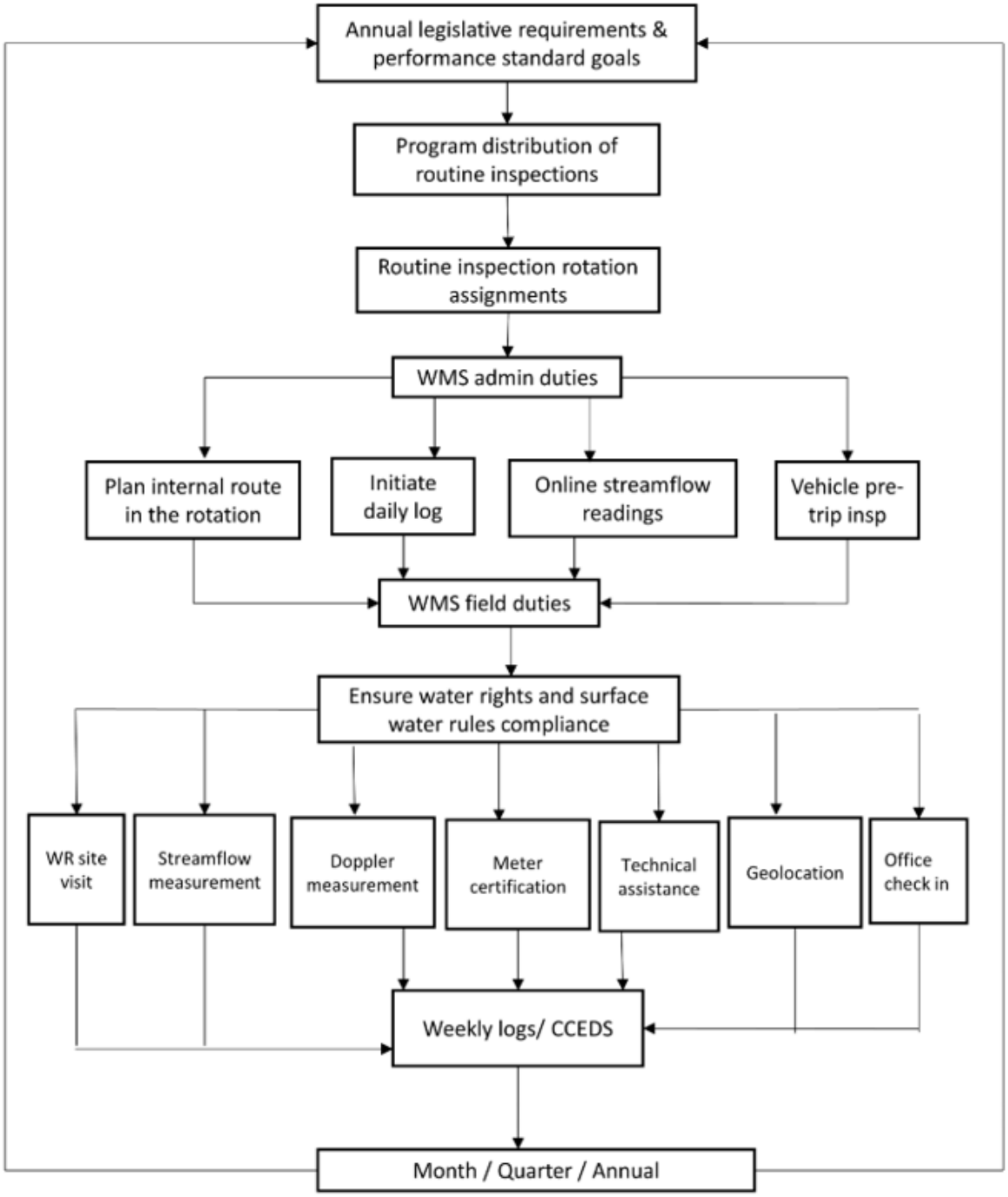
- Final logs are satisfactory when they are uploaded into the Site Tracker database or finalized into the Consolidated Compliance and Enforcement Data System (CCEDS).

  - The Site Tracker database can be queried in some program areas to find the status of last site visits for active and inactive sites. In other areas, pump lists are followed in the assigned tracts to assist WMS in planning their route.

- Watermasters review daily logs on a weekly or monthly basis for consistency and errors.
- Sites are tracked using finalized electronic logs and approved CCEDS investigations, on a monthly basis, for WMS and Watermaster progress.
- Monthly totals are provided by the Watermaster Section to the Water Availability Division on a quarterly basis for performance standards and legislative requirements.

The following flowchart illustrates the watermaster routine inspection process.

Watermaster Routine Inspections Process Flowchart

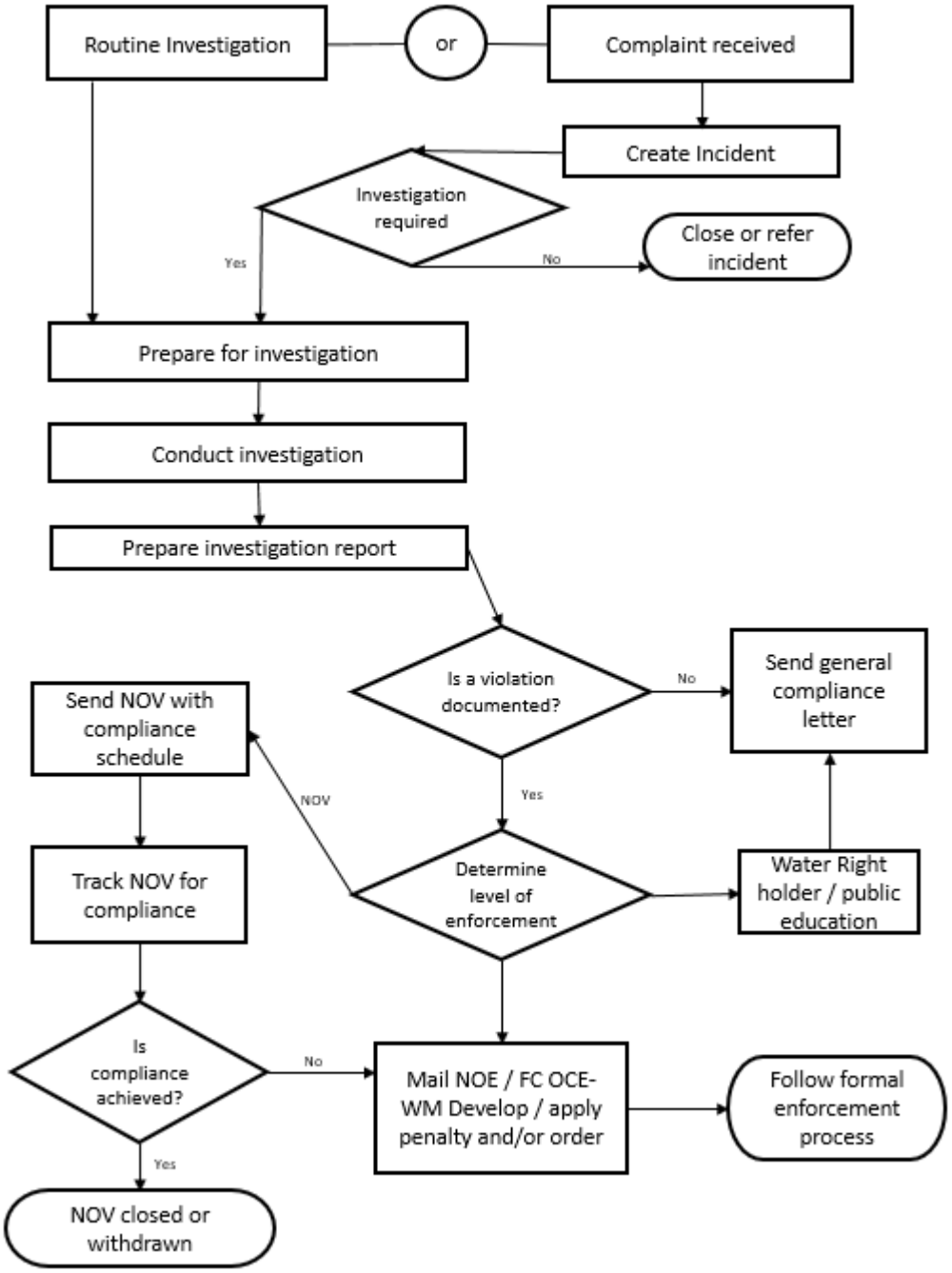


A WMS also responds to complaints within their territory. The general process for complaint investigations is summarized as follows.

- Complaints may be filed with or referred to a watermaster program by one or multiple parties (complainants) regarding the actions of others (respondents). In most cases, an incident is opened in CCEDS. Complaints may also be initiated by a WMS during routine inspections for which an incident is not opened in CCEDS.
- At times, complaints may fall outside the purview of the watermaster program and, if applicable, referred to the appropriate program or agency. The incident is then closed or referred. Otherwise, an investigation is normally required when the complaint involves surface water, surface water rights, stream flows, or impoundments on defined watercourses.
- The investigation is assigned to the WMS associated with the complaint area. The WMS completes a series of pre-investigation work to prepare for the field investigation. This work may include determining whether an existing water right is associated with a complaint; identifying property ownership and access to visit the area; and consulting with other local, state, or federal agency personnel who may have some knowledge of a location or issue.
- The WMS investigates and gathers visual and photographic documentation, geographic coordinates, and contact information such as names, addresses, and telephone numbers.
- Following conclusion of the field investigation, the WMS creates an investigation report in CCEDS and documents if a violation exists or not. If no violation is documented, a general compliance letter is mailed to the respondent.
- If a violation of surface water rules is documented, the level of enforcement is then determined.
- Watermaster programs strive to educate water right holders and the public on any violation of surface water rules and seek voluntary compliance (as allowed) prior to engaging in any form of enforcement.
- If a Notice of Violation (NOV) is determined to be appropriate, an NOV letter and compliance schedule is mailed to the respondent. The NOV is tracked for compliance based on the schedule provided. If compliance is achieved, the NOV is closed or withdrawn, and a general compliance letter is mailed to the respondent. If compliance is not achieved, a Notice of Enforcement (NOE) is pursued.
- If an NOE must be pursued, the matter is referred to the Enforcement Division to determine penalties and develop a compliance order. If a Field Citation (FC) is determined, the penalties and compliance order are predetermined based on the amount of water diverted or water right, depending on the cited statute/rule. The NOE or FC letter are mailed to the respondent and the agency's formal enforcement process is followed.
- WMS work in coordination with the watermasters, the Water Availability Division, the Office of Compliance and Enforcement (OCE), and the Environmental Law Division as necessary for each complaint investigation.

The following flowchart outlines the general complaint investigation process.

Complaint Investigation Process Flowchart



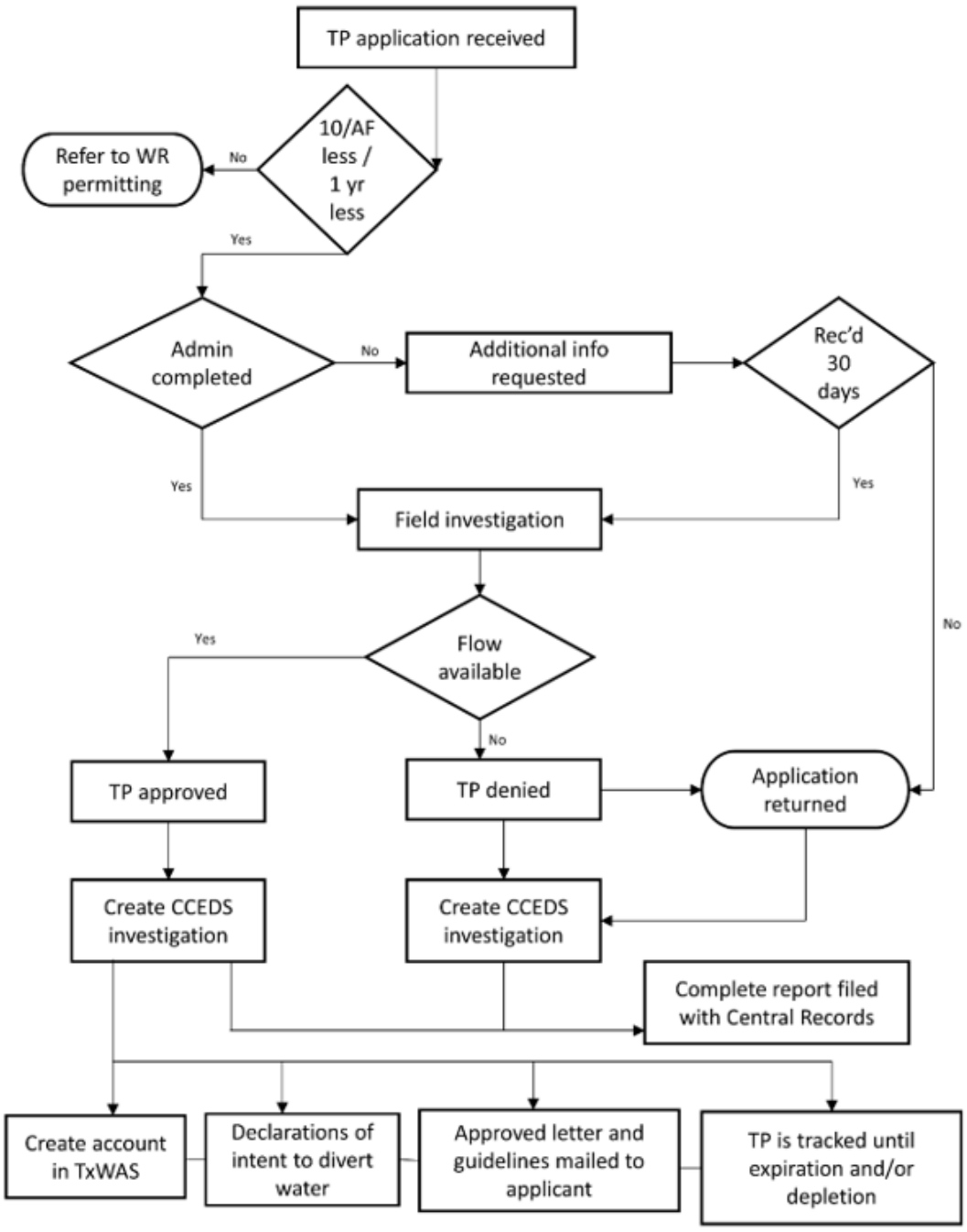
Watermaster programs also process temporary water right permit applications for 10 acre-feet or less and for one calendar year or less. The watermaster may issue one of these temporary permits if they do not adversely affect previously issued water rights. Watermaster temporary permits are issued without notice or opportunity for a contested case hearing, under TWC Section 11.138.

The watermaster processes temporary permit applications as follows:

- The applicant submits an application with the appropriate fees. By statute, the watermaster must approve or deny the application within 30 days of its receipt. An administrative review of the application is completed to determine if all required information was submitted. If the application is incomplete, the watermaster will make a request for additional information and the 30-day clock is suspended until the required information is submitted. If the required information is not submitted, the watermaster may return the application.
- Once an application is administratively complete, the WMS associated to the area will then determine whether there is sufficient water available at the proposed point of diversion and will gather photographic evidence.
- If the application is approved, the watermaster program assigns a temporary permit identifier and a temporary water permit account is created in TxWAS.
- An approval letter is generated advising the applicant of diversion request procedures, the maximum authorized amount, and the permit's expiration date. Watermaster staff mail the original letter to the applicant. The letter advises that the permittee can only divert when there is sufficient flow and would not cause hardship to downstream users. The permittee is also advised that in the event of a drought or other shortage of water, the permittee may be required to cease diversion until conditions improve.

The following flowchart outlines the temporary water use permit process.

Watermaster Temporary Water Use Permit Application Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Watermaster Program Funding Sources

Account	Account Title	FY 2020 Expended
0158	Watermaster Administration Account – Dedicated	$1,908,893

The program is funded in the Field Inspections and Complaints Strategy.

The program includes Rider 11, Reallocation of Revenue and Balances for Certain Accounts and Rider 20, Contingency Appropriation: Revenue from Increased Fee Rates at Watermaster Offices.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

Water Rights Enforcement in Non-Watermaster Areas. Water rights enforcement in non-watermaster areas is conducted by TCEQ's Field Operations Program. TCEQ's Field Operation Program responds to complaints but does not conduct routine investigations of diversions, conduct monitoring to identify illegal diversions, or monitor streamflow conditions.

Issuance of Temporary Water Rights. Temporary water rights for less than 10 acre-feet used over one year or less are issued by watermaster programs in watermaster areas and TCEQ's Field Operations Program in non-watermaster areas. The Water Rights Permitting Program issues temporary water rights permits for greater than 10 acre-feet and for temporary water use for more than one year. Temporary permit terms cannot exceed three years.

Reservoir Operations. A water right can authorize the water right holder to store a specific volume of water in a reservoir and subsequently divert and/or release specific amounts of water. The reservoir owner determines how the reservoir is operated to meet needs for municipal supply or other uses. For reservoirs within a watermaster program, reservoir owners notify the watermaster program of any diversions and releases under the water right. The watermaster monitors diversions and releases to ensure compliance with the terms and conditions of the water right, such as diversion amounts and priority dates, and protects released water so it reaches a downstream user. TCEQ does not make any recommendations or decisions with regard to reservoir operations.

Contract Water Providers. Water right holders may sell water under contract and provide water to other water users. The water right holder is responsible for ensuring any diversions by its contract holders are reported to the watermaster and sufficient water is released to support those diversions. The water right holder must ensure contract holders are following the rules of the watermaster program and diverting in compliance with the water right. The water right holder is responsible for any violations of the water right by its contract holders.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

There are no conflicts related to enforcement of water rights because TCEQ's Field Operations Program and the Watermaster Program have specific geographic areas of jurisdiction, which do not overlap.

The watermaster programs work closely with water right holders in the program basin(s) to ensure diversions by water right holders comply with the issued water rights.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

All watermaster programs work with local, regional, state, and federal units of government holding water rights. This includes water districts and river authorities.

All watermaster programs use data produced and/or distributed by the Texas Water Development Board, the United States Geological Survey, and the United States Army Corps of Engineers.

The Rio Grande Watermaster Program works with the International Boundary Water Commission as summarized under Item B.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Contracts support program/developer services for TxWAS and watermaster safety measures.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $186,078.

- **the number of contracts accounting for those expenditures;**

Five contracts.

- **the method used to procure contracts;**

The program procured these contracts using requests for qualifications and proposals and direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Watermaster Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-18-80280	C&T Information Technology Consulting, Inc.	Provides programmer/developer services for the Texas Watermaster Accounting System database.	$183,456
582-21-10106	University of Texas Health Services	Medical monitoring for field employees	$2,102
582-20-10365	Simplexgrinnell LP	24-Hour alarm security monitoring to protect equipment and records at TCEQ - Rio Grande watermaster office located in Eagle Pass, Texas.	$420
582-20-10497	Johnson Controls Security Solutions LLC	ADT security monitoring for the San Antonio Regional Office	$50
582-20-10494	Stroud Security Systems Inc.	Fire alarm monitoring for the San Antonio Regional Office	$50

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

N/A

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Cost Effectiveness of Evaluating River Basins. TCEQ's executive director is required by TWC Section 11.326(g) to evaluate, at least once every five years, any river basin that does not have a watermaster to determine whether a watermaster should be appointed. The executive director reports findings and conclusions to the commission for consideration.

The executive director completed the first five-year cycle of watermaster evaluations and will conclude the second five-year cycle in FY 2021. The commission did not create a watermaster program on its own motion for any river basin at the conclusion of any evaluation year.

The costs associated with the watermaster evaluations are primarily associated with staff time. The total cost for watermaster evaluations through 2020 is $995,434. Considering the results of, and costs associated with, the watermaster evaluations over a nine-year period, the need for or a new approach to

watermaster evaluations may need to be considered. Statutory changes would be necessary to allow for a change in approach to the evaluations. The following table summarizes the costs associated with watermaster evaluations from 2012 through 2020.

Cost of Watermaster Basin Evaluations

Basin	Fiscal Year	Total Cost to TCEQ
Brazos River Basin, Brazos-Colorado Coastal Basin, Colorado River Basin, Colorado-Lavaca Coastal Basin	2012	$131,012
Brazos River Basin, Brazos-Colorado Coastal Basin, Colorado River Basin, Colorado-Lavaca Coastal Basin	2017	$172,342
Trinity River Basin, Trinity-San Jacinto Coastal Basin, San Jacinto River Basin, San Jacinto-Brazos Coastal Basin	2013	$108,390
Trinity River Basin, Trinity-San Jacinto Coastal Basin, San Jacinto River Basin, San Jacinto-Brazos Coastal Basin	2018	$150,347
Sabine River Basin, Neches River Basin, Neches-Trinity Coastal Basin	2014	$106,923
Sabine River Basin, Neches River Basin, Neches-Trinity Coastal Basin	2019	$76,701
Canadian River Basin, Red River Basin	2015	$109,974
Canadian River Basin, Red River Basin	2020	$27,721
Cypress Creek Basin, Sulphur River Basin	2016	$112,024
TOTAL		**$995,434**

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

In all watermaster areas, except for the mainstem of the Rio Grande below Amistad reservoir, water rights are managed in accordance with the prior appropriation doctrine, first in time is first in right. Water rights on the mainstem of the Rio Grande below Amistad reservoir are based on storage in the Amistad/Falcon reservoir system and are operated on an account system based on the purpose of use. Priority is given to municipal use, municipal accounts are reset to their full amount each year, and municipal priority is guaranteed through a municipal reserve. Irrigation accounts are not reset each year and water is allocated to these accounts based on available storage in the system.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Refer to the Office of Compliance and Enforcement, Field Operations, Question P for complaint data related to this program.

