Sunset Advisory Commission

Staff Report with Final Results

San Antonio River Authority

2022-23
88th Legislature

Sunset Advisory Commission

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

San Antonio River Authority

Sunset Staff Report with Final Results

2022-23

88th Legislature

How to Read Sunset Reports

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

Sunset Staff Report

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

Sunset Staff Report with Commission Decisions

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

CURRENT VERSION: Sunset Staff Report with Final Results

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

Table of Contents

Final Results

House Bill 1535 Clardy (Johnson)

Summary

Since its creation in 1937, the San Antonio River Authority (SARA) has managed the creeks and rivers in the San Antonio River basin, encompassing Bexar, Wilson, Karnes, and Goliad counties. Through its extensive work with stakeholders and partners in the basin, SARA is regarded as generally well-run, with a reputation for strong leadership and highly-respected expertise across the various areas in which it works. However, the basin's rapid population growth has resulted in increasing demand for SARA's services, and the authority needs to evolve quickly to meet these new demands.

The Sunset Commission adopted recommendations directing SARA to develop processes to be more transparent and accountable in its strategic planning and project selection processes, as well as in managing its various reserve funds. The Sunset Commission also directed SARA to apply a number of best practices to ensure consistency and transparency in the way SARA awards and manages contracts. House Bill 1535 includes Sunset recommendations better aligning SARA's enabling law and nonprofit partnerships with best practices, and making several changes to prepare the law for codification during the 89th Legislature. Taken together, these recommendations will help ensure SARA is best equipped to continue to be effective in the face of population growth and evolving demands on its services in the basin.

The following material summarizes results of the Sunset review of the San Antonio River Authority, including management actions directed to the agency that do not require legislative action.

Issue 1— Board Involvement and Transparency

Recommendation 1.1, Adopted — Direct SARA to conduct more comprehensive, inclusive strategic planning. (Management action — nonstatutory)

Recommendation 1.2, Adopted — Direct SARA to establish guidelines for evaluating and selecting projects and publish them on its website. (Management action — nonstatutory)

Recommendation 1.3, Adopted — Direct SARA to publish more digestible information about its tax revenue spending and rate setting process on its website. (Management action — nonstatutory)

Recommendation 1.4, Adopted — Direct SARA's board to update its fund balance policy. (Management action — nonstatutory)

Issue 2 — Nonprofit Relationships

Recommendation 2.1, Adopted — Clearly authorize SARA to work with nonprofits.

Recommendation 2.2, Adopted — Prohibit SARA staff and limit SARA board members from serving on an affiliated nonprofit's board.

Recommendation 2.3, Adopted — Require SARA to develop a policy governing affiliated nonprofit fundraising and criteria for corporate sponsorships.

Recommendation 2.4, Adopted — Direct SARA to review its relationships with affiliated nonprofits every five years. (Management action — nonstatutory)

Recommendation 2.5, Adopted — Direct SARA to develop a policy governing the support its staff can provide to nonprofits. (Management action — nonstatutory)

Issue 3 — Governance

Recommendation 3.1, Adopted — Apply the standard across-the-board requirement regarding board member training to SARA.

Recommendation 3.2, Adopted — Apply the standard across-the-board requirement regarding the separation of duties of board members from those of SARA staff.

Recommendation 3.3, Adopted — Apply the standard across-the-board requirement regarding public testimony to SARA.

Recommendation 3.4, Adopted — Apply the standard across-the-board requirement regarding developing and maintaining a system for receiving and acting on complaints to SARA.

Recommendation 3.5, Adopted — Amend SARA's Sunset review date to 2035.

Recommendation 3.6, Adopted — Direct SARA to improve its contracting processes to ensure sufficient consistency and transparency. (Management action — nonstatutory)

Recommendation 3.7, Adopted — Direct the Texas Legislative Council to update SARA's governing law. (Management action — nonstatutory)

New Recommendations Added by the Sunset Commission

Outdated Master Plan Requirement, Adopted — Remove Section 4-A ("Master Plan") of SARA's enabling law, to eliminate an outdated requirement that does not reflect the authority's current practice of participating in regional water and flood planning groups sponsored by the Texas Water Development Board.

Fiscal Year Update, Adopted — Establish a fiscal year that begins on October 1, rather than July 1, to align SARA's budget process with the release of the certified tax rolls.

Provisions Added by the Legislature

Board Membership, Voting, and Elections

- Specify how SARA's board members will transition to four-year terms over the upcoming election cycles, in accordance with the Texas Constitution.
- Standardize SARA's board voting requirements to allow for a simple majority in all cases, rather than varying depending on the subject matter of the vote.
- Update an antiquated provision in SARA's enabling law to allow all eligible voters within SARA's district to vote in board elections, not only the owners of taxable property.

Clarifications of Enabling Law

- Align SARA's penalties, purchasing, procurement, and contracting provisions, and local posting requirements with those in Water Code.
- Update outdated references to Water Code.
- Remove an outdated reference to joint board meetings.
- Remove an unconstitutional provision relating to condemnation of cemetery lands.
- Allow SARA to dispose of property under general law.
- Align SARA's board elections with the uniform election date in November.
- Align the start of the board terms with the start of the calendar year.

Fiscal Implication Summary

The Sunset Commission's recommendations on SARA as enacted in HB 1535 will not have a significant impact to the state or SARA.

Sunset Commission Decisions

Summary

The following material summarizes the Sunset Commission's decisions on the staff recommendations for the San Antonio River Authority (SARA), as well as new recommendations raised at the public hearing.

Since its creation in 1937, SARA has managed the creeks and rivers in the San Antonio River basin, encompassing Bexar, Wilson, Karnes, and Goliad counties. Through its extensive work with stakeholders and partners in the basin, SARA is regarded as generally well-run, with a reputation for strong leadership and highly-respected expertise across the various areas in which it works. However, the basin's rapid population growth has resulted in increasing demand for SARA's services, and the authority needs to evolve quickly to meet these new demands.

The Sunset Commission recommends SARA develop processes to be more transparent and accountable in its strategic planning and project selection processes, as well as in managing its various reserve funds. The commission also recommends SARA better align its nonprofit partnerships with best practices, and a number of standard contracting practices to ensure consistency and transparency in the way SARA awards and manages its contracts. Taken together, these recommendations would help ensure SARA is best equipped to continue to be effective in the face of population growth and evolving demands on its services in the basin.

Issue 1

Increased Board Involvement and Transparency Would Help Ensure SARA Can Best Meet the Future Needs of the Basin.

Recommendation 1.1, Adopted — Direct SARA to conduct more comprehensive, inclusive strategic planning. (Management action — nonstatutory)

Recommendation 1.2, Adopted — Direct SARA to establish guidelines for evaluating and selecting projects and publish them on its website. (Management action — nonstatutory)

Recommendation 1.3, Adopted — Direct SARA to publish more digestible information about its tax revenue spending and rate setting process on its website. (Management action — nonstatutory)

Recommendation 1.4, Adopted — Direct SARA's board to update its fund balance policy. (Management action — nonstatutory)

Issue 2

SARA Benefits From the Support of Its Affiliated Nonprofit Organization, but Additional Controls Are Needed.

Recommendation 2.1, Adopted — Clearly authorize SARA to work with nonprofits.

Recommendation 2.2, Adopted — Prohibit SARA staff and limit SARA board members from serving on an affiliated nonprofit's board.

Recommendation 2.3, Adopted — Require SARA to develop a policy governing affiliated nonprofit fundraising and criteria for corporate sponsorships.

Recommendation 2.4, Adopted — Direct SARA to review its relationships with affiliated nonprofits every five years. (Management action — nonstatutory)

Recommendation 2.5, Adopted — Direct SARA to develop a policy governing the support its staff can provide to nonprofits. (Management action — nonstatutory)

Issue 3

SARA's Governing Law and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Recommendation 3.1, Adopted — Apply the standard across-the-board requirement regarding board member training to SARA.

Recommendation 3.2, Adopted — Apply the standard across-the-board requirement regarding the separation of duties of board members from those of SARA staff.

Recommendation 3.3, Adopted — Apply the standard across-the-board requirement regarding public testimony to SARA.

Recommendation 3.4, Adopted — Apply the standard across-the-board requirement regarding developing and maintaining a system for receiving and acting on complaints to SARA.

Recommendation 3.5, Adopted — Amend SARA's Sunset review date to 2035.

Recommendation 3.6, Adopted — Direct SARA to improve its contracting processes to ensure sufficient consistency and transparency. (Management action — nonstatutory)

Recommendation 3.7, Adopted — Direct the Texas Legislative Council to update SARA's governing law. (Management action — nonstatutory)

Adopted New Recommendations

Outdated Master Plan Requirement

Remove Section 4-A ("Master Plan") of SARA's enabling law, to eliminate an outdated requirement that does not reflect the authority's current practice of participating in regional water and flood planning groups sponsored by the Texas Water Development Board.

Fiscal Year Update

Establish a fiscal year that begins on October 1, rather than July 1, to align SARA's budget process with the release of the certified tax rolls.

Fiscal Implication Summary

The Sunset Commission's recommendations would not have a significant impact to the state or SARA. SARA should be able to implement the recommendations within its existing resources, though the full impact on the authority will depend on the implementation of recommendations and cannot be estimated.

Summary of Sunset Staff Report

Since its creation in 1937, the San Antonio River Authority (SARA) has managed the San Antonio River basin, encompassing Bexar, Wilson, Karnes, and Goliad counties. SARA owns and operates 41 flood retention dams; provides wastewater treatment services to retail and wholesale customers, including municipalities; participates in regional water and flood planning; builds and manages parks; and works diligently with local and state partners to monitor and improve the water quality and safety of the San Antonio River and to carry out capital improvement projects. SARA receives no state appropriation, but has authority to assess local property taxes, which totaled $36 million in 2021, and receives funding from intergovernmental partners like the City of San Antonio, Bexar County, and the Texas Commission on Environmental Quality (TCEQ).

