

VI. Guide to Agency Programs—Continued

A. Please complete the following chart.	
TNRCC Program Information Fiscal Year 1999	
Name of Program	General Law Division
Location/Division	Office of Legal Services
Contact Name	Kevin McCalla, Division Director
Number of Budgeted FTEs as of June 1, 1999	35.5
Number of Actual FTEs as of June 1, 1999	38.5

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The General Law Division primarily supports the Office of Administrative Services and also supports other TNRCC offices. The Division provides legal counsel on issues related to personnel and employment law, contracts, public information processing and distribution, and records retention. Additionally, the General Law Division prepares the administrative records for appeals under the Administrative Procedures Act, and provides the Office of Legal Services (OLS) with administrative support (paralegals and legal secretaries).

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The General Law Division was created in August of 1998 to focus legal support for the non-regulatory programs of the agency. Prior to reorganization, the functions of what are now the General Law Division and the Environmental Law Division were performed by one division. A contracts section was created to allow more focused legal support for the agency's significant contracts workload and to consolidate the contracts legal expertise into a smaller, but more efficient group. The employment law section was already operating as a consolidated unit before the 1998 reorganization.

There are no statutes requiring the General Law Division. However, the General Law Division does provide the legal support necessary to ensure that statutory requirements are met by the agency.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

The services and functions of the General Law Division have not changed from those originally intended in the creation of the Division. Given that the Division supports contracting, personnel and other agency

activities which are, by nature, ongoing, there will not be a time when the mission of the General Law Division will be finally accomplished and the functions of the Division will no longer be needed.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

Given the support that the Division provides in the areas of employment law and contract/procurement Law, the Division supports the entire agency, including the Human Resources and Staff Development Division of the Office of Administrative Services, and the Financial Administration Division of the Office of Administrative Services.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Division structure is as follows: Director, Senior Attorney (Contracts Section), Senior Attorney (Employment Law Section), Manager (Information Management Section), Manager (Administrative Section), Staff Attorneys, paralegals, and administrative support staff. Staff Attorneys are assigned to the Contracts Section or the Employment Law Section. Paralegals and administrative support staff are assigned to the Information Management and Administrative Sections, respectively.

G. If the program works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Division does not work directly with local units of government. However, the Contracts Section of the General Law Division does provide legal advice and assistance to the Office of Administrative Services and agency programs with the preparation of interlocal contracts into which the TNRCC enters with local units of government. The Contracts Section also provides legal advice and assistance to the Office of Administrative Services and agency programs regarding memoranda of understanding and interagency contracts.

H. Identify all funding sources and amounts for the program, 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).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are appropriate to achieve the division's goals and objectives.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Not applicable

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Not applicable

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

General Law is not a regulatory program.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

General Law is not a regulatory program.

VI. Guide to Agency Programs—Continued

A. Please complete the following chart.	
(TNRCC) Program Information Fiscal Year 1999	
Name of Program	Environmental Law Division
Location/Division	Office of Legal Services
Contact Name	Margaret Hoffman, Division Director
Number of Budgeted FTEs as of June 1, 1999	45.5
Number of Actual FTEs as of June 1, 1999	43.5

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The Environmental Law Division supports the air, water, waste, and remediation programs. The division provides legal counsel to the agency in all areas of permitting, legislative analysis, remediation determinations, federal program authorization issues and rulemaking. The division also represents the executive director in contested case hearings relating to permitting matters, and assists the Office of the Attorney General with the defense of actions challenging TNRCC decisions.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

The Environmental Law Division was created in August of 1998 pursuant to a reorganization of the Office of Legal Services (OLS). Prior to that reorganization, the functions of what are now the General Law Division and the Environmental Law Division were performed by one division. Moving the “general law” functions not specifically relating to environmental media to another division allowed the attorneys working in the environmental areas to focus more closely on their areas of specialization and provide more expertise to their client programs.

There are no statutes requiring the Environmental Law Division. However, the Division provides legal support to each program, including those that are statutorily mandated.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

The services and functions of the Environmental Law have not changed from those originally performed by the constituent environmental sections before the reorganization of OLS. Given that the Division supports core environmental functions in the areas of water quality and quantity, industrial, hazardous,

and municipal solid waste, air, and remediation, which are by nature ongoing, there will not be a time when the mission of the Environmental Law Division will be finally accomplished and the functions of the Division will no longer be needed.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The Division serves program staff throughout the agency, including the region offices. Division attorneys are primarily responsible for supporting the regulatory programs of the agency. However, the Division is often called upon to serve other offices within the agency and plays a key role in advising the Executive Director and Commissioners on various issues.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Division structure is as follows: Director, five Senior Attorneys, and Staff Attorneys. The Senior Attorneys are charged with serving the following program groupings. Senior Attorney/Air Quality; Senior Attorney/Industrial and Hazardous Waste; Senior Attorney/Municipal Solid Waste and Water Utilities; Senior Attorney/Remediation; Senior Attorney/Water Rights & Uses and Water Quality.

Staff Attorneys are assigned to one or two Senior Attorneys to serve one or two program areas. In addition, certain designated Staff Attorneys serve as Regional Liaisons to each of the agency's Regional Offices.