Groundwater Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Groundwater Program

Location/Division: Austin Headquarters / Water Availability Division

Contact Name: Kim Nygren, Deputy Director, Water Availability Division

Statutory Citation for Program: Texas Water Code (TWC) Chapters 26, 35, and 36; Article XVI Section 59 Texas Constitution.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Groundwater Program supports the Texas Groundwater Protection Committee (TGPC), an interagency committee charged with developing and updating a comprehensive groundwater protection strategy, studying and making legislative recommendations to improve groundwater protection, reporting to the legislature on its activities, and publishing an annual report and viewer on groundwater monitoring and contamination. The program supports the TGPC through program and monitoring coordination, water quality assessment, public participation and outreach, and special projects. This program also facilitates and leads the agency's Impact Evaluation Team to identify cases for notification to private well owners of potential groundwater contamination.

The program supports the following TCEQ groundwater management functions:

- Facilitates creation of groundwater conservation districts (GCDs) in response to landowner petitions, maintains GCD boundary information, evaluates legislation that creates new or modifies existing GCDs, and provides Legislative Budget Board Water Development Policy Impact Statements and Governor's Letters to state leadership.
- Encourages and tracks GCD compliance with management plan adoption requirements; coordinates with the Texas Water Development Board (TWDB) on GCD compliance with management plan adoption, submittal, and approval requirements; and conducts GCD performance review as required.
- Facilitates an annual Priority Groundwater Management Areas (PGMA) meeting of the executive director and executive administrator of TWDB, and plans, identifies, evaluates, and makes designation recommendations for PGMAs and the creation of GCDs in PGMAs.
- Maintains records of and a viewer for state well reports.
- Maintains official maps of the Edwards Aquifer Recharge, Transition, and Contributing Zones; maintains the Edwards Aquifer Viewer; and represents TCEQ on Edwards Aquifer Habitat Conservation Plan Stakeholder Committee.

The program also coordinates and supports the state management plan for prevention of pesticide contamination of groundwater and conducts a cooperative pesticide monitoring program with the TWDB.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness and efficiency is determined by completing groundwater assessments. Groundwater assessments are deliverables of projects or parts of projects which are assigned to the program based on the strategies and funding of the Legislative Appropriations Request and the Performance Partnership Grant with United States Environmental Protection Agency (EPA) Region 6. The assessments may be maps, reports, or collaboration across TCEQ and multiple state and federal agencies which consider, summarize, interpret, and report environmental data and include programmatic assessment data and public outreach and education activities. The assessments generally represent project components which are significant milestones or are deliverables for state- and federally-mandated activities. During FY 2020, the program conducted 54 groundwater assessments.

The following performance measure is reported in Section II, Exhibit 2.

- Number of Groundwater Assessments.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the Groundwater Program.

1959

- Legislative efforts to protect the Edwards Aquifer from contamination begin. The program is responsible for field mapping and other technical services to support these and subsequent efforts.

1975

- EPA designates the Edwards Aquifer as the first sole-source aquifer in the country. The program begins receiving funding through Section 106 of the federal Clean Water Act to coordinate sole-source aquifer activities with EPA and to support state efforts to protect the aquifer from contamination.

1985

- The legislature establishes the critical area process – the predecessor to the current PGMA process.

1989

- The legislature adopts the state's groundwater protection policy and goal, creates the TGPC, and designates TCEQ's executive director as chairman.
- The legislature requires GCDs to develop comprehensive management plans.

1995

- The legislature codifies sections specific to management areas and critical areas into TWC Chapter 35, and sections specific to GCDs into TWC Chapter 36.

1997

- The legislature adopts Senate Bill 1 (SB1, 75R) which includes new processes for landowner petitions to create GCDs and GCD management plan adoption and state agency roles related to the plans, and replaces the critical area process with the PGMA process.

1999

- The legislature requires TCEQ to adopt rules that establish the appropriate form and content of a groundwater availability certification to be attached to a municipal or county plat application.

2001

- The legislature adopts SB 2 (77R) which streamlines GCD creation and PGMA processes and clarifies TCEQ authority.

2005

- The legislature requires joint GCD planning in groundwater management areas.

2011

- The legislature adopts changes to TWC Chapter 35 for the PGMA process and TWC Chapter 36 for GCD notice, hearing, rulemaking, permitting procedures and considerations, and joint groundwater management area planning processes.

2013

- The legislature adopts changes to TWC Chapter 36 for the time frame for adoption of desired future conditions.

2015

- The legislature adopts changes to TWC Chapter 36 that clarifies the state's position that GCDs are the preferred method of groundwater management, clarifies the process to establish desired future conditions (DFCs), creates requirements related to aquifer storage and recovery (ASR) wells, and extends the time during which TCEQ may not create a GCD in certain areas.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

There are nine major aquifers and 22 minor aquifers recognized by TWDB, and these aquifers underlie about two-thirds of the state's 268,596 square miles of total surface area. In 2020, Texas' existing water supply of approximately 16.8 million acre-feet consists roughly of half surface water and half

groundwater, with reuse contributing 4%. Groundwater is the source for almost 20% of public water supplies and over 99% of drinking water for the rural population of over 1.32 million Texans. Irrigation and livestock users rely on groundwater for 80% of their total existing water supply (7.9 million acre-feet per year).

TWC Chapter 36 recognizes groundwater ownership rights, provides that GCDs are the state's preferred method of groundwater management, and charges GCDs to manage groundwater by providing for the conservation, preservation, protection, recharge, and prevention of waste of groundwater resources within their jurisdictions. The three primary GCD authorities include permitting water wells, developing a comprehensive management plan, and adopting the necessary rules to implement the management plan. As of August 2021, a total of 101 GCDs have been created in the state covering all or part of 181 of the state's 254 counties.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

State law designates TCEQ as the lead agency of TGPC, and the executive director as TGPC's chairman. The executive director has designated a member of the Water Availability Division as the designated representative to TGPC to administer routine functions of the committee. Program staff serve in support roles and chair subcommittees reporting to, and coordinating with, the executive director's designated representative.

TCEQ conducts GCD performance review and initiates action if:

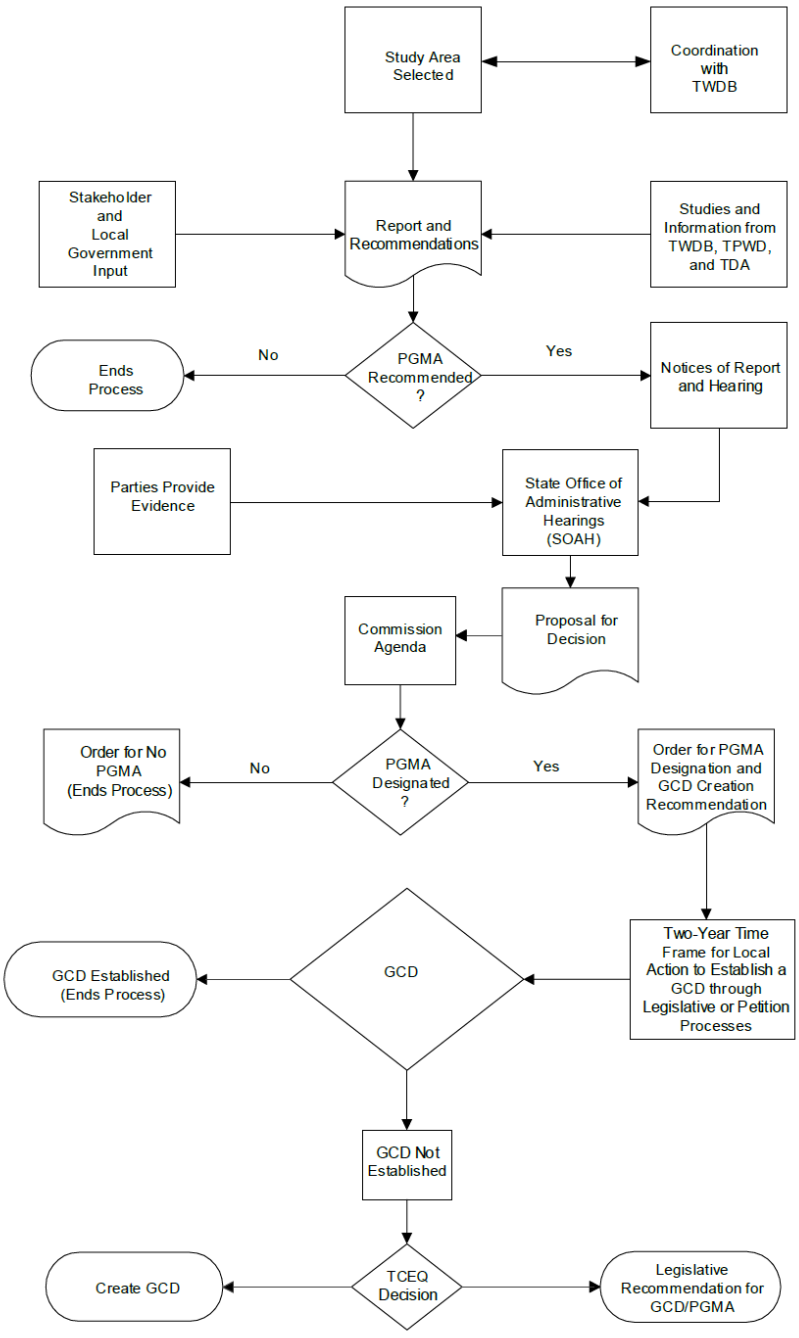
- a GCD management plan is not adopted, readopted, or submitted to the executive administrator of the TWDB within statutory deadlines;
- the executive administrator of the TWDB denies approval of a submitted management plan and the GCD does not address and obtain management plan approval within statutory deadlines or has exhausted all appeals of the denial;
- the State Auditor's Office determines a GCD is not operational; or
- a review panel has submitted a report and recommendations to TCEQ in response to a petition for inquiry of a GCD.

TCEQ rules for its GCD performance review process are in Title 30 Texas Administrative Code (30 TAC) Section 293.22. The program communicates monthly with TWDB and works with noncompliant GCDs to voluntarily and timely come into compliance. Occasionally, TCEQ and a GCD enter into a compliance agreement that identifies the noncompliance issue(s) and provides for GCD actions and a schedule for the GCD to achieve compliance. The program monitors the GCD's implementation of the agreement terms, and if compliance is accomplished, notifies the GCD that it has achieved compliance and is no longer under TCEQ review. If the GCD is unable to resolve the violation, program staff follow the procedures for TCEQ enforcement actions set out in 30 TAC Chapter 70, Subchapter C.

TCEQ is authorized, with assistance from other agencies, to study, identify, and designate PGMAs, and to initiate the creation of GCDs within those areas, if necessary. TCEQ and TWDB meet annually to discuss the need for new PGMA studies. Seven PGMAs have been designated by TCEQ covering all or part of 35 counties. Locally-initiated GCD creation, or addition of territory to an existing GCD, has occurred in six of the seven designated PGMAs. Local and legislative actions or TCEQ administrative actions to establish GCDs are still authorized in Dallas County and portions of Midland and Upton counties in two PGMAs.

The following flowchart illustrates the PGMA designation and GCD creation process.

Priority Groundwater Management Area and Groundwater Conservation Creation Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Groundwater Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$12,742
0153	Water Resource Management Account – Dedicated	N/A	N/A	$716,258
0555	Federal Funds	66.419	Water Pollution Control - State & Interstate Program Support	$75,000
0555	Federal Funds	66.605	Performance Partnership Grant	$373,563
0777	Interagency Contracts	66.648	Capitalization Grant for Drink Water State Revolving Fund	$176,733
TOTAL				**$1,354,296**

The program is funded in the Water Assessment and Planning Strategy and the Safe Drinking Water Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ, through its administration of most of the state's environmental and water quality regulatory programs, is primarily responsible for protecting groundwater quality. In addition, groundwater quality regulatory programs exist at: the Railroad Commission of Texas (RRC – oil and gas production and surface mining); the Texas Department of Agriculture (TDA - pesticide use); the Texas Department of State Health Services (DSHS -water resource protection); the Texas State Soil and Water Conservation Board (TSSWCB – agricultural and silviculture nonpoint source pollution); and the Texas Department of License and Regulation (TDLR - water well construction).

TGPC was created to bridge gaps between existing state groundwater programs and to optimize water quality protection by improving coordination among agencies involved in groundwater activities. TGPC is composed of members from TCEQ (chairman), TWDB (vice chairman), RRC, DSHS, TDA, TSSWCB, TDLR, Texas Alliance of Groundwater Districts, Texas A&M AgriLife Research, and Bureau of Economic Geology of the University of Texas at Austin.

TCEQ and TWDB operate under a Memorandum of Agreement (MOA) regarding state agency groundwater management program responsibilities. The PGMA evaluations conducted by the program involve the TWDB, Texas Parks and Wildlife Department, and TDA, and PGMA hearings are conducted by the State Office of Administrative Hearings. The program also coordinates intermittently with the State

Auditor's Office (SAO) on issues relating to GCD management plan implementation reviews performed by the SAO.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Federal. The program is partially supported by federal grants and coordinates with EPA Region 6 to implement groundwater protection programs.

The program confers with and coordinates with the United States Fish and Wildlife Services Southwest Region on the Edwards Aquifer Habitat Conservation Plan Stakeholder Committee.

The program coordinates with and uses some groundwater quality analyses data from the United States Geological Survey Texas Water Science Center.

State. The program coordinates groundwater protection and management with the following state agencies, authorities, universities, and organizations:

The program coordinates groundwater protection and management with the following state agencies, authorities, universities, and organizations:

- Texas Department of State Health Services;
- Railroad Commission of Texas;
- State Auditor's Office;
- State Office of Administrative Hearings;
- Texas A&M AgriLife Research;
- Texas Alliance of Groundwater Districts;
- Texas Department of Agriculture;
- Texas Department of Licensing and Regulation;
- Texas Groundwater Protection Committee;
- Texas Parks and Wildlife Department;
- Texas State Soil and Water Conservation Board;
- Texas Water Development Board; and
- Bureau of Economic Geology of the University of Texas at Austin.

Regional and Local. The program confers and coordinates with the other stakeholders on the Edwards Aquifer Habitat Conservation Plan Stakeholder Committee.

During PGMA designation and GCD creation, the program notifies and uses input from the following stakeholder groups:

- Counties;
- Municipalities;
- GCDs;
- Regional water planning groups;
- River authorities;
- Public water suppliers; and
- Water-supply districts.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Contracts includes services to host the TGPC website and an intern for program support.

- **the amount of those expenditures in fiscal year 2020;**

Expenditure total $14,184.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

The program procured these contracts following state protocols regarding direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Groundwater Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-10230	Wilkins Group Inc.	Texas Groundwater Protection Committee website services for FY 2020	$1,444
582-20-13868	WorkQuest	Mickey Leland summer intern providing program support.	$12,740

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The program provides direct awards to specific universities to research ambient constituents that impact groundwater quality (e.g., fluoride, arsenic, nitrates, etc.) and to facilitate educational programing and publications for protection of drinking water used by domestic and other private water well owners.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Challenges for Groundwater Conservation District Petition Review Panels. TCEQ appointed the first review panel in October 2019 consisting of five GCD managers and one non-voting TCEQ staff member as recording secretary. The review panel encountered a number of challenges that included all parties having legal counsel except the review panel, lack of funding for the review panel, and lack of statutory guidance specific to the purpose and procedures for the review panel's public hearing and notice responsibilities.

In TWC Section 36.3011, an affected person may file a petition with TCEQ requesting an inquiry of a GCD for any of nine reasons regarding required groundwater management responsibilities of the GCD. If the commission approves the petition, they appoint a review panel that reviews the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the commission.

Members of the 2019-2020 review panel were volunteers who were solicited by the executive director. They served at the expense of each member's GCD and the members of the panel estimate they provided between 100 to 300 hours of service each. The review panel did an excellent job, and TCEQ appreciates their service to the state. However, based on the challenges endured by the review panel, the program has concerns that it may be difficult to solicit members and seat a review panel in the future.

Unclear GCD Duties and Commission Performance Review Action. In addition, the commission can be petitioned to take action in TWC Section 36.3011(b) (5 & 6) if a GCD doesn't approve a new management plan within two years of the adoption of DFCs or if the GCD doesn't adopt rules within a year after adoption of the new management plan. There is no mention of these requirements in Section 36.108 relating to what a GCD must do once new DFCs are adopted. Unlike the other performance review items (e.g., adoption/readoption of plan, adoption of rules, etc.), TCEQ can only take action on these two items if petitioned.

Statutory guidance regarding the review panel process, procedure, and counsel, and GCD duties and commission performance review action, are needed. This guidance could be accomplished by amendments in TWC Sections 36.108, 36.301, and 36.3011.

Alternative Groundwater Resource and Management Petition Process. PGMA studies can be conducted by the executive director for areas of the state that do not have a GCD and are controversial. The decision to conduct a PGMA study is made by the executive director and the PGMA studies conducted since 1997 have had a specific driver (e.g., SB 1, 75R in 1997; SB 2, 77R in 2001; GLO lease of west Texas groundwater in 2005, etc.).

TWC Chapters 35 and 36 processes for PGMA study, designation, and GCD creation were changed significantly by SB 1 in 1997, the same Act that provided the present Regional and State Water Planning process. The PGMA process predates the TWC Chapter 36 Joint Planning for Groundwater Management Area process. The PGMA process has not evolved to recognize the other processes that develop the present data used to inform the need for a study or the need to designate a PGMA. The statute provides the commission with authority to create a GCD in a PGMA against the wishes of the PGMA residents and elected officials.

TCEQ recognizes and acknowledges crafting local groundwater management solutions for non-GCD areas in a PGMA is generally preferred by citizens over a TCEQ administrative order to create a new or join an

existing GCD as the statute authorizes. TCEQ exercised its full administrative authority to have three portions of the Dallam County PGMA added to the North Plains GCD. After one failed effort and subsequent statutory changes, this action was approved by the elected directors of the North Plains GCD in 2012 and the areas were added to the district. TCEQ exercised its full administrative authority to have the PGMA portion of Briscoe County added to the High Plains GCD in 2014. This action was not approved by the elected directors of the High Plains GCD and the area is not in a GCD.

The Chapter 35 PGMA process could be replaced with a petition process similar to other petition processes in Chapter 36. A petition process where a county commissioners court or courts, or other locally elected officials who represent the area, could request the executive director prepare a report describing feasible and practicable options to establish a GCD for the area. After the report is completed, the decision to pursue GCD creation could be vested solely with the residents and locally elected officials. Changes to Chapters 35 and 36 would be needed.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

The program conducts GCD performance reviews as required. Refer to the response to Question F for detail. This Water Availability Division component is reported in Exhibit 13.

Exhibit 13: TCEQ Groundwater Conservation District Performance Review Information

Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of regulated persons	N/A	N/A
Total number of regulated entities	100	101
Total number of entities inspected	N/A	N/A
Total number of complaints received from the public	0	0
Total number of complaints initiated by agency	0	2
Number of complaints pending from prior years	0	1
Number of complaints found to be non-jurisdictional	0	0
Number of jurisdictional complaints	1	0
Number of jurisdictional complaints found to be without merit	0	0
Number of complaints resolved	0	1
Average number of days for complaint resolution	N/A	N/A
Complaints resulting in disciplinary action:	0	0
administrative penalty	N/A	N/A
reprimand	N/A	N/A
probation	N/A	N/A
suspension	N/A	N/A
revocation	N/A	N/A
other	N/A	N/A

River Compact Commissions Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: River Compact Commissions

Location/Division: Austin Headquarters / Water Availability Division

Contact Name: Kim Nygren, Deputy Director, Water Availability Division

Statutory Citation for Program: Texas Water Code (TWC) Chapters 41, 42, 43, 44, and 46.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The State of Texas has entered into five interstate river compacts involving the Canadian, Pecos, Red, and Sabine Rivers and the Rio Grande. Each compact is recognized under both state and federal law as an agreement allocating the waters in these rivers and their tributaries among states.