Through its extensive work with stakeholders and partners in the basin, SARA is regarded as generally well-run, with a reputation for strong leadership and highly-respected expertise across the various areas in which it works. However, the basin's rapid population growth has resulted in increasing demand for SARA's services, and the authority needs to evolve quickly to meet these new demands. SARA's general manager, who started in the summer of 2021, has begun shoring up the authority's operations and planning functions, including its strategic planning and project prioritization, starting with better data on performance targets, capacity, and future needs. While this is an excellent step in the right direction, the Sunset review found the authority still lacks adequate strategic direction and active oversight from its 12-member elected board, and could do a better job soliciting input from the public and stakeholders as it plans. Further, the authority could better communicate to its taxpayers how tax dollars are used and the tax rate setting process.

SARA needs to evolve quickly to meet increasing demand for its services.

As such, Sunset staff recommends SARA develop processes to be more transparent and accountable in its strategic planning and project selection processes, as well as in managing its various reserve funds. The review also identified ways SARA could better align its nonprofit partnerships with best practices. Finally, Sunset staff recommends a number of standard contracting practices SARA should implement to ensure consistency and transparency in the way it awards and manages its contracts, and several statutory changes and good government practices applied across the board during Sunset reviews. Taken together, these recommendations would help ensure SARA is best equipped to continue to be effective in the face of population growth and evolving demands on its services in the basin. The following material highlights Sunset staff's key recommendations for the San Antonio River Authority.

Sunset Staff Issues and Recommendations

Issue 1

Increased Board Involvement and Transparency Would Help Ensure SARA Can Best Meet the Future Needs of the Basin.

As one of the fastest-growing areas in the state, the San Antonio River basin faces rapidly increasing demand for services such as wastewater treatment and flood control. To best navigate the future growth, SARA's strategic planning should be more comprehensive and inclusive, and involve greater board participation, including through periodic more holistic evaluations of goals and objectives for the basin. SARA's project selection process should be more clearly defined and transparent, and SARA should more clearly articulate how the authority uses tax revenue and sets its tax rate to achieve its goals and post this on its website. Further, additional internal controls and savings targets for SARA's reserve funds would increase transparency and accountability for the use of the authority's tax dollars.

Key Recommendations

- Direct SARA to conduct more comprehensive, inclusive strategic planning.
- Direct SARA to establish guidelines for evaluating and selecting projects and publish them on its website.
- Direct SARA to publish more digestible information about its tax revenue spending and rate-setting process on its website.
- Direct SARA's board to update its fund balance policy.

Issue 2

SARA Benefits From the Support of Its Affiliated Nonprofit Organization, but Additional Controls Are Needed.

SARA partners with the San Antonio River Foundation, a nonprofit the authority founded to assist in carrying out its mission to promote stewardship and enjoyment of the San Antonio River. SARA's nonprofit relationship generally works well, but the authority lacks clear authorization to work with nonprofits and a framework to guide those relationships. Further, the authority does not have policies requiring its nonprofit partners to adhere to best practices related to fundraising and corporate sponsorships.

Key Recommendations

- Clearly authorize SARA to work with nonprofits in its governing law.
- Prohibit SARA staff and limit SARA board members from serving on an affiliated nonprofit's board.
- Require SARA to develop a policy governing affiliated nonprofit fundraising and criteria for corporate sponsorships.
- Direct SARA to review its relationships with affiliated nonprofits every five years.

Issue 3

SARA's Governing Law and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Over the years, Sunset reviews have included a number of standard elements designed to ensure open, responsive, and effective government. SARA's governing law does not contain several standard provisions, including board member training, separation of duties of board members from those of staff, public comment at board meetings, and maintaining a system for receiving and acting on complaints. Further, SARA contracts for a wide range of goods and services, including high-value construction services, and should implement best practices to ensure consistency and transparency in its contracting process. Finally, SARA's governing law is outdated and difficult for the public and the authority to find and fully understand.

Key Recommendations

- Apply the standard across-the-board requirements regarding board member training, separation of duties of board members from those of staff, public testimony at board meetings, and maintaining a system for receiving and acting on complaints.
- Direct SARA to improve its contracting processes to ensure sufficient consistency and transparency.
- Direct the Texas Legislative Council to update SARA's governing law.

Fiscal Implication Summary

The Sunset Commission's recommendations would not have a significant impact to the state or SARA. SARA should be able to implement the recommendations within its existing resources, though the full impact on the authority will depend on the implementation of recommendations and cannot be estimated.

Authority at a Glance

The Legislature created the San Antonio Canal and Conservancy District in 1937 as a conservation and reclamation district. In 1953, the district was renamed the San Antonio River Authority (SARA) and given a new focus on flood control.[1] Today, SARA's duties include preserving, protecting, and managing the resources and environment of the San Antonio River basin. The map on Page 8 shows the basin's boundaries, which include most of Bexar, Wilson, Karnes, and Goliad counties, and portions of 10 surrounding counties. Like other river authorities in Texas, SARA is authorized to conduct a broad range of activities, including building and operating canals, dams, reservoirs, and waterways; engaging in flood control; monitoring water quantity and quality; preventing pollution; treating wastewater; acquiring property by eminent domain when needed; and building and managing park land. The authority engages in a number of these activities, including:

- Serving as a voting member and administrator for the Region L Water Planning Group and the Region 12 Flood Planning Group.
- Maintaining and operating 41 flood retention dams in Bexar and Karnes counties.
- Monitoring water quality in the basin and serving as a local sponsor for various water-related programs with state and federal entities.
- Treating wastewater for retail and wholesale customers, including municipalities.
- Executing or managing a range of projects to benefit the San Antonio River basin community, including new public facilities, flood modeling and mapping, building green stormwater infrastructure, and ecosystem restoration in the basin's rivers and creeks.
- Managing about 2,300 acre-feet of surface water rights.
- Building and maintaining parks and recreational facilities.

Key Facts

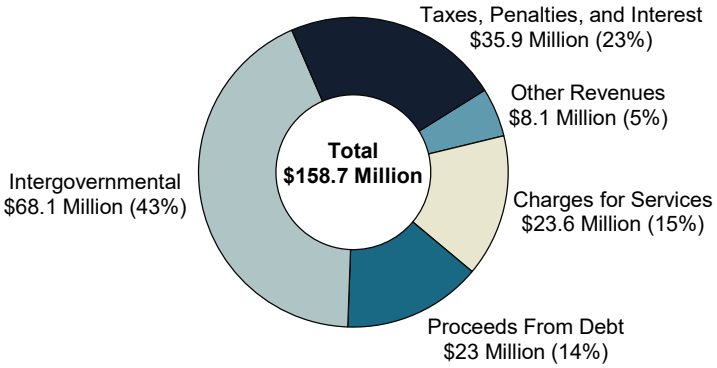
- **Governance.** SARA is governed by a 12-member, locally elected board, detailed in the table on the following page. Six directors are elected from Bexar County, including one director representing each of the county's four districts and two at-large directors, and two directors each are elected from Wilson, Karnes, and Goliad counties. Board members serve staggered six-year terms, and the board elects a chair, vice chair, secretary, and treasurer.[2] SARA's governing law requires the board to have regular meetings, including a biennial meeting to elect the members of its executive committee; the board meets monthly to provide oversight of the authority's operations and approve its budget, wastewater rates, large contracts, and other activities.[3]

SARA Board of Directors

Name	County (District)	Served Since	Term Expires
Jim Campbell, Chair	Bexar (District 4)	2015	2027
Gaylon J. Oehlke, Vice Chair	Karnes	2003	2025
Deb B. Prost, Secretary	Bexar (At Large)	2017	2023
Alicia L. Cowley, Treasurer	Goliad	2015	2027
Dominic Carvajal	Wilson	2021	2027
James Fuller, M.D.	Goliad	2013	2025
Lourdes Galvan	Bexar (District 2)	2013	2025
Derek Gaudlitz	Wilson	2022	2025
Jerry G. Gonzales	Bexar (District 1)	2013	2025
Michael W. Lackey	Bexar (District 3)	2009	2027
Hector R. Morales	Bexar (At Large)	2005	2023
H.B. "Trip" Ruckmann III	Karnes	1987	2027

- **Funding.** As the following charts show, SARA collected $158.7 million and spent $121 million in fiscal year 2021.

SARA Sources of Revenue - FY 2021



Revenues. SARA receives no state appropriation but has authority to assess local taxes and issue bonds, as described in the textbox.[4] More than one-third of the authority's revenues come from intergovernmental funds, which include funding from partners like the City of San Antonio and Bexar County for capital improvement projects. Other intergovernmental funds include grants from entities such as the Texas Commission on Environmental Quality (TCEQ) for the Clean Rivers Program, and from the Federal Emergency Management Association (FEMA) for flood mapping. Other sources of revenue include bond proceeds and charges for services, such as sewer services fees.

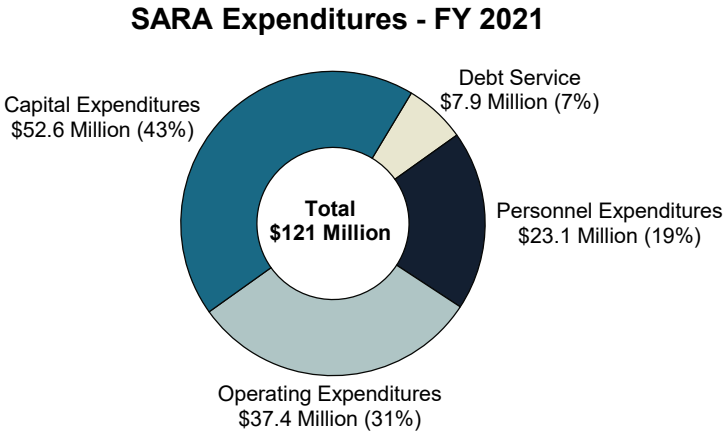
SARA Taxing Authority

In 1961, the Legislature granted SARA the authority to levy an ad valorem property tax of 2 cents per $100 of appraised value. In fiscal year 2021, SARA levied a tax of $0.01858 per $100 valuation across its basin and collected $36 million in taxes, penalties, and interest, which averaged about $42.82 per homestead.

SARA is authorized to use its tax revenues to fund planning, operations, and maintenance costs, but is statutorily prohibited from using tax revenue to fund capital improvement projects or issue bonds.*

* Sections 15-a(f) and 16, Chapter 276 (HB 726), Acts of the 45th Texas Legislature, Regular Session, 1937.