G. If the program works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Division provides legal support to program staff which, in various areas of the agency, interact with local units of government. Each year, the Commission contracts with the Councils of Government (COGs) to pass through municipal solid waste fee funds to the COGs. Division staff attorneys assist the General Law Division attorneys with the preparation of these contracts.

H. Identify all funding sources and amounts for the program, 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).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are appropriate to achieve the division's goals and objectives.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Not Applicable

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Not Applicable

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

Environmental Law is not a regulatory program.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

Environmental Law is not a regulatory program.

VI. Guide to Agency Programs—Continued

A. Please complete the following chart.	
(TNRCC) Program Information Fiscal Year 1999	
Name of Program	Litigation Division
Location/Division	Office of Legal Services
Contact Name	Paul Sarahan, Division Director
Number of Budgeted FTEs as of June 1, 1999	38.5
Number of Actual FTEs as of June 1, 1999	35.5

B. What are the key services and functions of this program? Describe the major program activities involved in providing all services or functions.

The Litigation Division supports the agency’s Executive Director, the Office of Compliance and Enforcement and the Financial Administration Division in enforcement activities and contested administrative enforcement actions, and coordinates civil enforcement litigation with the Office of the Attorney General. The Special Investigations Unit of the Division is involved in the investigation and prosecution of criminal matters in a coordinated effort with local, state and federal authorities. The division also coordinates the agency’s Supplemental Environmental Project Program and the Environmental Audit Program.

C. When and for what purpose was the program created? Describe any statutory or other requirements for this program.

This Division was created in November of 1994 as part of a reorganization that resulted in the split of the then existing Legal Services Division into two divisions: the Legal Division and the Litigation Division (then known as the Litigation Support Division). The purpose of this reorganization was to provide more focused, consistent, efficient and effective legal services with respect to enforcement issues.

D. Describe any important history not included in the general agency history section, including a discussion of how the services or functions have changed from the original intent. Will there be a time when the mission will be accomplished and the program will no longer be needed?

The first step for the newly created Litigation Support Division in 1994 was to eliminate a substantial backlog of enforcement cases. Through the efforts of the Field Operations Division, the Enforcement Division and what is now the Litigation Division, this backlog was eliminated in 18 months. This development allowed the division and the agency to focus its resources on more recent enforcement issues and to develop a multi-media approach to enforcement, i.e., developing attorneys who are trained and prepared to handle cases in a variety of program areas. This has improved the ability of the Division to service the needs of its clients.

This Division is also responsible for the agency's Supplemental Environmental Project (SEP) program. SEPs are a way to take penalty dollars resulting from enforcement actions and invest them in environmental projects which benefit the community where the violations occurred. This approach began in 1991 as a settlement tool, and was recognized formally by the Legislature in 1993. The Legislature addressed SEPs in the 76th Legislative Session by clearly stating that the Commission had the authority to allow entities to perform international SEPs that would benefit Texas border communities.

The Special Investigations Unit (SI) is also housed within the Division. SI conducts criminal investigations and assists in the prosecution of environmental crimes through its coordination with local, state and federal authorities.

Finally, this Division is responsible for coordinating the Environmental Audit program. Created by the Legislature in 1995, this program provides a mechanism for companies and individuals to self-police their compliance with the State's environmental laws and regulations.

E. Describe who this program serves. How many people or entities are served? List any qualifications or eligibility requirements for receiving services or benefits.

The Division serves the Executive Director; the Office of Compliance and Enforcement, including the 16 regional offices within the Field Operations Division, the Enforcement Division and the Financial Administration Division. The Division also provides information and advice to the Commissioners, as requested.

F. Describe how the program is administered. Include flowcharts, timelines, or other illustrations as necessary. List any field or regional services.

The Division's structure is as follows: Director, two Senior Attorneys, Staff Attorneys, a Special Investigations Manager, a Supplemental Environmental Project and Environmental Audit Programs Coordinator, and a Database Coordinator. Staff Attorneys are not assigned to particular program areas, but instead handle cases from each of the program areas served by the Division. As indicated above, Special Investigations Unit nine investigators are spread throughout the State.

G. If the program works with local units of government, (e.g., Councils of Governments, Soil and Water Conservation Districts), please include a brief, general description of these entities and their relationship to the agency. Briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The Division's contacts with local government are related to the SEP and Environmental Audit programs, where efforts are directed toward assisting local governments in participating in and benefitting from these programs, and in the Special Investigations area, where we coordinate with local authorities in developing criminal cases. Special Investigations also provides criminal environmental training which assists local investigators and prosecutors.

H. Identify all funding sources and amounts for the program, 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).

I. Are current and future funding resources appropriate to achieve program mission, goals, objectives, and performance targets? Explain.

Current funding resources are appropriate to achieve the division's goal and objectives.

J. Identify any programs internal or external to the agency that provide identical or similar services or functions. Describe the similarities and differences.

None.

K. Discuss how the program is coordinating its activities to avoid duplication or conflict with the other programs listed in Question J and with the agency's customers.

Not Applicable

L. Please provide any additional information needed to gain a preliminary understanding of the program.

Not Applicable

M. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. If this is a regulatory program, please describe:

The Litigation Division is not a regulatory program.

N. Please fill in the following chart for each regulatory program. The chart headings may be changed if needed to better reflect the agency's practices.

The Litigation Division is not a regulatory program.