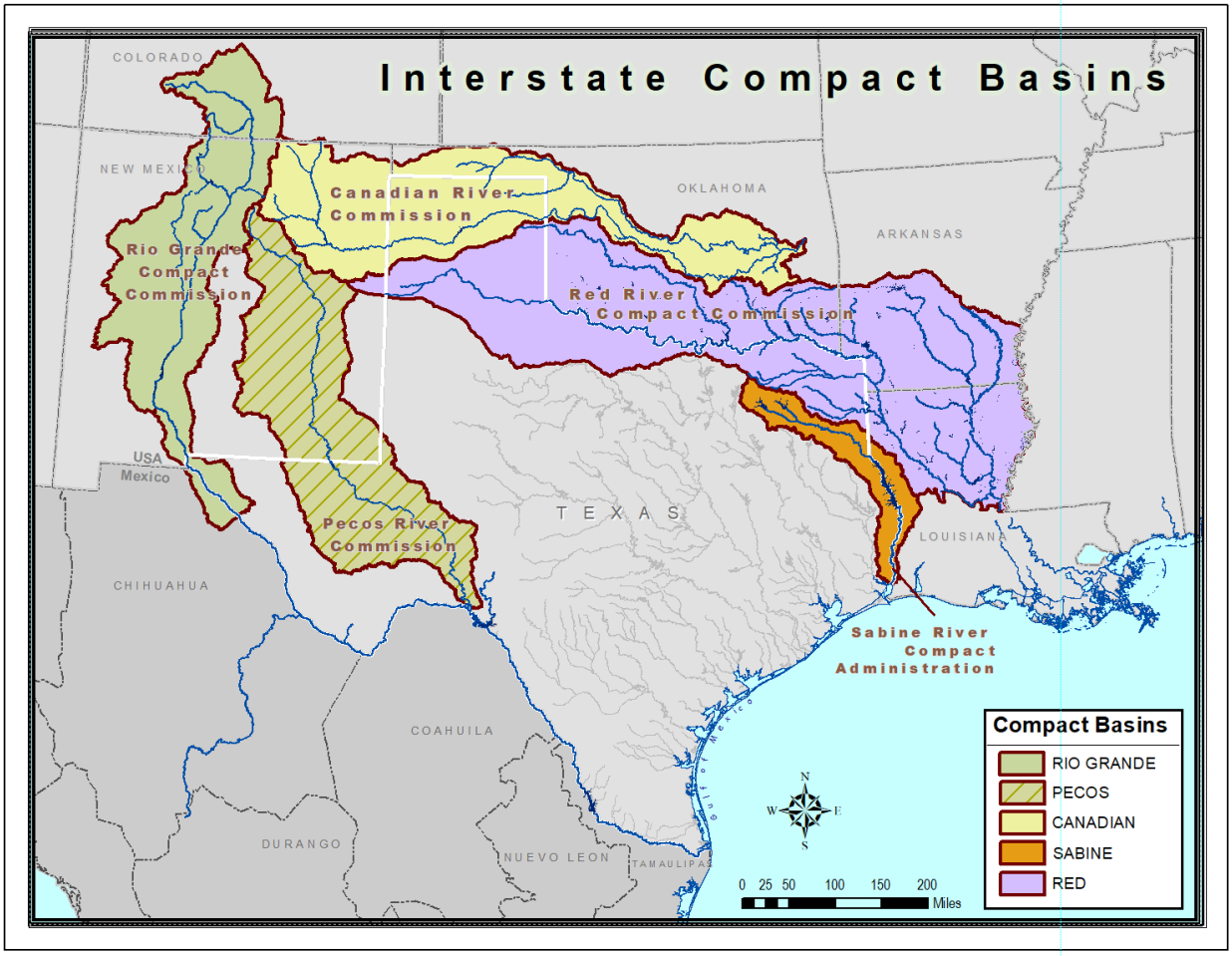
Each river compact is administered by an interstate commission. Each interstate commission consists of one or two members appointed to represent each state as outlined in the by-laws of each individual compact, as well as a non-voting federal commissioner appointed by the President of the United States. TWC Chapters 41, 42, 43, 44, and 46 provide for the administration of each of the five river compact commissions, which represent the State of Texas and protect Texas' right to equitable shares of quality water. Texas' river compact commissioners are appointed by the governor and must be confirmed by the Texas Senate, with the exception of TCEQ's executive director who, by statute, serves as the second commissioner on the Red River Compact Commission.

The Texas river compact commissions' objectives are to ensure the State of Texas receives and maximizes 100% of its equitable share of the interstate waters of the Canadian, Pecos, Red, and Sabine Rivers and the Rio Grande, and their tributaries, as allocated by the appropriate interstate compact.

In addition, the river compact commissions develop programs to increase the quantity and improve the quality of the water available in Texas.

The following map shows interstate compact basins.

Interstate Compact Basins



C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

To meet the Texas river compact commissions' objectives, accounting of interstate water deliveries under each compact is completed annually. The river compact commissions program is based on the equitable sharing of water between member states, based on standards set out by each of the five river compacts including annual water accounting, reservoir storage amounts, and gaged flows. The effectiveness of the program is evidenced in the ability of these criteria to determine Texas' annual share of equitable water for each of the river compacts. Program efficiency is determined by calculating whether Texas is receiving its fair share of equitable water annually, and also serves as a means to determine if states are in compact compliance.

The following performance measures are reported in Section II, Exhibit 2.

- Percentage received of Texas' equitable share of quality water annually as apportioned by the Canadian River Compact;

- Percentage received of Texas' equitable share of quality water annually as apportioned by the Pecos River Compact;
- Percentage received of Texas' equitable share of quality water annually as apportioned by the Red River Compact;
- Percentage received of Texas' equitable share of quality water annually as apportioned by the Rio Grande Compact; and
- Percentage received of Texas' equitable share of quality water annually as apportioned by the Sabine River Compact.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

The following history highlights significant actions directly affecting the river compact commissions.

1939

- Rio Grande Compact signed March 18, 1939.

1949

- Pecos River Compact signed December 3, 1949.

1953

- Sabine River Compact signed January 26, 1953.

1978

- Red River Compact signed May 12, 1978.

1988

- The U.S. Supreme Court issues an amended decree and appoints a River Master to the Pecos River Compact in response to a dispute between Texas and New Mexico regarding delivery obligations. The River Master performs the annual river accounting for the Pecos River.

1991

- The legislature (72R) repeals TWC Sections 41.0031, 42.0031, 43.0031, 44.0031, and 46.0031; regarding the Rio Grande and Pecos, Canadian, Sabine, and Red River Compacts, respectively; making the river compact commissions subject to the Texas Sunset Act.

2005

- The legislature (79R) transfers appropriations and financial responsibilities for the river compact commissions to TCEQ.

2007

- The river compact commissions sign a Memorandum of Agreement (MOA) with TCEQ delegating the responsibility for obtaining legislative appropriations, financial accountability, and administrative and technical assistance to TCEQ. The commissions retain their rights and autonomy for controlling their financial expenditures and operations.

2020

- The U.S. Supreme Court decides the Pecos River Master's final report would not be reviewed, stemming from a 2014 dispute regarding evaporative credits between Texas and New Mexico.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The primary function of the river compact commissions is to ensure the State of Texas receives its equitable share of the interstate waters of the Canadian, Pecos, Red, Rio Grande, and Sabine Rivers and their tributaries as allocated by the appropriate interstate compact. Water users within the five river basins under compacts rely on them to ensure water is available for use.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

TCEQ funds, houses, and provides technical and administrative support to the river compact commissioners through the Water Availability Division.

The Texas Office of the Attorney General provides legal assistance to the river compact commissions.

Texas compact commissioners are appointed by the governor. Each river compact commission has either one or two appointed commissioners. Compact commissioners typically reside in and have an office within the river basin they serve.

The executive director of TCEQ, by statute, serves as one of the two Texas commissioners for the Red River Compact.

The TWC and the 2007 MOA noted under Item D ensures TCEQ will cooperate with the river compact commissioners in the performance of their duties and furnish any needed or requested information.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

River Compacts Program Funding Sources

Account	Account Title	Total
001	General Revenue	$5,195,588

The program is funded in the following strategies:

- Canadian River Compact;
- Pecos River Compact;
- Red River Compact;
- Rio Grande River Compact; and
- Sabine River Compact.

The program includes Rider 13, Administration Costs for the Texas River Compact Commissions and Rider 25, Litigation Expenses for the Rio Grande Compact Commission.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Each of the interstate river compact commissions includes:

- a non-voting federal chairman appointed by the President of the United States, and
- one or two voting commissioners from each member state: *Canadian River Compact* – Texas, New Mexico, and Oklahoma; *Pecos River Compact* – Texas and New Mexico; *Red River Compact* – Texas, Oklahoma, Arkansas, and Louisiana; *Rio Grande Compact* – Texas, Colorado, and New Mexico; and the *Sabine River Compact* – Texas and Louisiana.

In addition to the member states, the river compact commissioners and staff work closely with federal agencies, such as the International Boundary and Water Commission, the Bureau of Reclamation, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the U.S. Geological Survey to ensure water operations and deliveries comply with the established compacts.

Texas commissioners and TCEQ also work closely with state, regional, and local agencies such, as the Texas Water Development Board; various river authorities, counties, municipalities; and water districts to discuss and share information regarding water quality and quantity issues impacting the river compact basins.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The program contracts with outside counsel for litigation purposes.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $4,820,064.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

Contracts were procured through direct award.

- **top five contracts by dollar amount, including contractor and purpose;**

River Compact Commission Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-13-30864	Somach Simmons & Dunn	Legal services to advise the Texas Rio Grande Compact Commissioner, TCEQ and the Attorney General's Office on the best cause of action with New Mexico.	$4,816,858
582-21-22158	Niel S. Grigg	Texas Rio Grande Compact Commission's equitable share for the Supreme Court of the United States' Special Master.	$3,206

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted unless discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems in FY 2020.

L. Provide information on any grants awarded by the program.

The following table summarizes grants awarded by the Texas river compact commissions.

Texas River Compact Commission Grants

Vendor	Vendor Type/How Funds are Awarded	Purpose	
Pecos River Commission	State agency/direct award purchase order	Fees and expenses to cover the cost of annual meeting of the Pecos River Commission	$76,460
Sabine River Authority of Texas	State agency/direct award purchase order	Fees, State of Texas' pro-rata share for FY 2020 Sabine River Compact Administration budget	$26,000
State of Colorado	State agency/direct award purchase order	Payment of Texas' remaining portion of the Rio Grande Compact Commission with Texas, New Mexico, and Colorado.	$18,466
Red River Compact Commission	State agency/direct award purchase order	Administrative fees for the State of Texas for FY 2020 pursuant to the provisions of the Red River Compact.	$550
United States Geological Survey	Direct award	Reimbursement for expenses incurred under the provisions of Joint Funding Agreement number 19RGJFA12 for the project for assistance from the U.S. Geological Survey as described on the SOW for the Rio Grande	$4,785

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Litigation between New Mexico and Texas. Since 1938, New Mexico has permitted the development of water wells in New Mexico along the Rio Grande. This pumping severely reduces the water supplies in the Rio Grande which belong to Texas and is a violation of the 1938 Compact. In July 2013, Texas filed a lawsuit in the Supreme Court of the United States (Court), a motion for leave to file a complaint against New Mexico. The Court has exclusive and original jurisdiction over actions between States. In January 2014 the Court granted Texas' motion for leave to file its complaint against New Mexico. Colorado is named in the complaint because it is a signatory to the 1938 Compact, but Texas is currently not seeking any relief from Colorado. As it enters its ninth year, Texas' suit for its equitable share of Rio Grande water from New Mexico continues to strain Texas' Rio Grande Compact Commissioner, TCEQ and OAG support, state coffers, and West Texans. Continued support to complete this action for the State of Texas and its citizens is needed.

The Court's Special Master is in the process of assigning a new mediator which the parties requested due to a lack of progress with the current mediator. Phase I of the trial to determine liability and whether Texas or New Mexico, as a counter claimant, have sustained damages, was in some part delayed from September 13, 2021, to March 2022. However, virtual testimony of certain witnesses is anticipated to begin in October 2021. The trial will be held in Cedar Rapids, Iowa. A bifurcated Phase II of the trial, regarding calculation of damages, will not be set until the Phase I disposition is final, after the Special Master recommendations go to the Supreme Court.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary, to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Wastewater Permitting Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Wastewater Permitting

Location/Division: Austin Headquarters / Water Quality Division

Contact Name: Robert Sadlier, Deputy Director, Water Quality Division

Statutory Citation for Program: Texas Water Code (TWC) Section 26.027; 40 Code of Federal Regulations (CFR) Part 403.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The purpose of the Wastewater Permitting Program is to protect the quality of the surface and groundwater in Texas by regulating the types and amounts of pollutants introduced into water through the issuance of written authorizations.

There are three categories of written authorizations: individual permits, general permits, and registrations.

- Individual permits are issued to an individual entity and include site-specific permit requirements based the regulated activity, the specific pollutants and volumes generated, and the specific location in the state.
- General permits are developed as a statewide or regional authorization for facilities having similar operations and generate the same types of wastewater, which are subject to the same requirements regarding effluent limitations, effluent monitoring, and operating conditions. Entities seeking authorization under a general permit apply for and are issued a certification which acknowledges their authorization to discharge wastewater in accordance with the terms and conditions of the general permit.
- Registrations are similar to individual permits since the registrations are issued to an individual entity for a specific location in the state; however, registration requirements are typically prescribed by rules established for the specific pollutants generated.

In addition to the types of written authorizations, permits are categorized by the method of wastewater disposition. Texas Pollutant Discharge Elimination System (TPDES) permits authorize the discharge of wastewater into water in the state. Texas Land Application Permits (TLAPs) authorize the discharge of wastewater via irrigation or land application of manure/sludge.

TPDES permits are issued under both state and federal authority. The United States Environmental Protection Agency (EPA) delegated regulatory authority for the National Pollutant Discharge Elimination System (NPDES) program to TCEQ, which then became known as the TPDES program. TLAPs are issued under state authority only.

TPDES permits and TLAPs contain requirements designed to protect surface and groundwater quality. These requirements include, but are not limited to, effluent limits (TPDES only), application rates (TLAP only), monitoring and reporting requirements, and facility design and operational requirements.

By timely issuance of TPDES or TLAP authorizations, the regulated community benefits by being able to manage wastewater generated by their businesses while being protective of water quality. The public benefits by having surface and groundwater that can be used for drinking and recreating and that supports aquatic life.

Other activities within the Water Quality Division (WQD) contribute to the protection of water quality and support the wastewater permitting function, but are not involved in issuing authorizations, are the engineering review program, the pretreatment program, the Water Quality Management Plan (WQMP), receiving water assessments, and the 401 certification program.

- *Engineering Review*. Under TWC Section 26.034(b) design plans and specifications for domestic wastewater treatment facilities and collection systems are required to be submitted for review to TCEQ. Review and approval of the design plans and specifications ensures the treatment facility will be capable of treating the wastewater sufficiently to comply with the effluent limits in the permit.
- *Pretreatment*. Under 40 CFR Part 403, the pretreatment program requires large cities and other municipalities to regulate industrial discharges into their wastewater collection systems to prevent pollutants from passing through or interfering with the wastewater treatment plant. This ensures the wastewater treatment plant can adequately treat the wastewater and comply with the effluent limits in the permit. Pretreatment staff review and approve new developing pretreatment programs and process modifications to previously issued programs. Additionally, pretreatment staff conduct compliance and enforcement activities related to pretreatment programs. They perform annual audits of authorized pretreatment programs and issue notices of violations which could result in enforcement actions.
- *Water Quality Management Plan*. The WQMP consists of a group of documents designed to provide planning and technical data for water quality management activities. The WQMP is tied to the state's water quality assessments that identify priority water quality problems and is used to direct planning for implementation measures to control and/or prevent water quality problems. The WQMP is developed and promulgated in accordance with the requirements of the federal Clean Water Act and must be updated to account for changing circumstances, conditions, and program requirements. The WQMP is updated primarily on a quarterly basis but may be updated more or less often as needed. Updates to the WQMP typically include elements requiring modification for projected effluent limits for domestic wastewater discharge permits, designation of management areas, service area population for municipal wastewater facilities, and revisions to total maximum daily loads (TMDLs). Inclusion of this information in WQMP updates facilitates activities such as issuance of discharge permits and eligibility for wastewater infrastructure loans. The portion of the WQMP addressing nonpoint source management controls and groundwater and source water protection planning are coordinated by other TCEQ program areas. Federal regulations (40 CFR 130.6(e)) require WQMP updates to be certified by the state and sent to EPA for approval.
- *Receiving Water Assessments (RWAs)*. RWAs are on-site assessments of the habitat, biology, and physicochemical attributes of streams. RWAs are used to assign an "aquatic life use" to the stream based on a rating system that compares specific attributes of the stream to those of other less disturbed streams in the same region. Aquatic life use designations can be minimal, limited, intermediate, high, or exceptional. Aquatic life uses are used during the technical review of a TPDES wastewater discharge permit application to establish appropriate limits to protect aquatic life within the stream. RWAs are conducted by staff when desktop review of a waterbody does not provide enough information to make an appropriate aquatic life use determination.

- *401 Certification Program*. Projects involving impacts to waters of the U.S. resulting from the discharge of dredged or fill material require a Clean Water Act (CWA) Section 404 permit from the U.S. Army Corps of Engineers (USACOE). TCEQ staff conduct individual CWA Section 401 state water quality certification reviews of federal 404 permit applications to ensure the proposed project will not violate state water quality standards. State and federal regulations require the applicant select the least damaging practicable alternative, avoid and/or minimize adverse impacts, and require appropriate and practicable compensatory mitigation for all unavoidable adverse impacts. TCEQ 401 water quality certification is required before the federal 404 permit can be issued by the USACOE.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by the reduction in pollution from permitted wastewater facilities discharging to the water in the state, the number of water quality permits issued, and the percent of water quality permit applications reviewed within established timeframes. Program efficiency is determined by meeting internal deadlines to support TCEQ decision making. This program exceeded the performance measures related to effectiveness in FY 2020, however the program did not meet performance measures related to efficiency. In 2019, the program began using Lean Management System principles to improve permit processing timeframes. The program continues to use Lean to evaluate program processes to find additional efficiencies in order to meet or exceed performance measures.

The following performance measures are reported in Section II, Exhibit 2.

- Number of applications to address water quality impacts reviewed;
- Number of concentrated animal feeding operation (CAFO) authorizations reviewed;
- Number of water quality permits issued;
- Percent of water quality permit applications reviewed within established time frames; and
- Percent reduction in pollution from permitted wastewater facilities discharging to the waters of the state.

Additionally, this program tracks the efficiency of activities supporting the wastewater permitting function but are not included in performance measures listed in Chapter II, Exhibit 2. These metrics are listed in Exhibit 12.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	Calculation	FY 2020 Target (in Days)	FY 2020 Actual Performance (for August 2020)	FY 2020 % of Annual Target
Percent of Summary Submittal letter reviews exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	30	21%	N/A
Percent of plan and specification reviews exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	120	0%	N/A
Percent of Domestic Reuse application reviews exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	60	50%	N/A
Percent of Industrial Reuse application reviews exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	60	75%	N/A
Percent of Pretreatment Audit Reports exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	90	0%	N/A
Percent of New Pretreatment Program approvals exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	180	100%	N/A
Percent of Pretreatment Sub Mods Tech Complete exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	180	94%	N/A
Percent of Pretreatment Sub Mod Amendments approvals exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	180	0%	N/A
Percent of Pretreatment Sub Mod Dovetails approvals exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	300	50%	N/A
Percent of Pretreatment Non-Sub Mods approvals exceeding established timeframes	Number exceeding timeframe divided by total pending (calculated monthly).	45	91%	N/A

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

N/A

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The wastewater permitting program affects any person or entity required to obtain a permit to discharge wastewater into or adjacent to water in the state. There are no specific qualifications or eligibility requirements to obtain a wastewater authorization. As of July 1, 2021, the following number of entities held active authorizations issued by the program:

- Individual TPDES domestic permits: 2,132;
- Individual TLAP domestic permits: 401;
- Individual TPDES industrial permits: 516;
- Individual TLAP industrial permits: 84;
- Individual industrial stormwater permits: 31;
- Individual municipal separate storm sewer system permits: 23;
- Individual Biosolids land application permits: 41;
- Individual CAFO permits: 48;
- Septage and water treatment residual land application registrations: 187;
- Wastewater general permit authorizations: 1,613; and
- Stormwater general permit authorizations:
  - Municipal separate storm sewer systems: 511;
  - Industrial stormwater: 13,169; and
  - Construction stormwater: 23,634.

All public entities required to obtain an Individual TPDES or TLAP domestic permit are also required to submit design plans and specifications to the engineering review program prior to any construction activity, including maintenance. Design plans and specifications must be signed and certified by a Texas licensed professional engineer. As of July 1, 2021, there were 1,459 public domestic permittees.

Any publicly owned treatment works (POTW) with a total design flow greater than five million gallons per day (mgd) receiving pollutants from industrial users which pass through or interfere with the operation of the wastewater treatment plant or are otherwise subject to federal Pretreatment Standards are required to establish a Pretreatment Program. TCEQ regional offices may require a POTW with a design flow of five mgd or less develop a pretreatment program based on the nature or volume of the industrial influent, treatment process upsets, violations of wastewater permit effluent limitations, contamination of municipal sludge, or other circumstances that could contribute to pass through or interference at the wastewater treatment plant. There are currently 73 approved pretreatment programs in the state.

Persons affected by 401 Water Quality Certification requirements include commercial navigation, transportation, retail or residential land development, private property developers, local, state, and federal infrastructure projects, and any other 404 permit applicants.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Individual permit applications, for both TPDES and TLAP permits, undergo an administrative review and technical review. When the application is determined to be administratively complete, staff develop the

Notice of Receipt and Intent to Obtain Permit (NORI) which is sent to the applicant to publish in the largest newspaper in the county where the facility is located. Concurrent with the NORI publication, the application undergoes a technical review. When the application is determined to be technically complete, staff develop an initial draft permit and the Notice of Application and Preliminary Decision (NAPD). The initial draft permit is sent to the applicant and EPA Region 6 for review and comment or approval. Revisions may be made to the initial draft permit based on applicant and/or EPA comments. Upon approval of the draft permit by the applicant and EPA, the final draft permit and NAPD are filed with TCEQ's Office of the Chief Clerk. The Chief Clerk mails the NAPD to the applicant and certain individuals and entities. The applicant must publish the NAPD in the largest newspaper in the county where the facility is located. The public comment period ends 30 days after the NAPD is published unless a public meeting is held, in which case the comment period ends at the close of the public meeting. If public comments are received on the final draft permit, the technical staff develop a response to the public comments which is provided to the commenters. The public may request a contested case hearing or request for reconsideration by the commission. If the public does not make such a request, the permit is set on the executive director's docket for issuance. If the public does make such a request, the permit is set on the commission docket for further action.