Expenditures. SARA spends 43 percent of its revenue on capital improvement projects, including major infrastructure projects. Some capital projects, such as the San Pedro Creek Culture Park in downtown San Antonio, are funded by partners, while expansions of SARA's wastewater treatment plants (WWTP) are funded by bond proceeds and utility rates and fees. The authority spends about 50 percent of its revenue on personnel expenditures, which includes salaries and benefits for all SARA employees, and operating expenditures, including goods and services to support its operations.



In fiscal year 2021, SARA had $37,706,513 in excess revenue, mainly due to advances for projects funded by partners and a delay between receiving bond proceeds and billing for construction on WWTP capital improvement projects. The authority transferred $15,442,731 into three reserve funds: an emergency operating reserve; a reserve for future repair and replacement needs; and a reserve that can be used at the board's discretion.

- **Staffing.** In fiscal year 2021, SARA employed about 300 staff. The majority of staff office out of SARA's headquarters or laboratory in San Antonio, while the rest work throughout the basin at utility plants or in field offices. Appendix A compares the percentage of minorities and women in SARA's workforce to the statewide civilian labor force for the past three fiscal years.

- **Water planning and flood management.** SARA was originally created in part to focus on watershed master planning and today serves as the administrator for regional water and flood planning groups in Central Texas, sponsored by the Texas Water Development Board. The authority also operates and maintains 41 earthen retention dams in Bexar and Karnes counties. In addition, SARA promotes flood prevention, mitigation, and recovery through real-time flood planning, modeling, and mapping, including serving in a delegated role with FEMA to update FEMA's maps in the region.

- **Water quality and safety.** SARA collects and evaluates water and stormwater quality samples and data at 64 sites and reports this information to TCEQ as part of the Texas Clean Rivers Program. SARA operates a nationally certified laboratory to conduct water quality testing on behalf of its utility plants and ecologists and also serves external partners and customers. In addition, the authority studies, protects, and helps propagate native species of plants and animals, often in collaboration with state and federal partners. Additionally, SARA's field staff works to address the threat of invasive species and conducts environmental investigations when water quality issues are identified.

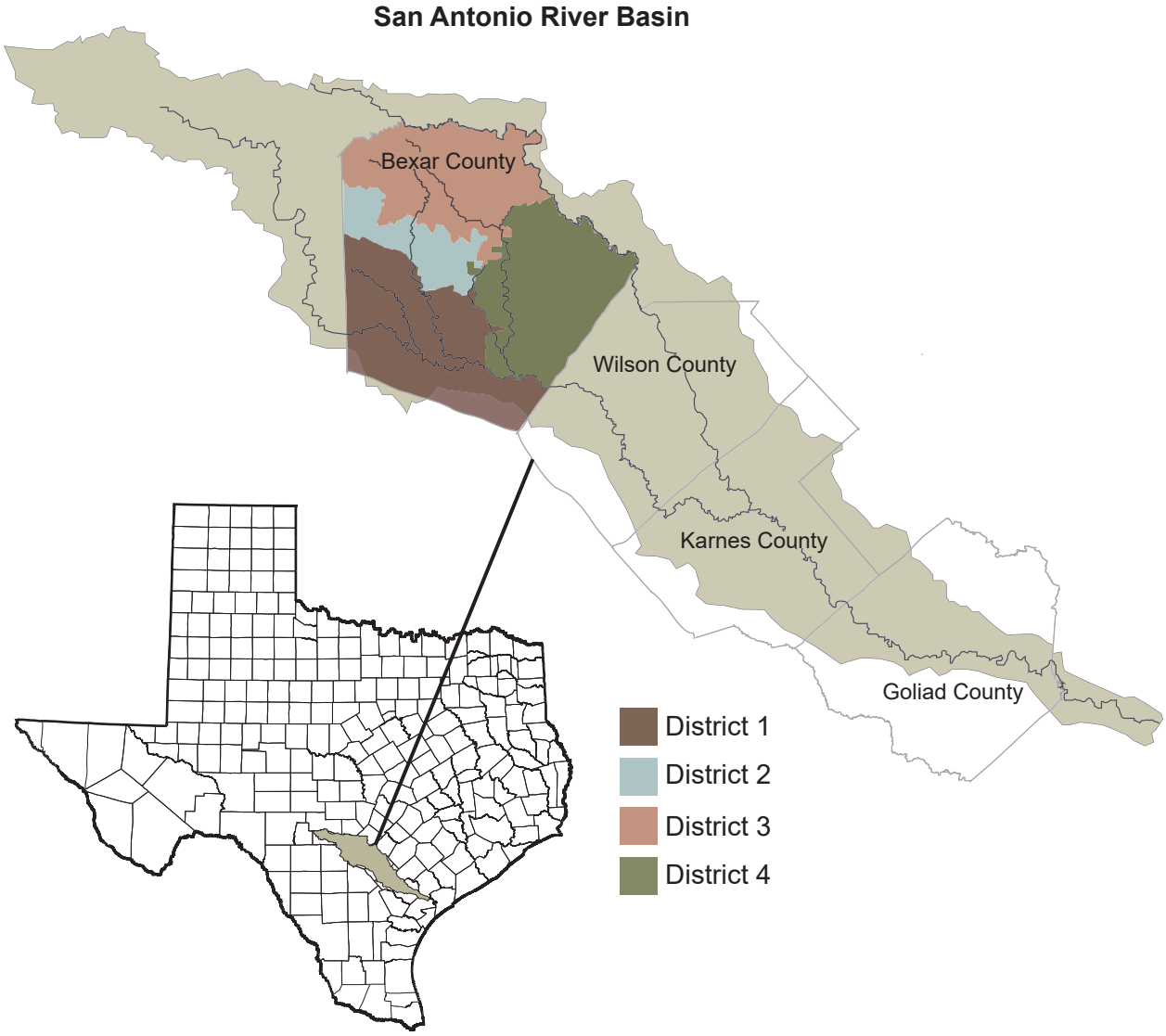
- **Wastewater treatment.** SARA operates five wastewater treatment plants, five lift stations, and a system of pipelines to provide retail and wholesale wastewater services to communities across Bexar County and to Randolph Air Force Base. Staff also assists with the operation and maintenance of smaller cities' and utilities' wastewater systems. In fiscal year 2021, SARA's plants treated on average more than 8 million gallons of wastewater per day, much of which is returned to the San Antonio River as clean water, maintaining flow and improving the ecosystem.

- **Engineering, construction, and project management.** The authority manages and executes projects, such as infrastructure for flood control and stormwater management, and park improvements. In

fiscal year 2021, SARA managed 61 projects across the basin, including ecosystem restoration; new and updated flood control structures, park facilities, and wastewater systems; and ecological studies. SARA also works with state and local entities to provide project management and engineering expertise for capital improvement projects. For example, SARA is working with the City of San Antonio and Bexar County on ongoing improvements to the San Antonio River Walk and a new park on San Pedro Creek.

- **Water rights.** SARA holds the surface water rights to only about 2,300 acre-feet of water, primarily in Bexar and Wilson counties, some of which is leased to private and public entities, such as energy and agricultural businesses, for various industrial, environmental, and recreational purposes.

- **Recreation and community outreach.** The authority currently owns, operates, and maintains six parks and three paddling trails throughout the basin, and three more parks are being planned. SARA also works with schools and members of the public to increase awareness and appreciation of the basin's natural resources through volunteer opportunities, events, and educational materials. Some of this work is supported by the San Antonio River Foundation, a 501(c)(3) nonprofit that provides support and funding for SARA's work.



[1] Chapter 276 (HB 726), Acts of the 45th Texas Legislature, Regular Session, 1937.

[2] Section 10, HB 726, 1937.

[3] Section 13, HB 726, 1937.

[4] Sections 15-a and 16, HB 726, 1937.

Issue 1

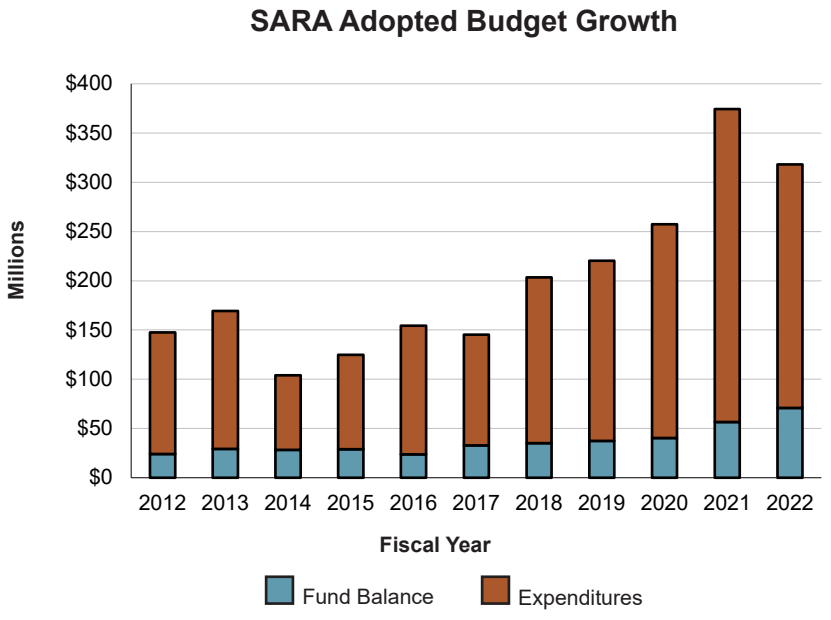
Increased Board Involvement and Transparency Would Help Ensure SARA Can Best Meet the Future Needs of the Basin.

Background

The San Antonio River Authority (SARA) plays a critical role in preserving creeks and rivers, managing environmental resources, and protecting the lives and property of the more than 2 million residents in the San Antonio River basin.[1] The authority performs flood control, water quality testing, wastewater treatment, park development, and other functions throughout its four-county jurisdiction. SARA's 12-member elected board adopts the authority's strategic plan and annual budget and is ultimately responsible for ensuring SARA fulfills its mission.

In fiscal year 2022, SARA's budget was $318.2 million, which includes the full, sometimes multi-year budgets for projects approved in that fiscal year and about $36 million in property taxes. SARA is one of the only river authorities in Texas that levies a property tax across its four-county district. However, the revenues can only be used for general administration and planning, as SARA's governing law prohibits the authority from using tax revenue to finance construction of "major physical works" of capital improvement or to issue debt.[2] Given these limitations, local government partners — especially Bexar County and the City of San Antonio — fund most of SARA's largest and most visible projects, such as improvements to the Museum and Mission Reaches of the San Antonio River Walk. For all projects, SARA spends its tax revenue on planning, administration, and other support services, as well as ongoing operation and maintenance costs for physical assets. Funding from local, state, and federal government entities makes up a significant portion of SARA's revenue. As shown in the chart, the authority's expenditures and overall budget have increased steadily with the support of growing property tax revenues, utilities rates and fees, and external funding for projects.

SARA also retains a fund balance each fiscal year, which largely consists of unspent funds from project budgets that are carried forward to subsequent fiscal years and some excess revenue from the authority's general fund. SARA uses some of the excess general fund revenue, most of which comes from property taxes, to maintain three reserve accounts. These reserves enable SARA to prepare for unforeseen events that could impact the authority's finances, to secure more favorable bond ratings, and to save for potential future needs, including asset repair and replacement.



Findings

Extensive growth and development in the basin will increase demand for SARA's services.

Bexar County expects to have 1 million new residents by 2070.

As one of the fastest-growing areas in the state, the San Antonio River basin faces rapidly increasing demand for services such as wastewater treatment and flood control. Bexar County, the largest of the four counties in SARA's jurisdiction, expects to have more than 1 million new residents by the year 2070, and Wilson County's population is set to double in that time, growing to 110,000 residents.[3] To accommodate this growth, SARA anticipates needing to expand its wastewater treatment facilities, upgrade its flood control infrastructure and other assets, and increase its operations and maintenance of parks and trails, among other services. These changes will likely require raising wastewater treatment rates, issuing more bonds, and seeking additional external funding and could potentially require increasing the authority's tax rate. As shown in the table, SARA's fiscal year 2022 project portfolio includes 57 new and ongoing projects collectively valued at almost $816 million, several of which extend across multiple fiscal years. Some of these projects will also bring new long-term costs to the authority, including ongoing operations and maintenance responsibilities. While SARA generally has a good reputation among its taxpayers, partners, and other stakeholders in the basin, maintaining that trust as the authority navigates growth will require careful, transparent, and inclusive planning and communication.

SARA Project Portfolio - FY 2022

Project Type	Number of Projects	Adopted Project Budget
Flood control	5	$309,902,237
Stream/ecosystem restoration	6	$253,764,955
Park and trail development	11	$135,853,296
Utilities	10	$76,730,064
Facilities	5	$22,620,658
Flood mapping/modeling	12	$12,468,410
Green stormwater infrastructure	5	$4,056,664
Native species propagation	1	$85,400
Information technology	2	$72,755
Total	**57**	**$815,554,439**

During the Sunset review, SARA was in the early stages of developing improvements to its planning processes. As discussed in the following material, Sunset staff identified opportunities to ensure these efforts are comprehensive and, ultimately, fruitful.

To successfully meet the growing demand for its services, SARA needs to improve its strategic planning and project selection processes.

- **Strategic planning.** SARA's current strategic plan is very sparse; it is one page, articulating three one-word goals (Safe, Clean, and Enjoyable) with four broad objectives for each.[4] The plan does not clearly define the authority's goals, and the objectives lack specific activities, performance targets, and timelines to guide SARA's planning and funding decisions. For example, an objective under the Clean goal is to "invest in projects and incentives that improve water quality in the basin;" however, the plan does

not specify the water quality metrics SARA aims to improve, by how much, or which projects and incentives SARA will leverage to do so. By contrast, the nearby Guadalupe Blanco River Authority has a more detailed strategic plan that outlines four goals, with specific and time-bound outcomes for each.[5] SARA's high-level plan may be appropriate as a communications tool, but as a taxing entity, the authority has a higher duty of transparency and accountability. SARA should provide more meaningful detail so taxpayers and other stakeholders can understand how the authority prioritizes its use of public resources. During the Sunset review, SARA staff was in the process of more clearly defining the authority's goals, streamlining and publishing better data on performance targets, and developing more robust forecasting methods to shore up strategic planning. While these efforts were not completed in time for Sunset to evaluate them, they demonstrate the authority's awareness of key gaps in its current plan and movement in the right direction to address them.

SARA has not consistently involved its board members and stakeholders in strategic planning.

Additionally, SARA's strategic planning is largely staff-driven and the authority has not made consistent efforts to involve its board members or gather and incorporate stakeholder input into the process. Historically, the board has not engaged in setting overall priorities and strategies for the authority or the basin outside of the budget process, instead allowing staff's budget recommendations to largely determine SARA's priorities. During regular and special board meetings, staff recommends projects and funding opportunities to the board. While board members may ask questions and refine details, the board typically approves the staff's recommendations without significant revision.

In the same vein, SARA's planning process also lacks consistent input from its taxpayers, partners, and other stakeholders throughout the basin. While SARA does well engaging the public on its individual projects and activities, the authority lacks a consistent and formal outreach process for overall strategic planning. Members of SARA's board occasionally gather anecdotal feedback from their constituents, and staff periodically survey people across the basin about the authority's activities, but the primary opportunity for the public and stakeholders to provide input about SARA's overall budget, tax rates, and services is through SARA's board meetings.

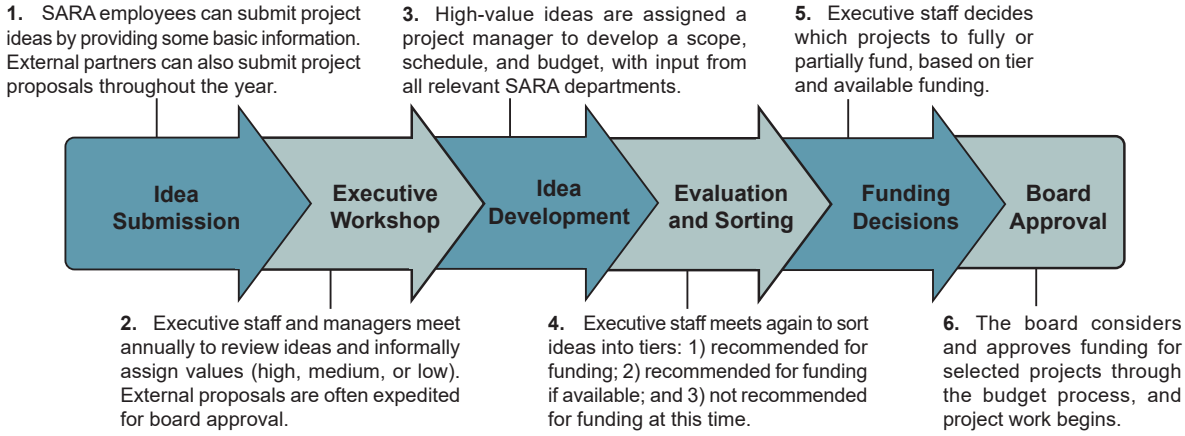
SARA anticipates needing to reevaluate its current approach to strategic planning to address future growth in the basin but decided to delay this effort until fiscal year 2024, to give the relatively new general manager and board chair time to get more fully up to speed. During the Sunset review, SARA's board established a new Organizational Advisory Board Task Force, which it has assigned to re-evaluate the authority's governance structure and strategic priorities to prepare for the fiscal year 2024 planning and budget cycle, and to implement any forthcoming directives from the Sunset Commission. While this is a positive step, the board should go further. The task force could holistically assess SARA's purpose and role in the basin, taking into account the rapid growth and increasing demand for certain services, as well as taxpayer and other stakeholder input. Going

forward, with the board driving SARA's strategic planning process, it could more clearly define the authority's goals and objectives, including specific activities, performance targets, and timelines, to better guide SARA into the future.

Clearly defined criteria would improve SARA's project selection process.

- **Project selection.** Having more clearly defined criteria and processes to evaluate both internally and externally submitted project ideas would improve the fairness, transparency, and accountability of SARA's project selection process. Evaluating projects to recommend for funding should be a well-documented process, specifying the criteria the authority's executive staff will consider and the criteria's relative weights. SARA recently overhauled its project selection process and created a dedicated project management department to oversee it. The new process, described in the diagram below, provides an easier way for staff to submit and track project ideas throughout the process, as well as obtain earlier input and direction from SARA's executive staff. However, given the complex web of factors executive staff must consider in determining which projects to recommend pursuing — from strategic value to long-term cost — establishing clear project evaluation criteria with input and approval from the board would further improve the process, particularly if SARA's resources become more constrained in the future. These changes would help ensure decisions are more consistent and fair, and the projects staff recommends to the board appropriately reflect and support the authority's goals. Clearly articulating the criteria and process for selecting projects would not only benefit SARA staff, but also would improve transparency and accountability to SARA's taxpayers, partners, and other stakeholders.

SARA Project Selection Process



SARA could better inform taxpayers of how tax revenue supports the authority's current and future goals.

- **Website information.** While SARA provides detailed information about the various funds in its budget, determining the way tax dollars specifically flow into SARA's activities and associated goals is difficult. SARA publishes information about its tax rate and budget on its website and provides updates

during its monthly public board and fiscal committee meetings. However, as described in the table, the financial information is either unclear or difficult for stakeholders and the general public to understand. Although SARA meets all legal requirements for publishing its financial information and has even received the state comptroller's Transparency Star award for providing comprehensive financial information, the authority has not packaged this information to be digestible for stakeholders. Maintaining highly detailed financial information is a sound and necessary practice, but it should not come at the expense of providing more user-friendly information to the public. Further, as a taxing entity, SARA must meet an even higher standard of transparency and accountability than most river authorities in Texas. Providing more digestible information would empower interested taxpayers to provide meaningful input during SARA's strategic planning and tax rate-setting processes and enable all stakeholders to hold the authority more accountable.

As a taxing entity, SARA must meet a higher standard of transparency and accountability.