The WQD identifies discharges that can be regulated by a general permit and develops an initial draft general permit. The initial draft general permit is sent to EPA Region 6 for review and comment. Revisions may be made to the initial draft general permit based on EPA comments. Upon approval of the draft general permit by EPA, the final draft general permit is filed with TCEQ's Office of the Chief Clerk for public notice. Public notice of the draft general permit is published in the *Texas Register* and at least one statewide or regional newspaper. If public comments are received on the draft general permit, a response to the public comments is developed. The draft general permit is set on the commissioner docket for final action (i.e., issuance or denial). After the general permit is issued, regulated entities can seek permit authorization by submitting a notice of intent application form. The application form undergoes an administrative review only. If the application meets all necessary requirements, the regulated entity is issued a certificate acknowledging authorization to discharge under the terms and conditions of the general permit.

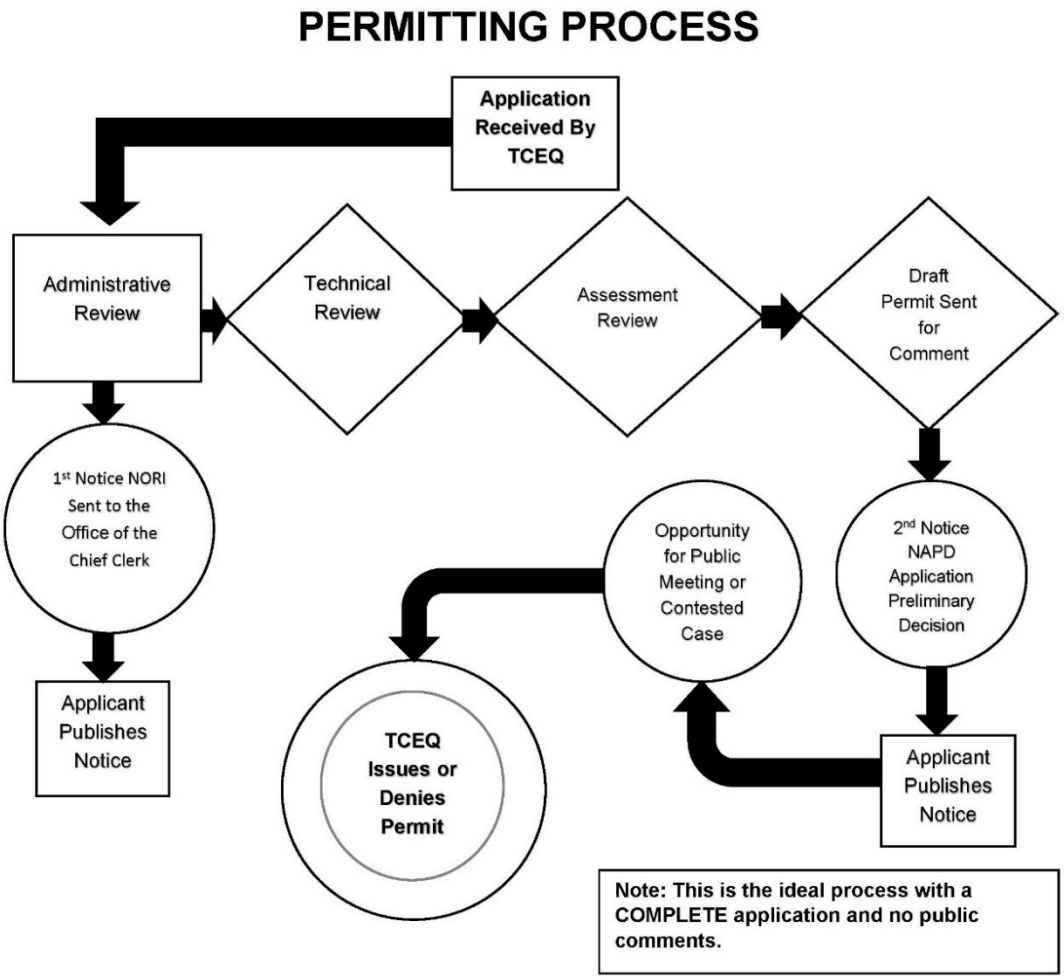
WQD has developed the following time frames for processing wastewater applications. These time frames are from the date of application receipt until final issuance.

- Individual Permits: 300–330 days;
- Registrations: 270 days;
- Engineering reviews (summary review: 30 days; full review: 120 days); and
- Pretreatment (Audit Reports: 60 days; Program Modifications: 120–300 days).

The 401 State certification program is administered in partnership with the USACOE. The MOA with the USACOE outlines the associated processes and deadlines.

The following flowchart illustrates the wastewater permitting process.

Wastewater Permitting Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Wastewater Permitting Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$40,500
0153	Water Resource Management Account – Dedicated	N/A	N/A	$5,569,083
0555	Federal Funds	66.419	Water Pollution Control-State & Interstate Program Support	$187,279
0555	Federal Funds	66.605	Performance Partnership Grants	$1,111,074
TOTAL				**$6,907,936**

The program is funded in the Water Resource Permitting Strategy and the Water Resource Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

There are no known programs, internal or external to the agency, which provide identical wastewater permitting functions. However, the following programs and entities provide similar functions that support wastewater permitting.

TCEQ's Water Quality Planning Division is responsible the development of the state water quality standards which are implemented by the Wastewater Permitting Program.

Multiple cities in Texas have been authorized by TCEQ to approve domestic wastewater collection systems and treatment facility plans and specifications for entities located in their jurisdiction.

TCEQ coordinates with the Texas Water Development Board (TWDB) regarding potential infrastructure funding projects. Technical review of the wastewater discharge proposals contained in TWDB infrastructure funding projects (State Revolving Fund, etc.) is performed so any aspects that may be difficult to permit can be resolved prior to finalizing the projects.

For reservoir development projects seeking a new water rights permit, the 401 program coordinates closely with TCEQ's Water Availability Division regarding mitigation sequence requirements.

The Texas State Soil and Water Conservation Board (TSSWCB) administers a voluntary program in which Animal Feeding Operations (AFOs), which are smaller facilities not defined or designated as CAFOs, can obtain a water quality management plan. This plan assists these smaller, unpermitted facilities in complying with TCEQ requirements for AFOs.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ has entered into a Memorandum of Agreement (MOA) with EPA Region 6 for the TPDES program. The MOA outlines both agencies' responsibilities for administering the TPDES program and is available online at: https://www.tceq.texas.gov/permitting/wastewater. TCEQ and EPA Region 6 maintain regular communication to coordinate the TPDES program. Quarterly and annual reporting is required under the MOA. Annual program manager meetings are held with all Region 6 states, and EPA audits the TPDES program every two years. Under the TPDES program, notification of the Texas Parks and Wildlife Department (TPWD), the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the Texas Historical Commission is required to ensure proper agency coordination occurs. Notice is provided to each entity on pending permit applications to allow review of and comment on permit application proposals.

TCEQ has an MOA with the USACOE regarding 401 certifications. Implementation of the MOA allows the two agencies to avoid redundancy in making two independent regulatory decisions for a single project. TCEQ is committed to participate in regularly scheduled Joint Evaluation Meetings (JEM) between the resource agencies, the applicant, and the USACOE. JEMs may be scheduled as part of a pre-application

process or to resolve comments submitted during the public notice process. These meetings provide a forum for all programs to identify and discuss concerns and to seek consensus resolutions of those concerns.

TCEQ has an MOU with TPWD and Texas Department of Agriculture (TDA) related to aquaculture operations. The MOU is codified in Title 30 Texas Administrative Code (30 TAC) Section 7.103. TCEQ is the permitting authority for aquaculture and will coordinate permitting efforts with TPWD (related to disease and invasive/exotic species) and TDA (related to TDA licensing requirements). Annual coordination meetings are held among the three agencies.

TCEQ has an MOU with the Railroad Commission of Texas (RRC) related to oil and gas operations. The MOU is codified in 30 TAC Section 7.117. TCEQ has authority to regulate wastewater discharges directly into water in the state from oil and gas facilities. RRC has authority for beneficial reuse of wastewater from oil and gas facilities.

TCEQ has a no-cost contract with Harris County for the administration of the Harris County Onsite General Permit (TXG530000), which is required under the TWC Section 26.0405. TCEQ is responsible for development, issuance, and reissuance of the general permit for discharges to surface water from onsite sewage systems in Harris County. Harris County is responsible for administration of the general permit including issuing authorizations under the general permit.

WQD works closely with the Water Quality Planning Division and meets on a frequent basis to discuss issues applicable to both program areas. Standard Operating Procedures were developed to coordinate Receiving Water Assessments (RWAs), variances, and site-specific studies between the program areas.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The wastewater permitting program works with municipalities, municipal utility districts (MUDs), water control and improvement Districts (WCIDs), river authorities (RAs), counties, state agencies, federal agencies, and other government entities that commonly require permits to carry out their responsibilities or have a stake in issued permits and/or permitting requirements.

WQD hosts an Agriculture Stakeholder Group which is a voluntary group of participants, open to the public, who meet on an as-needed basis to discuss issues related to implementation of and compliance with agriculture rules and regulations. The work group currently has representation from consulting firms, agricultural industry, engineering firms, environmental organizations, and government entities, including the Natural Resource Conservation Service, TSSWCB, TPWD, and EPA.

WQD hosts quarterly Water Quality Advisory Work Group meetings to facilitate the exchange of information between TCEQ and stakeholders on current or emerging issues relevant to wastewater permitting.

EPA Region 6 granted TPDES program authority to TCEQ in 1998. EPA retains oversight regarding effluent limits in TPDES permits. Coordination and communication with EPA regarding permit limitations is a requirement for efficient and timely permit issuance. The agency has an MOA with EPA which outlines the associated processes and deadlines for reviewing draft permits and general program oversight.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The contracts support medical monitoring for certain program staff and publishing public notices in seven newspapers.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $42,047.

- **the number of contracts accounting for those expenditures;**

Eight contracts.

- **the method used to procure contracts;**

The contracts were procured through direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Wastewater Permitting Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
Procard	Houston Chronicle	Publication of notice	$19,007
Procard	Dallas Morning News	Publication of notice	$13,441
Procard	Abilene Reporter News	Publication of notice	$3,245
Procard	Cox Texas Publications Inc	Publication of notice	$2,019
582-17-70412	University of Texas Health Services	The purpose of this contract is to procure annual medical monitoring for certain employees conducting field work as required by federal regulations 29 CFR 1910.120(f)	$1,862

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines' these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The Wastewater program provides direct awards to specific universities to assist with permit application review and upgrade existing models in the Houston Ship Channel (HSC) system.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Reduced Assimilative Capacity. Water bodies found to be impaired for depressed dissolved oxygen concentrations may be addressed by a Total Maximum Daily Load (TMDL) project. To resolve the impairment, these TMDLs may recommend reductions of existing permitted loadings of oxygen-demanding substances and may also limit or even prohibit additional future loadings to the water body. As the number, size, and proximal density of individual wastewater treatment facilities increase within a watershed, the remaining assimilative capacity available for future growth may diminish, which could result in economic impacts to these areas.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Federal Delegation of Oil and Gas Discharge Authority. HB 2771 (86R) requires TCEQ to submit a request to EPA for NPDES regulatory authority for oil and gas discharges by September 1, 2021. The Act also transfers state regulatory authority for these discharges into water in the state from the Railroad Commission of Texas (RRC) to TCEQ upon EPA granting federal program authorization to TCEQ. TCEQ submitted the authorization application to EPA on October 12, 2020, almost one year ahead of the date required by HB 2771. EPA approved TCEQ's application for regulatory authority of oil and gas discharges on January 15, 2021. Now, permittees need only to apply for one permit from TCEQ for approval of these discharges.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to monitoring compliance with wastewater permits issued by this program.

The Pretreatment Program includes a compliance monitoring component. The MOA between TCEQ and EPA Region 6 requires TCEQ to audit all approved pretreatment programs annually. These audits ensure municipalities have the tools necessary to regulate industrial discharges into their collection and treatment systems, preventing pass through of pollutants and interference with the treatment plant. When audits are completed, staff develop an audit report providing a list of all findings. Notices of violations may be issued which could result in enforcement actions.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

The Pretreatment Program is a WQD compliance monitoring component and is reported in Exhibit 13. The Office of Compliance and Enforcement, Field Operations monitors compliance with wastewater permits issued by WQD. Refer to the Office of Compliance and Enforcement, Field Operations, Question P for complaint data related to wastewater permits issued by WQD.

Exhibit 13: Information on Pretreatment Audits of Approved Pretreatment Programs

Fiscal Years 2019 and 2020

	FY 2019	FY 2020
Total number of approved pretreatment programs	73	73
Total number of pretreatment programs audited	21	11
Total number of Notices of Violations issued	4	10
Total number of enforcement actions initiated	0	0

Water Quality Planning Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Water Quality Planning

Location/Division: Austin Headquarters & Sugar Land Laboratory / Water Quality Planning Division

Contact Name: Lori Hamilton, Deputy Director, Water Quality Planning Division

Statutory Citation for Program: Texas Water Code (TWC) Sections 5.013, 26.0135, 26.023-26.026, and 26.127; Federal Clean Water Act (CWA) Sections 106, 303, 305, and 314.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Water Quality Planning Division (WQPD) is responsible for developing and assessing instream water quality standards and providing quality-assured surface water data for agency programs promoting the protection, restoration, and use of surface water in Texas. These functions are implemented by the following programs:

Surface Water Quality Monitoring (SWQM) Program

The SWQM Program, established in 1967 by the Texas Water Quality Board, encompasses the full range of activities required to obtain, assess, and report water quality. The SWQM Program, with the assistance of the Clean Rivers Program (CRP), facilitates the collection of data for an integrated evaluation of physical, chemical, and biological characteristics of aquatic ecosystems in relation to human health concerns, ecological conditions, and designated uses as defined in the Texas Water Quality Standards. The result of these activities culminates in the development and submission of the Texas Integrated Report of Surface Water Quality (Integrated Report) to the Environmental Protection Agency (EPA) on April 1 of even-numbered years as required by the CWA. The purpose of this report is to provide information on the condition of surface water quality throughout Texas. The report includes the identification of specific water bodies in need of additional remedial activities with the goal of restoring water quality. The most recent report was submitted to and approved by EPA in 2020.

Clean Rivers Program (CRP)

The CRP provides water quality monitoring and assessment and public outreach. The CRP is a collaboration of 15 partner agencies (i.e., river authorities and other governmental entities) and TCEQ. It provides a framework and forum for managing water quality issues within a river basin, both locally and regionally, by coordinating the efforts of diverse organizations. The CRP partner agencies collect samples at over 1,300 sites per year, resulting in more than 240,000 water quality measurements. Data from the CRP partners account for 65–75% of the data available in TCEQ's SWQM Information Systems (SWQMIS) database, used by TCEQ for the assessment of surface waters as required by Section 305(b) of the CWA. In addition to coordination with the partner agencies, CRP staff provide quality assurance for the data submitted and provide assistance in the study of water quality issues.

Water Quality Standards Team

The Texas Surface Water Quality Standards Team develops water quality goals for the state as set forth in Title 30 Texas Administrative Code (30 TAC) Chapter 307. Water quality standards are the basis for establishing discharge limits in wastewater and stormwater discharge permits, setting instream water quality goals for Total Maximum Daily Loads (TMDLs), and providing water quality targets to assess water quality. The water quality standards are periodically revised to incorporate new information on potential pollutants and additional data about water quality conditions in specific water bodies, and to address new state and federal regulatory requirements. TCEQ is currently revising the Texas Surface Water Quality Standards.

Data Management and Analysis (DM&A) Team

The purpose of the DM&A Team is to ensure agency decisions related to ambient surface water quality are based on data of known quality. The DM&A Team coordinates and assists with the data management activities of all surface water programs and external data providers, including contracted entities, the river authorities of the state, and numerous field collectors in the 16 TCEQ Regional Offices. The DM&A Team also manages procedures for submitting, tracking, maintaining, and reporting data; verifies and validates the data from individual programs against data quality objectives; provides guidance and training; responds to requests for data from both the public and other agency staff; and supports and maintains the statewide database of ambient surface water quality data, which receives an average of 350,000 results records per year.

Sugar Land Laboratory

The Sugar Land Laboratory is the agency's principal water analysis laboratory and is accredited under the National Environmental Laboratory Accreditation Program (NELAP). The laboratory provides quality-assured analytical data to support regulatory, enforcement, and monitoring activities as well as special projects.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by establishing surface water quality standards and completion of the Integrated Report, implementation of the CRP Program, monitoring of surface water quality, maintaining SWQMIS, analysis of environmental samples, and the number of surface water assessments conducted. Program efficiency is determined by meeting internal deadlines to support TCEQ decision making. Water Quality Planning has established water quality standards for surface waters in the state, monitored and assessed surface water quality, analyzed and maintained surface water quality data, and coordinated implementation of the CRP Program, which contributed to the overall improvement of water quality in Texas.

The following performance measures are reported in Section II, Exhibit 2.

- Percent of Texas classified surface waters meeting or exceeding water quality standards;

- Number of surface water assessments (The Water Planning Program is one of several programs contributing to this performance measure); and
- Percent of Texas rivers, streams, reservoirs, wetlands, and bays protected by site-specific water quality standards.

The Sugar Land Laboratory analyzes approximately 4,000 environmental samples annually, which translates to roughly 100,000 individual measurements reported in 2019. These are accompanied by almost as many measurements of quality control standards for a total of 160,000 in 2019 (Note: 2020 numbers were not reported due to the lab's temporary closure during the COVID-19 pandemic). The laboratory has national accreditation for 133 analytes in air, water, and waste.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

Historically, the SWQM Program collected chemical, physical, and biological data necessary to evaluate water quality conditions throughout Texas and provided additional support to the development of water quality standards. In 2003, TCEQ enhanced these efforts through the development of an extensive network of continuous water quality monitoring stations. Since then, the number of stations has been significantly reduced as many stations have been retired because data needs were met. Currently, 30 continuous water quality monitoring stations are operated by TCEQ staff, cooperators, and contractors. Data from the network currently supports water rights/water resource management, endangered species habitat conservation, field investigations, and watershed protection plans.

In 1991, the legislature (72R) passed the Texas Clean Rivers Act (TWC Section 26.0135) in response to growing concerns that water resource issues were not being addressed in a holistic manner. The legislation requires monitoring assessments for each river basin in Texas be conducted using an approach integrating management of water quality within a river basin or watershed.

The CWA requires all states to adopt water quality standards for surface water. Texas has had Texas Surface Water Quality Standards since at least 1967. Published revisions of the Texas Surface Water Quality Standards have occurred in 1967, 1973, 1976, 1981, 1984, 1988, 1991, 1993, 1995, 1997, 2000, 2010, 2014, and 2018. Diverse sources have shaped standards development, including cities, industries, environmental interests, and EPA, which has approval authority over state water quality standards. Initially, site-specific standards were set for individual water bodies in the state relatively quickly, and in some cases there was limited data to establish uses and criteria. Many of the subsequent changes in the Texas Surface Water Quality Standards have involved revisions to the initial standards based on additional data and evaluations.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

TCEQ and partnering entities collect environmental data to evaluate the effectiveness of specific programs—including, but not limited to CWA Sections 319 (NPS control), 314 (Clean Lakes), 303(d) (TMDLs), and 402 (Texas Pollutant Discharge Elimination System [TPDES] permits, water quality standards modifications, and wastewater discharge loading allocations)—to determine the success of management measures. Many water users (e.g., recreational, municipal wastewater, public drinking water) are affected by the Integrated Report the program submits to EPA on April 1 of even-numbered years. The CWA Section

303(d) list affects regulated wastewater permit holders, and more specifically, can affect permit limits. Health- and environmental-based values are used to evaluate water quality and the results regarding public water supplies and fish consumption are of interest to many citizens of the state.

For the CRP, stakeholders include any individual or entity with a vested interest in a basin's waters, such as the public, non-governmental organizations, industry, government, and others.

Regionally, stakeholders have the opportunity to participate in the CRP as Steering Committee members. Each of the 15 CRP partner agencies involved in managing the CRP in their basins maintains a Steering Committee. These Steering Committee meetings provide a framework and forum for managing water quality issues within a river basin, both locally and regionally, by coordinating the efforts of diverse organizations.

The Texas Surface Water Quality Standards Team establishes explicit water quality goals throughout the state. Water quality standards are the basis for establishing discharge limits in wastewater and stormwater discharge permits, setting instream water quality goals for TMDLs, and providing water quality targets to assess water quality.

The Texas Surface Water Quality Standards affect all citizens of the state. They can also directly affect permitted wastewater discharges in Texas including cities, counties, state agencies, water districts, utility districts, investor-owned utilities, river authorities, mobile home parks, recreational vehicle parks, hotels, motels, industries, campgrounds, or any other business with an industrial and domestic wastewater treatment facility.

The Water Quality Standards Team has a well-recognized statewide advisory group process, and stakeholders and the public have the opportunity to participate in the revision process. Surface Water Quality Standards Advisory Work Group meetings are held during the revision process. This work group is a balanced group of representatives from regulated entities and from environmental, consumer, and professional organizations and the public.