SARA Could Improve the Clarity of Its Website

Online Resource	Explanation
Annual Budget Detail (Budget Book)	The 265-page Budget Book presents the authority's budget, operations, projects, and information on the tax rate-setting process, but it is extremely dense, making it difficult for the average taxpayer to comprehend. Information in the document's executive summary could be condensed and better highlighted directly on the website.
Strategic Plan	Information on the activities SARA plans to undertake to fulfill each of its strategic goals (Safe, Clean, and Enjoyable) is buried in the Budget Book, and information tying these activities to particular objectives or performance targets is nonexistent.
Revenue/Expenses and Property Tax Rate charts	One chart indicates SARA's revenues have exceeded expenses since 2017, while another shows SARA raised its tax rate in 2019. These charts appear confusing without an explanation of why SARA raised the tax rate despite having excess revenue.
Total Budget and General Fund charts	The budget and funding charts provide limited information. One chart shows SARA's annual adopted budget is divided into six distinct "funds" but does not explain the differences among them. Another chart shows how SARA's general fund is distributed among the authority's three goals (Safe, Clean, and Enjoyable) but does not indicate this fund is primarily made up of tax revenue or the activities SARA performs to meet each goal. Further, since many of SARA's activities are tied to multiple goals, starkly dividing its spending among the goals is not particularly transparent or meaningful.

- **Reserve funds.** SARA lacks transparent, comprehensive policies to govern all of its reserves. SARA's fund balance policy requires two reserves — an operating reserve with three months of operating revenue for emergency situations and a board reserve, which the board may use to fund projects at its discretion. In practice, SARA's board has established three reserves — the operating reserve, the board reserve, and a repair and replacement reserve — described in the table on the following page, to set aside money for emergency expenses and potential future needs of the authority. SARA last updated the policy in January 2020, so it does not contemplate the newly created repair and replacement reserve. Of the three accounts, only

SARA's reserves lack specific targets and parameters to promote accountability.

the operating reserve has a clear purpose and known funding requirements. The other two accounts lack specific targets or other parameters that would promote more accountability. For example, during the Sunset review, SARA was developing more robust long-term plans to manage its facilities and other assets but had not yet determined its specific repair and replacement needs or savings targets. Without articulated goals, however, the board reserve in particular lacks transparency, which could create the appearance that the board might resist lowering the tax rate to build up this reserve, in conflict with its obligation of financial propriety as a taxing entity. While there is no evidence the board reserve has impacted the board's tax rate decisions, and recent fund growth is directly attributable to precautions against economic uncertainty due to the COVID-19 pandemic, having clearly articulated goals and parameters on all the reserves would increase transparency and accountability for the use of SARA's tax dollars.

Clear Targets Would Increase Transparency of SARA's Reserves[6]

Name	Adopted Budget Allocations			Purpose
	FY 20	FY 21	FY 22	
Operating Reserve	$8,573,091	$8,910,431	$9,104,156	Established in fiscal year 2001, for unexpected expenditures or revenue shortfalls due to unforeseen or extraordinary events to: • Provide sufficient cash flow for operating expenses. • Protect a strong financial position and favorable bond ratings. • Fund other needs at the board's discretion.
Board Reserve	$3,792,737	$4,392,737	$5,930,246	Established in fiscal year 2016 to house excess funds above and beyond the operating reserve to: • Fund projects and asset acquisition without issuing debt and incurring interest costs. • Fund other needs at the board's discretion.
Repair and Replacement Reserve	N/A	N/A	$408,329	Established in fiscal year 2022 to: • Fund capital asset renewal, long-term major repairs and other unexpected expenses related to capital assets. • Maintain or upgrade buildings, parks and trails, technology, fleet and heavy equipment, and other equipment used by staff.

Sunset Staff Recommendations

Management Action

1.1 Direct SARA to conduct more comprehensive, inclusive strategic planning.

This recommendation would direct SARA to take the following steps to enhance its strategic planning efforts:

- More actively involve its board of directors in strategic planning, both earlier and periodically through a more holistic evaluation of goals and objectives for the basin, at least once every five years. As SARA's policymakers, the members of the board are responsible for clearly defining SARA's goals and ensuring the goals reflect the evolving needs of the basin, consider stakeholder input, and are supported by specific objectives.

- Proactively seek stakeholder input and feedback during strategic planning, particularly during the board's periodic, more holistic evaluations. SARA has significant expertise and has had success in gathering input from stakeholders on certain activities, for example on project implementation in impacted communities, and could consider applying similar strategies to ensure broad and diverse stakeholder and public input on strategic planning.

- Articulate specific objectives to support SARA's goals. Objectives should explicitly note specific activities, performance targets, and timelines to achieve them, supported by staff's analysis of the basin's long-term needs and SARA's resources and staffing capacity.

1.2 Direct SARA to establish guidelines for evaluating and selecting projects and publish them on its website.

This recommendation would direct SARA's board to consider establishing project evaluation and selection guidelines, including criteria and procedures, which SARA staff would develop and the board would adopt and regularly review. Staff should document criteria they currently use — such as alignment with SARA's strategic plan, the authority's capacity to take on the project, and technical merit — and consider whether any additional criteria might be relevant. Guidelines should articulate the relative weights of the criteria and provide flexibility where needed. The authority should also publish the guidelines on its website, where SARA staff, taxpayers, partners, and other stakeholders can easily find them.

1.3 Direct SARA to publish more digestible information about its tax revenue spending and rate setting process on its website.

This recommendation would direct SARA to publish more user-friendly information about its tax revenue spending and rate setting process directly on its website. Specifically, SARA should clearly explain the tax rate, the revenue it generates, and how the authority allocates the revenue across its activities and reserve accounts, as well as how spending ties to SARA's goals and objectives in a given fiscal year and over time. The authority should also publish information about the tax rate setting process more prominently on its website, including the steps, timeframe, and how the public can participate.

While SARA's finances are highly complex and might be challenging to simplify, the authority should make efforts to produce public documents and website content with ease-of-understanding for lay readers in mind, and more proactively communicate this information to stakeholders during the strategic planning process.

1.4 Direct SARA's board to update its fund balance policy.

This recommendation would direct SARA to update its fund balance policy to include all reserves and provide additional guidance on funding targets or parameters for each reserve. The board would have discretion to revise the targets or parameters over time as the river basin's needs evolve; however, any adjustments should be closely aligned with SARA's strategic plan and clearly articulated in SARA's policies and on its website.

Fiscal Implication

Since river authorities do not receive state appropriations, these recommendations would not have a fiscal impact to the state. Although the recommendations are largely designed to enhance SARA's existing planning processes and communication, any impact on the authority will depend on the implementation of recommendations and cannot be estimated.

---

1 Texas Water Development Board (TWDB), *2021 Regional Water Plan: Population Projections for 2020-2070 for Water User Groups by Region, County, and Basin in Texas*, accessed online January 20, 2022, https://www3.twdb.texas.gov/apps/reports/ Projections/2022%20Reports/pop_WUG_Basin.

2 Sections 15 and 15-a, Chapter 276 (HB 726), Acts of the 45th Texas Legislature, Regular Session, 1937.

3 TWDB, *2021 Regional Water Plan.*

4 San Antonio River Authority (SARA), *Strategic Plan Fiscal Year 2021-23*, accessed online February 8, 2022, https://www.sariverauthority.org/sites/default/files/2020-11/fy21-23_strategic_plan_final.pdf.

5 Guadalupe Blanco River Authority (GBRA), *GBRA Strategic Plan 2018-2028*, accessed online February 10, 2022, https://www.gbra.org/wp-content/uploads/2021/04/2018-2028-gbra-strategic-plan.pdf.

6 SARA, *Annual Budget Detail, Fiscal Year 2019-2020*, p. 26, accessed online February 17, 2022, https://www.sariverauthority.org/sites/default/files/2019-09/FY2019-20%20Adopted%20Budget%20Book%20-%20LINKS.pdf; SARA, *Annual Budget Detail, Fiscal Year June 30, 2021*, p. 23, accessed online February 17, 2022, https://www.sariverauthority.org/sites/default/files/2020-07/Adopted%20Budget%20-%20Website.pdf; SARA, *Annual Budget Detail, Fiscal Year 2021-2022*, p. 34, accessed online February 17, 2022, https://www.sariverauthority.org/sites/default/files/2021-09/FY22%20Adopted%20Budget%20-%20Final.pdf.

Issue 2

SARA Benefits From the Support of Its Affiliated Nonprofit Organization, but Additional Controls Are Needed.

Background

In 2003, the San Antonio River Authority (SARA) created the San Antonio River Foundation (foundation) for the purpose of raising private funds to support charitable, scientific, and educational activities that promote stewardship and enjoyment of the San Antonio River, in collaboration with the river authority. SARA has a memorandum of understanding (MOU) with the foundation outlining the entities' shared objectives, distinct roles and responsibilities, and certain requirements for coordination. A volunteer board with a minimum of 10 and maximum of 30 members governs the foundation, five of whom SARA may appoint. The foundation has three full-time and two part-time employees and had a budget of about $450,000 in fiscal year 2021. Since its inception, the foundation has raised more than $40 million in private donations and is particularly involved with the Mission and Museum Reach segments of the San Antonio River Walk and Confluence Park.

Findings

Over the past 45 years, Sunset staff has reviewed numerous state entities, including river authorities, that partner with nonprofits to support their missions. Nonprofits can directly benefit state entities in a variety of ways, such as accessing federal or private grant funds that are unavailable directly to public entities, but nonprofits are not typically subject to the same level of oversight and accountability as government entities. Sunset staff has developed standards that serve as guidelines for evaluating entities' nonprofit relationships, helping mitigate risks and contribute to transparent and accountable partnerships. While SARA's nonprofit relationship generally works well, Sunset staff identified opportunities to apply common best practices that would help ensure a more accountable and mutually beneficial relationship. The following material describes areas where the authority's nonprofit relationship could benefit from alignment with best practices.

The authority's nonprofit relationship could benefit from alignment with best practices.

SARA lacks clear authority to work with nonprofits and key guidelines to govern these relationships.

Statute requires most state agencies affiliated with nonprofit organizations to adopt rules creating a framework for the legal relationship between the agency and nonprofit.[1] While SARA is not a traditional state agency, it is a governmental entity with a similar fiscal responsibility to the public, particularly since it expends tax revenue. However, neither SARA's governing law nor the MOU with the foundation provide the necessary framework for working with the foundation.

- **Clear authority.** State entities should have clear statutory authority to work with nonprofits. Although the foundation was created for the express

purpose of supporting and partnering with SARA, the river authority lacks clear statutory authorization to do so; instead, SARA has relied on its general contracting authority.[2] Statutorily authorizing SARA to work with nonprofits would formalize its successful partnership with the foundation and better enable SARA to engage in future beneficial relationships with other nonprofits.

- **Board composition.** State entity employees should not serve as voting members of an affiliated nonprofit's board. Further, if members of a state entity's policymaking body also serve on an affiliated nonprofit's board, they should not make up a majority of the board members so their votes could be determinative. Currently, SARA appoints five members of the foundation's board, but neither the MOU nor the foundation's bylaws prohibit SARA staff from serving as voting members or limit how many SARA board members can serve on the foundation's board. While in practice SARA does not appoint its employees to serve as voting members, doing so could potentially place the employee in a policymaking role over a nonprofit that helps fund and support SARA's operations, creating a conflict of interest. Similarly, a power imbalance could result if a majority of an affiliated nonprofit's board members also serve on SARA's board.

Regular review of SARA's nonprofit partnerships would help ensure they remain beneficial.

- **Regular review.** State entities that partner with nonprofits should periodically assess whether that relationship continues to serve its intended purpose and is still needed. The MOU between SARA and the foundation does not have an expiration date, and though it does require annual review of its terms, the MOU no longer accurately reflects how SARA and the foundation coordinate; for example, it requires SARA and foundation staff to develop and both boards to approve a work plan, which no longer happens in practice. Further, the authority does not regularly review the overall purpose and need for the relationship. Regular review would better ensure SARA's nonprofit partnerships continue to benefit the authority and reflect current processes.

- **Staff assistance.** If a state entity's staff provides assistance to an affiliated nonprofit, the staff roles should be clearly defined to ensure the state entity — not the nonprofit — controls its staff's activities. While fairly uncommon, SARA staff provides some assistance to the foundation during events and can receive compensatory time from SARA for doing so. However, SARA does not have a policy ensuring it controls any staff assistance provided to the foundation, or limiting how much time SARA staff can contribute. While the review did not identify unnecessary use of SARA's staff time or public funds toward foundation activities, the potential exists without a policy in place.

SARA has not established policies requiring nonprofit partners to adhere to common best practices that ensure financial accountability.

- **Fundraising.** State entities should establish formal, written policies for nonprofit partners that clearly define the role of the nonprofit in fundraising, and any conditions on funds raised and provided to the entity. Although fundraising is one of the foundation's major functions in support of SARA, the foundation lacks a formal, written policy to govern its fundraising activities. The review did not identify any problematic activities, but a policy would help ensure an affiliated nonprofit's roles and limitations on fundraising are clear.
- **Sponsorships.** When appropriate to its mission, a state entity should establish criteria for nonprofits to use in seeking and selecting corporate sponsors. SARA has not established criteria to guide the foundation's engagement of sponsors to ensure direct benefit to the public interest and SARA's mission.

Sunset Staff Recommendations

Change in Statute

2.1 Clearly authorize SARA to work with nonprofits.

This recommendation would explicitly authorize SARA to contract with nonprofit organizations to fulfill its statutory mission.

2.2 Prohibit SARA staff and limit SARA board members from serving on an affiliated nonprofit's board.

This recommendation would clarify in law that SARA employees are prohibited from serving as voting members of an affiliated nonprofit's board. Additionally, SARA's governing law would stipulate members of SARA's policymaking body cannot make up a majority of an affiliated nonprofit's board.

2.3 Require SARA to develop a policy governing affiliated nonprofit fundraising and criteria for corporate sponsorships.

This recommendation would require SARA to develop and include in its nonprofit MOUs a policy clearly setting out the role of a nonprofit in fundraising to support SARA. The policy should include acceptable and prohibited fundraising activities and specify how fundraising should be managed and overseen. In addition, the recommendation would statutorily require SARA to develop and include in its nonprofit MOUs criteria for nonprofits to use in seeking and selecting corporate sponsors to ensure any sponsorships serve the public interest and align with SARA's mission.

Management Action

2.4 Direct SARA to review its relationships with affiliated nonprofits every five years.

Reviewing its relationships with affiliated nonprofits every five years would help SARA assess the effectiveness of such partnerships and whether the nonprofit continues to provide value to the basin through a shared mission with SARA. This recommendation would also give SARA and its nonprofit

partners the opportunity to assess if any changes or updates are needed to the MOUs governing their relationships to reflect current processes.

2.5 Direct SARA to develop a policy governing the support its staff can provide to nonprofits.

This recommendation would direct the authority to develop a policy regarding SARA staff support at events and other activities in support of an affiliated nonprofit, making clear that SARA retains control over the type and amount of assistance its staff provides.

In consideration of these statutory recommendations and management actions that would ensure more accountable relationships between SARA and its affiliated nonprofits, the foundation should consider updating its bylaws to reflect and implement the recommended changes.

Fiscal Implication

These recommendations would not result in a significant fiscal impact to the state or SARA. The recommendations relate to basic administrative responsibilities, which SARA could implement with existing resources.

1 All citations to Texas statutes are as they appear on http://www.statutes.legis.texas.gov/. Section 2255.001, Texas Government Code.

2 Section 3(j), Chapter 276 (HB 726), Acts of the 45th Texas Legislature, Regular Session, 1937.

Issue 3

SARA's Governing Law and Processes Do Not Reflect Some Standard Elements of Sunset Reviews.

Background

In 2015, the Legislature directed Sunset staff to assess the governance, management, operating structure, and compliance with legislative requirements for each river authority.[1] Over the years, Sunset reviews have included a number of standard elements from direction traditionally provided by the Sunset Commission, from statutory requirements added by the Legislature to the criteria for review in the Sunset Act, or from general law provisions imposed on state agencies. This review identified changes needed to update and conform the San Antonio River Authority's (SARA) governing law to standard Sunset language generally applied to all state agencies under Sunset review and improve contracting practices.

Findings

SARA should implement best practices to ensure consistency and transparency in its contracting process.

When evaluating an agency's contracting processes, Sunset uses the general framework established in the *State of Texas Procurement and Contract Management Guide*, as well as documented standards and best practices compiled by Sunset staff.[2] As a political subdivision, SARA is not subject to many of the procurement laws on which the guide is based, as they were designed for state agencies. However, as a quasi-state agency that spends public funds, SARA would benefit from adopting several of the best practices state agencies use in their contracting processes. Because the guide establishes the most comprehensive set of standards for government contracting, purchasing, and procurement in the state, it serves as a good starting point for evaluating a river authority's contracting processes.

SARA's annual contracts average $32.7 million.

SARA contracts for a wide range of goods and services, including high-value construction services related to several creek restoration projects and wastewater treatment plant expansions. From fiscal years 2019 to 2021, SARA entered into contracts averaging a total value of $32.7 million per year. While SARA generally performs well in procurement and contracting, implementing best practices to address the following areas would further strengthen the authority's ability to ensure consistency and transparency in its contracting process.

- **Standard procedures.** An entity should develop standard operating procedures (SOPs) for its major procurement and contracting functions. While SARA staff has developed SOPs for several key aspects of its contracting process and has training and guidance on other aspects of the process, SARA has yet to develop and formally document SOPs for all the major procurement functions. Staff has developed several informal checklists to ensure contracting procedures meet legal requirements, while

additional SOPs are in various stages of development. Formally documenting policies and practices would ensure greater consistency in the authority's procurement and contracting functions.

- **Conflicts of interest.** An entity should hold its contractors responsible for ensuring subcontractors disclose conflicts of interest. While SARA requires its contractors to sign conflict of interest statements, it does not ensure that any subcontractors also disclose conflicts of interest or that contractors require a disclosure. Because SARA has a number of contracts valued at more than $1 million involving subcontractors, a subcontractor disclosure requirement should be added to better protect the integrity of the authority's contractual relationships.

Consistently researching vendors would ensure they are stable, reputable businesses.

- **Contractor research.** An entity should conduct thorough research on contractor finalists before awarding a major contract. For larger contracts, SARA staff often performs research on vendors, including checking federal and state debarment lists, other agencies' experience, references, and public financial information; however, staff does not consistently perform these key checks, or others such as checking the comptroller's Vendor Performance System, for all contractor finalists. The authority would benefit from consistently checking these resources as part of its contract award process to ensure its contractors are not only in good standing with the state, but also are stable, reputable businesses.

- **Use of historically underutilized businesses (HUBs).** SARA lacks a comprehensive approach to increase the number of contracts it awards to HUBs, potentially missing opportunities to target disadvantaged vendors. Although SARA is not subject to the same HUB requirements as state agencies, the Texas Commission on Environmental Quality requires river authorities to adopt a policy for contracting with HUB vendors.[3] Further, Sunset staff routinely evaluates efforts of entities under review to increase the entities' use of HUBs to promote full and equal opportunities for all businesses in government procurement. During Sunset's review, the authority began updating its HUB policy, last revised in 2004, but the policy was not completed in time for Sunset to evaluate it. SARA has a HUB coordinator, but the authority's use of HUB vendors remains below state goals in categories such as construction, professional services, and commodities. A comprehensive plan with targeted performance goals and assigned staff accountable for its progress would better focus SARA's efforts and improve its outreach and use of historically disadvantaged vendors.

SARA lacks a policy to help meet state goals for HUB contracting.

SARA's governing law does not reflect standard language typically applied across the board during Sunset reviews.

The Sunset Commission has developed a set of standard recommendations that it applies to all entities reviewed, including river authorities, unless an overwhelming reason exists not to do so. These across-the-board provisions (ATBs) reflect an effort by the Legislature to enact policy directives to prevent problems from occurring, instead of reacting to problems after the fact. ATBs

are statutory administrative policies adopted by the Sunset Commission that contain "good government" standards. The ATBs reflect review criteria contained in the Sunset Act designed to ensure open, responsive, and effective government.