The DM&A Team coordinates data management and data reporting activities between the SWQM Program (including the Continuous Water Quality Monitoring Network), the CRP, the Non-Point Source Program, Water Quality Standards Team, the Total Maximum Daily Load Program, TCEQ Sugar Land Laboratory, the Lower Colorado River Authority Environmental Laboratory, and other data providers. The DM&A Team manages data collected and/or submitted by 176 entities over a period of 53 years. The data housed in the statewide database is often needed and requested by other TCEQ programs and external customers, including academia, media, advocacy groups, citizens, consultants, other state agencies, and local governmental entities. These data requests are turned around quickly, usually in less than a day.

The Sugar Land Laboratory is primarily a support service within TCEQ. As such, the laboratory interacts directly with field personnel and program managers. The laboratory additionally provides measurement data for various water quality monitoring projects for external customers such as EPA and the United States Geological Service (USGS). The laboratory regularly receives samples used for evidentiary purposes in enforcement cases, requests for expedited service, and custom report development. The Sugar Land Laboratory is accredited under the NELAC standard; TCEQ is required by law (30 TAC Chapter 25) to use a NELAC accredited laboratory for environmental laboratory data used in rule making and enforcement decisions.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The following programs all operate under the general auspices of a Quality Management Plan describing organizational structures, documents and records, hardware and software, corrective action, and water quality improvement.

Primary statutory authority for the SWCM is program is provided under TWC Section 26.127. The SWQM Program is significantly driven by guidance in Sections 104(b), 106, 205(j), 303(d), 305(b), 314, 319, and 604(b) of the federal CWA of 1987. The program follows guidelines and monitoring priorities set forth by EPA. The Texas SWQM and Assessment Strategy outlines how Texas addresses these priorities. SWQM activities require coordination and additional support from TCEQ's Regional Offices throughout the state.

Primary statutory authority for the CRP is provided under TWC Section 26.0135. The rules for implementing the CRP can be found in 30 TAC Chapter 220. TCEQ CRP staff developed a guidance document outlining the tasks necessary to meet the intent and requirements of the legislation. Each regional partner agency implements the CRP guidance based on the unique circumstances present in the partner's basin. There is a minimum expectation set forth in the CRP guidance, but based on a number of factors, there is a certain amount of individuality in the focus and implementation of the program in each basin. Other tasks have been incorporated into the guidance to help provide information for other TCEQ water programs, as well. The CRP guidance is updated every two years by staff administering the program.

The Federal Water Pollution Control Act, Section 303 (commonly referred to as the CWA, 1972, 33 United States Code, 1313(c)), requires all states to adopt water quality standards for surface water. TWC Section 26.023 provides TCEQ with the authority to make rules setting Texas Surface Water Quality Standards for all waters in the state. The federal CWA requires states to review and, if appropriate, revise the Texas Surface Water Quality Standards at least every three years. The TWC stipulates the state may amend the standards from time to time. Amendments to the Texas Surface Water Quality Standards rule are proposed under TWC Section 5.103, which authorizes TCEQ to adopt any rules necessary to carry out its powers and duties under the TWC and other laws of this state.

Three documents created and maintained by different TCEQ programs explain how the Texas Surface Water Quality Standards are implemented in those program areas. The Procedures to Implement the Texas Surface Water Quality Standards provide guidance on how Texas Surface Water Quality Standards are implemented in the Texas Pollutant Discharge Elimination System Program. The document is maintained by TCEQ's Water Quality Division. This document is revised in conjunction with the Texas Surface Water Quality Standards revisions. The Guidance for Assessing and Reporting Surface Water Quality in Texas explains how the SWQM Program assesses water bodies to determine if they meet water quality standards. This guidance document is maintained and revised by the SWQM Program. The Guidance for Conducting Ecological Risk Assessments at Remediation Sites in Texas is maintained by the Texas Risk Reduction Program in the Remediation Division of the Office of Waste. In addition, 30 TAC Chapter 279 contains State 401 Water Quality Certification rules.

The DM&A Team establishes guidance and manages procedures for submitting, tracking, maintaining, and reporting water quality data. These procedures are documented in the Data Management Reference Guide. This document is revised annually, or as necessary. The program staff is responsible for ensuring agency staff understand and follow the guidance by providing training and data validation. This team also ensures continued support and maintenance of the SWQMIS.

All processes and procedures used by the laboratory are governed by Quality Assurance Project Plans (QAPPs) as well as the laboratory's NELAC-based quality system. Environmental samples submitted to the laboratory are logged into a computerized Laboratory Information Management System (LIMS) for internal tracking, record keeping, and customer data management and administration. Each sample is subjected to a battery of tests depending upon the requested analyses, and the resulting measurement data are validated and subsequently compiled into a final report of analysis for release to the customer. Most customers receive an Electronic Data Deliverable. The laboratory's performance measures include a turnaround time goal of 28 days from sample receipt to data release.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Water Quality Planning Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$94,448
0151	Clean Air Account – Dedicated	N/A	N/A	$228,820
0153	Water Resource Management Account – Dedicated	N/A	N/A	$6,830,192
0555	Federal Funds	66.419	Water Pollution Control – State & Interstate Program Support	$1,643,489
0555	Federal Funds	66.605	Performance Partnership Grants	$440,953
TOTAL				**$9,237,902**

The program is funded in the Air Quality Assessment and Planning Strategy and the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The SWQM Program, in cooperation with the CRP, oversees monitoring at over 1,800 sites with 57 monitoring entities to support TCEQ water quality management decisions. The SWQM Program also develops and maintains SWQM procedures for field collection, sample handling, and analysis used by entities reporting surface water quality data to TCEQ. The SWQM Program administers these procedures throughout the state by providing training and quality assurance oversight to agency staff and program cooperators. The cooperative effort between TCEQ's SWQM Program and the CRP prevents duplication of monitoring efforts and leverages resources to maximize dollars spent on water quality data.

The Texas Department of State Health Services (DSHS) has statutory authority to monitor chemical contaminant levels in fish, shellfish, and other aquatic organisms from Texas waters to determine the public health risks associated with consumption of these food sources. TCEQ coordinates with DSHS through information exchange, identifying candidate water bodies, and procuring funding for human health risk characterizations. The periodic assessment of these risks provides a means for managing water quality by identifying water quality problems in need of remedial measures. TCEQ incorporates DSHS human health risk determinations in the assessment of the fish consumption use of the Integrated Report and identifies water body impairments if DSHS issues consumption advisories for the public or aquatic life closures prohibiting the taking of aquatic life from the affected water body.

TCEQ coordinates with TPWD, DSHS, and other groups as part of the Toxic Substance Coordinating Committee Harmful Algal Bloom (HAB) Workgroup. Together they are developing the Guide for Public Health Response to Cyanobacterial Harmful Blooms in Recreational Fresh Water of Texas which provides unified statewide guidance for responding organizations, including local governments, local health departments, waterbody managers, and others; for use if a lake, river, stream, pond, or other type of freshwater body becomes impacted by cyanobacterial HABs.

USGS conducts continuous discharge and water quality monitoring for other entities on a cost reimbursement basis. In FY 2020, USGS operated and maintained 17 stations for TCEQ under cooperative agreements at locations where staff resources are not available.

The SWQM Program also works closely with the TPWD to develop biological monitoring protocols to evaluate the health of instream biological communities.

Regarding the Sugar Land Laboratory, routine chemical tests could be performed at the DSHS and at the Lower Colorado River Authority (LCRA), or by commercial laboratories. Although commercial laboratory contracts provide access to specialized capabilities, the analytical services by TCEQ's Sugar Land Laboratory provides several key advantages:

- Eliminates the potential conflict of interest through direct control over laboratory operations;
- Provides control over the selection of third-party suppliers;
- Ensures a level of client confidentiality;
- Maintains expertise in the testing of environmental samples; and
- Makes customized services more readily available. Provides priority service without additional cost.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

Every year, the entities providing surface water quality data to TCEQ (e.g., CRP partners, TCEQ regional offices, etc.) meet in the individual river basins to discuss their proposed monitoring plans for the upcoming year. These meetings are a substantial effort due to both the large number of SWQM stations where data are collected, as well as the number of entities involved. As a result, a Coordinated Monitoring Schedule is developed, maintained by a CRP partner (Lower Colorado River Authority) and made available on their website, and is used by these entities. Sample collection is performed by the entities according to planned schedules. The SWQM Program participates in coordinated monitoring meetings, which are designed to minimize duplication of effort, support data sharing, outline quality assurance expectations, provide a regional water quality forum, and assist in setting priorities related to water bodies on the CWA Section 303(d) List.

To help TCEQ coordinate the statewide monitoring efforts described above, every year the CRP partners host and facilitate all the regional coordinated monitoring meetings for TCEQ. The entities providing surface water quality data to TCEQ (e.g., CRP partners, TCEQ regional offices, TPWD, USGS) meet to discuss their proposed monitoring plans. By providing a documented, consistent framework for collection and analysis, more comparable data of known quality are available to the state for better decision making.

The Texas Surface Water Quality Standards Program and other agency programs—such as SWQM, CRP, TMDL, and Non-Point Source—meet regularly to plan and coordinate water quality studies to avoid duplication of efforts and to maximize the benefit to all agency programs. The water quality planning programs regularly notify and seek input from external stakeholders regarding their studies, not only to avoid duplication of effort, but to inform them of TCEQ's activities and to get local information relevant to individual activities.

The Sugar Land Laboratory is a special support unit within the WQPD which generates measurement data on environmental samples submitted to the lab by program personnel. Laboratory capacity is designed to accommodate most routine analyses; TCEQ contracts some lab work with commercial or state laboratories, as appropriate, because of holding times or specialized service. For example, TCEQ's fish tissue analyses are performed by DSHS.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

To implement the statewide monitoring and assessment program, the SWQM Program staff must coordinate with TCEQ regional offices; CRP partners; and local, state, and federal monitoring agencies. Much of the funding to support these activities comes from EPA grants supporting CWA monitoring and assessment activities. TCEQ submits the Integrated Report and CWA Section 303(d) List to EPA for approval.

To implement the CRP, TCEQ contracts with 12 river authorities, a water district, one council of governments, and one federal agency. The CRP partners coordinate with the local, regional, and federal units of governments as stakeholders in the partner's area of interest.

EPA Region 6 is responsible for the review and approval of the Texas Surface Water Quality Standards. The U.S. Fish and Wildlife Service reviews the Texas Surface Water Quality Standards and provides an opinion to EPA with regard to federally endangered or threatened aquatic or aquatic-dependent species. The Water Quality Standards Team interacts with local, regional, and federal units of government through the Surface Water Quality Standards Advisory Work Group and the Texas Surface Water Quality Standards revision.

The DM&A Team works with the data providers to receive and load data to the statewide database. These data providers include various city governments, river authorities, TPWD, Texas State Soil and Water Conservation Board (TSSWCB), and the USGS.

The DM&A Team also works closely with EPA to provide data to EPA's data warehouse using web services technology and shared data standards.

The Sugar Land Laboratory conducts some sample analyses for EPA. The Sugar Land Laboratory maintains a Revocable License Agreement with EPA Region 6 under which sample analyses are provided in exchange for new and replacement laboratory equipment.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The purpose for these contracts is to operate continuous water quality monitoring network stations, maintain water quality assessment tools consistent with current system needs, and monitor and study water quality.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $1,293,057.

- **the number of contracts accounting for those expenditures;**

13 contracts.

- **the method used to procure contracts;**

The contracts were procured through direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Water Quality Planning Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-10181	US Geological Survey	Operate, maintain & validate Continuous Water Quality Monitoring (CWQM) Network stations	$634,267
582-17-71217-04	NF Consulting Services	Provides support and maintenance of SWQMIS, Watershed Action Planning Tool, and the Statistical Analysis Software Tool consistent with current system needs	$347,400
582-20-10184	US Geological Survey	Conduct water quality study to compare field and laboratory methods used to identify and detect cyanobacteria and cyanotoxins	$192,434
582-17-70419	Lower Colorado River Authority*	TCEQ needs analysis of samples in accordance with established testing standards for Clean Water Act and requires data of the highest quality to evaluate these activities	$47,768
582-20-10180	US Geological Survey	Operate, maintain & validate Continuous Water Quality Monitoring (CWQM) Network stations	$25,681

** OCE contract*

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If

discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The Water Quality program provides funds to universities and river authorities to complete water quality monitoring and assessment projects. These grants are provided by direct award.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Total Daily Maximum Load Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Total Maximum Daily Load

Location/Division: Austin Headquarters / Water Quality Planning Division

Contact Name: Lori Hamilton, Deputy Director, Water Quality Planning Division

Statutory Citation for Program: Title 40 Code of Federal Regulations (CFR) Part 130 (40 CFR 130); Federal Clean Water Act (CWA) Section 303(d).

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Total Maximum Daily Load (TMDL) Program is authorized under Section 303(d) of the federal CWA of 1972, its amendments (U.S. Code 1987), and the implementing regulations.

The TMDL Program works to improve water quality in impaired streams, lakes, and bays by 1) developing TMDLs to determine necessary pollutant reductions; 2) developing implementation plans (I-Plans) or watershed action plans, in cooperation with the implementing organizations, to meet pollutant reduction goals; and 3) preparing use-attainability analyses (UAAs) to determine how water bodies are used. A TMDL estimates the amount of a pollutant a water body can assimilate daily and continue to meet water quality standards. The load is divided among the sources of pollution in the watershed. An I-Plan describes how the pollutant reductions described in the TMDL will be achieved. It identifies the actions that will be taken to restore water quality conditions and establishes how these actions will be tracked, evaluated, and reported. A UAA is a structured scientific assessment of the factors affecting the attainment of the use, which may include physical, chemical, biological, and economic factors.

The TMDL Program is also responsible for coordinating with TCEQ's TPDES permitting program regarding the implementation of TMDLs to ensure permits comply with the requirements in the TMDL; revision of load allocations of existing TMDLs to adapt to changes in land use and population; and providing updates to the Water Quality Management Plan (WQMP).

Federal regulations require the state to develop a TMDL for impairments in a particular water body. The TMDLs are created for specific parameters and specific uses where a water body, or portion of a water body called an assessment unit, is impaired. A water body is impaired if the standard established for an indicator parameter is not met for a specific use. Five broad categories of use are defined in Title 30 Texas Administrative Code (30 TAC) Chapter 307, the Texas Surface Water Quality Standards: aquatic life, contact recreation, public water supply, fish consumption, and general. Waters which do not attain one or more standards and have a TMDL underway or scheduled are identified in category 5a of the Texas 303(d) list. The Surface Water Quality Monitoring Program (SWQM) monitors and evaluates the physical, chemical, and biological characteristics of aquatic systems and produces the Texas 303(d) list biennially.

From 1998 through 2008, the U.S. Environmental Protection Agency's (EPA's) implementing guidance required one TMDL for each impairment in each water body. Since the beginning of FY 2009, EPA has modified its implementing guidance to require one TMDL for each impairment in each assessment unit. For example, if a stream did not meet the contact recreation use standard because of high concentrations

of indicator bacteria and the aquatic life use standard due to low concentrations of dissolved oxygen, two TMDLs would be required—one for bacteria and another for dissolved oxygen.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by the number of surface water assessments, specifically the adoption of TMDLs and approval of TMDL I-Plans and WQMP updates. Program efficiency is determined by meeting internal deadlines to support TCEQ decision making. TMDL projects have contributed to the overall improvement of water quality in Texas by estimating the amount (or load) of a pollutant a body of water can receive and still support its assigned uses and outlining the steps necessary to reduce pollutant loads through regulatory and voluntary activities.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
TMDLs Adopted	N/A	Commission adopted 28 TMDLs for 28 assessment units and 1 TMDL I-Plan in 1 assessment unit	N/A
TMDL Restorations	N/A	Ongoing restoration was underway for 28,164 lake acres, 2,662 stream miles, and 231 estuary square miles	N/A

The following performance measure is reported in Section II, Exhibit 2. The TMDL Program is one of several programs contributing to this performance measure.

- Number of surface water assessments.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

Prior to 2002, the TMDL Program was responsible for addressing all impairments on the Section 303(d) list—impairments requiring TMDLs, as well as impairments requiring review of their standards, and for which more data were needed before determining a course of action.

By 2005 the TMDL Program was assigned solely to develop TMDLs and I-Plans. The Surface Water Monitoring Program and the Surface Water Quality Standards Program addressed water bodies for which more data was needed or for which the standards needed review.

In 2008, the TMDL Program became responsible for assisting the Water Quality Standards Group with determining the appropriateness of current standards by conducting UAAs, as well as for developing TMDLs and I-Plans.

In 2013, EPA announced a new collaborative framework for implementing the CWA Section 303(d) program with states—A Long-Term Vision for Assessment, Restoration and Protection under the CWA

Section 303(d) Program, also referred to as the 303(d) Vision. The TMDL Program implements the 303(d) Vision, which is a long-term effort to develop water quality improvement plans (e.g., TMDLs/I-Plans, etc.) to address priority water bodies.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

There are no eligibility requirements for participation in TMDL projects and project development meetings are open to anyone. The TMDL Program is inclusive of the public and of cooperating local, regional, state, and federal organizations, both governmental and nongovernmental.

The TMDL Program is developing or implementing TMDLs in 84 of the 254 Texas counties. The individuals and organizations using a water resource, or contributing or controlling pollution to it, are stakeholders in the TMDL Program. Although not an exhaustive list of possible stakeholders, the following categories give some examples of the kinds of persons and entities who may become involved in protecting and restoring water resources:

- Wastewater dischargers – municipal and industrial;
- Public – individuals; civic groups such as those representing environmental, consumer, recreational, and community interests; schools, universities, and private landowners;
- Agriculture and aquaculture – corporate and individual farmers, ranchers, and producers; subsistence and commercial harvesters of fish and shellfish; agricultural groups and organizations;
- Business – commercial and industrial firms; utilities; business groups and trade associations; and
- Government – city, county, regional, state, federal, and international governmental agencies, tribes, utility districts, and river authorities.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

The federal mandate for state TMDL programs is contained in the CWA of 1972 and its amendments (U.S. Code 1987). Section 303(d)(1)(C) of the CWA and EPA's implementing regulations issued in 1992, and contained in 40 CFR 130, currently govern the states' TMDL programs. Under 40 CFR 130, states must identify waters where effluent limitations alone are not sufficient to meet water quality standards. Every two years, the identified water bodies are compiled in a record called the "303(d) list," after its implementing legislation. Public participation in the development of TMDLs is mandated in federal regulations (40 CFR 130.7(a)), which also require the state's process for involving the public in TMDLs be described in the state's "continuing planning process." TWC Section 5.107, relating to Advisory Committees, Work Groups and Tasks Forces, authorizes the commission to create and consult with advisory committees, work groups, or task forces. All adopted TMDLs are included in the state's WQMP (40 CFR 130). When revising the TMDLs through the WQMP, TCEQ follows the public participation requirements of 40 CFR 25, as well as applicable state law found in TWC Chapter 26.

The total pollutant load to a water body is derived from determining the amount of loading from point, nonpoint, and natural sources. The TMDL distributes portions of the water body's assimilative capacity to various pollution sources—including natural background sources, allowances for future growth, and a margin of safety—to ensure water quality standards are met. The following activities occur during the

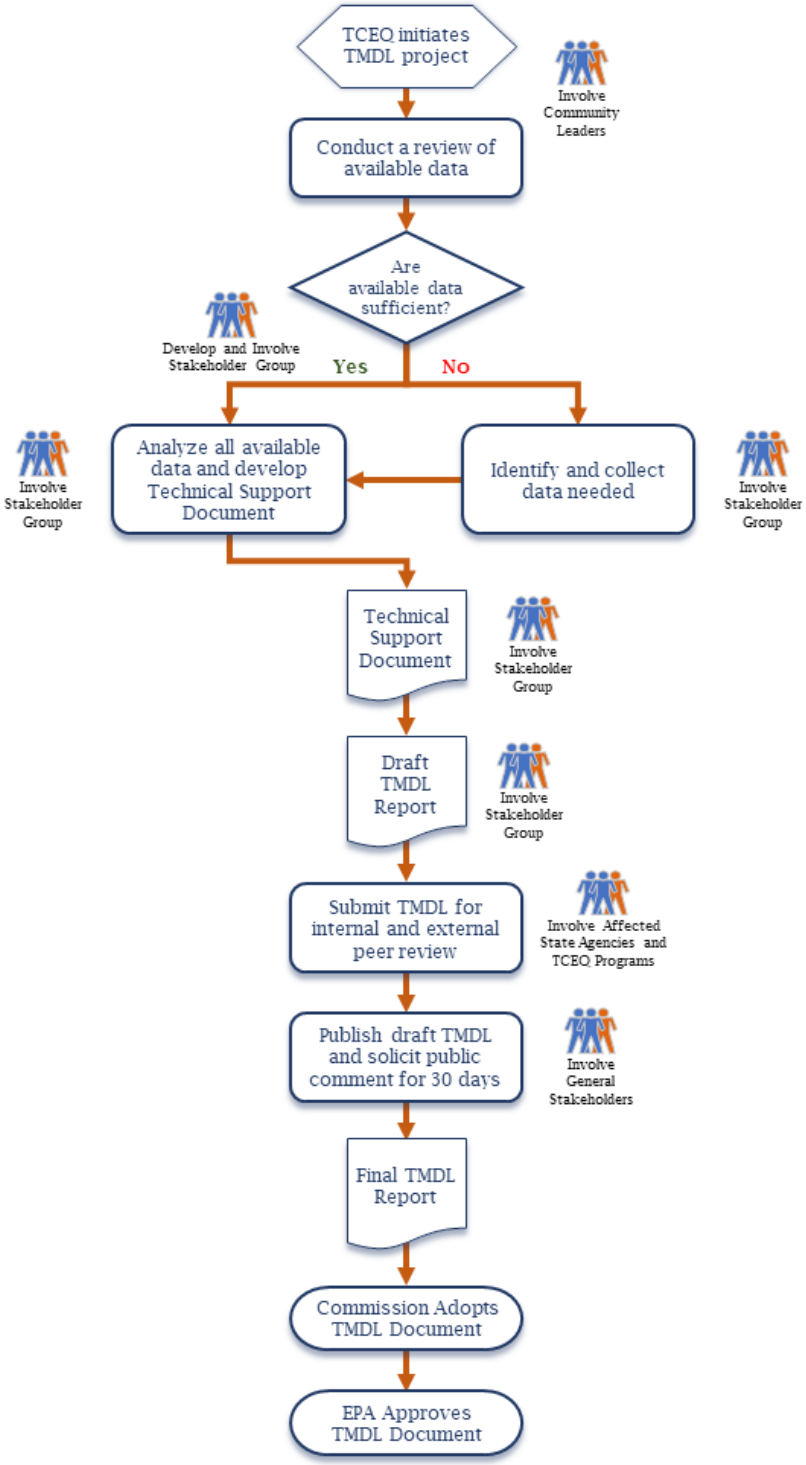
development of a TMDL, shown in the flowchart *Developing a Total Maximum Daily Load: Technical Approach and Process*.