- **Board member training.** SARA's governing law does not establish the type of training and information board members need to properly discharge their duties. State law requires board members to obtain Texas open meetings and public information trainings upon taking their oath of office. While the authority provides trainings for new board members, SARA's governing law does not require additional training to ensure each member has necessary knowledge, such as the authority's governing law provisions, operations, and budget, before making decisions regarding matters of public interest.

SARA's governing law does not currently require board training on key topics.

- **Policymaking and staff functions.** SARA's governing law does not provide for separating the policymaking functions of the board from day-to-day administrative functions of managing the authority. Such a provision would help avoid confusion about who is in charge of operations, which can undermine the authority's effectiveness.

- **Public testimony.** SARA's governing law does not require an opportunity to provide public comment at open board meetings. When people affected by SARA's decisions have an opportunity to provide meaningful input to the board, the additional information and perspective improve the overall decision-making process. While SARA board policy requires a public comment agenda item during board meetings, having a statutory requirement for public comment on any matter under the authority's jurisdiction would reassure the public that the board encourages and values their comments.

- **Complaint information.** SARA's governing law does not require the authority to maintain complete information on complaints. Maintaining a system for acting on complaints and keeping proper documentation helps protect the public by ensuring the authority addresses problems in a timely fashion. Although SARA receives and tracks various types of complaints and general inquiries, having a statutory requirement for complaint tracking would ensure SARA continues this best practice.

SARA's governing law is outdated and difficult for the public and the authority to find and fully understand.

Codifying SARA's governing law would make it easier for the public to locate and understand.

While some water districts and river authorities are governed by laws that are fully compiled in a specific Texas code or statute, SARA's governing law exists solely in session law.[4] In the absence of a codified statute, members of the public and even the river authority itself struggle to locate or understand the cumulative impact of all the changes to the authority's law over time. SARA's governing law also contains out-of-date provisions, including references to defunct state agencies and code sections that have been amended, renamed, or no longer exist, further complicating full understanding of the authority's powers and duties. For example, SARA's governing law stipulates the 12 board

members serve staggered, six-year terms, which is current practice, even though the Texas Constitution has since been amended and now requires members of even-numbered boards to serve four-year terms.[5]

The state benefits from continued legislative oversight of SARA.

Although not subject to abolishment under the Sunset Act, SARA benefits from the Sunset Commission's review of the authority's governance, management, operating structure, and compliance with legislative requirements. Through this review, Sunset staff has identified a number of opportunities to enhance SARA's effectiveness, efficiency, transparency, and accountability, including more oversight and transparency in its strategic planning, project selection, and tax revenue spending decisions. More broadly, continued oversight by the commission provides future legislatures a powerful tool to assess SARA and invite public input on improving it.

Sunset Staff Recommendations

Change in Statute

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

This recommendation would clearly establish the type of information to be included in the board member training for SARA. This training would need to provide board members with information regarding SARA's governing law; its programs, functions, bylaws, and budget; the results from its most recent audits; the requirements and training available related to open meetings, open records, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies.

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

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

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

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

3.4 Apply the standard across-the-board requirement regarding developing and maintaining a system for receiving and acting on complaints to SARA.

This recommendation would require SARA to maintain a system for receiving and acting on complaints and to make information available regarding its complaint procedures. SARA should also maintain documentation on all complaints and periodically notify complaint parties of the status of complaints.

3.5 Amend SARA's Sunset review date to 2035.

Because SARA is not subject to abolishment under the Sunset Act, but the Legislature and the public benefit from continued legislative oversight of SARA, this recommendation would extend the Sunset date in SARA's governing law to 2035, placing the agency under Sunset review again in 12 years.

Management Action

3.6 Direct SARA to improve its contracting processes to ensure sufficient consistency and transparency.

This recommendation would direct SARA to take additional steps to protect the integrity of its contracting process and increase the participation of historically disadvantaged vendors. SARA should adopt the following best practices.

- **Standard procedures.** SARA should prioritize developing and formally documenting SOPs to record its major procurement and contracting functions, including contract planning, solicitation, evaluation, award, administration, and closeout. These documented procedures would help guide staff and ensure consistency in the procurement and contracting process.
- **Conflicts of interest.** SARA should include a requirement in its contracts that subcontractors disclose conflicts of interest, similar to what is required of the primary contractor. Including this language in the contract would better protect the integrity of the contractual relationship by disclosing any relationship that could result in the appearance of conflicts of interest in contracting decisions.
- **Contractor research.** SARA should consistently check references, the comptroller's Vendor Performance System, and contact other entities that have worked with a potential contractor, if relevant, before awarding a contract. In addition, if available, the authority should review the potential contractor's public financial information. These checks would ensure contract finalists do not have a negative performance history.
- **Proactively plan and monitor HUB spending efforts.** SARA should conduct more focused outreach to HUBs by developing a formal HUB plan that includes specific goals and performance targets, and creates HUB subcontracting plans where feasible for contracts over $100,000. Depending on the amount of contracting activity and progress made on other measures to increase HUB contracting expenditures, SARA could consider adopting additional approaches of state agencies of comparable size and resources, such as hosting forums for diverse businesses and creating a HUB mentor-protégé program. Consolidated under a formal HUB plan, these measures would match SARA's efforts with specified goals, actions, and measurable results, which it should more regularly report to staff leadership and its board.

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

This recommendation would request that the Texas Legislative Council prepare legislation codifying SARA's governing law for introduction during the 89th Legislative Session. This recommendation would also request the council to provide, by July 1, 2022, a list of any issues regarding SARA's governing law, such as the term length for SARA's board members, which would impede codification and should be addressed in the authority's Sunset bill during the 88th Legislative Session to facilitate the codification of that law. Sunset staff would work directly with the authority and the council to determine whether and how to address the identified issues.

Fiscal Implication

These recommendations would not result in a significant fiscal impact to the state or SARA. The recommendations relate to basic administrative responsibilities SARA could implement with existing resources.

1 Chapter 1148 (SB 523), Acts of the 84th Texas Legislature, Regular Session, 2015.

2 Texas Comptroller of Public Accounts, *State of Texas Procurement and Contract Management Guide*, *Version 2.0, Dated October 27, 2021*, accessed online November 3, 2021, https://comptroller.texas.gov/purchasing/publications/procurement-contract.php.

3 30 Texas Administrative Code, Part 1, Chapter 292, Subchapter B, Section 292.1(6)(B)(1996)(Texas Commission on Environmental Quality, Special Requirements for Certain Districts and Authorities).

4 Chapter 276 (HB 726), Acts of the 45th Texas Legislature, Regular Session, 1937.

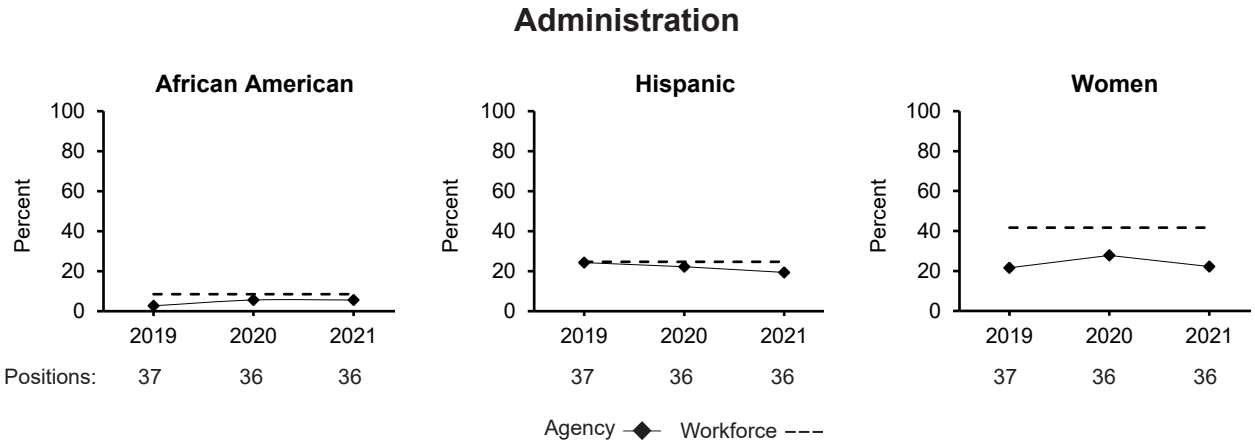
5 Section 30(c), Article XVI, Texas Constitution requires members of boards formed under Article XVI, Section 59 and subject to Chapter 49, Texas Water Code, serve four-year terms.

Appendix A

Equal Employment Opportunity Statistics, FYs 2019-21

Sunset staff routinely evaluates performance regarding workplace diversity.[1] The following material shows trend information for the employment of minorities and women in all applicable categories by the San Antonio River Authority (SARA).[2] In the charts, the dashed lines represent the percentages of the statewide civilian workforce for African Americans, Hispanics, and women in each job category.[3] These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the authority's actual employment percentages in each job category from fiscal years 2019-21. River authorities are not subject to the same equal employment opportunity requirements as state agencies and, as a regional entity headquartered in San Antonio, SARA's workforce statistics differ significantly from statewide demographics, limiting the conclusions that can be drawn from these comparisons.

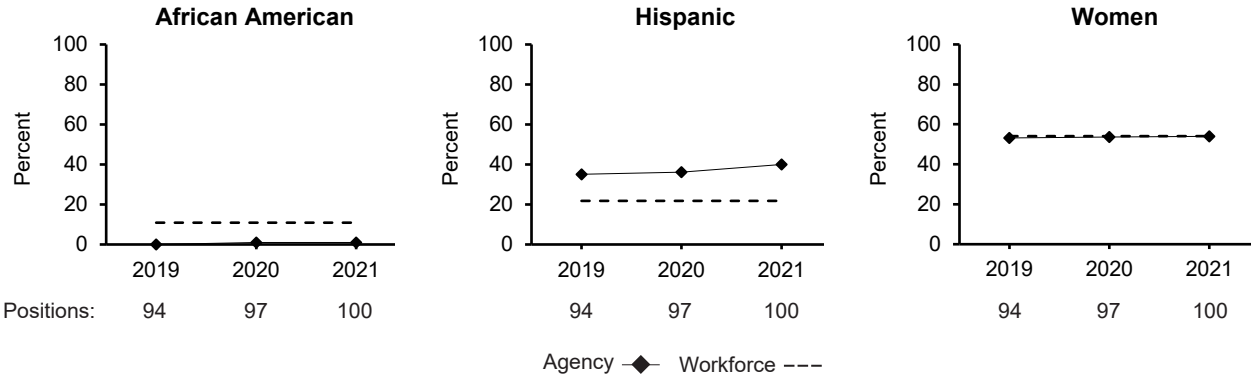
Of the 18 categories depicted, overall SARA fell short in 12 categories, and in several instances recorded zero African American employees in a category during one or more years in this time period. However, SARA consistently exceeded the statewide percentages for Hispanics in four of the six job categories, reflecting regional demographics. The river authority did not have any employees in the protective services category.[4]



The authority fell below the statewide civilian workforce percentage in administration positions for African Americans and women in all three fiscal years, and for Hispanics in all years except fiscal year 2019.