- Collect and review all the data currently available about the causes and sources of the pollutant of concern. This step is usually referred to as a "historical data review."
- Analyze the available data to determine whether there is sufficient information to begin developing the TMDL or if more data are necessary.
- Identify additional data needed and develop a plan to gather them.
- Gather additional data as needed through monitoring, surveying possible sources, and other means.
- Analyze the complete data set to determine how to allocate the pollutant load among its sources and the amount by which loading must be reduced to attain standards.
- Draft the TMDL for public comment.

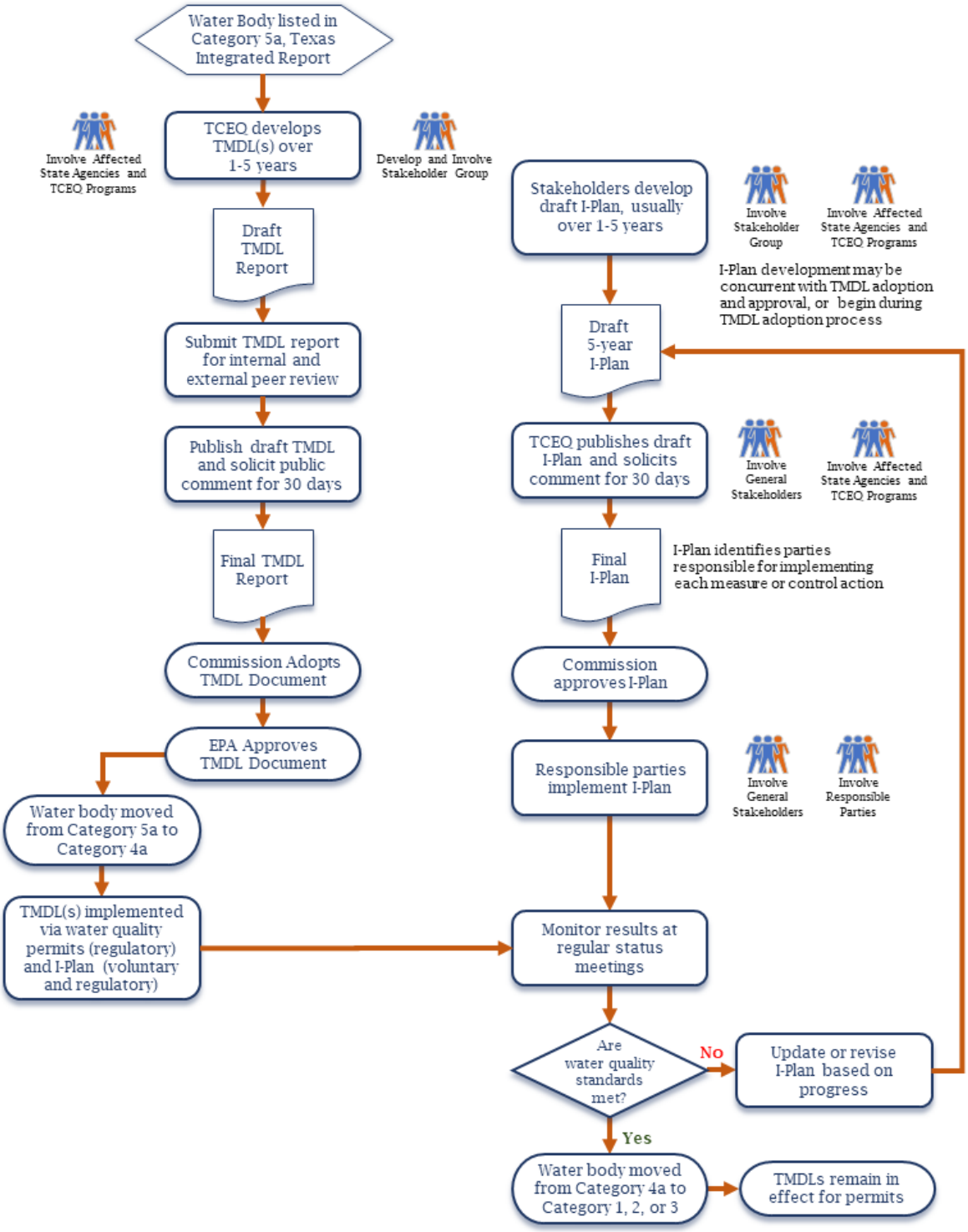
The following flowcharts illustrate the process to develop a TMDL and to receive TMDL and I-Plan approval. The process includes the following steps:

- Public notice;
- Response to public comment;
- Consideration by the commission, and as appropriate by the Texas State Soil and Water Conservation Board (TSSWCB); and
- Submission to EPA for approval.

Developing a Total Maximum Daily Load: Technical Approach and Process Flowchart



TMDLs and I-Plans Approval Process Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Total Maximum Daily Load Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0153	Water Resource Management Account – Dedicated	N/A	N/A	$1,099,671
0555	Federal Funds	66.419	Water Pollution Control - State & Interstate Program Support	$995,209
TOTAL				**$2,094,880**

The program is funded in the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

In Texas, two agencies, TCEQ and TSSWCB, have primary responsibility for developing TMDLs. TCEQ is the state's lead agency for addressing pollution from all sources, except nonpoint sources from agriculture and silviculture. TSSWCB is the lead agency for preventing and abating agricultural and silvicultural nonpoint source pollution.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ and TSSWCB have a Memorandum of Understanding (MOU), which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and NPS pollution control programs (31 TAC Section 523.5(b)).

TCEQ and TSSWCB work closely on many TMDL projects. Accordingly, a Memorandum of Agreement (MOA) has been executed describing how the two agencies will cooperate in their mandated tasks to manage water quality. The MOA sets forth the cooperating responsibility and authority regarding development of TMDLs. TCEQ and TSSWCB also hold quarterly meetings to coordinate and collaborate to avoid duplication or conflict among other things.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

EPA gives guidance for the TMDL Program and issues grants for assessing water quality and implementing protection and restoration plans.

River authorities, councils of governments, soil and water conservation districts, county and city governments, and the regional offices of state agencies all play key roles in organizing and advertising regional forums for public participation in TMDL projects. The program works closely with these organizations to develop strategies for conducting TMDL projects and to enlist their help in engaging the

public in the affected watershed. In addition, these organizations often have environmental divisions responsible for regional management of environmental quality.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The purpose of the TMDL Program contracts were for publishing notices.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $704.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

The contracts were procured through direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Total Maximum Daily Load Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
Procard	Houston Chronicle	Notice of request for public comment and notice of a public meeting on 23 Draft TMDLs	$534
Procard	The Palacios Beacon	Notice of request for public comment and notice of a public meeting on one Draft TMDL and one Draft Implementation Plan	$170

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The TMDL program provides funds through direct award to universities and governmental entities to develop TMDLs, I-Plans, or watershed action plans, perform water quality monitoring related to TMDLs,

and prepare. Awards include Houston Galveston Area Council, North Central Texas Council of Governments, Texas A&M AgriLife Extension Service, and Tarleton State University.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Texas surface waters are monitored routinely by the Surface Water Quality Monitoring Team in cooperation with partners across the state. As required by the CWA, the data are analyzed every two years to assess the water bodies for compliance with the Texas Surface Water Quality Standards (30 TAC Chapter 307). Water bodies not meeting the quality standards are placed on the list of impaired water bodies known as the Texas 303(d) list. The water bodies on the list are addressed in three ways. A use attainability analysis may be conducted to determine if the appropriate use is designated for a given water body, additional data may be gathered to confirm the impaired status of the water body, or a TMDL project may be conducted. The TMDL project will develop a watershed plan to improve water quality and establish general limits for sources of pollutants causing the impairment. Through these three methods, sometimes in combination, a water body may be removed from the Texas 303(d) list.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Nonpoint Source Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Nonpoint Source (NPS) Program

Location/Division: Austin Headquarters / Water Quality Planning Division

Contact Name: Lori Hamilton, Deputy Director, Water Quality Planning Division

Statutory Citation for Program: Federal Clean Water Act (CWA) Section 319(h); (33 United States Code (U.S.C.) Section 1329.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The objective of TCEQ's Nonpoint Source (NPS) program is to facilitate the implementation of programs and practices for managing nonpoint sources of pollution necessary to meet water quality goals. Nonpoint source pollution occurs when rainfall or snowmelt flows over land, roads, buildings, and other features of the landscape, and carries pollutants into drainage ditches, lakes, rivers, wetlands, coastal waters, and even underground sources of water. The NPS program supports the development and implementation of watershed-based plans to protect and restore waters threatened or impaired by nonpoint source pollution. The NPS program is a non-regulatory program charged with implementing Section 319 of the federal CWA.

The United States Environmental Protection Agency (EPA) distributes funds appropriated by Congress annually to TCEQ under Section 319(h) of the CWA. TCEQ administers federal funds for projects which assist the state in implementing the Texas NPS Management Program (Management Program). The Management Program is required by Section 319(b) of the federal CWA, prepared jointly with the Texas State Soil and Water Conservation Board (TSSWCB), and is the state's official plan for addressing NPS pollution and presenting the goals, priorities, programs, and milestones for the program. TSSWCB administers the Management Program for agricultural and silvicultural nonpoint source pollution and TCEQ administers it for all other nonpoint sources (e.g., urban and non-agricultural).

The NPS Program also manages contracts with regional planning agencies, such as Council of Governments, to implement water quality planning activities related to Section 604(b) of the federal CWA. Regional planning agencies receive 604(b) funding through contracts with TCEQ to update the State Water Quality Management Plan (WQMP) and conduct water quality planning activities. These funds are derived from state revolving fund appropriations under Title VI of the CWA.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by the development of watershed protection plans, NPS success stories, and the number of surface water assessments, including the 319 annual report, Management Program, and 604(b)-related Water Quality Management Plan updates. Program efficiency is determined

by meeting internal deadlines to support TCEQ decision making. NPS projects have contributed to the overall improvement of water quality in Texas, including nonpoint source pollutant load reductions of phosphorus, nitrogen, and sediment.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
NPS Pollutant Load Reductions (Phosphorus)	N/A	6,630.45 lb/yr	N/A
NPS Pollutant Load Reductions (Nitrogen)	N/A	20,579.8 lb/yr	N/A
NPS Pollutant Load Reductions (Sediment)	N/A	34.77 tons/yr	N/A
Water Quality Improvements	1	1	100%
Watershed Protection Plans Developed	N/A	N/A	N/A

The following performance measure is reported in Section II, Exhibit 2. The NPS Program is one of several programs contributing to this performance measure.

- Number of surface water assessments.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

In 1990, Congress passed the Federal Coastal Zone Act Reauthorization Amendments (CZARA) to address the NPS pollution problem in coastal waters. Section 6217 of CZARA requires states to develop coastal nonpoint pollution-control programs. Texas was granted conditional approval of its program in July 2003. TCEQ and partner agencies (Texas General Land Office is the lead agency) are continuing to work toward full approval. The state received a set of interim decision documents from the National Oceanic and Atmospheric Agency (NOAA) and EPA in late 2020 and is awaiting NOAA and EPA final approval.

EPA historically provides funds supporting the Texas 319 program. In FY 2020, the federal 319 program received a federal appropriation of $172.3 million. Texas receives a portion of these funds and the funds are allocated between TCEQ and TSSWCB.

On April 12, 2013, EPA issued revised guidelines to states, territories, and the District of Columbia for the award of Section 319 grants under the CWA for the implementation of NPS management programs. The guidelines are requirements applying to recipients of grants made with funds appropriated by Congress under Section 319 of the CWA. States and EPA regions began to implement the guidelines in FY 2014 and in subsequent years. The new guidelines replace the Nonpoint Source Program and Grants Guidelines for States and Territories in effect since the FY 2004 grant cycle. The revised guidelines provide updated program direction, an increased emphasis on watershed project implementation in watersheds with impaired waters, and increased accountability measures. The guidelines also emphasize the importance of states updating their NPS management programs to ensure Section 319 funds are targeted to the highest priority activities.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

Through working partnerships with state, interstate, regional, and local authorities; private-sector and citizen groups; and federal agencies, the NPS program affects many entities. Program funding supports watershed planning and implementation, grants management, education and outreach, and monitoring. Section 319 grants are available to state agencies or political subdivisions of the State of Texas, including cities, counties, school districts, state universities, and special districts.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Implementation of the Management Program involves partnerships among other organizations, specifically the TSSWCB, which jointly administers the program. EPA awards CWA Section 319 grant funding through a six-step process: 1) EPA issues a brief annual guidance; 2) states submit draft grant applications, including a draft work plan; 3) EPA reviews state draft applications and comments in writing; 4) states submit final work plans and grant applications to EPA; 5) EPA awards grants to states; and 6) states obligate funds as expeditiously as possible. Additional funding awarded under Section 604(b) of the CWA is passed primarily to councils of governments for water quality planning projects. The current Management Program was approved by EPA on March 23, 2018. It is currently under revision and will be updated in 2022. Texas reports annually to its stakeholders, Congress, and EPA on progress. The report is created jointly by TSSWCB and TCEQ to highlight projects and accomplishments.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Nonpoint Source Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0153	Water Resource Management Account - Dedicated	N/A	N/A	$169,253
0555	Federal Funds	66.454	Water Quality Management Planning	$406,723
0555	Federal Funds	66.460	Nonpoint Source Implementation	$2,728,489
0555	Federal Funds	66.605	Performance Partnership Grants	$180,282
TOTAL				**$3,484,747**

The program is funded in the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The Texas NPS Management Program is jointly administered by TCEQ and TSSWCB. TCEQ is designated by law as the lead state agency for water quality protection in Texas. TSSWCB plays an important role as the lead agency in the state for the management of agricultural and silvicultural NPS runoff. TSSWCB

administers the NPS program for agricultural and silvicultural NPS management; TCEQ for all other nonpoint sources.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ and TSSWCB have a Memorandum of Understanding (MOU), which sets forth the coordination of jurisdictional authority, program responsibility, and procedural mechanisms for point and NPS pollution control programs (Title 31 Texas Administrative Code (31 TAC) Section 523.5(b) and Title 30 TAC Section 7.102).

A Memorandum of Agreement (MOA) between TCEQ and TSSWCB sets forth the coordination of program responsibilities relating to the development and implementation of TMDLs, TMDL Implementation-Plans (I-Plans), and WPPs by the two agencies. The MOA is intended to clarify and outline the coordination required for the agencies to effectively administer their duties, responsibilities, and functions as provided under TWC Chapters 5 and 26 and Texas Agriculture Code Chapter 201. TCEQ and TSSWCB also hold quarterly meetings to coordinate and collaborate to avoid duplication or conflict among other things.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Implementation of the Management Program involves partnerships among many organizations, e.g., cities, counties, river authorities, and other state agencies, such as TSSWCB. At the federal level EPA oversees the program and guides its implementation.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

Contract used for interpretation services.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $744.

- **the number of contracts accounting for those expenditures;**

One contract.

- **the method used to procure contracts;**

The contract was procured through a direct award.

- **top five contracts by dollar amount, including contractor and purpose;**

Nonpoint Source Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-13232	Communication by Hand LLC	Interpreter Services	$744

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The program allocates federal 319(h) funds and solicits NPS project applications from eligible entities across the state. The program also receives 604(b) Water Quality funds from EPA to allocate directly to regional planning agencies for water quality management planning activities. The funds are awarded by the program through solicitations and direct awards and are used by the recipients to implement NPS programs and water quality management planning activities.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Estuary Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Estuary Programs

Location/Division: Webster and Corpus Christi / Water Quality Planning Division

Contact Name: Lori Hamilton, Deputy Director, Water Quality Planning Division

Statutory Citation for Program: Federal Clean Water Act (CWA) Section 320; (33 United States Code (U.S.C.) Section 1130; Texas Water Code (TWC) Sections 5.601-5.609.

B. What is the objective of this program or function? Describe the major activities performed under this program.

Galveston Bay Estuary Program (GBEP)

GBEP is a non-regulatory program of TCEQ functioning as a partnership of local governments, business and industry, conservation organizations, bay users, and resource agencies. GBEP's purpose is to implement the federally approved Comprehensive Conservation and Management Plan (CCMP) developed to provide interdisciplinary, ecosystem-based management for Galveston Bay, an estuary of national significance. To carry out this purpose, GBEP:

- Coordinates the development and implementation of multi-partner habitat and water quality conservation projects leveraging public and private resources, minimizing duplication, and maximizing resources for priority issues identified by the partnership.
- Provides grants and assistance to Houston-Galveston area communities and organizations to implement habitat, water quality, and species conservation projects, and to conduct research informing adaptive management and ensuring science-based decision making.

Coastal Bend Bays and Estuaries Program (CBBEP)

CBBEP is based in Corpus Christi and is a local nonprofit 501(c)(3) organization established in 1999. The CBBEP project area encompasses the estuarine environment of 75 miles of the south-central Texas coastline, and includes the 12 counties of the region known as the Coastal Bend. The mission of CBBEP is to protect and restore the health and productivity of the bays and estuaries while supporting continued economic growth and public use of the bays into the future.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program effectiveness is evidenced by the implementation of Comprehensive Conservation and Management Plans (CCMPs) and the number of surface water assessments; specifically, the number of estuary program project reports and number of acres of habitat created, restored, and protected through the implementation of CCMP activities. Program efficiency is determined by meeting internal deadlines

to support decision making. Estuary program projects have contributed to the implementation of priorities identified in their respective CCMPs, improving water quality and restoring, creating, or protecting habitat through the implementation of action plans.

The following performance measures are reported in Section II, Exhibit 2. The Estuary Program is one of several programs contributing to this performance measure.

- Number of surface water assessments and
- Number of acres of habitat created, restored, and protected through implementation of Estuary Action Plans.

Exhibit 12: Program Statistics and Performance Measures — Fiscal Year 2020

Program Statistics or Performance Measures	FY 2020 Target	FY 2020 Actual Performance	FY 2020 % of Annual Target
GBEP Leveraged Amounts	N/A	Leveraged over $22,160,000 in federal and partner contributions to implement projects. This resulted in an average ratio of over $25.41 of contributions to every $1 of base funding.	N/A
CBBEP Leveraged Amounts	N/A	Leveraged over $2,848,497 in federal and partner contributions to implement projects. This resulted in an average ratio of over $19.50 of contributions to every $1 of base funding.	N/A

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

In 1987, during reauthorization of the CWA, Congress established the National Estuaries Program (NEP) to promote long-term planning and comprehensive regional management of nationally significant estuaries threatened by pollution, development, and overuse. GBEP and CBBEP are two of the 28 NEPs.

The Protect and Restore America's Estuaries Act was signed into law on January 13, 2021. The Act reaffirms support for the work of the NEP, and nearly doubles the annual funding limit to $50 million. Under the new law, each NEP could receive as much as $1 million each year.

GBEP was established in 1989 to address Galveston Bay. GBEP's CCMP was completed and approved by the governor and the United States Environmental Protection Agency (EPA) administrator in 1995. In 1999, the legislature (76R) passed the Texas Estuaries Act (TWC Sections 5.601 and 5.605), which designated TCEQ as the entity responsible for implementing the CCMP. The 2nd Edition of the GBEP's CCMP, The Galveston Bay Plan, was approved by the Galveston Bay Council (GBC) on October 27, 2018, and by TCEQ on March 27, 2019.

CBBEP joined the NEP in 1994 and CBBEP's CCMP, The Coastal Bend Bays Plan, was approved in 1999. CBBEP began as a federal and state agency effort during the planning phase. However, participants wanted to localize and take ownership of the program as it moved from development to implementation. The change resulted in the creation of a nonprofit organization led by a local board of directors. The nonprofit is partially funded with general revenue through TCEQ. The 2nd Edition of the CBBEP's CCMP, The Coastal Bend Bays Plan, was adopted by the Bays Council in December 2020.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

GBEP serves as a forum for coordination and peer review between federal and state agencies, local governments, commercial and recreational fishermen, industry, environmental groups, and citizens.

CBBEP is a non-regulatory, voluntary partnership with industry, environmental groups, bay users, local governments, and resource managers to improve the health of the bay system within the 12-county program area. Participating organizations can include cities, counties, school districts, state universities, and private, for profit, and nonprofit organizations.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

GBEP is administered by TCEQ and is advised by GBC, a 41-member coordinating council. GBEP is funded by appropriations from Congress through EPA and from the Texas Legislature through TCEQ. Implementation of its CCMP is carried out through collaborative efforts with numerous local governments, businesses, conservation organizations, and state and federal agencies, enabling GBEP to leverage additional funds to implement on-the-ground habitat and water quality protection.

GBC meets quarterly to discuss CCMP implementation by member organizations and give feedback. GBC also makes recommendations to TCEQ regarding projects in the GBEP annual work plan. GBEP projects are developed through subcommittees composed of federal and state agencies, local governments, businesses, and non-profit organizations with specific expertise. Project ideas are refined and vetted by subcommittee members and submitted to GBC for approval. Potential partners and funding are identified during project development. Outgoing grants are issued to implement projects in the work plan. Each is carried out by the grantee and guided by a project team.

CBBEP is a local nonprofit organization with a board of directors comprised of representatives of local government from within the program area, industry, the Coastal Bend Bays Foundation, and the Bays Council, an advisory committee including the Texas Parks and Wildlife Department, Texas General Land Office, and Nueces River Authority. Implementation teams function as a subgroup to the Bays Council and make recommendations to the council regarding annual work plans. A combination of local governments, private industry, and TCEQ and EPA agencies supply additional program funding. TCEQ's liaison with CBBEP is in the Austin Central Office.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Estuary Programs Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$697,309
0153	Water Resource Management Account – Dedicated	N/A	N/A	$633,230
0555	Federal Funds	66.454	Water Quality Management Planning	$137,868
0555	Federal Funds	66.456	National Estuary Program	$467,287
TOTAL				**$1,935,694**

The program is funded in the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

The two estuary programs in Texas serve different geographical areas: GBEP, the upper Texas coast (specifically the Galveston Bay area), and CBBEP, the lower Texas coast (specifically the Coastal Bend bay and estuaries area). GBEP is a non-regulatory program of TCEQ; CBBEP is a local nonprofit organization. No other programs coordinate interdisciplinary resource and bay management in Texas.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

GBEP serves the Galveston Bay area, including the five counties surrounding the bay complex: Harris, Galveston, Chambers, Brazoria, and Liberty. Coordination and communication are achieved through representation on the Galveston Bay Council and its subcommittees.

CBBEP serves the lower Texas coast (specifically the Coastal Bend bay and estuaries) and its 12-county program area. Coordination and communication are achieved through a board of directors and representation on the Bays Council and five implementation teams.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

Through GBC, GBEP works with federal and state agencies with bay-management responsibilities; local governments and communities in Harris, Galveston, Brazoria, Chambers, and Liberty counties; industry and business; environmental groups; and commercial and recreational fishermen.

CBBEP is a non-regulatory, voluntary partnership effort working with industry, environmental groups, bay users, local governments, and resource managers to improve the health of the bay system. In addition, local government authorities may also sit on the board of directors, the Bays Council, and any of the five implementation teams. The project area includes the 12 counties of the region known as the Texas Coastal

Bend: Aransas, Bee, Brooks, Duvall, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, Refugio, and San Patricio.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The Estuary Program contracts are used to host the Back the Bay website and employ an intern.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $12,125.

- **the number of contracts accounting for those expenditures;**

Two contracts.

- **the method used to procure contracts;**

The contracts were procured through direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Estuary Programs Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-20-13924	WorkQuest	Mickey Leland intern for GBEP	$6,257
582-20-10333	Wilkins Group Inc	Host and maintain Back the Bay website	$5,868

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted until any discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

GBEP and CBBEP allocates funds to implement their CCMPs. While EPA funding is one of the primary sources of revenue for its work, GBEP and CBBEP are required to match the EPA grant one-to-one (1:1). The primary source of matching funds comes from the State of Texas through TCEQ. The program provides direct awards to federal and state agencies, universities, councils of government, municipalities, and others to implement CCMP activities.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

N/A

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

N/A

Public Drinking Water Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Public Drinking Water

Location/Division: Austin Headquarters / Water Supply Division

Contact Name: Cari-Michel La Caille, Deputy Director, Water Supply Division

Statutory Citation for Program: Texas Health and Safety Code (THSC) Chapter 341 Subchapter C; Texas Water Code (TWC) Sections 5.701 and 5.507 and Chapter 13.

B. What is the objective of this program or function? Describe the major activities performed under this program.

The Water Supply Division (WSD) oversees the agency's public drinking water program to ensure the provision of safe and adequate drinking water to the public and assesses the financial, managerial, and technical capabilities of public water systems. The WSD implements portions of the Public Water System Supervision Program as part of the primacy agreement with the Environmental Protection Agency (EPA) under the Safe Drinking Water Act.

Major activities performed:

- Adopts, implements, and supports compliance with drinking water rules at least as stringent as the federal rules.
- Oversees monitoring and compliance determinations for chemical and microbiological drinking water standards for the protection of public health.
- Initiates formal enforcement action for public water systems exceeding compliance trigger levels agreed upon by TCEQ and EPA.
- Reviews engineering plans and specifications for public water system improvements, including the approval of facilities to treat drinking water, and evaluates innovative and non-standard drinking water treatment technologies.
- Administers the Capacity Development Program to assist public water systems develop and maintain financial, managerial, and technical capacity.
- Provides technical assistance to public water systems impacted by natural disasters or other emergency conditions impeding a safe water supply.
- Assesses source water vulnerability of drinking water sources and provides support to help public water systems protect source waters.
- Supports the Drinking Water State Revolving Fund grant set-asides program by ranking proposed projects and preparing reports on capability of applicants applying for Texas Water Development Board (TWDB) funding.
- Maintains and delivers public water system inventory, violation, and action data to EPA.
- Assists public water systems with Homeland Security activities and training to effectively respond to and recover from disasters or other types of events that could potentially impact the safety of the water supply, and reviews Emergency Preparedness Plans to increase public water system resiliency.

- Administers the Texas Optimization Program which provides advanced technical assistance, operator training, and treatment plant optimization strategies for public water systems.
- Administers the Cross-Connection Control Program which assists public water systems with protecting drinking water supplies from contamination.
- Maintains the Texas Drinking Water Watch database to provide information to the public about the quality of local drinking water and ensures public water systems deliver a Consumer Confidence Report, also known as an annual drinking water quality report, to customers.
- Hosts the annual Public Drinking Water Conference and quarterly Drinking Water Advisory Workgroup meetings for training, guidance, and stakeholder input concerning drinking water-related issues.
- Oversees Public Health Service and Regulatory Assessment Fees.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Performance measures for the public drinking water program are located as an Exhibit in Section II – Key Functions and Performance, Subsection K.

Performance measures established for reporting on the effectiveness of the program are being met or positively exceeding goals set by EPA. EPA has introduced a National Compliance Initiative (NCI) to prioritize the reduction of noncompliance with drinking water standards at community water systems (CWSs). This effort supports EPA's FY 2018–FY 2022 Agency Strategic Plan, which calls for a 25% reduction in the number of CWSs t out of compliance with health-based standards by the end of FY 2022. To achieve this goal, TCEQ focused efforts to bring CWSs into compliance using a variety of tools, including the development of targeted financial, managerial, and technical assistance, which included on-site education on strategies to address and prevent health-based and other compliance violations, new source evaluations including interconnection, source water, and alternate source evaluations, and funding source opportunities. This focused assistance and outreach has led to resolution of health-based violations through new sources with water quality that meet National Primary Drinking Water Regulations; interconnections to compliant wholesale systems; installation of approved treatment; changes in operations and maintenance to meet treatment technique and maximum contaminant level (MCL) requirements; and completion of assessments, evaluations, and studies to fulfill treatment technique requirements.

Since the NCI was introduced in 2018, TCEQ has reduced the number of community water systems out of compliance and is consistently exceeding the goal established by EPA. In the fourth quarter of FY 2020, TCEQ had reduced the number of health-based violations by 29.3% exceeding the EPA goal.

TCEQ practices provide for timely and accurate data to ensure safe drinking water. TCEQ utilizes a third-party contractor to collect all chemical compliance drinking water samples for approximately 7,000 public water systems. This practice has been integral to fulfilling TCEQ's mission to protect human health and the environment, as well as its capacity development program, for over twenty years. The collection of chemical samples allows Texas to have a 99.9% sample collection rate, sample collection error rejections of less than 1%, and expedient data flows to the public and to EPA.

TCEQ-accredited laboratories provide direct notification to the public water system and TCEQ's public drinking water program when a single sample maximum contaminant level (MCL) exceedance occurs. This allows the public water system, TCEQ, and the public to be made aware of chemical MCL violations, and associated public notification requirements, as soon as possible. TCEQ performs critical outreach to the systems within 24 hours after the system and TCEQ receives notification from the laboratory of an acute MCL violation. This outreach reinforces state and federal rule requirements to the public water system and ensures the system is aware of the mandatory language requirements it must provide in public notices to customers. This practice ensures public water systems provide the public with timely, clear, and understandable information about drinking water quality, potential health risks, and the investments and actions needed to reliably deliver safe drinking water. Furthermore, timely discovery and notification of MCL exceedances allow operators to quickly identify and correct operational deficiencies and improve water system compliance. The following performance measures are reported in Section II, Exhibit 2.

- Percent of Texas population served by public water systems that meet drinking water standards;
- Number of public drinking water systems that meet primary drinking water standards; and
- Number of drinking water samples collected.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

EPA delegated primary enforcement authority (primacy) of the Public Water System Supervision Program to Texas in 1978. Texas must maintain all conditions outlined by EPA to retain primacy for the program. The National Primary Drinking Water Regulations, promulgated under the Safe Drinking Water Act, can be found in Title 40, Code of Federal Regulations Part 141, and with special primacy requirements found in Part 142. As EPA promulgates new drinking water regulations, TCEQ continues to adopt the new requirements under state law and applies for primacy revisions for those requirements.

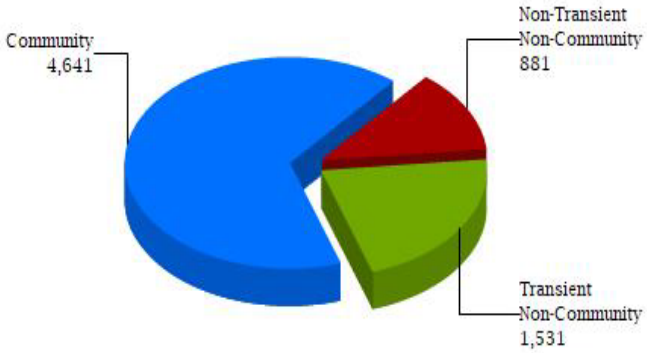
E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

A public water system is defined as a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for "drinking water." Such a system must have at least 15 service connections or serve at least 25 individuals at least 60 days out of the year. There are three types of public water systems:

- *Community Water System.* A public water system which has a potential to serve at least 15 residential service connections on a year-round basis or serves at least 25 residents on a year-round basis.
- *Non-transient Noncommunity Water System.* A public water system that is not a community water system and regularly serves at least 25 of the same persons at least six months out of the year. An example is a church, factory, or a school.
- *Transient Noncommunity Water System.* A public water system that is not a community water system and serves at least 25 persons at least 60 days out of the year, yet by its characteristics, does not meet the definition of a non-transient noncommunity water system. An example is a gas station or a restaurant.

The following chart illustrates the number of active public water systems by type.

Public Water System Types



As of July 1, 2021, TCEQ regulates 7,053 public water systems, providing drinking water to 29,580,083 customers.

- Approximately 28,783,446 people receive drinking water from 4,641 Community Systems.
- Approximately 503,089 people receive drinking water from 881 Non-transient Noncommunity Systems.
- Approximately 293,548 people receive drinking water from 1,531 Transient Noncommunity Systems.

EPA defines water system size based on the following population classifications:

- very small systems serve 25 to 500 people;
- small systems serve 501 to 3,300 people;
- medium systems serve 3,301 to 10,000 people;
- large systems serve 10,001 to 100,000 people; and
- very large systems serve more than 100,000 people.

The following table shows population classifications served by systems in Texas.

Texas Public Water System Population by EPA Classification

Population	EPA Classification	Number of Public Water Systems	Total Population Served
25 - 500	Very Small	4,213	675,871
501-3,300	Small	1,755	2,577,831
3,301 – 10,000	Medium	720	4,090,801
10,001 – 100,000	Large	323	8,160,566
Over 100,000	Very Large	42	14,075,014
TOTAL	N/A	7,053	29,580,083*

*NOTE: The total population served by public water systems exceeds the Texas population because a person may be served by more than one system, i.e., at their home, at their work, or served by a restaurant, gas station, RV park, etc.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

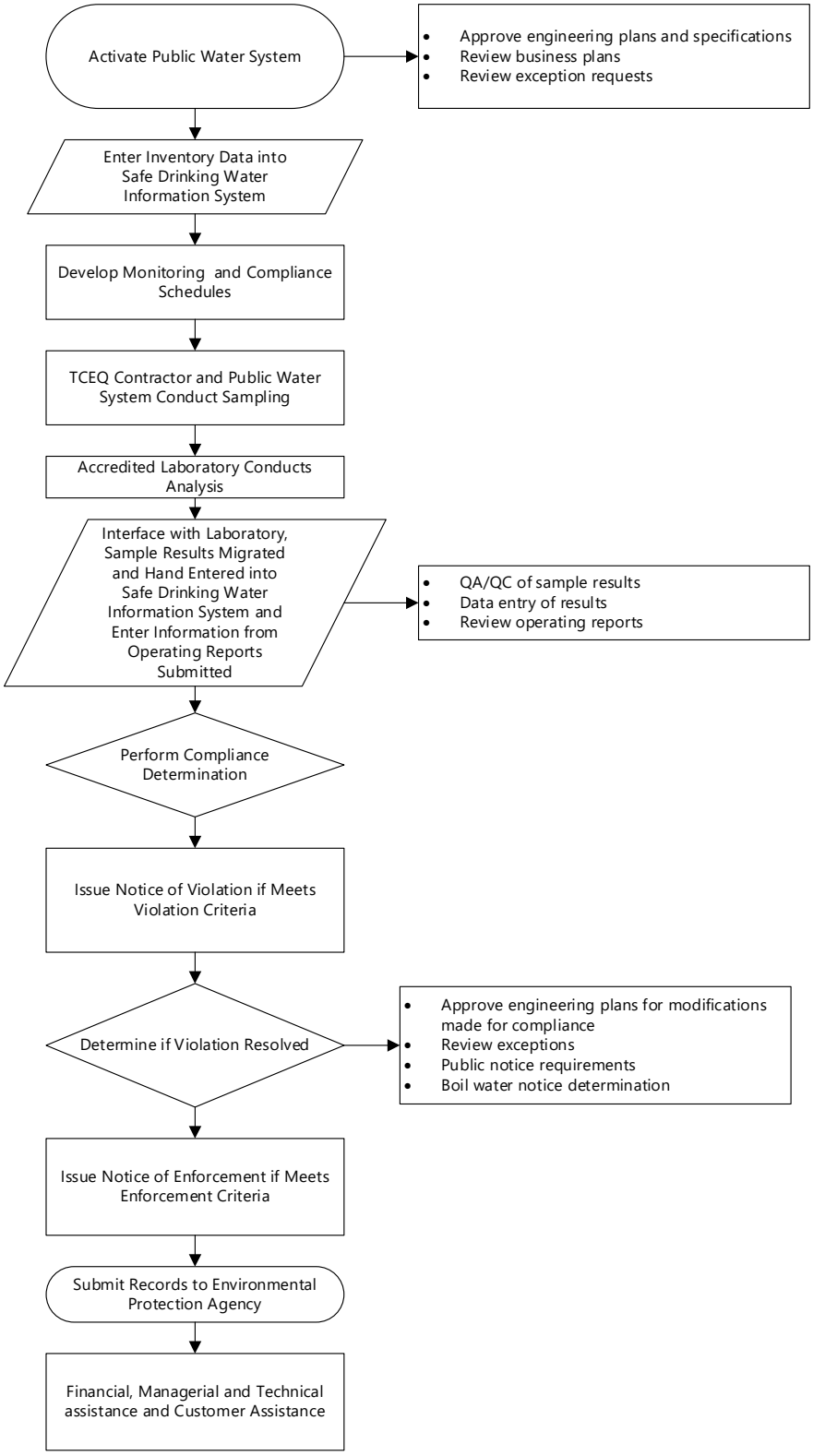
Engineering Plan Review. WSD ensures public water system construction meets minimum standard public health and operational safety design criteria in compliance with federal and state statute and good engineering practices. Engineering plans, specifications, and documents for water system facilities are reviewed for compliance with design criteria in Title 30 Texas Administrative Code (30 TAC) Chapter 290 Subchapter D. Processing timeframes for engineering plan review is up to 60 days.

Rule Exception Reviews. If a proposed or existing public water system is unable to meet the requirements in 30 TAC Chapter 290 Subchapter D, the system may request an exception by proposing an alternative meeting the intent of the rule. For example, an Alternative Capacity Requirement exception allows the public water system to provide actual water usage data to justify reduced capacity requirements. WSD reviews each exception request to ensure, if granted, the exception allows the public water system to still deliver safe drinking water to its customers at adequate pressures. Processing timeframes for exception reviews are up to 100 days.

Drinking Water Compliance and Oversight. WSD is responsible for ensuring public water systems provide a safe and adequate water supply for the citizens of Texas who are served by public water systems. Staff monitor 102 contaminants and additional rule requirements set forth by EPA in the Safe Drinking Water Act and further specified in TCEQ rules in 30 TAC Chapter 290. Staff maintain WSD databases and report required data to EPA. They are also responsible for the public water system inventory of facilities in the database, source water protection program, consumer confidence reports, and public notice rules. In addition, they review and develop enforcement cases meeting the enforcement initiation criteria.

The following flowchart illustrates an overview of the Public Drinking Water Program.

Public Drinking Water Program Basic Overview Flowchart



G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Public Drinking Water Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$3,656,805
0153	Water Resource Management Account - Dedicated	N/A	N/A	$2,222,422
0555	Federal Funds	66.444	Lead Testing in School and Childcare Program Drinking Water	$65,690
0555	Federal Funds	66.605	Performance Partnership Grants	$4,265,394
0777	Interagency Contracts	66.468	Capitalization Grant for Drinking Water State Revolving Fund	$5,941,991
TOTAL				**$16,152,302**

The program is funded in the Safe Drinking Water Strategy and the Water Assessment and Planning Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

TWDB reviews some minor engineering plans for public water systems for infrastructure projects that are funded by TWDB. TCEQ reviews major public water system plans, including wells and surface water treatment plants not subject to TWDB review. In addition, the City of Houston reviews some minor engineering plans for public water systems for infrastructure projects within the city limits.

As a result of House Bill 1600 (83R) and Senate Bill 567 (83R), TCEQ transferred the utilities program (Sale, Transfer, and Merger; Rates; and the Certificate of Convenience and Necessity programs) to the Public Utility Commission (PUC) on September 1, 2014. Some functions related to the public drinking water and utility programs require coordination between the two agencies.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

TCEQ has a Letter of Agreement with the TWDB and a MOU with the City of Houston which describes how engineering plan review responsibilities are coordinated between the entities.

TCEQ and TWDB have a MOU regarding information exchange and inter-agency assistance related to the Drinking Water State Revolving Fund.

TCEQ and PUC have a MOU documenting each agency's responsibilities and coordination needs related to public water systems and utilities. In addition, monthly coordination meetings are held to foster communication and coordination.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

WSD coordinates with the following units of government:

- EPA and TWDB for implementation of the Drinking Water State Revolving Fund;
- Drinking Water Advisory Work Group for stakeholder input and participation;
- EPA Region 6 for routine evaluation and support of primacy programs and as support agencies for Emergency Support Function 3 under the National Response Framework;
- Texas Department of Emergency Management (TDEM) at exercises and drills for response and recovery duties;
- Texas Parks and Wildlife Department (TPWD) regarding their owned and operated public water systems;
- Texas Department of Transportation (TxDOT) regarding their owned and operated public water systems;
- Texas Department of State Health Services (DSHS) for regulatory coordination of companies producing beverage and food products utilizing their own sources of water;
- Texas Department of Aging and Disability Services regarding their owned and operated public water systems;
- Texas Department of Criminal Justice regarding their owned and operated public water systems;
- Texas Office of the Attorney General regarding regulatory coordination on enforcement cases; and
- PUC regarding the portion of the Regulatory Assessment Fee collected by TCEQ that is provided to PUC.

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

WSD contracts support the implementation of the SDWA and the implementation of the Public Water System Supervision Program.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $6,423,734.

- **the number of contracts accounting for those expenditures;**

Five contracts.

- **the method used to procure contracts;**

The contracts were procured through requests for qualifications and proposals and direct awards.

- **top five contracts by dollar amount, including contractor and purpose;**

Public Drinking Water Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-19-90037	Antea USA, Inc	To collect entry point, distribution system, and source water samples from TCEQ-selected public water systems for compliance with the SDWA as amended	$4,309,276
582-16-60009	Texas Rural Water Association	To assist TCEQ in implementation of capacity development and public water system supervision programs to improve the financial, managerial, and technical capabilities of public water and wastewater systems as required by the SDWA	$578,904
582-18-80098	CDM Smith	To provide services to support public water systems in their efforts to protect and secure water sources, trainings and educational services, and other services in support of TCEQ as the primacy agency under the SDWA for Texas	$168,231
962-M3	WorkQuest	To support WSD by providing Mickey Leland environmental inters for the Mickey Leland Environmental Internship Program	$11,550
582-18-81037	TX Section American Water Works Association	To operate the Texas Water/Wastewater Agency Response Network at no cost to water and wastewater utilities in Texas, and provide a mutual assistance network before, during, and after an emergency to affected utilities	$25,000

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted unless discrepancies are resolved.