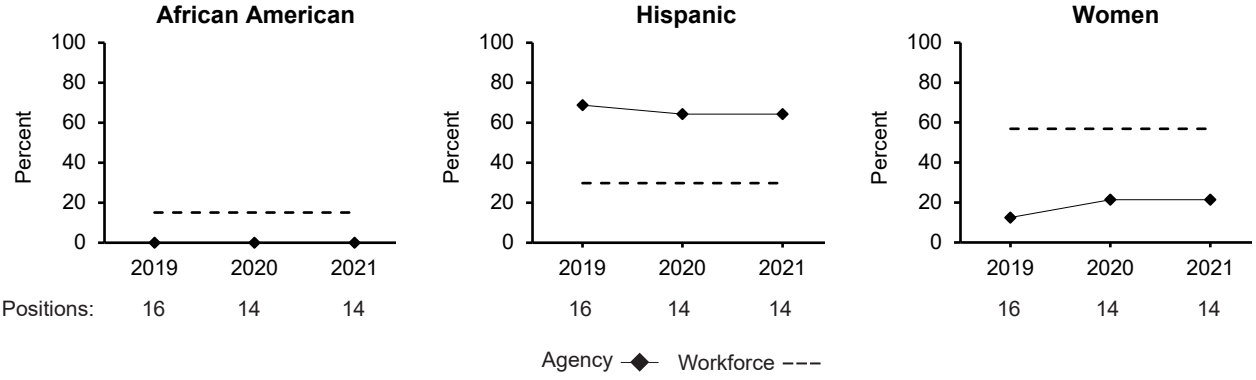
Appendix A

Professional



The authority exceeded the statewide civilian workforce percentage in professional positions for Hispanics and met the statewide percentage for women, but fell below the statewide percentage in professional positions for African Americans, in all three fiscal years.

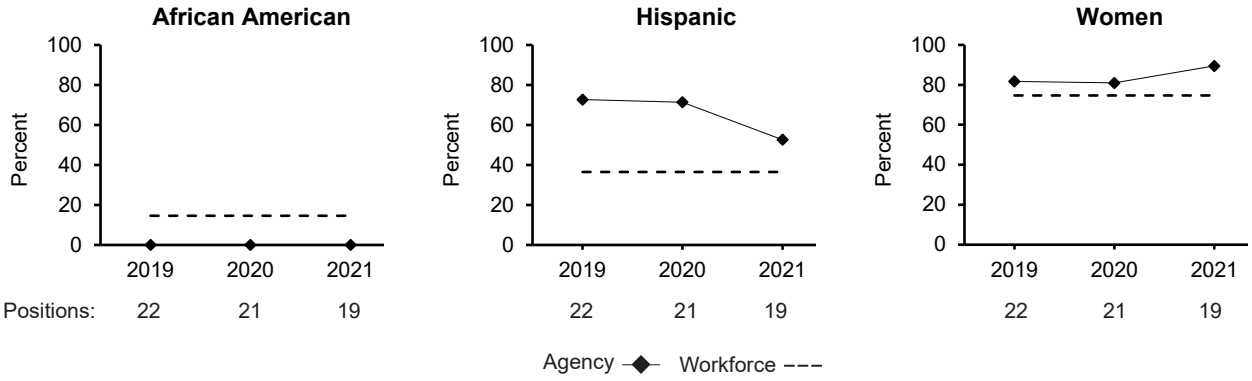
Technical



The authority fell below the statewide civilian workforce percentage in technical positions for African Americans and women, and exceeded the civilian workforce percentage for Hispanics, in all three fiscal years.

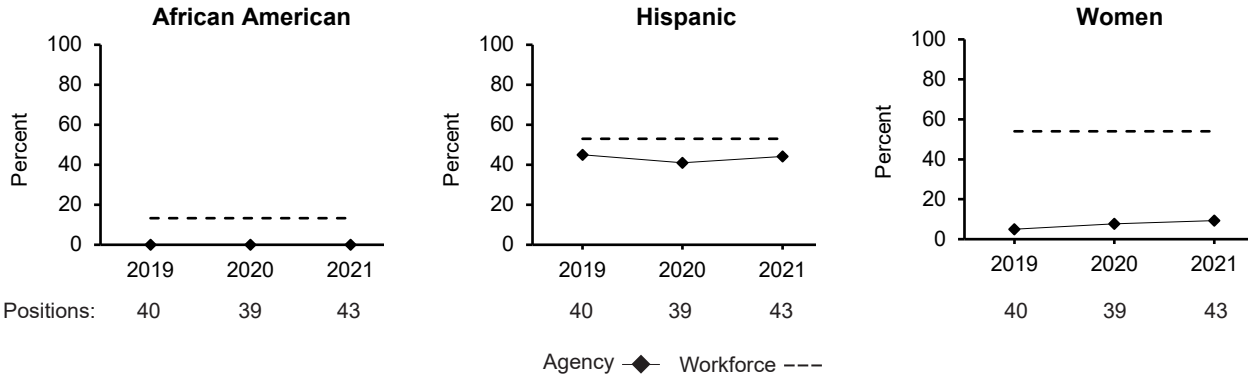
Appendix A

Administrative Support



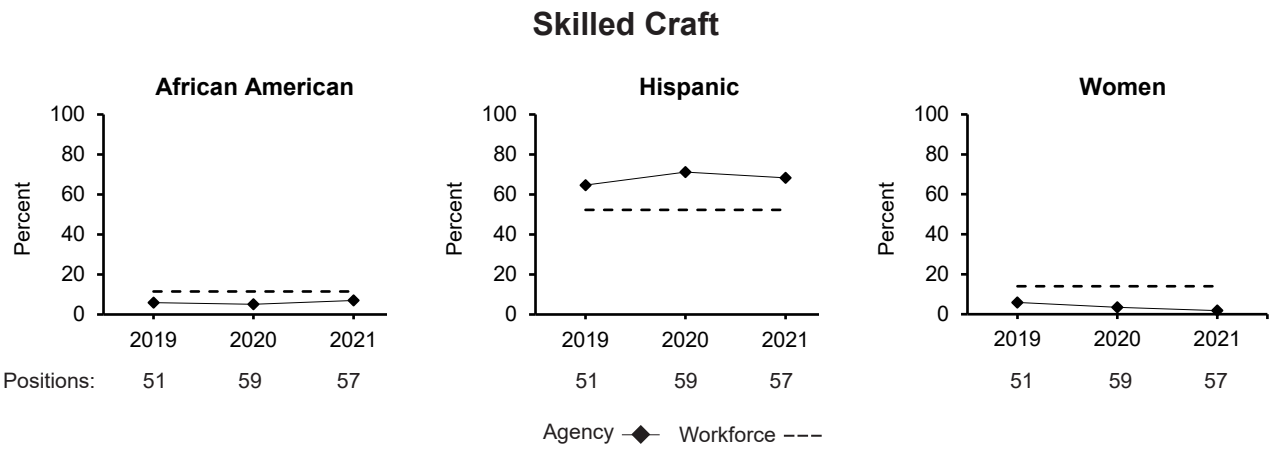
The authority exceeded the statewide civilian workforce percentage in administrative support positions for Hispanics and women for the past three years. The authority fell below the civilian workforce percentage for African Americans in all three fiscal years.

Service Maintenance



The authority fell below the statewide civilian workforce percentage in service maintenance positions for African Americans, Hispanics, and women in all three fiscal years.

Appendix A



The authority exceeded the statewide civilian workforce percentage in skilled craft positions for Hispanics, but fell below the civilian workforce percentage for African Americans and women, in all three fiscal years.

---

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

2 Section 21.501, Texas Labor Code.

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

4 United States Census Bureau, "Quick Facts: San Antonio city, Texas," data as of July 1, 2021, accessed online February 15, 2022, https://www.census.gov/quickfacts/sanantoniocitytexas.

Appendix B | Staff Review Activities

During the review of the San Antonio River Authority (SARA), Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with SARA personnel; attended board meetings; met with staff from key legislative offices; conducted interviews and solicited written comments from interest groups and the public; reviewed SARA documents and reports, state statutes, legislative reports, previous legislation, and literature; and performed background and comparative research.

In addition, Sunset staff also performed the following activities unique to SARA:

- Interviewed members of SARA's board of directors.
- Interviewed staff of the San Antonio River Foundation.
- Conducted a survey of stakeholders.
- Attended a meeting of the Region 12 flood planning group, which assists the Texas Water Development Board in the state's flood planning process.
- Toured two wastewater treatment plants, one of SARA's flood retention dams, and SARA's water quality testing laboratory.
- Interviewed staff from the Texas Commission on Environmental Quality, Texas Water Development Board, and Texas State Soil and Water Conservation Board.

Sunset Staff Review of the *San Antonio River Authority*

REPORT PREPARED BY

Sadie Smeck, *Project Manager*

Kay Wilson

Elizabeth Jones

Steven Ogle, *Project Supervisor*

Brian Francis
Acting Director

Sunset Advisory Commission

Location
Robert E. Johnson Bldg., 6th Floor
1501 North Congress Avenue
Austin, TX 78701

Mail
PO Box 13066
Austin, TX 78711

Website
www.sunset.texas.gov

Email
sunset@sunset.texas.gov

Phone
(512) 463-1300