- **a short description of any current contracting problems.**

The program experienced no contracting problems.

L. Provide information on any grants awarded by the program.

The program provides a direct award to the University of Texas at Arlington to provide assistance and additional support to implement and maintain drinking water compliance programs, to assist the Texas Optimization Program by providing training and training materials to agency staff and public water system operators, and to assist with tasks associated with conducting emergency sampling to complete administrative functions. The program also provides a direct award to the University of Texas at Austin to facilitate the annual public drinking water conference for WSD, to assess surface water monthly operating

report platform, and to assist with reviving the Source Water Assessment Program-Decision Support System software for public water systems to prepare source water susceptibility assessment by either updating the existing software or identifying existing commercial off-the-shelf products to assess water sources.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

Viability and Performance of Small Public Water Systems. Currently, 84% of Texas' 7,053 public water systems serve a population of less than 3,300. As water infrastructure ages, a small system serving 3,300 people or less is more likely than a larger system to face challenges in its ability to maintain safe and adequate drinking water supplies. **Refer to Section IX, Major Issues, Funding Source or Financial Assistance for Small Water Systems**.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

Response to Drought. In 2011, the Emergency Disaster Proclamation by the Governor prompted the implementation of the State of Texas Drought Preparedness Plan. TCEQ serves as member of the Texas Division of Emergency Management's Emergency Drinking Water Task Force and Drought Preparedness Council. The Emergency Drinking Water Task Force currently meets quarterly to discuss and assist public water systems facing drought issues. The Task Force is chaired by TDEM and TCEQ. Other members of the Task Force include the Texas Department of Agriculture and TWDB. Weekly updates are provided to the Drought Preparedness Council to determine which counties are recommended for inclusion on the Governor's Drought Declarations.

In 2013, House Bill 252 (83R) required TCEQ to adopt rules requiring wholesale and retail public utilities to report to TCEQ when the water system has 180 days or less water supply. WSD intensively monitors the High Priority 180-Day Drought List of public water systems experiencing emergency conditions because of persisting drought conditions. WSD works with each system impacted by drought to obtain new sources of water, restore their existing water supply, assist with emergency drinking water planning and potential funding. In addition to monitoring public water systems and providing targeted outreach, WSD provides training to mitigate drought impacts through workshops, conferences, and public speaking events to public water systems.

Since September 1, 2011, there have been approximately 322 drought related financial, managerial, and technical assistance referrals and 138 public water systems have successfully restored their water supplies. Drought conditions across Texas have required public water systems to evaluate using raw water sources not considered in the past. In 2015, TCEQ adopted rules for the use of reverse osmosis for desalination of groundwater sources. These rules streamline processes to enable public water systems to make use of high salinity groundwater sources without needing to obtain an exception (variance) to the regulations for alternative treatment or having to conduct a pilot study.

Additionally, WSD developed procedures for the approval of direct potable reuse projects. These projects employ innovative technologies that do not currently have standards defined in rules and require exceptions and pilot studies. Direct potable reuse is the introduction of reclaimed water (with or without retention in an engineered storage buffer) directly into a drinking water treatment plant, either collocated or remote from the advanced wastewater treatment system. The use of an innovative technology to treat non-standard source water is reviewed on a case-by-case basis and must demonstrate the design and

operation of the facility will produce water meeting federal and state water quality regulations. Direct potable reuse facilities undergo a stringent review process including a full scale or pilot scale study or full-scale verification test to determine the operating conditions for the facility to assure the facility will meet the drinking water standards and public health will be protected during operation.

After-Action Review of the Winter Storm Event. TCEQ is currently conducting an after-action review to evaluate the factors that impacted so many public water systems during this storm event. The goal of the after-action review is to improve public health and safety through the development of preparation, response, and recovery actions to mitigate risks posed by severe weather-related events.

The project team, which includes Office of Water and Office of Compliance and Enforcement staff, developed an in-depth Public Water System Survey which was sent to over 7,000 public water systems to help TCEQ collect information about the storm's impact. The agency also conducted round-table discussions with a variety of stakeholders (affected utilities, public water systems of different sizes and types, various associations, water districts, state and federal agencies, consultants and engineers, vendors, and manufacturers, as well as mutual-aid agencies) to help TCEQ identify the key issues that lead to cascading failures across critical infrastructure and those that affected restoration of services. The project team will present recommendations in early spring of 2022 which may include regulatory, statutory, training and guidance needs, and/or changes to TCEQ processes to address the challenges experienced by systems during the storm. The project team will also present any recommended actions TCEQ can take to better assist public water systems during these types of catastrophic events.

Responses to Drinking Water Emergencies. As the public health risks posed by drinking water contaminants and other constituents of concern in drinking water become more complex and pressing, the drinking water program's responsibility to ensure public health protection and respond to natural disasters and other emergency conditions requires a highly skilled workforce. To be effective, staff must have technical experience and knowledge in drinking water treatment and operations and be able provide advanced on-site technical assistance to public water systems impacted by emergency conditions impeding the delivery of safe drinking water. Emergencies impacting public water systems range from weather events damaging infrastructure and operations, contamination of the distribution system from a chemical backflowing from an industrial facility or other events leading to do not use, do not drink, or boil water notice advisories. Highly-skilled state resources are relied upon to provide hands-on on-site assistance and technical support throughout a catastrophic event to help operators get water systems back on-line after emergency events occur.

In recent years, TCEQ has seen an increase in emergency situations requiring the agency to rapidly address bacteriological and chemical contamination in the distribution systems of several drinking water systems. This may be attributable to aging infrastructure, lack of funds for smaller systems or municipalities, and an increase in regulatory standards which often creates challenges for systems lacking more advanced operators. TCEQ has assisted systems in recovering from [potential] wide-spread bacteriological and chemical contamination which involves dedicating numerous staff from the Water Supply Division and TCEQ's regional offices.

In December 2016 the City of Corpus Christi had a backflow incident from an industrial tank containing a chemical contaminant entering the potable water supply. TCEQ in coordination with EPA integrated response operations in both Austin and Corpus Christi. TCEQ's engineers and drinking water program staff developed action plans for communication and public notification as well as sampling and remediation of the chemical contaminant from the city's water supply.

In September 2020 TCEQ received notification of a confirmed case of Primary Amebic Meningoencephalitis that resulted in the death of a six-year old resident of the City of Lake Jackson in Brazoria County. The City of Lake Jackson's public water supply tested positive for the amoeba, *Naegleria fowleri*. The Texas Optimization Program (TOP) provided extensive long-term onsite technical assistance to remediate the system lasting over two months. In addition, extensive training was provided to the city's operators as well as surrounding water systems to prevent future intrusion into the public water supply.

In response to a February 2021 chemical contamination event, TCEQ's Texas Optimization and Cross-Connection Control programs were deployed to the City of San Angelo to provide technical assistance. Staff assisted the city with identifying potential pathways of intrusion of chemicals and how to isolate and remove the chemical from public and private distribution systems. TCEQ developed action plans, monitored sampling and customer service inspections, and assisted the city with conducting extensive remediation activities. Additionally, training was provided to city's water operators to establish an effective cross-connection control program and to prepare for and respond to backflow events.

Most recently, in July 2021, the City of Laredo experienced a recurring loss of disinfectant residual throughout its drinking water distribution system. TCEQ's TOP staff provided extensive on-site technical assistance in identifying the root cause of residual loss. TOP team members evaluated the city's treatment plants and distribution system, identified operational and maintenance issues that were contributing factors, and helped the city develop corrective actions. TOP continues to provide targeted training to the city's water operators to help ensure long-term maintenance.

Water systems experiencing losses in pressure or low disinfection residuals must issue boil water notice advisories to ensure the safety of the public. TCEQ engages with these systems to ensure proper public notices are provided and regulatory standards are met prior to lifting the boil advisories. TCEQ offers direct technical assistance to systems and embeds with system staff to provide this assistance when requested and/or necessary. In some cases, water systems and the affected community or county are unable to provide adequate water supplies for consumption/use to their customers. In these cases, TCEQ and its partner agencies work to provide bottled water to those communities.

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure.

Refer to the Office of Compliance and Enforcement, Field Operations, Question P for complaint data related to this program.

Districts Program

A. Provide the following information at the beginning of each program description.

Name of Program or Function: Districts Program

Location/Division: Austin Headquarters / Water Supply Division

Contact Name: Cari-Michel La Caille, Deputy Director, Water Supply Division

Statutory Citation for Program: Article III, Section 52 and Article XVI, Section 59, of the Texas Constitution; Texas Water Code (TWC) Sections 5.013(2), 5.701 (e), 5.701 (n), 5.701 (f), 12.081, and 15.001 (13) and Chapters 49 – 63; and Texas Tax Code (TTC) Section 151.355(5).

B. What is the objective of this program or function? Describe the major activities performed under this program.

Water districts are local political subdivisions of the state and are governed by a board of directors authorized to finance water, wastewater, drainage, and recreational infrastructure and improvements for residential and commercial areas within the district. Districts can vary in size, type, services offered, customer policies, customer base as well as the authority to manage their operations. Although the TWC gives TCEQ a continuing right of supervision over districts, the daily decisions for the operation of a district are the responsibility of the district's board of directors. The Districts Program assists board members and their consultants with understanding complex and varied laws and regulations under which a district must operate.

Major activities performed:

- Reviews applications and petitions for the creation of districts.
- Reviews bond applications to determine the engineering and economic feasibility of each proposed bond issue.
- Reviews applications and petitions for the appointment of district board members.
- Reviews financial and revenue reports submitted by districts through annual financial audits or other reporting requirements.
- Oversees Bond Proceeds Fees.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? In Exhibit 12, provide a list of statistics and performance measures that best convey the effectiveness and efficiency of this program or function. Also, please provide the calculation or methodology behind each statistic or performance measure. Please refer to, but do not repeat measures listed in Exhibit 2.

Program efficiency is determined by tracking and completing technical review of district applications by established deadlines. Number of district applications processed is the non-key performance measure tracking this efficiency. The Districts Program works closely with stakeholders to streamline processes and develop programmatic guidance and policies, as well as shifting resources to meet seasonal increases in workload.

The following performance measure is reported in Section II, Exhibit 2.

- Number of district applications processed.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent. If the response to Section III of this report is sufficient, please leave this section blank.

As a result of an economic downturn and the bankruptcy of some water districts, in the late 1980s TCEQ adopted feasibility rules to establish criteria for bond application approvals.

E. List any qualifications or eligibility requirements for persons or entities affected by this program, such as licensees, consumers, landowners, for example. Provide a statistical breakdown of persons or entities affected.

The Districts Program affects water districts. As of June 2021, there are a total of 1,876 active water districts. The following table shows districts by type and status.

Districts Program Entities

District Type	Active*	Inactive*	Dissolved*
Drainage District	45	4	59
Fresh Water Supply District	74	5	98
Groundwater Conservation District	101	1	24
Irrigation District	23	0	5
Levee Improvement District	30	7	79
Municipal Management District	128	49	8
Municipal Utility District	1048	364	559
Navigation District	24	1	9
Other	60	7	65
Regional District	2	0	1
River Authority	30	0	2
Soil and Water Conservation District	1	0	0
Special Utility District	78	8	3
Stormwater Control District	0	0	1
Water Control and Improvement District	213	32	517
Water Improvement District	19	7	39
TOTAL	**1876**	**485**	**1469**

*Note: Active – currently in operation, filed for dormancy status, but has not filed for dissolution. Inactive – financially dormant. Dissolved – dissolved by operation of law or by failure to be confirmed.

F. Describe how your program or function is administered, including a description of the processes involved in the program or function. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

District Creation Process

The legislature, TCEQ, and county commissioners courts can create various types of water districts. TCEQ or a commissioners court creates "general law" water districts with the specific powers and authorities outlined in the TWC for each district type. When the legislature creates a water district, it is considered a "special law district" and has the specific powers provided in the creation bill.

A creation application for a water district submitted to TCEQ includes, but is not limited to:

- a petition requesting the creation;
- notice to landowners and for publication;
- a preliminary engineering report which includes a plat; a land use plan; and effects on land elevation, subsidence, groundwater levels and recharge, natural drainage, and water quality;
- a statement of receipt by affected county and city consent, if required; and
- a market study with population, cost, and tax projections, and county tax assessor's certificate.

Processing timeframes for district creations is 180 days. If the applicant certifies the application is complete, it can be approved within 120 days if there are no deficiencies with the application. If a creation application is contested, the application is referred to the State Office of Administrative Hearings for a contested case hearing.

After a district creation application is approved by TCEQ, the district must hold a confirmation election. This election often includes the election of permanent directors and authorization of debt obligations and maintenance taxes. The district must report a successful confirmation election to TCEQ. Most water districts are also required to submit annual financial audits or dormancy affidavits and annual district registration reports to TCEQ. Water districts must also obtain all required permits, authorizations, and licenses needed to operate their water, wastewater, and drainage systems. Following the completion of a successful confirmation election, a district will typically begin construction of infrastructure and improvements.

The Districts Program maintains a database of district mapping data information. This information can be viewed in the form of maps to determine a district's boundaries through TCEQ's Water Districts Database Map Viewer[3].

The dissolution requirements for districts are found within TWC Chapter 49 Subchapter K. TCEQ, after notice and hearing, may only dissolve a district if the district is:

- inactive for a period of five consecutive years, and
- has no outstanding bonded indebtedness.

[3] www.tceq.texas.gov/goto/districts-map

Districts Financial Reporting Requirements

In accordance with TWC Section 49.191, a district must have an annual audit prepared by an independent auditor and submit a copy of the audit and an affidavit certifying that the district has reviewed and approved the audit to TCEQ within 120 days after the close of the district's fiscal year, if it meets any of the following criteria:

- The district has outstanding bonds,
- The district's gross receipts for the fiscal year were over $100,000, or
- The district's cash and temporary investments exceeded $100,000 at any time during the fiscal year.

Once receipt of the audit is recorded, a desk review of the audit is completed by the districts program to ensure the audit is consistent with the auditing and reporting standards established by the American Institute of Certified Public Accountants (AICPA), which are the general, fieldwork, and reporting standards and the Statements on Auditing Standards (SAS). Additionally, the form and content of the audit is reviewed for consistency with Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards.

A district may elect to file annual financial reports within 45 days after the close of the district's fiscal year, accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by a duly authorized representative of the district, in lieu of the district's compliance with TWC Section 49.191 provided:

- The district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period,
- The district did not have gross receipts from operations, loans, taxes, or contributions in excess of $250,000 during the fiscal period, and
- The district's cash and temporary investments were not in excess of $250,000 during the fiscal period.

A district may elect to file a financial dormancy affidavit if the district had:

- $500 or less of receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year,
- $500 or less of disbursements of funds during the calendar year,
- No bonds or other long-term (more than one year) liabilities outstanding during the calendar year, and
- No cash or investments exceeding $5,000 at any time during the calendar year.

District Bond Review Process

All general law districts and special law districts, unless exempted by statute, must have TCEQ approval to sell bonds for water, wastewater, drainage, and recreational infrastructure and improvements. The processing timeframe for bond applications is 180 days. There is an expedited bond application process of 60 days for developer districts and 45 days for residential districts, if the applicant certifies the application is complete and there are no deficiencies with the application. Once TCEQ approves the bond application and the Attorney General's office reviews the bond sale, the district can go to the market to sell the bond and reimburse the developer or fund district improvements.

There are many types of water districts that have the ability to issue bonds; however, the Districts Program typically receives and reviews bond issue applications for the following water district types: municipal utility districts; fresh water supply districts; water control and improvement districts; and levee improvement districts. TCEQ's authority to review bond issue applications is found in TWC Section 49.181.

The Districts Program reviews and determines the engineering and economic feasibility of each proposed bond issue, bond amendment, and extension of time application for a bond issue for a water district's first and subsequent bond issues. There are varying factors used to determine the engineering and economic feasibility of a particular bond issue application. The District Program receives and evaluates numerous documents submitted in support of the bond issue application such as: engineering reports, plans and specifications, financial analysis, and contract documents. These documents and reports detail the water district's water supply and wastewater treatment capacity, whether water supply and wastewater treatment capacity are district-owned or supplied through a contract with another entity; the water district's current and projected tax rates; the water district's current or projected assessed valuations; market conditions potentially affecting the current or projected tax rates and assessed valuations; and cash flow schedules detailing the debt service associated with the proposed bond issue and how that relates to the current or projected tax rates and assessed valuations.

The district's projected tax rate is evaluated against the tax rate limitations specified in TCEQ rules to determine the financial feasibility of the proposed bond issue. The main points for determining feasibility are (1) ensuring the water district has adequate water supply and wastewater treatment capacity; and (2) ensuring a water district can maintain financial stability given the existing economic conditions or are anticipated to exist at a specified time in the future.

In addition to TCEQ's bond review authority, TWC Section 49.181(h) also specifies the types of water districts exempt from TCEQ's review. A few examples of these exempted water districts are regional water and wastewater authorities, river authorities, and certain navigation districts.

Process for the Appointment of District Board Members

The Districts Program reviews applications and petitions for the appointment of district board members. Directors are appointed by TCEQ by petition during the creation of a district and then updated by application as their successors are elected or appointed. District directors have specific qualifications[4] based on type of district.

Oversees and Tracks Bond Proceeds Fee

The Bond Proceeds Fee is an associated fee with reviewed and approved bonds. A 0.25% fee of the total bond issue amount is due to TCEQ at the time the bond is sold.

Certification of Regional Providers

The Districts Program reviews requests for regional certification[5] under TWC Section 15.001(13) and TTC Section 151.355 to determine if a water or wastewater system meets criteria to be certified as a regional

[4] www.tceq.texas.gov/goto/director-qualifications
[5] www.tceq.texas.gov/goto/rpc-resolution

service provider. Once certified, regional providers are exempt from paying sales tax on water and sewer related equipment and materials under TTC Section 151.355(5).

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Districts Program Funding Sources

Account	Account Title	CFDA	CFDA Title	FY 2020 Expended
0001	General Revenue	N/A	N/A	$285,000
0153	Water Resource Management Account - Dedicated	N/A	N/A	$1,110,568
0777	Interagency Contracts	66.468	Capitalization Grant for Drinking Water State Revolving Fund	$75,779
TOTAL				**$1,471,347**

The program is funded in the Safe Drinking Water Strategy.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

N/A

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

N/A

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

The Districts Program coordinates with the following units of government:

- Districts throughout the state for review and processing of bond and other types of districts applications
- Texas Office of the Attorney General regarding regulatory coordination on enforcement cases
- County commissioners courts for notifications of creation and bond applications located in the county, outside the corporate limits and extra-territorial jurisdictions (ETJ) of a city

K. If contracted expenditures are made through this program please provide

- **a short summary of the general purpose of those contracts overall;**

The Districts Program contracts are to support implementation of the TWC requirements and the implementation of the Public Water System Supervision program.

- **the amount of those expenditures in fiscal year 2020;**

Expenditures total $6,466.

- **the number of contracts accounting for those expenditures;**

One contract.

- **the method used to procure contracts;**

The contract is procured through a competitive request for proposal process.

- **top five contracts by dollar amount, including contractor and purpose;**

Districts Program Contracts

Contract Number	Vendor Name	Purpose	FY 2020 Expended
582-16-60009	Texas Rural Water Association	To assist TCEQ in implementation of capacity development and public water system supervision programs to improve the financial, managerial, and technical capabilities of public water and wastewater systems as required by the Safe Drinking Water Act	$6,466

- **the methods used to ensure accountability for funding and performance; and**

The vendor or contractor is required to adhere to all applicable standards, principals, and guidelines; these include, but are not limited to financial monitoring, auditing, and record keeping. Vendor performance is ensured by standard contract management and oversight in accordance with the contract's scope of work and terms and conditions. Performance is assessed by an approved schedule and a set of deliverables. If discrepancies occur, then projects are not considered complete and accepted unless discrepancies are resolved.

- **a short description of any current contracting problems.**

No contracting issues were noted.

L. Provide information on any grants awarded by the program.

The program provides a direct award to the University of Texas at Arlington to support program tasks associated with receiving, processing, and reviewing applications submitted by water districts; providing assistance and guidance to applicants; performing data entry into the District database; reviewing district registration forms and making updates in the database; and providing assistance with administrative functions.

M. Are there any barriers or challenges that impede the program's performance, including any outdated or ineffective state laws? Explain.

None

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

None

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe

- **why the regulation is needed;**
- **the scope of, and procedures for, inspections or audits of regulated entities;**
- **follow-up activities conducted when non-compliance is identified;**
- **sanctions available to the agency to ensure compliance; and**
- **procedures for handling consumer/public complaints against regulated entities.**

Refer to Question B for why the regulation is needed and refer to the Office of Compliance and Enforcement, Field Operations Program, Question O for all inspection and enforcement information related to this program.

P. For each regulatory program, if applicable, provide detailed information on complaint investigation and resolution. Please adjust the chart headings as needed to better reflect your agency's particular programs. Please briefly explain or define terms as used by your agency, such as complaint, grievance, investigation, enforcement action, jurisdictional, etc. If necessary to understand the data, please include a brief description of the methodology supporting each measure. See Exhibit 13 Example.

Refer to the Office of Compliance and Enforcement, Field Operations, Question P for complaint data related to this program.

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